

BOROUGH OF KETTERING

Committee	Full Planning Committee - 22/07/2010	Item No: 5.1
Report Originator	Louise Holland Development Officer	Application No: KET/2009/0734
Wards Affected	Desborough Loatland	
Location	Magnetic Park (land at), Desborough	
Proposal	Full Application with EIA: New class A1 foodstore and petrol filling station with associated access, landscaping, servicing and car parking	
Applicant	Hampton Brook Ltd & Sainsbury's Supermarkets Ltd	

1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be REFUSED for the following reason(s):-

1. Policy - Regeneration of Town Centres

The proposed development does not deliver regeneration or enhancement of Desborough Town Centre which is a key objective of Core Spatial Strategy Policy (CSS Policy 1), the Spatial Strategy for North Northamptonshire. At the smaller towns, which includes Desborough, the scale of new development should be related to infrastructure provision and regeneration needs. The proposed retail foodstore will have a significant adverse impact of the vitality and viability of the existing town centre and will not help to regenerate the existing fragile town centre, the fragility demonstrated through the findings of a Health Check of the Desborough Town Centre. The proposed development will compromise the development of a town centre site in Desborough for retail which would deliver regeneration including environmental improvements and community enhancements. The proposed development is considered to be an unsustainable form of economic growth contrary to Planning Policy Statement 1 (PPS 1) Delivering Sustainable Development and Planning Policy Statement 4 (PPS 4) Planning for Sustainable Economic Growth, Policies 1, 9 and 12 of the North Northamptonshire Core Spatial Strategy and Saved Policy D2 of the Local Plan for Kettering Borough 1995.

2. Policy - Sequential Approach to the Distribution of Development

The proposed development does not accord with the sequential approach to the distribution of development set out in Policy 9 of the Core Spatial Strategy which directs development towards previously developed land in the first instance followed by other suitable land in urban areas. The development does not make use of an area of previously developed land and a building within Desborough town centre which has been identified as being a sequentially preferable site (in terms of PPS 4) which is available, suitable and viable for

the form of development proposed. The application site, which is in an out-of-centre location and greenfield land, is not considered to be 'other suitable land' within the urban area of Desborough. The proposed development is considered to be contrary to PPS 1, PPS 4 and Policies 9 and 12 of the North Northamptonshire Core Spatial Strategy.

3. Sustainability - Location

Location of development is key to encouraging sustainable forms of travel. Locating the proposed development out-of-centre (as defined by Annex B of PPS 4) would generate a large number of car trips and is unlikely to reduce the need to travel by car, one of the objectives of Planning Policy Guidance Note 13 (PPG 13) Transport. A town centre location would deliver a more sustainable development having greater accessibility than the out-of-centre site. Due to its siting a town centre site in Desborough would minimise car trips by a greater degree and would encourage more sustainable travel choices; a site in Desborough town centre would be closer to a larger number of people within walking distance of the development and would benefit from a better public transport system when compared with the proposed out-of-centre site. PPS 1, PPG 13 and Policies 9 and 13 (c), (e) and (k) of the CSS focus uses that attract large numbers of visitors and generate large numbers of car trips within existing town centres. The proposed development is therefore considered to be contrary to PPS 1, PPG 13 and Policies 9 and 13 (c), (e) and (k) of the North Northamptonshire Core Spatial Strategy.

4. Retail - Sequential Test

The applicant has not demonstrated compliance with the sequential approach (required by Policy EC 15 of PPS 4). There is a sequentially preferable site which is available, suitable and viable for the form of development proposed within Desborough. The proposal fails the sequential test and should be refused in accordance with Policy EC 17.1 (a) of PPS 4. The development is also considered to be contrary to Policies 9, 12 and 13 (c) of the North Northamptonshire Core Spatial Strategy.

5. Retail - Impact Consideration EC 10.2 (c)

The proposed development would not secure a high quality and inclusive design and fails to take the opportunities available for improving the character and quality of the area and the way it functions. The unacceptable design of the proposed scheme by reason of its layout, siting and appearance would constitute a significant adverse impact (PPS 4 EC 10.2 (c)). The design fails to respond to its context and does not enhance the appearance and quality of Desborough's northern fringe and fails to take the opportunity to improve the character and appearance of a prominent gateway site to Desborough. This reason for refusal must be read in conjunction with refusal reason 10 which sets out the full reasons for the determination that the proposal has an unacceptable design. The proposed development should therefore be refused in accordance with Policy EC 17.1 (b) of PPS 4. The proposed development is contrary to PPS 1, PPS 4 and Policy 13 (a), (b), (e), (h), (i), (j), (k) and (o) of the North Northamptonshire Core Spatial Strategy.

6. Retail - Impact Consideration EC 10.2 (d)

The proposed development would have a significant adverse impact on economic and physical regeneration of the area (PPS 4 EC 10.2 (d)). The proposed development should be refused in accordance with Policy EC 17.1 (b) of PPS 4. The proposal is considered to be contrary to PPS 4 and Policies 1, 9 and 12 of the North Northamptonshire Core Spatial Strategy.

7. Retail - Impact Consideration EC 16.1 (a)

The proposed development would have a significant adverse impact upon existing, committed and planned public and private investment in Desborough Town Centre (PPS 4 EC 16.1 (a)). The proposed development should therefore be refused in accordance with Policy EC 17.1 (b) of PPS 4. The proposal is considered to be contrary to PPS 4 and Policies 1 and 12 of the North Northamptonshire Core Spatial Strategy.

8. Retail - Impact EC 16.1 (b)

The proposed development would have a significant adverse impact on the vitality and viability of Desborough Town Centre, including local consumer choice and the range and quality of the comparison and convenience retail offer (PPS 4 EC 16.1 (b)). The proposed development should therefore be refused in accordance with Policy EC 17.1 (b) of PPS 4. The proposal is considered to be contrary to PPS 4 and Policy 1 and 12 of the North Northamptonshire Core Spatial Strategy.

9. Retail - Impact EC 16.1 (d)

The proposed development would have a significant adverse impact on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchments area up to five years from the time the application is made (PPS 4 EC 16.1 (d)). The proposed development should therefore be refused in accordance with Policy EC 17.1 (b) of PPS 4. The proposal is considered to be contrary to PPS 4 and Policy 1 and 12 of the North Northamptonshire Core Spatial Strategy.

10. Design

The proposed development is considered to be contrary to the design policies of National Planning Policy and the Development Plan. The scheme fails to meet the requirements of PPS 1, PPS 4 and Policy 13 (a), (b), (e), (h), (i), (j), (k) and (o) of the North Northamptonshire Core Spatial Strategy for the following reasons:

(1) It is recognised that the design of the proposed buildings would be functional, however, the main store and petrol station kiosk buildings lack any architectural features or detailing to provide visual interest. As a result the proposal would not constitute a high quality or locally distinctive design that would respect and enhance the character of the locality. In addition, as a result of the proposed design of the individual buildings the proposed development would fail to take the opportunity to improve the character and quality of the locality, contrary to PPS 1, PPS 4 (EC10.2 (c)) and Policy 13 (h) and (i) of the North Northamptonshire Core Spatial Strategy;

(2) The proposed development as a result of the siting of the main store at the rear of the site adjacent to Bear Way and the lack of fenestration on the side and rear elevations would not interact positively with the surrounding streets and would not take the opportunity available to enhance the character and appearance of a prominent site at the northern gateway to Desborough. The proposal therefore does not reflect the context of the site, does not seek to design out antisocial behaviour, crime and reduce the fear of crime, would not contribute to a sense of place, and would not enhance the character of the locality, contrary to PPS 1, PPS 4 (EC10.2 (c)) and Policy 13 (a), (b), (h) and (i) of the North Northamptonshire Core Spatial Strategy;

(3) By virtue of the layout of the proposed scheme, with a large tarmac car park unrelieved by planting or other features in a prominent location in front of the store and adjacent to Harborough Road, the proposed development would fail to enhance the appearance and quality of Desborough's northern urban fringe, contrary to PPS 1, PPS 4 (EC10.2 (c)) and Policy 13 (h) and (i) of the North Northamptonshire Core Spatial Strategy;

(4) The proposed landscaping around the edge of the site would provide a physical barrier between the site and its immediate surroundings, thereby failing to successfully integrate the development with its surroundings, and resulting in a development that would not reflect the context of the site, enhance the character and appearance of the urban fringe, or improve the way in which the locality functions. The proposal is therefore contrary to PPS1 PPS 4 (EC10.2 (c)) and Policy 13 (a), (e), (h), (i) and (o) of the North Northamptonshire Core Spatial Strategy; and

(5) By virtue of the layout of the proposed development and the lack of connectivity between the development and the surrounding streets customers would be deterred from visiting the store on foot. The proposal therefore fails to provide safe and attractive pedestrian routes to the store from the surrounding streets and as a result does not constitute a high quality sustainable design, contrary to PPS 1, PPS 4 (EC10.2 (c)), PPG 13 and Policies 9 and 13 (a), (e) and (h) of the North Northamptonshire Core Spatial Strategy.

Notes (if any) :-

Officers Report

3.0 Information

Relevant Planning History

KET/2004/0760

Outline Planning Permission for Business Park. Approved subject to conditions and a Section 106 (S106) agreement on 29/11/2005.

The business park master plan divided the site up into three phases. Two reserved matters have been submitted as detailed under planning references KET/2006/0734 and KET/2008/0334.

The site which is the subject of this planning application for a supermarket development was defined as Zone A on the outline parameters plan (submitted for KET/2004/0760). Zone A was allocated for approximately 2,554 square metres of B1 office floorspace and 1,486 square metres of ancillary floorspace – crèche (557 square metres), public house/restaurant (929 square metres) and car parking. No reserved matters have been submitted for this part of the overall business park.

KET/2006/0734

Approval of Reserved Matters for Phase 1 of the Business Park, Distribution, Associated Offices and Car/Lorry Parking. Approved with conditions on 29/12/2006 with an amendment to the S106 agreement attached to the outline planning permission (to reflect altered access arrangements, amended phasing proposals and provision of a landscaped buffer zone to nearby housing).

KET/2008/0334

Approval of Reserved Matters for Phase 2: Production unit, offices and associated parking. Approved with conditions on 26/06/2008. The unit is currently occupied by O.Kay Engineering.

KET/2009/0452

Environmental Statement Screening Opinion: Erection of Foodstore. The applicant applied to the local planning authority for a screening opinion i.e. a determination as to whether the development requires an Environmental Statement (ES). The local planning authority determined that the proposal constituted Environment Impact Assessment (EIA) development and required an ES.

KET/2009/0595

Environmental Statement Scoping Opinion: Erection of Foodstore. Scoping of the Environmental Impact Assessment (EIA). Prior to the submission of KET/2009/0734 (the application being considered) the applicant applied to the local planning authority for a scoping opinion for the Environmental Statement (ES). KET/2009/0734 was accompanied by an ES. The scoping process is intended to identify all of the significant environmental effects that a development project might cause so that all those identified significant effects can be investigated in detail in the EIA.

Site Description

The application site is an area of land 4.40 acres (1.78 hectares) in size sited approximately 750m north of Desborough Town Centre. The application site is bounded by Harborough Road to the west, Bear Way to the north/north east, Cockerel Rise to the east and Ironwood Avenue to the south.

The site was previously part of a larger mixed-use development scheme including commercial development on the surrounding land to the east and north. Planning permission was secured on the site previously for a public house, crèche and offices, however this was not implemented and the permission has now lapsed. The site benefits from two existing vehicular access points, one from Bear Way and another from Cockerel Rise. The site is however otherwise undeveloped.

The site which was formerly a quarry is now mainly covered with backfilled ironstone workings and there are two distinct plateaux within the application site. The ground is highest at the southern end and south east corner of the site, whilst the level drops towards the centre of the site resulting in a large relatively flat area of land adjacent to Cockerel Rise and Bear Way. To the north east of the application site there is an existing balancing pond that sits lower than the application site. The balancing pond does not form part of the application site.

The site is currently open grassland which at the time of the site visit had a noticeable accumulation of surface water giving the appearance of boggy wasteland. The site is bounded by a post and rail fence with hedge to the west and south. A post and rail fence separates the site from the balancing pond and there is a close-boarded fence of a similar height fronting Bear Way. In addition to the existing hedge along Harborough Road trees have also been planted at regular intervals around the edge of the site.

Proposed Development

This application seeks planning permission for:

- The erection of a foodstore providing 1,993 square metres net sales space (21,453 sq ft) and being 3,409 square metres in total;
- Ancillary car parking providing 244 spaces of which 17 would be designated disabled spaces and 11 would be designated family spaces;
- Ancillary servicing facilities and landscaping; and
- Petrol filling station (PFS).

The supermarket building would be a single storey building measuring 4.8m (H) x 92.5m (W – including canopy) x 49.2m (D – including canopy). The building would be clad with light grey panels with glazing to the front (west) elevation and a canopy that would wrap around the front and side (south) elevations. Beneath the cladding there would be a low brick plinth and on the rear (east) elevation a brick enclosure would be provided to house the electrical sub-station. The roof of the store would be curved in design and would feature sun pipes to provide natural light to the store. The service part of the store at the northern end of the building would have a flat roof with the plant above.

The PFS would be sited south of the store adjacent to Cockerel Rise. The PFS would provide 4 pumps under a canopy and a kiosk building similar in design and

appearance of the main store. The canopy would measure approximately 5.7m (H) x 14.75m (W) x 24.5m (D) and the kiosk building would measure approximately 3.85m (H) x 12.6m (W) x 10.25m (D).

The plans submitted indicate that 3 signs would be situated on the roof of the main store, with an additional one on the PFS and 2 totem signs within the site. These signs would all need to be the subject of a separate application for advertisement consent and therefore they do not form part of the proposal currently being considered.

An Environmental Statement (ES) accompanied the planning application. In brief terms an ES is an assessment of a project's likely significant environmental (together consisting of the natural, social and economic aspects) both positive and negative.

Any Constraints Affecting the Site

An out-of-centre site (as defined by Annex B of Planning Policy Statement 4). It is also a Greenfield site (it does not constitute previously developed land). Trees and hedgerows are located on the site and along the site perimeter.

4.0 Consultation and Customer Impact

A number of consultations have taken place further to additional and revised ES and application information being submitted during the application process. The most recent comments from each consultee are provided first under each of the headings below.

Environment Agency (EA)

14/05/10 – no objection subject to conditions requiring (i) submission and approval of a mains foul drainage scheme and (ii) surface water drainage from the car parking or hardstanding to be passed through an oil interceptor to prevent pollution to the water environment. Informatives are also suggested.

10/05/10 – objection. Additional details required to ensure that the surface water drainage system constructed to serve the wider business park master plan is capable of accommodating the proposed foodstore. Such information was provided and discussions taken place.

15/01/10 – objection.

Flood risk – objection due to the Flood Risk Assessment being inadequate.

Pollution control – appropriate pollution control measures should be adopted to ensure the integrity of the aquatic environment.

Water infrastructure capacity – no objection.

Anglian Water (AW)

11/01/10 – no objection. The applicant will have to make a request to Anglian Water under the appropriate section of the Water Industry Act. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires their consent. An informative is recommended to bring this to the applicant's attention.

Highways Authority

25/02/10 – the local planning authority should consider the location and sustainability of the site against national planning policy when determining the planning application, having particular regard for PPG13. Notwithstanding the planning policy considerations should the LPA be minded to approve the application conditions and S106 contributions would be required by the highways authority.

18/01/10 – further information required including revised transport assessment and travel plan, both of which are inadequate.

Highways Agency

09/04/10 – no objection

05/03/10 – no objection. Additional information acceptable.

28/01/10 – insufficient information submitted to consider proposal, additional information requested.

Natural England

24/03/10 & 11/01/10 – no objection, subject to the full implementation of the biodiversity enhancements described in the ecological assessment (Whyte Young Green 23.09.09).

Wildlife Trust

13/04/10 & 11/01/10 – no Objection in principle. Recommendations within the application for the retention, protection, enhancement and mitigation measures for biodiversity should be implemented. A post-construction ecological management plan is required to secure conservation management in perpetuity. Non-native species in proposed landscaping plan should be removed.

Police Crime Prevention Design Advisor (CPDA)

19/04/10 & 29/03/10 – no objection in principle. General comments provided regarding crime prevention and security. Conditions are recommended to secure the implementation of crime prevention and security measures.

North Northants Badger Group

13/04/10, 09/03/10 & 19/12/09 – no comments.

NCC County Archaeological Advisor

12/01/10 – no objection in principle. The statement within the ES that there is no chance of finding archaeological remains is considered to be inaccurate. A condition should be imposed requiring archaeological investigation and mitigation if found to be necessary.

Northamptonshire Bat Group

10/04/10, 08/03/10 & 19/12/09 – no objection.

Desborough Town Council

26/04/10, 23/03/10 & 25/01/10 – objection. The development must be located in the town centre (i.e. the Lawrence's Site) to regenerate the town centre. The Town Council would welcome Sainsbury's commitment to the Lawrence's site, so that the crèche and pub could be delivered on the application site. If another developer were

to be interested in the Lawrence's then the proposal would provide choice, but an out of town development would kill the town centre and would be contrary to government policy. Access to the site would be problematic.

Stoke Albany Parish Council

05/05/10, 31/03/10 & 06/01/10 – no comments.

Brampton Ash Parish Council

29/04/10 – concern that the development will increase volume of traffic using Hermitage Road, resulting in increased noise at unsociable hours. Site is out of town, increasing heavy goods and normal traffic on the roads surrounding Desborough. The sustainability of this is questioned. Concern that proposal will have a negative impact on trade in Desborough and local villages.

Braybrooke Parish Council

22/03/10 – objection. Concerns over increase in traffic, danger to local shops and economy of Desborough and Rothwell, light pollution and unwanted development in open countryside (Greenfield site).

Internal Consultees:

Environmental Health (KBC)

20/04/10 – conditions recommended regarding noise, contaminated land, lighting and air quality and construction management plan requested prior to commencement. Previous objections received 15/01/10 overcome through submission of additional information.

Environment Team (KBC)

13/05/10 – important to select native species for the proposed landscaping in order to reinforce the character of the local landscape and its biodiversity.

Neighbour Summary

A total of 14 objections and 82 support letters have been received in response to the application submitted in September 2008 and the consultations which have taken place. These responses have been summarised as follows (the letters of objection and support are available for view at the council offices).

Summary of Support

- The proposal will cause no greater impact than the adjacent distribution warehouse in terms of lorry movements, traffic impacts and disruption.
- Landscaping would improve the appearance of the existing site (regeneration).
- Opportunity for more variety and improved choice of goods and retail services. A smaller supermarket in the town centre will not offer the choice required and will not offer competitive prices.
- The development will improve the retail 'offer' for residents (the existing retail provision only facilitates 'top-up' shopping) and revitalise the town.
- Increased competition will be good for prices (food and petrol).
- Beneficial to residents in terms of offering a large, local supermarket, with greater opening hours, thereby reducing the need to travel for such a facility (an environmental benefit). People's time and money will be saved.

- Generation of employment opportunities.
- The store will employ more people for amount of floorspace proposed than large warehouses which are not as good in terms of their size: employment ratio.
- A supermarket is required to encourage more people to live in Desborough and to cope with the planned growth and 700 new homes.
- Infrastructure is required to go with the housing growth.
- Investment is required in Desborough and should not only be focused on Kettering.
- The development will prevent trade and retail expenditure 'leakage' to other towns, including those outside of the Borough.
- Independent shops will not be adversely affected by the proposal which is located on the outskirts of the town. People will still visit the town centre when necessary. People will be encouraged to visit the town centre and independents as they travel through Desborough towards Sainsbury's.
- Existing shops in Desborough are specialist and will not be detrimentally affected by the new store; a new supermarket located in the town centre would destroy the smaller traders in the town centre.
- The development will improve the prosperity and vitality of Desborough.
- Desborough has had hardly any growth, with this comes stagnation and the end of the town.
- The proposal will encourage other retailers to locate and invest in the town.
- The proposal will encourage inward investment and will attract more trade from surrounding villages.
- The store will alleviate some of the problems currently experienced with HGVs and the Great Bear warehouse.
- The proposal will not have a greater impact than that resulting from the nearby distribution warehouse facility.
- Due to the location of the site and accessibility HGVs and deliveries will not need to travel through Desborough town centre.
- The site is accessible by an existing bus service and the proposed shuttle bus is supported.
- The recycling facility will be a benefit to residents.
- The development would encourage more people from surrounding villages to shop in Desborough rather than travel to Market Harborough or Kettering.
- Subject to controls on the services provided by the supermarket the proposal will not have a detrimental impact.
- An additional petrol filling station is required and supported.
- The proposed location of Sainsbury's is favoured over development of a site within the town centre that would exacerbate traffic problems, increase noise and other pollution in the town centre. The proposal would alleviate existing traffic and parking issues within the town.
- The Lawrence's site would be too small, give rise to traffic problems and would only provide minimal parking.
- Residential use of Lawrence's may be more appropriate given its surroundings.
- Provision of facilities will support retention of home owners/occupiers at the Grange.

- The scheme will attract people towards the town and spend money at smaller businesses.

Summary of Objection

- The development should be closer to the town centre.
- Negative impact on the Town Centre (draw people away from town centre and reduce footfall) that is already struggling. Customers would be taken away from the town centre and seriously affect the trading of local businesses.
- The elderly population who rely on local businesses in the town centre will be severely affected as the proposal will detrimentally affect the town centre.
- This scale and type of store is not required in Desborough; there is an adequate retail offer in Desborough, Rothwell and Market Harborough.
- The development will result in the long-term ambition of having a vibrant town centre being a more remote possibility.
- Plans to regenerate the town centre would be destroyed.
- If this application were approved developers would have no interest in investing in a new supermarket on the Lawrence's site, which is required to facilitate regeneration of the town centre.
- Land purchased by the council (Lawrence's site) should be utilised for this development.
- The increase in volume of traffic is likely to increase the risk of accidents and will create additional congestion.
- The increase in noise pollution will be unacceptable in a residential area, particularly during the summer months.
- Light pollution – this is already unacceptable due to the warehouse and will be exacerbated by the new development.
- Signage does not need to be constantly lit; environmental impact of light pollution and inefficient use of energy.
- Detrimental effect on quality of life.
- The opening times of the store and petrol filling station close to residential properties are unacceptable.
- Proximity of the store and petrol filling station to dwellings is too close.
- The development will detrimentally affect the town centre and the community; what has happened to the plans to develop the High Street to attract people back into the town centre and support local businesses?
- The store is not in keeping with the residential character of the area; the proposal should be located on a retail park or on a smaller scale site within the town centre.
- The proposed development is extremely different to the previously proposed public house and crèche.
- Proposed buildings and associated parking area will have an adverse visual impact. Little landscaping or screening is proposed to minimise this.
- Recycling facility located close to residential properties will create noise and disturbance to nearby residents.
- Detrimental impact on the co-op stores in the Desborough Town Centre; if the co-op closes as a result of this development it will remove choice, adversely affect the elderly or those without a car and will lead to job losses.
- Noise and vibration associated with construction and operation of the site.

- The foodstore and petrol filling station will result in over use of the land in this area.
- There is insufficient landscaping proposed to screen the development and mitigate noise impacts.

Councillor Humfrey (County Councillor, Desborough Division)

Summary of Support Letter

- Large-scale support for the scheme including The Grange residents and local retailers.
- The applicant is willing to work with the local community and contribute towards town centre improvements.
- A shuttle bus, to transport people to/from the supermarket, is a welcome addition to the existing bus service which will reduce traffic on the old A6.
- No alternative site is large enough to accommodate the requirements of a high quality foodstore.
- The proposed development would prevent trade 'leakage' to other towns.
- Due to the site's location the proposal will not bring HGVs into the town centre.
- The site is sequentially acceptable and would attract shoppers into Desborough centre particularly when the town is developed in line with the Urban Development Framework (unusual retail, restaurants, craft workshops, community facilities).

5.0 Planning Policy

National Policies

PPS 1: Delivering Sustainable Development

PPS 1 Supplement: Planning and Climate Change

PPS 4: Planning for Sustainable Economic Growth

PPS 5: Planning for the Historic Environment

PPS 9: Biodiversity and Geological Conservation

PPS 10: Planning for Sustainable Waste Management

PPG 13: Transport

PPG 14: Development on Unstable Land

PPS 22: Renewable Energy

PPS 23: Planning and Pollution Control

PPG 24: Planning and Noise

PPS 25: Development and Flood Risk

Circular 05/05 Planning Obligations

Circular 11/95 The Use of Conditions in Planning Permissions

Development Plan Policies

North Northamptonshire Core Spatial Strategy Policies

1, 5, 6, 9, 12, 13 and 14.

Saved Local Plan Policy

D2: Environmental Improvements

64: Development within Established Shopping Areas

Saved Structure Plan Policy

SDA1 (Strategic Development Area Proposals)

Supplementary Planning Documents

SPD: Sustainable Design

Emerging Policy

Emerging Area Action Plan – Rothwell and Desborough Urban Extension AAP

Other Material Considerations

Desborough Town Centre Urban Design Framework

6.0 Financial/Resource Implications

None.

7.0 Planning Considerations

The key issues for consideration in this application are:-

- A. Planning Policy Context and Principle of Development
- B. Retail Impact
- C. Access, Movement and Connectivity
- D. Urban Design
- E. Landscape and Visual Impact
- F. Sustainable Construction and Design
- G. Residential Amenity
- H. Contaminated Land
- I. Noise
- J. Air Quality
- K. Lighting
- L. Flood Risk and Drainage
- M. Ground Conditions and Stability
- N. Biodiversity and Green Infrastructure
- O. Archaeology
- P. Planning Obligations

A. Planning Policy Context and Principle of Development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises the North Northamptonshire Core Spatial Strategy (adopted 12th June 2008) and the relevant saved policies of the Kettering Local Plan and Northamptonshire Structure Plan.

The Secretary of State for Communities announced the revocation of Regional Strategies on 6th July 2010. The Department for Communities and Local Government have provided local planning authorities with some guidance on issues that may arise from this. In determining planning applications local planning

authorities must still have regard to the Development Plan. This now only consists of adopted Development Plan Documents (DPD), saved policies and any old style plans that have not lapsed. Local authorities must continue to have regard to PPS 4 and where it is relevant take it into account in determining planning applications for retail and other town centre uses.

The most relevant Development Plan policies are set out in this section of the report (and listed above in Section 5). Some policies that relate to the more technical aspects of the scheme (e.g. flood risk) will be discussed in the relevant sections of this report. Other documents and emerging plans will be given some weight in the determination of this proposal. In addition to the above, national planning policy statements/guidance notes and relevant appeal decisions also constitute material considerations that need to be taken into account in the determination of this proposal.

Site Context

Core Spatial Strategy Policy 1 identifies Kettering as a growth town, an area where development will be principally directed. Desborough is one of the smaller towns identified within the CSS and provides a secondary focal point for development.

The site is located within the town boundary of Desborough, as defined by the Local Plan Proposals Map for the town. The site is however outside of the Desborough Town Centre. The site is neither allocated nor protected from development. The application site was previously quarried. The definition of the previously developed land (as defined in Annex B of PPS 3) excludes land developed for minerals extraction. The site therefore constitutes a greenfield site within the town boundary.

Previous Outline Planning Permission

Offices, public house and a crèche were approved for this site through the outline permission for the business park (the application site was Zone A of the business park master plan). No reserved matters have been however submitted for this part of the business park and the uses never developed. No further reserved matters can be submitted under the outline (KET/04/0760) as the time period for this has expired. The loss of this site for those particular uses is not considered to be grounds for refusal. The site is not allocated for any particular use through planning policy and there appears to have been no recent market interest in developing these uses on the site. The emerging Rothwell and Desborough Sustainable Urban Extension (SUE) Area Action Plan sets out that proposals for D1 community uses and A4 public houses within the planned SUE will be considered favourably and therefore could be accommodated within that area if demand exists.

National Planning Guidance

Planning Policy Statement (PPS) 1 Delivering Sustainable Development sets out the overarching planning policies on the delivery of sustainable development. This PPS sets out how planning should facilitate and promote sustainable and inclusive patterns of development. Contributing to sustainable economic development and ensuring high quality development through good and inclusive design and efficient use of resources are two elements identified to achieve this. Development should also support existing communities and contribute to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all

members of the community. The proposed development will not deliver sustainable economic development. This is demonstrated from the following assessment of Development Plan policies and the conclusion that the development is contrary to these. The development should be progressed within the town centre where a site is available. This is essential to help foster and facilitate regeneration of and direct investment in the town centre, to encourage people to visit the town centre and reduce the need to travel, particularly by car. The out-of-centre location of the proposed development means that this is unlikely to result from the proposed development coming forward. It should also be highlighted that the design of the development is unacceptable and considered to be contrary to the objectives of PPS 1 (this will be assessed in detail later).

PPS 4 Planning for Sustainable Economic Growth sets out the Government's planning objectives to achieve sustainable economic growth. One such objective is to promote vitality and viability of town and other centres as important places for communities. To achieve this the Government wants new economic growth and development of main town centre uses to be focused in town centres; competition between retailers; enhanced consumer choice; and conservation of the historic, archaeological and architectural heritage of centres. The development management policies of PPS 4 can be directly applied to determining planning applications. The policy retains the strong 'town centres first' principle, this being demonstrated through the retention of (from the previous guidance PPS 6 Planning for Town Centres) the sequential assessment for town centre uses that are not proposed within a centre.

Specifically with regard to this planning application there are two critical issues that should be noted here:

- i. Officers' consider that there is a sequentially preferable site within the town centre that is available, suitable and viable. The proposal therefore fails the sequential test of PPS 4.
- ii. The development will result in a significant adverse impact on Desborough Town Centre.

PPS 4 Policy EC 17.1 states that if development results in either of the above the application should be refused.

A full assessment of the retail impact of the proposal, with all relevant policies of PPS 4 interrogated, is contained within the next section of this report. Overall the proposal does not accord with the policies of PPS 4 and should be refused on this basis.

Other relevant national planning policy statements (set out in the Planning Policy Section 5 of this report), relating to issues such as climate change, biodiversity, flood risk and noise, are discussed in the relevant sections of this report.

Core Spatial Strategy

The overall development strategy for North Northamptonshire to 2021 is set out in the North Northamptonshire Core Spatial Strategy (CSS) adopted in June 2008. This sets out the spatial vision and strategy for North Northamptonshire and the

roles and relationships of settlements. Within Kettering Borough, development is to be focused upon Kettering and then secondly the smaller towns of Desborough, Rothwell and Burton Latimer (Policy 1). The role of the smaller towns is to complement growth town expansion by providing secondary focal points within the urban core. The scale of new development will be related to infrastructure provision and regeneration needs.

Policy 1 outlines that the overall strategy of the CSS is to seek to achieve greater self-sufficiency for North Northamptonshire by directing development principally to the urban core (as defined on the Key Diagram – figure 10 page 36) focused on the Growth towns of Corby, Kettering and Wellingborough, with major expansion of town centres, redevelopment of other sites within the urban areas, and carefully planned Sustainable Urban Extensions. This will be complemented by modest growth at the Smaller Towns and Rural Service Centres that inter alia support regeneration of the town centres and existing services such as local schools and shops. The emphasis will be on regeneration of the town centres, through environmental improvements and new mixed use developments, incorporating cultural activities and tourism facilities, in order to provide jobs and services, deliver economic prosperity and support the self sufficiency of the network of centres.

Town centres provide a focus for local communities and are one of the main means by which the three growth towns and surrounding towns and villages interact. Paragraph 3.10 of the CSS states that the regeneration and/or enhancement of town centres are a priority and will be a catalyst for growth in employment and housing.

It is evident that the regeneration and enhancement of town centres is a key priority and an integral element of CSS policy. The delivery of these objectives will help to create sustainable economic growth and will also be catalysts for growth. The proposed development will not help to deliver these objectives. The development will not help to improve the retail offer within the town centre. Direct investment in Desborough town centre to kick-start regeneration, economic and environmental, is required and will not be achieved through the proposed development. A large-scale supermarket positioned outside the town centre is contrary to the spatial strategy for Desborough. Specifically the proposal is contrary to Policy 1 which seeks regeneration of centres and existing services at the smaller towns. Ultimately the development would result in an unsustainable form of economic development.

CSS Policy 9 sets out the strategy for the distribution and location of development. A sequential approach is advocated which directs development in the first instance to previously developed land or buildings followed by other suitable land in urban areas. Further development will be focused on a small number of sustainable urban extensions. This application proposes development of a greenfield site in an out-of-centre location (as defined by Annex B of PPS 4)¹. The Retail Impact section of this report assesses the acceptability of the site for large-scale retail development. It is shown through this assessment (Section B of this report) that the application site is not a suitable site for this development. The proposed development is not in

¹ Out-of-centre: A location which is not in or on the edge of a centre but not necessarily outside the urban area.

accordance with Policy 9 of the CSS. As will be demonstrated later in the application assessment a brownfield site within the town centre is available, suitable and viable for this form of development and its progression would fulfil the policy objectives of the CSS.

Policy 9 also states that town centres will be strengthened as the focus of retail and other town centre uses. The development of a large-scale foodstore in an out-of-centre location will not help to strengthen Desborough town centre. Conversely it will be demonstrated by the Retail Impact section that the application will harm the vitality and viability of Desborough town centre.

CSS Policy 12 Distribution of Retail Development states that the role of the smaller towns will be to consolidate their roles in providing mainly convenience shopping and local services. The policy goes on to state that where retail development cannot be accommodated within the town centre, a sequential approach will be followed. In this case it is considered that the proposal can be accommodated within the town centre (to be discussed in detail in the Section B of this report).

The scale of retail development has to be appropriate to the role and function of the centre where it is to be located. Proposals for major development will be assessed to ensure they do not have an adverse impact on the long-term vitality and viability of town centres (CSS Policy 12). These two elements are discussed within the Retail Impact section of this report. Ultimately it will be shown through officers' assessment that the development will have a significant adverse impact on the existing town centre of Desborough and is contrary to Policy 12 of the CSS.

CSS Policy 13 is also relevant to the determination of the application. It sets out general sustainable development principles and what developments should deliver to meet needs, raise standards and protect assets. Policy 14 Energy Efficiency and Sustainable Construction sets out the standards which developments must achieve; Part A of Policy 14 applies in this case with a very good BREEAM standard being required and a 30% renewable energy requirement. These two policies will be considered as part of the assessment of the technical aspects of the scheme e.g. design/noise/flood risk.

Saved Structure Plan Policy

Structure Plan Policy SDA1 is a saved policy that seeks mixed-use urban extensions ('Strategic Development Areas') at Rothwell and Desborough. Although this policy pre-dates the adopted Core Spatial Strategy it is in line with it in terms of it seeking a mixed-use urban extension to each town. The proposed development is not considered to prejudice the creation of a sustainable urban extension at Desborough. The Area Action Plan that is being progressed will be discussed later in this policy section.

Saved Local Plan Policy

Policy D2 of the Local Plan, Environmental Improvements is a saved Development

² **Linked trips** are trips that will have multiple destinations either within the proposed development site. Examples include trips to food and non-food retail or between a development site and an established town centre.

Plan policy relating to Desborough. This states that provision will be made for the implementation of a number of environmental improvements schemes including one within the town centre. Urban realm improvements remain a key priority for the town centre; enhancement of the town centre and regeneration is a key part of the spatial strategy for the Borough, demonstrated by its inclusion in CSS policy. The application fails to deliver such environmental improvements within the town centre. Planning obligations are discussed later in this report however I would note here that environmental improvements to the town centre public realm do not form part of the Heads of Terms submitted by the applicant.

Policy 64 of the Local Plan, Development within the Established Shopping Area is a saved Development Plan policy relating to Desborough. Planning permission will be granted for proposals for new or upgraded shopping development within the established shopping areas of Burton Latimer, Desborough, Kettering and Rothwell as defined on the Proposals Map where the proposal would improve the range or quality of shopping facilities or the shopping environment and is suited in character, size and operational requirements to the established shopping areas.

Emerging Policy

Emerging policy documents are also material considerations in the determination of planning applications. It is recognised that emerging policies can be regarded as material considerations (The Planning System: General Principles, ODPM 2005).

The Council is currently producing planning policy for Desborough and Rothwell, the Urban Extension Area Action Plan (AAP). The AAP currently has limited weight, as it is yet to become part of the Development Plan. However, the evidence base which supports it can be given weight in the determination of a planning application. The purpose of the AAP is to address the planned housing expansion of the towns and set out the detailed requirements of the new developments. The Proposed Submission was consulted on during the period December 2009 to February 2010. It is anticipated that the document will be presented to Members in late July 2010 with submission to the Secretary of State in early August 2010. Examination will then follow. This document proposes the allocation of an urban extension on land north of Desborough for 700 dwellings, shops and necessary associated infrastructure. The sustainable urban extension (SUE) will include local centres of appropriate scale with facilities to meet day-to-day needs but will not provide significant convenience and comparison shopping provision (terms defined in the Section B: Retail Impact) or other facilities serving a wider area that would be better located within the town centre.

The proposed Submission AAP is the final version of the plan and contains the final vision, objectives and policies for the delivery of an SUE at Desborough. Accompanying the plan is a background paper which has been prepared to inform the local planning authority's preparation of the AAP and outlines the site selection process and how the SUE seeks to meet the aims and objectives of the CSS. The AAP includes the provision of a local centre to meet the needs of the proposed population without competing with the vitality and viability of the town centre as well as demonstrating how the development will support economic prosperity. The AAP reinforces other Development Plan policies and seeks to secure the future health of Desborough town centres and ensures that any town centre uses within the SUE will

not undermine it. As will be demonstrated in Section B the scale of the proposed application in an out-of-centre location would undermine the town centre and impact upon its health.

Site Specific Proposals Local Development Document (LDD)

The Site Specific Proposals LDD will form part of the Local Development Framework (LDF) for North Northamptonshire. The Site Specific Proposals LDD will cover the whole of Kettering Borough with the exception of issues addressed in the Core Spatial Strategy (CSS) and the Area Action Plans (AAPs) for Kettering town centre, Kettering Urban Extension, and the Rothwell and Desborough Urban Extensions. It is anticipated that this document will explore the allocation of land for housing, employment, retail, leisure and community facilities. In addition to this it will contain policies relating to specific areas such as Rothwell, Desborough and Burton Latimer town centres and topics such as design, affordable housing, protection of the open countryside and protection of environmental assets. Issues consultation was undertaken from 9 March to 20th April 2009. The next stage of consultation on options is expected February 2011. No weight can be afforded to this document due to the stage the emerging policy is currently at.

Desborough Town Centre Urban Design Framework

This document was never formally adopted as Supplementary Planning Guidance (SPG). The document was presented to Planning Policy Committee and Executive Committee to be adopted as SPG but before it was taken to Full Council, as required by the Council's Constitution, the draft 2004 Planning Act was published which removed SPGs from the system. It was therefore decided not to proceed with adoption of the document until the Act was agreed. This Act then formally removed SPGs. This document does not form part of the Development Plan. The Urban Design Framework is considered to have limited weight in planning policy terms in the determination of this planning application.

Points of Summary

- The proposal will result in an unsustainable form of economic development.
- It will not deliver the much needed regeneration and enhancement of Desborough town centre which are key objectives and priorities of Development Plan policy.
- The proposal does not accord with the sequential approach of Development Policy, which directs development towards previously developed land in the first instance.
- The proposal fails the sequential test of PPS 4 and therefore should be refused on this basis (as set out in Policy EC 17.1 of PPS 4).
- The town centre will not be strengthened by the proposal. The proposed development will in fact significantly harm the vitality and viability of the centre.
- The proposed development would result in a significant adverse impact.
- The proposed development fails to deliver vital town centre environmental improvements (Policy D2 of the Local Plan).
- Development of a large-scale supermarket in an out-of-centre location will significantly alter the character of Desborough.

Overall the development is contrary to Development plan policy and the policies of PPS 4. The application should therefore be refused.

B. Retail Impact

Policy Framework

Planning Policy Statement (PPS) 4 & PPS 4 Practice Guidance on Need, Impact and the Sequential Approach

The policies of PPS 4 (which replaces PPS 6) are material planning considerations in the determination of planning applications. The decision-maker can directly apply the Development Management policies of this PPS to determine planning applications. The Government's overarching aim is to deliver sustainable economic growth. PPS 4 sets out the objectives by which this aim will be achieved. One such objective is to promote vitality and viability of town and other centres as important places for communities. To do this the Government wants new economic growth and development of main town centre uses to be focused in town centres, competition between retailers and enhanced consumer choice and conservation of the historic, archaeological and architectural heritage of centres. The policy statement retains the strong 'town centres first' principle recognising them as being key drivers of the economy. This is evident through the retention of the sequential assessment.

PPS 4 has removed the requirement for applicants to demonstrate that there is a 'need' for retail development proposals that are in edge or out-of-centre locations and which are not supported by an up-to-date Development Plan. However 'need' is important to the understanding and application of the sequential approach; integral to the assessment of whether a site is suitable for a proposed development is the issue of whether the development needs to be of the size proposed.

The Practice Guidance does not constitute a statement of Government Policy. However it does help those involved in preparing or reviewing need, impact assessments and sequential site assessments and in the interpretation of policies set out in the PPS. As a guide to interpreting how policy should be applied, this practice guidance may also be material to planning decisions.

Relevant PPS 4 Policies

The Development Management policies of PPS 4 that are relevant to the determination of this planning application are as follows.

EC10: DETERMINING PLANNING APPLICATIONS FOR ECONOMIC DEVELOPMENT.

EC14: SUPPORTING EVIDENCE FOR PLANNING APPLICATIONS FOR MAIN TOWN CENTRES USES.

EC15: THE CONSIDERATION OF SEQUENTIAL ASSESSMENTS FOR PLANNING APPLICATIONS FOR MAIN TOWN CENTRE USES THAT ARE NOT IN A CENTRE AND NOT IN ACCORDANCE WITH AN UP TO DATE DEVELOPMENT PLAN.

EC16: THE IMPACT ASSESSMENT FOR PLANNING APPLICATIONS FOR MAIN

TOWN CENTRE USES THAT ARE NOT IN A CENTRE AND NOT IN ACCORDANCE WITH AN UP TO DATE DEVELOPMENT PLAN.

EC17: THE CONSIDERATION OF PLANNING APPLICATIONS FOR DEVELOPMENT OF MAIN TOWN CENTRE USES NOT IN A CENTRE AND NOT IN ACCORDANCE WITH AN UP TO DATE DEVELOPMENT PLAN.

EC18: APPLICATION OF CAR PARKING STANDARDS FOR NON-RESIDENTIAL DEVELOPMENT.

PPS 4 and the Sequential Assessment

Policy EC 14 of PPS 4 sets out the supporting evidence required for planning applications for main town centre uses. A sequential assessment is required for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Development Plan. The requirement applies to retail or leisure uses where the proposed gross floorspace exceeds 200 square metres (this applies to new build and extensions). The proposed development exceeds this threshold and therefore a sequential assessment is required to support this planning application. Requirements for such an assessment are set out in Policy EC 15. The sequential approach forms a key policy consideration and can itself be a clear reason for refusal.

PPS 4 and the Impact Test

The impact assessment is also a key component of PPS 4. Policy EC 14.4 requires an assessment addressing the impacts in policy EC 16.1 for planning applications for retail and leisure developments over 2,500 square metres gross floorspace or any local floorspace threshold (no such local threshold has been set by Kettering Borough), that are not in an existing centre and not in accordance with an up-to-date Development Plan. In this case the application proposes a development of 3,409 square metres gross floorspace with a net sales area of 1,993 square metres. Policy EC 14.4 refers to a gross floorspace threshold which this development exceeds. An impact assessment has therefore been submitted as part of the application. In any event the development would have impacts upon the centre which would warrant an impact assessment in accordance with Policy EC14.5.

EC 10.2 sets out the impact considerations (5 considerations) against which all planning applications for economic development will be assessed.

EC 16.1 states that applications for main town centre uses not in a centre and not in accordance with an up-to-date Development Plan will be assessed against 6 impacts on centres.

Under Policy EC 17.1 local planning authorities will refuse planning permission where there is clear evidence of a significant adverse impact against one of the impacts identified in EC10.2 or EC16.1. Where no significant adverse impact is identified it is necessary to balance the positive and negative effects of the proposal against the criteria and policies EC 10 and EC 16.

It is for the decision maker to judge the extent to which the applicant has demonstrated compliance with the sequential approach and what constitutes a

significant adverse impact based on the circumstances of each case (PPS 4 Practice Guidance).

Development Plan Policy

Relevant Development Plan policies are set out in the previous section of this report. Development Plan policy (CSS Policy 12) reinforces the sequential approach to retail development (town centre first) of PPS 4 and also advocates a sequential approach to the distribution of development, directing development to previously developed land in the first instance (CSS Policy 9). Regeneration and enhancement of town centres (CSS Policy 1) and the promotion of the vitality and viability are part of CSS Policy and the spatial strategy for North Northants.

Local Planning Authority Approach

The local planning authority instructed Roger Tym and Partners (RTP) to provide advice on the Retail Impact Assessment submitted as part of the planning application. Prior to the submission of the application RTP also provided advice in relation to proposed data sources and methodologies for assessment. Many of the agreed inputs however related to the assessment of quantitative need, which is no longer required under the new terms of PPS 4.

Further to discussions between the developer and the local planning authority during the application process amendments have been made to the submission to take into account the policies and requirements of PPS 4 (published a few weeks after the application was submitted). A full sequential assessment and impact assessment have been undertaken.

With regard to the impact assessment, the key impacts of EC 16.1 were agreed with the local planning authority during the application process. These are considered to be 16.1 (a), (b) and (d). These will be discussed later in this section.

Site Context

The application site is defined as out-of-centre according to the definitions of Annex B of PPS 4. The site is also greenfield land (previous quarrying activities are not included within the definition of previously developed land).

The application proposes an out-of-centre foodstore of 1,993 square metres net sales area with a approximately 1,672 square metres of convenience (provision of everyday essential items, including food, drinks, newspapers/magazines and confectionery) and 320 square metres of comparison (provision of items not obtained on a frequent basis. These include clothing, footwear, household and recreational goods). The applicant argues that this scale is needed “to ensure that the majority of the main bulk food shopping needs are met”. This issue will be returned to when considering the sequential assessment and suitability.

Assessment of Proposal

Policy EC 10: Determining planning applications for economic development.

Policy EC 10.1 states that local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably. This policy goes on to outline the criteria against which planning

applications for economic development should be assessed (part of the impact assessment).

Policy EC 17: The consideration of planning applications for development of main town centre uses not in a centre and not in accordance with an up to date Development Plan

Policy EC17.1 states:

“Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan **should be refused planning permission** where:

(a) The applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); **or**

(b) There is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of the impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.”

EC 17.2 relates to circumstances where no significant adverse impacts have been demonstrated. It states that when determining planning applications decision makers should take account of the positive and negative impacts identified under policy EC16 and EC 10, any other material considerations and the likely cumulative effect of recent permissions, developments under construction and completed developments.

EC 17.3 states:

“Judgements about the extent and significance of any impacts should be informed by the development plan (where this is up to date). Recent local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy), will also be relevant.”

With regard to this planning application the key issues to be assessed in the first instance are:

- (1) Has the proposed development demonstrated compliance with the requirements of the sequential approach as set out in Policy EC 15?
- (2) Is there clear evidence that the proposed development is likely to result in significant adverse impacts in terms of any of the impacts set out in Policies EC 10.2 and 16.1?

Depending upon the outcome of the assessment of the above two elements of Policy EC 17.1, it may then be appropriate to consider Policy 17.2.

Sequential Assessment (Policy EC 15 and EC 17.1 (a))

Lawrence’s Site

The Lawrence’s site is identified by the local planning authority as a sequentially preferable site for the proposed development and is available, suitable and viable for retail development.

The Lawrence's Factory is located on Harborough Road within the town centre and the established shopping area of Desborough, as defined by the Kettering Borough Local Plan 1995. The Lawrence's Factory also lies within the Conservation Area. The Borough Council has identified this site as being suitable and viable for a supermarket development; the Executive Committee (16th September 2009) resolved to approve the redevelopment of Lawrence's as a supermarket as being the preferred solution in line with Development Strategy 1 (i.e. supermarket on the Lawrence's site). As part of this supermarket development a petrol filling station can be accommodated on land adjacent to the Factory site on the opposite side of Harborough Road, land known as the former omnibus site. Although this latter part of the overall site is outside the town centre boundary it is an edge of centre site and is therefore sequentially preferable to the Magnetic Park site (out-of-centre). For the avoidance of doubt when the 'Lawrence's site' is referred to in this report it is defined as both the Lawrence's Factory site and the former omnibus site in totality.

National planning policy requires those promoting development, where it is argued that no other sequentially preferable sites are appropriate, to demonstrate why such sites are not practical alternatives in terms of their availability, suitability and viability. In this case the applicant argues that the Lawrence's site is not suitable, viable or available. The local planning authority however disagrees with these conclusions for the following reasons.

Suitability

"With due regard to the requirements to demonstrate flexibility, whether sites are suitable to accommodate the need or demand which the proposal is intended to meet" (PPS 4 Practice Guidance, Page 43).

PPS 4 Practice Guidance states that it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of the development proposed but rather it should be considered what contribution more central sites are able to make to meet the same requirements. Policy EC 15.1 (d) sets out that in considering sites in or on the edge of centres, developers and operators should demonstrate flexibility in terms of (1) scale: reducing the floorspace of the development; (ii) format: more innovative layouts and configurations; (iii) car parking provision: reduced or reconfigured and (iv) scope for disaggregating parts of a retail or leisure development. The purpose of this requirement for flexibility is to seek wherever appropriate to accommodate new retail, and other main town centre uses, within town centres.

The applicant argues that the Lawrence's site can accommodate a foodstore of 1,500 square metres net which would translate into a convenience floorspace of 1,260 square metres net. This is supported by the Atkins Feasibility report for the Lawrence's site which assumes a sales area of 1,500 square metres. The applicant argues that this scale of provision would only fulfil a top-up shopping function and would not support main food shopping trips required in Desborough. The applicant is proposing an out-of-centre store with a net sales area of 1,993 square metres – approximately 1,672 (84%) convenience and 320 (16%) comparison as they consider this scale is needed "to ensure that the majority of the main bulk food shopping needs are met". The local planning authority however disagrees with the applicant's conclusions.

The Lawrence's site represents a suitable location for a foodstore and is capable of meeting the main food shopping needs of Desborough. Sainsbury's have for example approximately 50 stores which are between 1,200 and 1,600 square metres net sales area (e.g. Ashbourne, Derbyshire; Calne, Wiltshire; and Kenilworth, Warwickshire) which provide a sufficient range and depth of products to enable both main and top-up shopping to take place. It is considered that the scale that can be accommodated is sufficient to 'claw back' expenditure lost to surrounding areas. Development on Lawrence's would represent a significant improvement of existing provision in Desborough and would meet the main shopping needs of many local residents reducing expenditure outflow to surrounding stores.

The following factors will also be relevant when considering whether a site is a suitable location for development:

- Policy restrictions e.g. planning policy
- Physical problems or limitations e.g. flood risk or contamination
- Potential impacts e.g. landscape effects
- Environmental conditions (which would be experienced by users of the site).

As mentioned above the Lawrence's site is sequentially preferable when assessed in terms of PPS 4 and also CSS Policy 12, which include a 'town centre first' sequential approach to retail development. It also constitutes previously developed land, which is sequentially preferable to greenfield sites in terms of Development Plan policy (see Policy and Principle section of this committee report). The Lawrence's site is not covered by a specific planning policy (it was previously covered by policy D7 of the Local Plan which allocated the site for shopping/commercial uses subject to fulfilment of criterion) and is not allocated for any particular type of development. As discussed in Section A of this committee report the Site Specific Local Development Document is in its relatively early stages of consultation and formulation. The Desborough Urban Design Framework does not form part of the Development Plan. There is no planning policy justification for the Lawrence's site not coming forward as a foodstore.

The former omnibus site does not have an extant planning permission for residential development. An application was received in August 2007 (KET/2007/0767) and was approved at a Planning Committee on 15th July 2008 subject to a Section 106 being signed. An agreement was never entered into and the application was finally disposed of on 11th May 2010.

It is considered that there are no known physical problems or limitations and no environmental conditions which would prevent the site from being developed for the proposed use. Similarly it is considered that the development is unlikely to result in any insurmountable impacts (the proposal would be subject to a planning application).

Within the application documentation the applicant refers to a refusal of outline planning permission of the Lawrence's site for retail development in October 2000. It should be noted that the reasons for refusal did not concern matters of 'principle' but related to elements of the scheme that could potentially be amended and issues resolved. The refusal included matters relating to siting and layout of the proposal and insufficient details in relation to accessibility. There have also been changes in

planning policy since the time of this refusal with all but one policy named in the refusal notice (Local Plan Policy 64 Development within Established Shopping Areas) having been replaced (one of the refusal reasons related to Policy D7 which was not saved).

The Desborough Urban Design Framework (UDF) (for full detail please see the Section A Policy and Principle) identified the Lawrence's Factory site (at that time without the inclusion of the former omnibus site) as being a key opportunity whose redevelopment would help kick-start the regeneration of the town. The aspiration set out in the UDF was for a mixed-use development comprising retail, offices, enterprise units, crèche, restaurants, and residential uses together with the conversion of adjacent cottages to a heritage centre. This however was an aspiration with no feasibility work having had been completed at that stage. The UDF itself specifies a number of proposed projects to be undertaken in order to take the UDF forward and translate it from something aspirational to implementable projects. Page 50 of the UDF specifies the feasibility and planning of the Lawrence's Factory re-development as one such project. Since that time Atkins were commissioned in early 2009 to complete a feasibility study for development of two separate sites, the Lawrence's Factory and Key Site 1 (south of the High Street). The completion of this work found that the aspiration for a mixed-use scheme on Lawrence's would be unviable. The development of a supermarket alone was found to be the most viable development option.

The findings of the Atkins report were reported to Executive Committee on 16th September 2009. The committee resolved to: (i) receive and note the contents of the feasibility study; (ii) approve the redevelopment of Lawrence's as a supermarket as being the preferred solution in line with Development Strategy 1 (i.e. supermarket on the Lawrence's site); (iii) authorised the Head of Legal and Democratic Services to negotiate and dispose of the site (in line with (ii)) and (iv) explore other sites which may be available within the town to meet the community and associated uses.

The Council is therefore committed to bringing forward the Lawrence's site for a supermarket development and is actively promoting the Lawrence's site for retail use to meet the needs of Desborough and deliver regeneration of the town. It is considered that the redevelopment of the Lawrence's site would be a catalyst for regeneration and will be a key element in delivering positive change in Desborough.

The protection of retail units and improvement of the town centre retail offer, including a new supermarket, are identified as key issues within the UDF. Retention of suitable employment opportunities in the town centre to encourage vitality and activity in the town centre is also one of the objectives of the UDF. These goals have not altered albeit being implemented using a different approach. The document has a key focus on the town centre and recognises that town centre development is a key driver of sustainable economic growth and integral to wider regeneration of Desborough. As highlighted above the regeneration and enhancement of town centres and the promotion of the vitality and viability are integral elements of Development Plan policy. The Development Plan also reinforces the sequential approach of national policy with a town centre first approach advocated.

The local planning authority is satisfied that the Lawrence' site constitutes a suitable location for a foodstore development of a similar scale, albeit it smaller vis-à-vis the Sainsbury's proposal, which will meet the needs of Desborough residents i.e. is capable of delivering a foodstore which caters for main shopping trips, and which can 'claw back' trade leakage and expenditure currently being lost to surrounding stores.

PPS 4 Practice Guidance states that a key part of positive planning is to identify those sites likely to be most appropriate to meet any identified need. Although the Lawrence's site has not been allocated through planning policy for retail use, the Council's view that this site could be brought forward for a supermarket development is clear.

Availability

"Whether sites are available now or are likely to become available for development within a reasonable period of time (determined on the merits of a particular case, having regard inter alia, the urgency of need). Where sites become available unexpectedly after receipt of an application, the local planning authority should take this into account in their assessment of the application." (PPS 4 Practice Guidance, Page 43). A site is considered to be available for development, when, on the best information available, there is confidence that there are no insurmountable legal or ownership problems.

The Lawrence's site is considered to be available by the local planning authority. The site is under the Council's ownership (with the exception of the former omnibus site; the developer interested in acquiring the Lawrence's Factory site has indicated that they have taken steps to secure additional land in support of development) and the Council have actively promoted the site as a foodstore-led opportunity. An interested party is carrying out due diligence on the site; Heads of Terms for the disposal have been drafted. (A major supermarket in conjunction with a developer is keen to acquire the site). The Developer and the Borough Council are to draw up contract terms for completion of the disposal of the site once this diligence work is completed. As discussed above the Council considers the retail development of the Lawrence's site to be key to improving the town centre retail offer and the overall regeneration of Desborough.

There is currently a restrictive covenant on the site (imposed by the previous owner) which prevents the retail use of the site. The Council is working towards the removal of this covenant and in doing so, forensic accounting and specialist legal advice has been commissioned, received, and is under consideration. The Executive Committee has authorised the investigation into the most appropriate way to remove the covenant, including use of Section 237 of the 1990 Planning Act (as amended). Under this section where a local authority has acquired land "for planning purposes", easements and other rights can be overridden to enable building or other works to be erected or carried out or maintained on that land subject to compensation. A specific report will be required before the Council can formally exercise the powers. It is considered that at the present time the covenant is not an insurmountable issue as there are routes available to resolve this and the site can come forward in a reasonable timescale.

Paragraph 6.39 of PPS 4 Practice Guidance states that the issue of availability and the sequential approach have to be considered together with the impact of development occurring in edge or out-of-centre locations, and the long-term consequences for town centres.

Assessment of the proposed Sainsbury's scheme against the impact considerations of Policies 10.2 and 16.1 (commentary in the following sections) has demonstrated that the proposal would result in significant adverse impacts. It is considered that the Lawrence's site can be brought forward in a reasonable timescale. In any case given the significant adverse impacts that an out-of-centre foodstore would result in and the long-term consequences for Desborough town centre, it is considered reasonable and justified that the Council progresses with the removal of the covenant and work towards bringing the town centre site forward for a foodstore.

The application itself shows no evidence of proactive work being undertaken by the developer to explore the lifting or amendment of the covenant. It is therefore considered that it is unreasonable for the applicant to conclude that there is no prospect of the site coming forward.

There are no planning policy matters that prevent the site from coming forward.

Viability

"Whether there is a reasonable prospect that development will occur on the site at a particular point in time. Again the importance of demonstrating the viability of alternatives depends in part on the nature of the need and timescale over which it is to be met." (PPS 4 Practice Guidance, Page 43).

The Atkins report whose findings were reported to Executive Committee in September 2009 demonstrates that the site represents a viable opportunity for a foodstore development. The Council has been actively promoting the site and this has resulted in market interest (developer and retail operator) in developing the site for a supermarket. As stated above further to the marketing of the site one major supermarket in conjunction with a developer is keen to acquire the site. At the present time the Borough Council and the interested party are close to signing contracts for disposal of the site.

Sequential Summary

The proposed development has not demonstrated compliance with the sequential assessment required by EC 14 and its requirements set out in Policy EC 15. There is a sequentially preferable site that is available, suitable and viable for retail development of a scale that will meet the needs of the town (sufficient scale to serve as a main shopping facility and not merely top-up shopping facility, and to 'claw back' trade leakage and expenditure to surrounding towns). The planning application should be refused in line with Policy EC 17.1(a), which is set out above.

Impact Assessment

In terms of the impact assessment this planning application must be assessed in relation to EC10, EC 16 and EC 17. Policy EC 17.2 states that where there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of the impacts set out in policies EC10.2 and 16.1 (the impact assessment),

taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments, applications should be refused. To reiterate EC 17.3 states that judgements about the extent and significance of any impacts should be informed by the Development Plan (where this is up to date). Recent local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy), will also be relevant. The applicant has included a Health Check as part of their submission. Roger Tym and Partners have also been instructed by the local planning authority to complete a Health Check for Desborough based on the indicators set out in Annex D of PPS 4 (completed July 2010). This is appended to this report at Appendix A. As part of this process pedestrian counts and on-street surveys were undertaken. Health Check assessments are an important tool for plan making and determination of planning applications and can help inform judgements about the extent and significance of any potential impacts of planning applications (Policy EC 17.3)). This illustrates that the town centre is currently in a fragile state, exhibiting poor signs of vitality and viability. Any impacts should be considered in this context.

Policy EC10.2

(a) Whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change.

There is a qualitative gap in the main food shopping provision in Desborough and therefore any development will result in a reduction in carbon dioxide emissions. The highways section of this report notes that the development would result in transferred trips on the highway network and a reduction in mileage; people who currently travel out of the town to do a 'main' food shopping trip will remain in Desborough and those residing in surrounding villages will not have to travel so far. Measures are proposed to make the site more accessible by non-car modes of travel (walking, cycling and bus service improvements). The location of the development is however key to encouraging sustainable forms of travel. PPG 13 advises that large trip generator developments should be located to minimise the need to travel. A more centrally located store would bring about a further decrease in carbon dioxide emissions from the current level, as there would be a greater number of residents living within walking distance and a better public transport system when compared to the application site. A travel plan has been submitted with the planning application. Although this would require additional measures and other details to ensure its robustness, the Travel Plan does commit to 20% modal shift targets away from single occupancy car trips to non-car modes for both staff and customer trips.

The application meets the requirements of Policy 14 (a) of the Core Spatial Strategy; the proposal is designed to achieve a 'very good' BREEAM standard and will achieve the policy requirement that a target of at least 30% of the demand for energy to be met on site, and renewably and/or from a decentralised renewable or low carbon supply.

Despite concerns regarding the location and overall sustainability of the development, specifically in relation to carbon dioxide emissions it is considered that there will not be a significant adverse impact.

(b) The accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured.

As demonstrated within the highway section of this report the development will not have an adverse impact on traffic levels or congestion. Measures to enhance accessibility by a choice of means of transport to the site are proposed. The application site lies approximately 750 metres to the north of the town centre, and whilst the walk is relatively direct with adequate pavements, the site is somewhat divorced from existing commercial activity in the centre, with largely residential uses in-between. This suggests that limited volumes of linked trips² will take place. The location of the development is key to encouraging sustainable forms of travel. Large trip generator developments should be located to minimise the need to travel. Locating this major development, which would generate a large number of car trips, in an out-of-centre location is unlikely to reduce the need to travel by car, one of the objectives of PPG 13 Transport; it is considered that very few customers would travel to the proposed foodstore by non-car modes. A town centre location, where retail development should be directed in the first instance to help deliver sustainable economic growth, would be sustainable and would also benefit from a higher level of linked trips.

As the design section of this report shows there is a lack of connectivity between the site and surrounding footpaths which would have the effect of discouraging pedestrian visits to the store. The site accessibility by bus can be compared with the context of a town centre site (sequentially preferable). Whilst the application site is served by two buses per hour, linking the site with the town centre and onwards to Rothwell and Kettering, Desborough town centre is typically served by at least five buses an hour, which can be considered a strong level of provision. The applicant is however proposing to fund the extension of Service 18 and the Rushton Community Bus service for a five-year period. Overall it is considered that there will not be a significant adverse impact in respect of choice of means of transport and the effect on local traffic levels and congestion.

(c) Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions.

The proposal does not achieve a high quality design. The scheme is considered to be unacceptable in terms of its layout, siting and appearance. The design fails to respond to its context and does not enhance the appearance and quality of Desborough's northern urban fringe. Furthermore, the design fails to take the opportunity available to improve the character and appearance of a prominent gateway site to Desborough. Specifically the design is unacceptable for the following reasons:

- (1) The proposed design of the supermarket and petrol station buildings lack visual interest and architectural features.
- (2) The design and siting of the proposed store at the rear of the site would fail to interact positively with the surrounding streets;
- (3) The proposed layout of the development with the car park at the front of the store provides an expanse of tarmac unrelieved by planting or other features that would fail to enhance the appearance and quality of Desborough's northern urban fringe;
- (4) The approach to landscaping would provide a physical barrier between the site and the surrounding area which would fail to integrate the development with its surroundings and would not reflect the context of the site;
- (5) The lack of connectivity between the site and the surrounding footpaths would deter pedestrians visiting the store; and
- (6) The proposed design fails to take the opportunity available to improve the character and appearance of a prominent site at a gateway to Desborough.

Even when balanced with any positive impacts of the scheme (e.g. improvement to local employment levels and increase in retail floorspace) the unacceptable design of the scheme is considered to be a significantly adverse impact. Design issues therefore constitute a reason for refusal (a more detailed assessment is at Section D).

(d) The impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives

The development will have a positive economic impact in terms of increasing local employment levels and increasing the level of convenience retail floorspace for which there is a qualitative need. It will however have a significant detrimental impact on regeneration objectives for smaller towns, of which Desborough is one, which are set out in Development Plan policy. The Lawrence's site constitutes an opportunity for improving the vitality and viability of the Desborough Town Centre, which is currently in a fragile state as demonstrated by the conclusions of the Health Check (Appendix A). This town centre site is considered sequentially preferable by the local planning authority and is currently being progressed by the Council as a site for a supermarket development (as detailed in the sequential part of this section). The development of the Lawrence's site will be severely compromised by an out-of centre store being permitted. As a result the regeneration objectives, economic and physical, for the town will be significantly impacted upon. The proposed development will have a significant adverse impact on the vitality and viability of the town centre. Given its current fragile state this impact will be even more damaging. Even with the balancing of the above negative aspects (which are supplemented as part of the EC17.1 (a) and (b) considerations) against any positive impacts, the proposed development will have a significant adverse impact on the economic and physical regeneration of Desborough Town Centre.

(e) The impact on local employment

The impact on employment levels will be positive with approximately 200 jobs being created with an approximate split of 65% part-time and 35% full-time. These will range from managerial roles to unskilled opportunities. There will also be positive job creation during the estimated 40-week construction period. There will therefore be no significant adverse impact in respect of (e).

Summary of Policy EC 10.2 Compliance

The proposed development is considered to result in a significant adverse impact in terms of 10.2 (c) and (d).

Policy EC 16.1

The impact considerations set out in Policy EC 16 have been considered and it is considered that the key impacts are (a), (b) and (d). Paragraph 7.3 of the PPS 4 Practice Guidance states:

“It will be for the decision maker to determine what constitutes an ‘acceptable’, ‘adverse’ or ‘significant adverse’ impact, based upon the circumstances of each case, having regard to national and local policy objectives.”

With regard to the impact assessment paragraph 7.15 states that:

“In every case it will be necessary to reach a balanced decision, having regard to the provisions of the development plan, the sequential approach and impact considerations”.

(a) The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.

Where the local planning authority and/or private sector have identified town centre development opportunities and is actively progressing them, it will be highly material to assess the effect of proposals upon that investment. Key considerations include the stage the proposal has reached, the degree to which key developer/occupier interest is committed and the level and significance of any predicted direct or indirect impacts.

The applicant has considered the impacts of the development on the Lawrence’s site. However their conclusions regarding the availability, suitability and viability of the site are disputed (see sequential test part of this retail section). The Lawrence’s site is sequentially preferable and is being progressed by the Council as a site for a foodstore development opportunity; Lawrence’s is the principal town centre opportunity for a foodstore. The Executive Committee (16th September 2009) gave its approval for the Lawrence’s site to be sold for supermarket use (reasons outlined in sequential section). Interest has been secured from one major supermarket chain in conjunction with a developer who is keen to acquire the site for this use. At present the Council and the interested party are close to signing contracts for the disposal of the site. Therefore although there is no planning policy allocation for the site for retail use it is evident that it is a sequentially preferable site and can be brought forward for retail use within a reasonable timescale. This represents a highly material consideration in accordance with the Practice Guidance.

The applicant states that the Magnetic Park proposal would not compete with the town centre site if it was to be developed for a foodstore as it would '*only meet a small-scale top-up demand*'. The local planning authority does not accept this view. It is considered that the scale of store that could be accommodated on the Lawrence's site would be capable of meeting the main food shopping needs of Desborough and not solely for the purposes of top-up shopping.

The quantitative assessment in the applicant's originally submitted (December 2009) Planning and Retail Report suggests that there would potentially be sufficient capacity within the catchment area for two foodstores. However there is no longer a requirement to demonstrate need in respect of retail development in PPS 4. A main point of concern with this assessment is that the applicant has assumed that 20% of the proposed store's trade will come from outside the catchment area which does not appear to be reasonable given the strength of provision in Market Harborough, Kettering and Corby. Irrespective of the location of foodstores in Desborough there will be a degree of expenditure loss to much larger stores elsewhere. However there is an additional net benefit to the wider vitality and viability of the town centre through the development of the Lawrence's site which would not arise from an out-of-centre store.

The capacity assessments carried out by the applicant are based on the assumption that a foodstore at the Lawrence's site would achieve a sale's density of £4,500 per square metre, equivalent to a turnover of £5.3 million. This level of turnover however assumes that a 'discount' retailer would occupy the Lawrence's site. In practice a store at the Lawrence's site would achieve a higher turnover than the capacity assessments make allowance for. Therefore the surplus capacity referred to by the applicant would in reality be much lower as the turnover at Lawrence's would be higher if operated by a major retailer. The capacity assumed by the applicant is also inflated by the 20% assumed trade from outside Desborough which as noted above is considered to be an over-estimation.

The level of operator interest in town centre sites is likely to be significantly reduced if this planning application for an out-of-centre foodstore is permitted. The potential trading viability of a store on Lawrence's or other town centre sites will be reduced as much of the available expenditure will be absorbed by the proposed development, thus ensuring that any foodstore coming forward in the town centre would trade at lower margins with more limited viability.

The positive aspects of the proposal, for example creating additional convenience retail floorspace within Desborough and generation of local employment opportunities, are not considered to outweigh the significant adverse impact that the proposed development would have upon existing (see part (d) of this assessment), planned and committed investment as detailed above.

(b) The impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer.

The Borough Council is actively promoting the regeneration of the town centre to enable Desborough to become self-sufficient, and meet the needs of its current residents and for future, planned growth. This regeneration objective is part of Development Plan policy. Desborough Town Centre has been stagnant for some time and this is reflected in the poor retail offer, poor environmental quality of the town centre and the outflow of expenditure to surrounding centres. The centre is considered to be fragile (see Appendix A for the Desborough Health Check undertaken by Roger Tym and Partners); the centre has a significant over-representation of the service sector, it suffers from a concentration of hot food takeaways with little in the way of cafes or restaurants, a below average comparison goods sector with minimal representation in the clothing sub-sectors which are key drivers of pedestrian footfall, low demand for premises in Desborough with no interest from national comparison or service retailers (although there is interest from a market supermarket chain), no upward movement in prime retail rents over the last decade, limited investor confidence, low pedestrian activity and a poor environmental quality mainly due to the presence of vacant land and buildings within the established shopping area.

Opportunities do exist to improve the vitality and viability of Desborough town centre through development of the Lawrence's site (alongside wider aesthetic improvements of the centre). The acquisition of the Lawrence's site by the Council, and its intention to bring it forward for a foodstore development, is evidence of investment in the centre which risks being compromised by the proposed out-of-centre store. The attractiveness of other centres for convenience shopping is reflective of a qualitative gap in convenience retail provision within Desborough. The development of the Lawrence's site represents a clear opportunity to reverse the long-standing stagnation of the vitality and viability of the town centre through the additional investment and reverse the loss of expenditure to surrounding areas.

The applicant argues that the proposed store at Magnetic Park will deliver significant volumes of linked trips (thereby improving the vitality and viability of Desborough town centre as a whole). The local planning authority however disputes this. The closer the store to the town centre, the higher the volume of linked trips and the greater combined benefit to the town centre. A foodstore in the town centre and established shopping area (i.e. Lawrence's site) would provide for a greater proportion of linked trips. The present quality of the existing offer in the town centre indicates that it is unlikely that significant linked trips will be undertaken from an out-of-centre location. Desborough will benefit from a greater proportion of linked trips from a foodstore in the town centre compared to a store in an out-of-centre location.

The applicant estimates that 2.0% of the proposed store's turnover, equivalent to £0.4m, will be diverted from Desborough town centre and existing retailers. The applicant argues that this will be offset by the fact that the existing town centre convenience offer is overtrading by £0.45m. However closer inspection of the submitted retail information shows that although the High Street Co-op store is overtrading, the larger Gladstone Street Co-op store is under-trading marginally

against company benchmark figures. Any further significant trade diversion away from this store would undermine the vitality and viability of this store. Any store delivered within the town centre is likely to have a lesser impact upon this particular store. The scale of any foodstore delivered in-centre for example would be relatively smaller than this out-of-centre proposal and linked trips would be higher given its central location thereby helping to offset any trade diversion.

Furthermore it is considered that the anticipated pattern of trade diversion from the town centre (2.0%) has been underestimated and is unrealistic given the local circumstances. 2.0% would equate by the applicant's assumption to have a 9.7% impact on the town centre, which is itself a significant adverse impact in the context of the present fragile health of Desborough town centre. Any upward deviation from the 2.0% trade draw will have a more adverse impact on the town centre. It is considered that 5.0% is the minimum trade diversion which would take place from the proposed store (this figure is based on an assessment of the size and likely trade draw of the proposed Sainsbury's store vis-à-vis the existing offer in the town centre and lack of provision in the immediate area). This greatly increases the impact on the town centre (the local planning authority's retail consultant has modelled the impact and states that with a 5.0% trade diversion it would have a 25.64% impact on the centre). This is considered to be a significant adverse impact which would undermine the vitality and viability of the town centre. It should also be noted that the increased spending by the 5% of visitors to Sainsbury's undertaking linked trips would not offset the trade diversion from existing retailers in the centre to the proposed foodstore.

Having considered the impacts (positive and negative) of the proposal it is considered that the proposed development will have a significant adverse impact upon the vitality and viability of the existing town centre, contrary to Development Plan policy and the aims and objectives of PPS 4.

(c) The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan.

There are currently no allocated sites being developed in accordance with the Development Plan, outside the town centre, which would be adversely affected by the proposed scheme. The Desborough Sustainable Urban Extension (SUE) is not yet an allocation given the emerging status of the Area Action Plan. In any case it is considered that the proposed development would be extremely unlikely to prejudice the SUE site being delivered.

(d) In the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchments area up to five years from the time the application is made, and, where applicable, on the rural economy.

The impact of trade diversion upon existing convenience retail stores has been considered in the context of vitality and viability above. It is not considered to be necessary to repeat the above points. Overall trade diversion would have a significant adverse impact upon existing retail convenience stores and will significantly harm the vitality and viability of the town centre particularly in the

context of an already fragile town centre.

(e) If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres.

This only applies where a site in a centre or on the edge of a centre is being developed. In this case the site is defined as out-of-centre. This criterion therefore does not require any further consideration.

(f) Any locally important impacts on centres under policy EC3.1.e

Policy EC 3 Planning for Centres states that regional planning bodies and local authorities should set out a strategy for the management and growth of centres over the plan period. As part of this strategy these authorities should define any locally important impacts on centres which should be tested as part of Policy EC 16 (EC3.1e). No such strategy has yet been developed for Desborough and therefore no locally important impacts have been defined. It is considered that this criterion does not require any further assessment.

Summary of Policy EC 16 Compliance

For the reasons set out above it is considered that the application does not fully satisfy criterion (a), (b) and (d) of Policy EC16.1, and consider there is significant risk to the already fragile vitality and viability of the centre as a result of the proposed application.

Summary

The proposed application is contrary to policy EC 17.1 of PPS 4; the application fails the sequential approach and will result in significant adverse impacts. The application should therefore be refused in line with PPS 4 Policy EC 17.1

C. Access, Movement and Connectivity

Policy Framework

The objectives of the national planning guidance PPG 13 Transport are to integrate planning and transport at the national, regional, strategic and local level to promote more sustainable transport choices for carrying people and freight, promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, especially by car. PPG 13 also sets out the criteria local planning authorities should consider when preparing development plans and considering planning applications.

With regard to retail development PPG 13 states that policies for retail should seek to promote the vitality and viability of existing town centres, which should be the preferred locations for new retail developments. At the local level preference should be given to town centre sites, followed by edge of centre site and, only then, out of centre sites in locations which are (or will be) well served by public transport.

PPS 4 Planning for Sustainable Economic Growth sets out the Government's objectives for planning to help achieve sustainable economic growth. One of these

objectives is to deliver more sustainable patterns of development and reduce the need to travel, especially by car. Policy EC18 of PPS 4 Application of Car Parking Standards for Non-Residential Development is relevant.

Core Spatial Strategy Policy 13 (e) states that developments should be designed to take full account of the transport user hierarchy of pedestrian-cyclist-public transport-private vehicle and incorporate measures to achieve modal shift. Policy 13 (n) states that developments should not have an adverse impact on the highway network and should not prejudice highway safety.

Methodologies

A Transport Assessment (TA) and, further to the local planning authority's request for further information, a Supplementary Transport Assessment (STA) have been submitted as part of the planning application. The Environmental Statement (ES) also assesses the transport impacts of the development and considers both the construction and operational phases. Deliveries and customer and staff trips have been considered within these assessments.

The TA, STA and ES assess the impacts on both the strategic and local highway network. Traffic surveys (for two junctions on the local network) and modelling work has been undertaken to assess the impacts of the proposal on the local and strategic highway network. The approach undertaken in respect of the transport modelling has been agreed with the local highway authority and is considered to be robust.

Accident records have been considered and analysed by the applicant for the 5-year period July 2004 to June 2009.

Site Access Proposals

Two existing access points serve the application site. The access points positioned on Bear Way and Cockerel Rise were created to serve the development previously approved as part of the Business Park outline planning consent. The existing bus gate on Cockerel Rise will also be retained. The Bear Way and Cockerel Rise accesses will be utilised for the service yard and customer access points respectively. The capacity of these site access points have not be assessed as part of the TA or STA. The local highways authority is however content that no such assessment is necessary in this case. Only traffic visiting the Sainsbury's site will utilise these access points. The site access points are considered to have adequate capacity to accommodate the proposed development i.e. no improvements to the junction design are needed. The proposed development will not adversely affect the existing or enhanced bus services.

The surrounding parcels of land that formed part of the Business Park (outline planning permission KET/04/0760) and which do not have Reserved Matters (RM) approval and have not been built out, no longer benefit from an extant planning permission (due to lapse in the relevant time period for RM submissions). Any future planning application for the surrounding parcels of land would need to assess the transport impacts of the proposals including the capacity of local junctions (likely to include the Sainsbury's site access junctions).

Strategic Highway Network Impact (A14 and A6 north of the A14)

The Highways Agency has been consulted on the application and has no objection to the proposed development. The proposal will not have any adverse impact on the strategic highway network.

Local Highway Network Impact

Traffic surveys were carried out for the following two roundabout junctions:

- Harborough Road/Stoke Road
- Harborough Road/Ironwood Avenue

The development will not result in any adverse impact on the performance of the above two junctions; both of the above junctions will operate within capacity. Capacity assessments for two other junctions on the Harborough Road within the town centre (Harborough Road/Nichols Street (priority junction) and Harborough Road/Gold Street/High Street (staggered junction) were required by the local highway authority. These have not been carried out. It is however considered reasonable that these assessments, and any mitigation required, could be secured by planning condition. The modelling would have to be completed prior to commencement with any mitigation implemented in accordance with a timetable to be agreed (appropriate timing would be determined from the completion of the capacity assessment work). There is no evidence to demonstrate that highway safety would be adversely affected by the proposed development.

Sustainable Travel

Bus Services

The following enhancements would be secured by a Section 106 agreement:

- Route 18 (Kettering - Rothwell - Desborough - Market Harborough): Increased service frequency and extension of the route to the Cockerel Rise bus stop. Service currently operates hourly Mon – Sat with the nearest bus stop in relation to the site being on the High Street.
- Rushton Community Bus Service: Enhance the service and link to proposed foodstore. This currently operates every Friday and runs between Rushton, Pipewell and Kettering and on a Monday between Rushton and Rothwell.

Funding for a 5-year period is required to successfully implement the above improvements to public transport infrastructure. These financial contributions would be captured through a Section 106 agreement. Sainsbury's will provide no separate private bus service beyond the enhancements described above. The existing bus stops on Cockerel Rise and Bear Way and bus gate on Cockerel Rise will be retained.

Walking and Cycling Provision and Linkages

The enhancements that would be delivered by the application can be summarised as follows:

- Existing shared use footpath/cycleway running from the development site to be extended to the Railway Bridge on Harborough Road
- Widening of existing pedestrian refuge on Harborough Road south of Gapstile

- Street to accommodate cycle and pedestrian crossing movements
- Introduction of an advisory cycleway from south of Nichols Street to the puffin crossing located adjacent to Desborough High Street
- Provision of tactile paving at pedestrian crossing points across Nichols Street and Gladstone Street
- A zebra crossing will be provided on Cockerel Rise to link the proposed store to the existing bus stop

These could be secured by planning condition and would be the applicant's responsibility to complete prior to the store opening.

It is considered that the opportunity to encourage walking and cycling to the site has not been maximised. The proposed development has a physical and psychological barrier around its perimeter (highlighted by the Urban Design section of this report) and a lack of connectivity.

The local highway authority has advised that the mode share data contained within the application indicates that the location of the site would determine that very few customers would travel to the proposed foodstore by non car modes.

Car Parking

Policy EC18 of PPS 4 Application of Car Parking Standards for Non-Residential Development is relevant. This policy states (EC18.2) that in the absence of local car parking standards the maximum standards set out in Annex D of PPG 13 will apply. The amount of car parking on site has been reduced since the submission of the application. The number of spaces provided has been reduced from a maximum of 264 to 244 (of which 17 will be disabled spaces). This quantum of parking is in accordance with Annex D of PPG 13. Annex D sets out the maximum parking standards for particular uses. For food retail developments over 1000 square metres gross floorspace a maximum of 1 space per 14 square metres gross floor area is recommended. The level of parking is therefore considered to be acceptable.

The positioning and design of the car parking area is discussed within Section D.

Travel Plan

A Travel Plan was submitted with the planning application and has been revised during the application process. The objectives are to encourage a reduction in the number of single occupancy car trips made by customers and staff and to reduce private car trips in favour of more sustainable modes of travel. 20% modal shift targets away from single occupancy car trips to non-car modes for both staff and customer trips will be included within the Travel Plan. Financial penalties would be payable in the event that these targets are not met. These resources would go towards implementing measures to help secure this modal shift. Timing of interventions and penalties has not yet been agreed. Measures currently incorporated into this document include (list not exhaustive):

- Walking and cycling enhancements
- Public transport service improvements
- Car sharing database and Guaranteed Lift Home Scheme
- Colleague notice board with Travel Plan information
- Information for customers/visitors

- Colleague welcome packs e.g. including information regarding public transport.
- Colleague Benefit Scheme – currently Sainsbury's staff are offered a 15% discount on bikes and accessories.

In addition to the above cycling (40 cycle spaces) and motorcycle parking will be provided on site and will be monitored as part of the Travel Plan. Additional facilities will be provided should demand exceed the supply.

It is considered that the Travel Plan may benefit from further discussion. It needs to be ensured that the Travel Plan is robust and that the agreed measures will help to deliver the 20% modal shift. It is considered that agreement of suitable measures in the Travel Plan and the setting of penalties can be included as a clause within a Section 106 agreement (the Travel Plan to become effective on opening of the store).

Construction Phase

A Construction Environmental Management Plan (CEMP) has been submitted as part of the Environmental Statement. The purpose of this document is to ensure that any potential impacts that may arise from construction activities are minimised. The CEMP includes for example routing of construction traffic. Construction vehicles will access the site from the A6 and the B576 via the Harborough Road roundabout on the A6. There will be no need for vehicles to travel through the town centre to access the site. Some minor revisions are required to the CEMP. These have been highlighted to the applicant and have been agreed by the applicant. The production and implementation of a final document could be secured successfully by planning condition.

It is considered that with the implementation of an agreed construction management plan construction traffic will not have a significant impact in terms of safety, noise or disruption. The numbers of construction vehicles visiting the site can be accommodated within the highway network and no improvements to capacity are required due the construction phase.

Summary

The proposed store can be accommodated within the existing highway network and there are no junction capacity or highway safety issues.

There are a number of measures proposed to enhance walking, cycling and public transport infrastructure to make the site more accessible by non-car modes of travel. The location of the development is however key to encouraging sustainable forms of travel. PPG 13 sets out objectives for integrating planning and transport, and the ways in which these can be delivered by local authorities. This piece of national planning guidance sets out for example that large trip generator developments should be located to minimise the need to travel. Despite any enhancements described above locating this major development, which would generate a large number of car trips, in an out-of-centre location is unlikely to reduce the need to travel by car, one of the objectives of PPG 13 Transport. The local highway authority considers that very few customers would travel to the proposed foodstore by non-car modes. A town centre location, where retail development should be directed in the

first instance to help deliver sustainable economic growth, would be sustainable. The Retail Impact section of this report demonstrates that there is a town centre site which is available, suitable and viable for retail development.

The applicant argues that the provision of a large foodstore in Desborough will result in transferred trips on the highway network and a reduction in mileage; people who currently travel out of the town to do a 'main' food shopping trip will remain in Desborough and those residing in surrounding villages will not have to travel so far. Although this is a reasonable assumption this does not overcome the fundamental issue that development of this scale and nature should be focused in the town centre in the first instance in order to deliver sustainable development.

D. Urban Design

Policy Framework

Good design is an essential part of good planning with the requirement for high quality design that is appropriate in its context being contained within national and local planning policies.

PPS 1 Delivering Sustainable Development states that 'Good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development', and that design that fails to take the opportunities available for improving the character and quality of an area will not be acceptable. In addition, good design goes beyond aesthetic considerations (although appearance and architectural quality are factors); good design should address connections between people and places, be integrated in the existing urban form and the natural and built environments, and ensure successful, safe and inclusive towns.

Development Plan Policies also seek high quality design. Policy 13 of the CSS states that development should (b) seek to design out crime; (c) maintain and improve access to local services; (d) take account of pedestrian - cyclist - public transport – private vehicle hierarchy; (h) be of a high standard of design; (i) create a strong sense of place; and (j) promote healthier lifestyles.

Supporting Information

The ES that accompanies the planning application explains how the design for the scheme evolved and with the Design & Access Statement and the Sustainable Design Checklist it explains the reasons for the chosen design. These documents and the design information submitted within the application have been considered when assessing the design of the proposal.

Proposed Design

The application site lies on the urban fringe at the northern entrance to Desborough and is a prominent gateway site. It has therefore has the potential to have a significant, and positive, impact upon the appearance of the town when it is accessed from Harborough Road. The proposed store, a single storey functional building with no distinctive or innovative architectural features, would be sited at the rear of the application site adjacent to Bear Way and Cockerel Rise. The large space between Harborough Road and the buildings on the site would be occupied by a car park with little in way of planting or landscaping.

The proposed store and petrol station buildings would be simple and functional buildings that would serve their purpose. However, their designs are bland with minimal detailing and a lack of architectural features to provide interest to the structures. Although the design of the store is innovative in terms of the sustainable design features (addressed in full below), as a result of the lack of architectural interest the proposal does not enhance the character of the locality. The design of the proposed buildings therefore does not accord with PPS 1 and Policy 13 of the CSS.

The sections and photomontages submitted with the application demonstrate that the car park will be set lower than Harborough Road and Ironwood Avenue. The applicant has argued that since the development is lower than the adjacent highways the large car park would not have a significant visual impact. In addition the applicant states that the landscaping along Harborough Road would consist of a low perimeter hedge that would partially screen the car park whilst allowing views of the store to be provided. Whilst it is possible that when driving along Harborough Road the eye will not be drawn to the car park due to its lower level, due to the proximity of the footpaths to the application site people walking past the site will clearly see the large car parking area. The proposed boundary treatment would not fully screen the car park and therefore despite its lower level the large car park, without the visual relief of planting, would be seen clearly from the Harborough Road and Ironwood Avenue.

Due to the layout of the proposed development the prevalent views of the development would be dominated by an unrelieved expanse of tarmac to the front of the store. As a result of the siting of the proposed store and the layout and design of the car park the proposed development would not enhance the visual amenity or quality of Desborough's urban fringe and it would not create a strong sense of place. The proposal is therefore contrary to PPS 1 and Policy 13 of the CSS.

Due to the siting of the store the development would fail to positively address the surrounding roads; all the proposed elevations fail to actively interact with the surrounding roads. The blank rear elevation of the building for example would be directly adjacent to Bear Way and the cycle store at the side of the building also would not benefit from any natural surveillance from the new building. The design does not therefore provide active frontages, which are considered to be a key aspect of high quality, sustainable design. The proposal therefore fails to meet the requirements of PPS 1 and Policy 13 (b) and (h) of the CSS in terms of delivering a high quality design which responds to its context.

As explained above the applicant has focused on providing landscaping around the edge of the site in order to provide screening. Landscaping should integrate a development within its surroundings and it should not be used as a visual buffer between streets and an unacceptable new development. Although there are industrial buildings and residential development adjacent to the application site, due to the location of the site on the edge of Desborough it lies in a semi-rural location. The landscaping proposed for this development would create a physical barrier between the site and its surroundings and therefore fails to integrate the built

development with its surrounding environment. This is contrary to national and local design planning policies.

In addition to the concerns about the appearance of the proposed buildings, the layout of the development and the approach taken to landscaping, it is also a concern that the scheme has been designed with little thought for pedestrian users. No pedestrian accesses from Ironwood Avenue or Harborough Road have been provided, resulting in pedestrians being forced to walk up Cockerel Rise to enter the site at the vehicular access to the car park; the only pedestrian access to the new store is shared with the customer vehicular access point. The proposed boundary treatment and the lower level of the car park in relation to the surrounding highway network provide a physical barrier between the proposed development and the surrounding area for pedestrians. There is, as a result, a lack of connectivity between the proposed development and the surrounding area. The physical barriers between the proposed development and the surrounding area combined with the lack of pedestrian entrances and walkways within the site would discourage members of the public from walking to the foodstore. The proposal would therefore be contrary to the Development Plan policy and national planning guidance that support sustainable design and those that seek to encourage sustainable travel choices.

The Police Crime and Prevention Design Advisor (CPDA) has provided comments on the proposed design. The response received noted that the Design and Access Statement submitted did not include detailed information on how designing out crime had been considered during the design stages. They do not however have an objection to the principle of the development. The CPDA recommends that a number of measures are provided to ensure that the development meets the requirements of secured by design. These relate to various design elements including the specification of the ATM, lighting, security alarm and glazing. An informative could be used to make the applicant aware of the recommended security measures. Some concern has been raised by the CPDA about the lack of surveillance of the cycle storage area and it has been suggested that it would be more appropriate to site the cycle store to the front of the building where there would be a greater degree of natural surveillance. However it is recognised that since the cycle store would be sited adjacent to the only access to the site there would be a reasonable degree of surveillance and if the proposal were otherwise acceptable it would be difficult to resist on these grounds alone. However Officers would seek the re-siting of the cycle store as part of any re-design of the scheme.

A design justification has been submitted by the applicant (received from the applicant on 12th May 2010) that sets out why they consider the design of the store to be appropriate for the site. This supports the conclusions of the submitted Design and Access Statement. These comments have been taken into consideration in this assessment however they do not overcome the view that the design of the scheme is unacceptable.

The applicant argues that it would not be possible to re-site the store closer to Harborough Road or Ironwood Avenue due to the increased impacts upon residential amenity. However, the local planning authority has not been provided with such a scheme to assess. Therefore the applicant has not proven that it would

be impossible to accommodate a well-designed store in an alternative location on the site that would overcome the concerns about the current design without having an adverse impact upon neighbours. Furthermore the applicant has failed to make any significant improvements to the design of the main store in the location currently proposed or to the proposed landscaping scheme both on the edge of the site and within the car park despite being made aware of officers' concerns. The applicant has also disregarded the request for improved pedestrian links from Harborough Road into the car park.

Summary

The proposed development is considered to be contrary to the design policies of Development Plan and national planning policy. The scheme fails to meet the requirements of Planning Policy Statement 1 and Policy 13 (a), (b), (e), (h), (i), (j) and (k) of the North Northamptonshire Core Spatial Strategy for the following reasons:

- (1) The proposed design of the supermarket and petrol station buildings lack visual interest and architectural features;
- (2) The design and siting of the proposed store at the rear of the site would fail to interact positively with the surrounding streets;
- (3) The proposed layout of the development with the car park at the front of the store providing an expanse of tarmac unrelieved by planting or other features would fail to enhance the appearance and quality of Desborough's northern urban fringe;
- (4) The approach to landscaping would provide a physical barrier between the site and the surrounding area that would fail to integrate the development with its surroundings and would not reflect the context of the site;
- (5) The lack of connectivity between the site and the surrounding footpaths that deter pedestrians visiting the store; and
- (6) The proposed design fails to take the opportunity available to improve the character and appearance of a prominent site at a gateway to Desborough.

E. Landscape and Visual Impact

Policy Framework

PPS 1 states that sustainable development should protect and enhance the natural and historic environment in both urban and rural areas.

To deliver sustainable development Policy 13 (h) and (o) of CSS requires development to be of a high standard of design, architecture and landscaping, it should respect and enhance the character of its surroundings, and conserve and enhance landscape character.

Methodologies

The Environmental Statement (ES) submitted with the application includes a visual impact assessment of the proposed development. The ES has assessed the baseline conditions in and around the site and predicts the potential change that the proposed development would have upon the landscape character and the visual impact upon the surrounding landscape and settlements near and distant. The ES states that the assessment has been carried out in line with the Landscape Institute

and Institute of Environmental Management and Assessment 'Guidelines for Landscape and Visual Impact' 2nd Edition (2002).

The documents submitted with the application identify the site as being on relatively high ground on the urban fringe of Desborough. The ES states that the top of the main store building would be at 144.800AOD, with the sign on the top of the roof being at 146.754 AOD. In comparison the eaves height of the Great Bear unit adjacent to the site is at 156.257AOD and the chimney stack on the Rigid Containers site is at 163.052AOD.

The ES identifies the character and quality of the site and its immediate surroundings (within the urban fringe to the north of Desborough) as being of a medium value, whilst the landscape value and its sensitivity to change are found to be low. A similar assessment of the character, quality, value and sensitivity to change has also been carried out for the areas surrounding Desborough.

The ES includes photographs of the application site from 9 viewpoints at varying distances from the application site. Viewpoints include Harborough Road, The Grange development and Stoke Albany Road close to the site, Braybrooke Road and Eckland Lodge (Desborough) and Park Lane (Braybrooke). In addition to the photographs, photomontages showing the proposed development after year 1 and year 10 have been provided for 4 of the viewpoints.

In summary, the information submitted states that the proposed development would not have an adverse landscape or visual impact. The applicant considers that the proposed development would improve the visual quality of the public realm since the existing landscape is poor quality with low amenity value.

Proposed Development

The application site lies on the northern edge of Desborough within the town boundary. The site is not constrained by any specific landscape designations. The supporting information submitted with the application demonstrates that the site and its immediate surroundings have some distinct features and that the area is in a reasonable condition. The site and its surroundings however do not benefit from any local or national designations. Its value is therefore considered to be low and therefore the site and its immediate surroundings can accommodate change without having a significant effect on the character of the area. The findings of the ES in this respect are not disputed.

The photographs and photomontages demonstrate that the proposed development would not have a significant landscape or visual impact. It is noted that photos and photomontages have not been provided to show the site from the north west or west from a distance. However as the views are likely be restricted by existing industrial buildings it is considered that sufficient information has been submitted to assess the landscape and visual impact.

It is considered that due to the scale and massing of the proposed store, the ground levels within the site which result in the store being set down from the surrounding land, and the siting of the store at the rear of the site the proposed development

would not have a significant visual or landscape impact when viewed from the immediate surroundings or the wider area.

It is however considered that the existing greenfield site, which is currently undeveloped and comprises of grassland with some surrounding planting, does not have a significant adverse impact upon the surrounding area. Therefore the development cannot be justified on the basis that the development would enhance a poor quality site. Furthermore, although it is considered that the proposed development would not have a significant adverse visual impact in landscape terms, it remains the case that due to the poor design of the proposed development, which includes a large car park to the front of the development, with a distinct lack of landscaping to integrate the development with its immediate surroundings, the proposal would have an adverse impact upon the visual amenity and character of the locality.

Summary

The information submitted with the application adequately demonstrates that the proposed development would not have a significant adverse visual or landscape impact. However, it remains that the proposed development, whilst not having a significant visual effect upon the wider landscape, fails to enhance the character or appearance of the locality for the reasons outlined in the design section of the report, and as such remains unacceptable in planning policy terms. Therefore despite the lack of adverse visual impact on the landscape it is concluded that the proposal would have an adverse impact upon the streetscene and the appearance of the surrounding area. As such the proposal does not accord with PPS 1 and Policy 13 (h) of the CSS.

F. Sustainable Construction and Design

Policy Framework

According to PPS 1 sustainable development is the core principle underpinning planning and PPS 22 Renewable Energy states that Local Planning Authorities and developers should consider the opportunity for incorporating renewable energy projects in all new developments. PPS 10 Planning for Sustainable Waste Management is also relevant to securing sustainable design, stating that new development should make sufficient provision for waste management facilities that would be integrated with the development without adverse impact on the streetscene. PPS 10 also states that waste management facilities should be well designed in their own right.

Policy 13 of the CSS relates specifically to sustainable principles of development, stating that new development should meet the needs of residents and business without compromising the ability of future generations to enjoy the same quality of life that the current generation aspires to, and Policy 14 of the CSS provides detailed policy on energy efficiency and sustainable construction.

Policy 14 (a) applies to this application. This states that new development should meet the highest viable standards, with non-residential development being required to be compliant with a BREEAM assessment rating of 'very good'. In addition Policy 14 (a) requires that at least 30% of the demand for energy is met on site, and

renewably and/or from a decentralised renewable or low carbon supply. The supplement to PPS 1 states that new development should comply with adopted Development Plan Document policies on local requirements for decentralised energy supply and for sustainable buildings. In addition the PPS 1 supplement reiterates the need to take advantage of opportunities to minimise energy consumption, the need for high quality environments and the creation of opportunities for sustainable transport to new development.

Supporting Information

The proposed development proposes to achieve a 'Very Good' BREEAM rating. A 2008 BREEAM Assessment has been provided with the application alongside a renewable energy and energy efficiency assessment and a sustainability checklist. These documents and the Environmental Statement demonstrate that the total energy consumption at store would be 1,283,962 kWh per annum, and that 30% of this energy would be provided by decentralised and renewable or low carbon energy sources. As such the target from renewable would be 385,188 kWh per annum. The proposed development therefore takes account of the requirement to tackle the causes of climate change and it would meet the specific requirements of Policy 14 of the CSS.

Sustainable Construction

The proposed scheme would incorporate a number of sustainable construction measures such as off-site assembly of components to cut down build time and waste minimisation through reuse and recycling of materials. In addition the scheme has been designed with percussion taps, waterless urinals and low flush WCs, and it is proposed that routine checks of plumbing will be made to prevent leaks and wastage of water. Furthermore Sainsbury's would obtain their electrical energy from suppliers that produce 10% of electricity from renewable sources with an additional 40% from combined heat and power plants.

Sustainable Design

The energy demands of the new store would be reduced in a number of ways, including the use of a day-light linked dimming control system to the sales area, use of high efficiency florescent lighting, a reduction in lighting to 20% outside of opening hours, use of presence detectors for lights in staff areas, use of a system to disperse cool air from the chiller aisle to other warmer areas e.g. computer rooms and offices, and rainwater harvesting would be provided to flush public and staff toilets.

In addition to the proposed re-cycling of waste materials from the construction of the development, the food waste from the store would be recycled and recycling facilities are proposed on the southern edge of the car park. The proposal would therefore encourage sustainable waste management and as such accords with PPS 10 and Development Plan policies.

Summary

The proposed sustainable construction methods and the proposed methods to reduce energy consumption along with the use of renewable sources of energy are considered to be very positive elements of the proposal. In addition meeting the BREEAM rating of 'very good', commitment to meeting the renewable energy target set by the CSS and the proposed recycling facilities reflect the broad objectives of

PPS 1, PPS 10 and PPS 22. The policy requirements of Policy 14 of the CSS will also be met by the development. However, as a result of deficiencies in the overall design of the proposed development the proposal fails to meet all of the policy requirements for sustainable development.

It is therefore considered that the proposed development, whilst taking a positive step towards providing a sustainable development does not fully accord with PPS 1 and Policy 13 (e), (h), (j) and (k) of the CSS. Furthermore, although the sustainable construction and design measures are considered to be positive they do not outweigh the negative impacts of the scheme including the significant adverse impact upon Desborough Town Centre and an inappropriate design that fails to improve the character and appearance of the locality.

G. Residential Amenity

Policy Framework

Sustainable development is the core principle underpinning planning (PPS 1). PPS 1 states that at the heart of sustainable development is the idea that ensuring a better quality of life for everyone now and for future generations.

Policy 13 of the CSS seeks development which meets the needs of both present and future generations. As a result development should not result in an unacceptable impact on the amenities of neighbouring properties or the wider area, by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

Impact on Residential Amenity

As outlined under the section for 'Urban Design' of this report, the submitted Environmental Statement that accompanies the planning application explains how the design for the scheme evolved and with the Design & Access Statement and the Sustainable Design Checklist it explains the reasons for the chosen design. The proposal seeks to minimise adverse impacts arising from the operation of the store, petrol filling station and associated services which may affect neighbouring properties. The resulting design achieves a development which is not overbearing in nature, and does not give rise to loss of privacy or loss of natural light due to being set back and set down from the surrounding residential streets, and separated by a large car park to the front of the site. To some degree this also reduces the potential impacts of pollution on neighbouring dwellings which is predicted to be generated by the development in terms of air, light and noise emissions. These matters are discussed elsewhere in the following sections of this report.

Summary

The proposed development will not adversely affect the level of residential amenity currently afforded to neighbouring properties and therefore accords with the aims of PPS 1 and Policy 13 (l) of the CSS.

H. Contaminated Land

Policy Framework

PPS 23 Planning and Pollution Control requires local planning authorities to consider the potential for contamination in relation to the existing use and circumstances of the land, the proposed new use and the possibility of encountering contamination during development. PPS 23 also requires Local Planning Authorities to satisfy themselves that the potential for contamination and any risks arising are properly assessed and that development incorporates any necessary remediation and management measures to resolve unacceptable risks. Particular attention needs to be given to development proposals for sites where there is a reason to suspect contamination, such as the existence of former industrial uses, or other indications of potential contamination. Particular attention also needs to be given to development proposals involving particularly sensitive uses such as day nurseries or housing.

CSS Policy 13 seeks to deliver development which meets the needs of both present and future generations. Development should not result in an unacceptable impact on the amenities of neighbouring properties or the wider area by reason of pollution, and should not degrade soil quality or cause a risk to the quality of the underlying groundwater or surface water (CSS Policy 13 (l), (p) and (q)).

Site Conditions

Due to the underlying geology present throughout Northamptonshire, levels of naturally occurring arsenic, vanadium and chromium found throughout the borough frequently exceed the levels at which the risk from these chemical elements to human health is considered acceptable. The site was historically used as farmland before being quarried for ironstone for a short period during the 1950s, subsequently backfilled upon closure. The submitted contaminated land report (chapter 12 of the ES) considers the condition of the land with respect to this proposed end use (major retail proposal).

The report includes a conceptual model which considers the source, pathways and receptors of pollution and provides details of the testing of the site, associated findings and recommendations. The report identifies that there are elevated levels of arsenic and nickel within the soil on site, with the latter presenting a potential risk to sensitive plants.

A range of other gases, chemicals, and compounds were also assessed, and measured to be either at minor levels or below levels of detection. As a result, the contaminated land survey has concluded that the ground conditions on site are unlikely to present a risk to long-term human health, when considered within the context of the source, pathway and receptor methodology. On this basis, the report recommends that no remediation of the site is required.

Consultation comments received from Kettering Borough Council's Environmental Protection Department raises no objection to these findings, although it is recommended that a condition be imposed to secure a methodology and process for resolving any unexpected contamination which may be encountered as the site is developed. With respect to the management of radon gas, it is not considered

necessary to control this by condition, as this matter will be addressed through the separate Building Regulations regime.

Summary

The applicant has demonstrated to the satisfaction of the Council's Environmental Protection Department that the application site does not require remediation based on the proposed end use, and that there is no likely risk to human health. In order to address any unexpected contamination which may arise during the development, a condition is recommended. Subject to this, the proposed development is considered acceptable with respect of contamination and is in accordance with PPS 23 Planning and Pollution Control and Policy 13 (l), (p) and (q) of the CSS.

I. Noise

Policy Framework

PPG 24 Planning and Noise identifies the impact of noise as a material consideration, and provides guidance on locating noisy development in the most appropriate places and mitigating the impact of noise emissions where appropriate. PPG 24 acknowledges that development necessary for the creation of jobs will generate some noise, but that this should remain within acceptable levels taking into account the characteristics of the noise.

CSS Policy 13 (l) states that development should not result in an unacceptable impact on neighbouring properties by reason of noise.

Proposed Development and Noise Emissions

The applicant has submitted a comprehensive noise assessment to predict noise emissions arising from the site during the construction and operational phase of the development, together with measures to mitigate noise emissions to acceptable levels. The noise assessment is based on a number of assessments which focus on noise associated with traffic to and from the site (including delivery vehicles), use of the car park area, operation of building service plant, use of the proposed recycling centre, use of the petrol filling station and noise arising during the construction phase of the site.

The proposed development is located within an urban environment, situated within close proximity (approx 40m) to residential dwellings which are most at risk from being adversely affected by the development. These dwellings are also located within close proximity to an existing commercial use located to the north of the application site. As a result, existing background noise levels are already likely to be higher than those present in more rural areas.

In acknowledgement of this, the noise assessment demonstrates consideration of predicted noise emissions (individually and cumulatively) on nearby noise sensitive receptors. These include neighbouring properties located on Harborough Road, Ironwood Avenue, Mulberry Close, Cranesbill Close and Buttercup Road. The noise assessment predicts that the cumulative effect of all noise sources on receptors will lead to a negligible/slight adverse impact, compared to existing background noise levels, with noise intrusion levels generally considered 'good' in accordance with

British Standard 8233 (this standard relates to sound insulation and noise reduction for buildings).

Considered individually, noise arising from additional traffic to and from the site is predicted to be slightly adverse to negligible, with no properties requiring noise mitigation through noise insulation. Noise from the proposed car park is predicted to be maintained as good (BS 8233), with one receptor (114 Harborough Road) predicted to experience noise marginally above background levels. Noise emissions arising from the recycling centre, and deliveries to and from the site, are predicted to remain below background noise level, achieving a 'good' standard (BS8233). Noise emissions arising from the petrol filling station are predicted to achieve the same standards with the exception of a period between 22:00 – 22:30 (sat) and 09:30 – 10:00 (sun) when noise is predicted to marginally exceed background levels. This will have an affect on 1 Ironwood Close and 3 Mulberry Close. It is however considered that mitigation measures could be successfully secured by planning condition.

Noise arising during the construction phase is predicted to be below target levels, and considered unlikely to generate complaints. However, in order to mitigate noise emissions during the construction phase, the applicant has submitted a Construction Environmental Management Plan which includes a number of proposals including the regular monitoring of noise across the site, and a programme of monitoring during the initial period of each phase of works. As part of this plan, results during this phase would be submitted to Kettering Borough Council and compared against predicted noise levels, in order to identify and address any requirements for additional noise control measures. The Plan also aims to route Heavy Goods Vehicles away from Desborough town centre and restrict hours of works to specified hours of the day to minimise impact on neighbouring amenity. A few amendments are required to the submitted CEMP however this could be secured by condition.

Third party consultation comments received include objections on the grounds that the additional noise arising from the development, particularly use of the petrol filling station and recycling facility will have a significant impact on neighbouring amenity, which will be greatest during summer period when residents spend more time outside. Concern is also expressed over the length of opening hours which will exacerbate these impacts, as well as noise and vibration arising from increased levels of vehicular and pedestrian access to the site, the loading and unloading of deliveries during the night, and noise emissions from generators and other equipment used during the construction phase. The need for an acoustic barrier around the development has also been suggested by a third party.

Consultation responses received from Kettering Borough Council's, Environmental Protection Team has acknowledged that it is inevitable that there will be some loss of amenity due to noise resulting from development of this nature. This is in accordance with the guidance of PPG 24. Conditions are also recommended to mitigate the perception of noise emissions arising from the development. These include reducing the 'line of sight' between existing residential receptors and the noise sources referred to within the noise assessment, and implementation of a 'quiet deliveries' scheme.

With respect of a recommendation for a 'quiet deliveries scheme', it is considered that whilst noise emissions will result from deliveries to and from the site, the noise assessment identifies a cumulative impact of all noise sources associated with the proposed development. Addressing deliveries alone may therefore not achieve sufficient protection to neighbouring properties in isolation to other potential noise sources, such as from the petrol filling station and the foodstore.

A more comprehensive approach is therefore recommended, which would involve the imposition of a condition requiring a noise control scheme to be submitted which shall cover all aspects of the development including an enhanced landscaping to break the line of sight between noise source and receptor. Incorporation of a physical landscape bund is discounted on the grounds that this will further segregate the site from the surrounding area and is not necessarily required to reduce perceptions of noise between source and receptor, when considering other measures which can be taken.

In addition to the above, it is also recommended that a hours of use condition is applied restricting operation of the use to those hours applied for, namely 08:00 – 22:00 (Mon – Sat) and 10:00 - 16:00 (Sun) for the retail unit and 07:30 – 22:30 (Mon – Sat) and 09:30 - 16:30 (Sun) for the petrol filling station, in order to secure acceptable levels of noise during night-time and early morning periods when receptors are most sensitive to noise.

Summary

The applicant has demonstrated that predicted levels of noise arising from the development shall range between negligible to slightly adverse. The applicant has proposed a range of mitigation measures contained within a submitted Noise Assessment and Construction Environmental Management Plan. The Council's Environmental Protection Department accept these findings, but seek that proposed mitigation measures are secured by condition so that any increase in noise emissions above background levels are minimised. It is also considered that the perception of noise be reduced through implementation of an enhanced landscaping scheme which would break the line of sight between noise source and receptor. It is also recommended that the hours of operation of the development (including retail unit and petrol filling station) are restricted to the hours set out within the application, together with the submission of a control of noise scheme to control all noise sources resulting from the development.

Subject to the planning conditions it is considered that the likely noise emissions and perceived emissions arising from the development will be within acceptable levels. The development is therefore considered to be in accordance with PPG 24 and CSS policy 13 (I).

J. Air Quality

Policy Framework

PPS 23 Planning and Pollution Control acknowledges that development can have an adverse impact on air quality which may have direct consequences for human health and well being. Consideration should be given to the location of development where it gives rise to air pollution together with the use of mitigation measures where

appropriate. Where the scale of the impacts of air pollution are unknown but there is good reason to believe that human, animal or plant health may be adversely affected, a precautionary principle approach is advised. The use of the land and the impacts should be considered.

CSS Policy 13 (I) states that development which should not result in unacceptable impacts on the amenities of neighbours or the wider area in terms of pollution.

The impact of the proposed development on air quality should be considered against the context of the Local Authority's statutory duty under the Environmental Protection Act 1995 to review and assess air quality throughout the Borough to identify areas where local measures are required to achieve specified air quality standards. In such instances the local authority has a duty to declare areas of poor air quality as an Air Quality Management Area (AQMA). The application site does not sit within a declared AQMA.

The submitted air quality report has identified a number of receptors (dwellings) within the surrounding area which are most likely to be affected by any deterioration in air quality which may occur as a result of the development. The main sources of air pollution arising from the development is predicted to come from increased vehicle movements to and from the site (nitrogen dioxide), operation of the petrol filling station (benzene), emissions from the retail store (odour) and emissions during the construction phase (dust). The impact of these emissions is predicted to vary between negligible (petrol filling station/retail store) and to slight adverse (traffic/construction phase).

The development is unlikely to generate significant impacts on existing air quality levels subject to implementation of mitigation measures contained within the submitted Construction Environmental Management Plan and Air Quality Assessment, a condition requiring the implementation of an odour ventilation control scheme relating to operation of the retail store and a satisfactory travel plan. Given the scale of the development and for example the additional vehicular trips it will attract, a slight deterioration in air quality is inevitable. This however should be viewed in the context of the site not being located within a designated AQMA.

Summary

The applicant has demonstrated that the impact of the development on existing air quality levels is likely to range from negligible to slightly adverse. Measures to mitigate the impact of the development on background air quality levels are contained within the submitted Construction Environmental Management Plan and Air Quality Assessment and could be secured by condition. It is noted that the application site and surrounding area is not within an Air Quality Management Area, which would require special measures to prevent further deterioration. Subject to mitigation measures being implemented and the implementation of an approved ventilation scheme and travel plan, the development is considered acceptable in terms of its impact on existing air quality. The development is therefore considered to accord with PPS 23 and CSS Policy 13 (I).

K. Lighting

Policy Framework

External lighting has the potential to give rise to adverse impacts on amenity in the form of light pollution. Poor lighting can result in glare hazards, light intrusion, sky glow and light spillage which can also have an adverse impact on the ecology and wildlife of an area, as well as the amenity of neighbouring properties. In some circumstances poor lighting can also detract from the architectural appearance of nearby buildings. Whilst the impact of poor lighting is not expressly considered under PPS 23, it remains a form of pollution and should be treated as a material consideration. Policy 13 (I) of the CSS is also relevant.

In order to assess the impact of lighting within the proposed development, the applicant has submitted a lighting assessment (incorporated as Appendix 6.4 of the Environmental Statement) which sets out the design details of proposed external lighting in the car park, entrance and service yard areas and includes details of automated lighting controls, levels of illumination, lighting locations, height of lighting, and appearance of lighting columns and lamps. A lighting statement has also been submitted specifying the percentage of lighting to be used for security and general purposes and additional information relating to timer controls to minimise issues of lighting pollution during periods when the store is closed. Security lighting is intended to enhance safety and security within the site and eliminate 'black hole' areas within the site which may otherwise provide opportunities of crime and disorder.

Third party consultation comments have raised objection to the level of lighting on site, which is considered to exacerbate existing light pollution issues generated by the commercial site to the north. Concern has also been expressed regarding the impact of illuminated advertisements associated with the proposed use; the issue of illuminated advertisements is considered outside the scope of this application as this would be controlled under separate legislative powers set out under the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended).

Subject to conditions requiring the lighting scheme to be implemented in accordance with the submitted details and a condition restricting opening hours as detailed earlier in the report (as timer controls relate to opening hours), it is considered that the lighting of the site will not adversely affect the living conditions of neighbouring residents.

Summary

The applicant has demonstrated the effects of illumination of the development within a lighting assessment and statement. Subject to conditions the development is in accordance with Policy 13 (I) of the CSS with regard to lighting of the site and the effects of this. Residential amenity will not be harmed by lighting proposals.

L. Flood Risk and Drainage

Policy Framework

PPS 25 sets out the Government's spatial planning policy on development and flood risk. All forms of flooding and their impact on the natural and built environment are material planning considerations. The aims of planning policy on development and flood risk are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. In determining planning applications Local Planning Authorities should have regard to this PPS and Development Plan policies regarding flood risk, ensure that planning applications are supported by site-specific flood risk assessments (FRAs) as appropriate, give priority to the use of sustainable urban drainage systems (SUDS), apply the sequential approach, and ensure all new development in flood risk areas is appropriately flood resilient and resistant.

Core Spatial Strategy Policy 13 (q) is also relevant to this application. Developments should not cause a risk to the quality of underlying groundwater or surface water, or increase the risk of flooding on site or elsewhere, and where possible incorporate SUDS and lead to a reduction in flood risk.

Flooding and Drainage

The site is located within Flood Zone 1 defined by PPS 25 as having a low probability of flooding. All uses are appropriate in this zone. Due to scale of the proposed development a Flood Risk Assessment (FRA) accompanies this planning application; planning applications for development proposals of 1 hectare or greater in Flood Zone 1 should be accompanied by a FRA. This should assess the risks of flooding to and from the development and demonstrate how these will be managed, taking into account climate change. The submitted FRA also forms part of the Environmental Statement. The FRA is considered to be acceptable and provides a suitable basis for assessment to be made of the flood risks arising from the proposed development. The forms of flooding set out and described in Annex C of PPS 25 have been considered within the FRA.

Flooding results from sources external to the development site and rain falling onto and around the site. The sustainable management of this rainfall, described as surface water, is an essential element of reducing future flood risk to both the site and its surroundings. The site will utilise existing foul and surface water drainage infrastructure already in place in connection with the Great Bear development and Business Park master plan. The balancing pond, which is located adjacent to the site, was designed to accommodate the attenuated surface water runoff from the master planned Business Park up to and including a 1 in 100 year event plus climate change. The Environment Agency has reviewed the FRA and Environmental Statement and considers that this development can be accommodated within the existing surface water drainage system. The impermeable area previously agreed for the overall Business Park site, which includes the Sainsbury's application site, has not been increased by this proposal. Anglian Water has also advised that the foul drainage from this development will be treated at Broadholme Sewage Treatment Works that at the current time has capacity to treat these flows. Anglian

Water has recommended a number of informatives to attach to any planning permission.

It should be noted that the outline planning permission has been implemented through the construction of the Great Bear development (Zone H of the outline master plan) in accordance with the approved reserved matters (KET/2006/0734). However the time period for reserved matters submission (3 years from the date of the outline planning permission (25.11.2005)) has now expired. Any further development in this area would require either both a new outline permission and reserved matters or full planning applications. The local planning authority would need to consider the flooding and drainage elements of any future development.

The Environment Agency considers that the development is acceptable subject to planning conditions requiring the submission of a foul drainage scheme and securing the passage of surface water, from hardstanding and parking areas, through an oil interceptor to prevent pollution to the aquatic environment.

It is considered that the development meets policy requirements regarding flood risk and drainage. The development is therefore acceptable from a flood risk and drainage perspective.

Pollution Prevention

The developers should adopt all appropriate pollution control measures, both underground and on the surface, to ensure that the integrity of the aquatic environment, both groundwater and surface water, is assured during construction and operation of this development. A condition could be used to secure the pollution prevention measures identified within the Environmental Statement.

Summary

The site lies within Flood Zone 1 where the probability of a flood event occurring is low. It is considered that the proposed use would be appropriate within Flood Zone 1 and the Environment Agency has confirmed that the existing surface water drainage system could accommodate the run-off from the proposed development. The Environment Agency have however suggested conditions to ensure that a suitable foul water drainage system is provided for the development and that a system is implemented to ensure surface water run-off from the car park and areas of hardstanding passes through an oil receptor to prevent pollution. Subject to conditions the proposed development is acceptable in terms of flood risk and drainage and accords with PPS 25 and Policy 13 (q) of the CSS.

M. Ground Conditions and Stability

Policy Framework

PPG 14 'Development on Unstable Ground' explains that land may have been damaged through industrial activities or other processes and that such land can often be put to appropriate use given proper safeguards. The national policy guidance seeks to ensure that development is suitable and that physical constraints on land are taken into account during the planning stages. The document also notes that the responsibility for ensuring the development is safe lies with the developer, and developers should carry out appropriate investigations of the ground and assess

the suitability and sufficiency of proposed precautions to overcome actual or potential instability. PPG 14 states that where the investigations and assessments show the Local Planning Authority that instability can be satisfactorily overcome planning permission may be granted. Where necessary the local planning authority may impose conditions if considered necessary and provided they meet the relevant tests.

Methodology

The ground investigation report submitted with the application identifies the site as being part of an area quarried for ironstone. The investigation comprised a desk-top study and an intrusive investigation that involved boreholes, trial pits and trial trenches. The investigation established that the quarry high wall (where the quarried area of ground meets the adjoining undisturbed ground) runs north to south within the site adjacent to Harborough Road.

Proposed Remediation

The supporting documents demonstrate that it would be necessary to carry out improvements to the ground so that it is able to support the development, for example by full depth excavation across the site followed by the refilling and compaction of the ground. In addition piled foundations are recommended for the store. These recommendations are both considered to be possible and therefore the ground conditions are such that the scheme could be delivered following the necessary remediation works.

Following excavation and re-filling the ground the level would be slightly different to the existing but there would not be a significant raising or lowering of the land. At present the ground levels range from 141.88 AOD at the southern end of the site down to 138.200 at the northern end of the site. The scheme as proposed would result in the ground level being lowered to 141.225 at the southern end with the store being on ground at 140.00 and the service yard being slightly lower at 138.265.

The supporting information submitted with the planning application shows that although improvements to the ground conditions are required such improvements are achievable without significant alterations to the ground level within the site. It is therefore considered that the previous use of the land as a quarry would not preclude the proposed development from being delivered.

Summary

Although the application site historically formed part of a quarry the applicant has demonstrated that subject to remediation works and proper safeguards being implemented the proposed development could be achieved on the site. Based on the information submitted it is considered that the proposed development accords with PPG 14. Conditions could be used to secure the above works. In any event the applicant should be aware that the responsibility to provide a safe and stable development would lie with the developer and/or landowners.

N. Biodiversity and Green Infrastructure

Policy Framework

PPS 9 Biodiversity and Geological Conservation requires that developments should maintain, enhance, restore or add to biodiversity interests; developments provide opportunities for building in beneficial biodiversity as part of good design. Protected species should also be protected from the adverse effects of development. The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests.

Policy 5 Green Infrastructure (GI) of the Core Spatial Strategy (CSS) sets out how a net gain in GI will be sought and delivered and how identified sub-regional GI corridors will be safeguarded. It also sets out that developments will contribute towards the establishment, enhancement or ongoing management of a series of local corridors linking with the sub-regional corridors. Policy 13 (o) of the CSS supports the national and regional approach to conserve and enhance biodiversity.

Methodologies

An ecological assessment has been carried out and forms part of the Environmental Statement (ES). A desk study has been carried out. The Northamptonshire Biodiversity Records Centre was used to identify statutory and non-statutory sites of nature conservation and protected and notable species within 2 km of the application site. The Multi Agency Geographic Information for the Countryside (MAGIC) was also used to identify any statutory nature conservation designations. An extended Phase 1 Habitat Survey was also carried out. The area surveyed went beyond the site confines and included the balancing pond adjacent to the site and strips of land adjacent to Bear Way, Cockerel Rise, Ironwood Avenue and Harborough Road.

The local planning authority has consulted Natural England, the Wildlife Trust, the North Northants Badger Group and the Northants Bat Group on this planning application.

Nature Conservation Designations

There are no statutory or non-statutory sites of nature conservation within or immediately adjacent to the survey boundary. The nearest designated site is The Plens Local Wildlife Site/Wildlife Trust Nature Reserve which is approximately 0.4 km to the south east of the site. The proposed development will not have an impact upon statutory or non-statutory sites of nature conservation.

Biodiversity and Protected Species

The site is not identified as being part of any particular biodiversity character type when considering the Northamptonshire Biodiversity Character Assessment (Northamptonshire's Environmental Character and Green Infrastructure Suite, River Nene Regional Park). The Biodiversity Character Assessment excludes large urban areas such as Desborough. The site, which lies with the town boundary, is therefore excluded from this assessment. The site comprises habitats that have limited ecological value. Trees and hedgerows on site and along the site perimeter offer the greatest value in terms of providing potential opportunities for birds and the potential to support bat species; trees and hedgerows offer opportunities to roosting and

foraging bats and nesting birds. The ecological assessment sets out recommendations for the mitigation of development impacts upon bird and bat species (for example inclusion of features for nesting birds within the development). The proposed recommendations are considered to be acceptable and could be secured by planning condition. Natural England, the Wildlife Trust and the Northants Bat Group all agree that the recommendations set out in the ecological assessment and ES should be secured by planning condition (no objection is raised by any of these consultees).

One of the recommendations is to use native species within the planting scheme to improve the wildlife value of the site. Currently the landscaping scheme incorporates both native and non-native planting. It is considered that only native species should be used for example in order to provide food sources and habitats for native wildlife. The Wildlife Trust concurs with the local planning authority's view that only native planting be used. It is considered that the landscaping scheme should be revised to fully support the ecological recommendations. Officers have thus far been unable to secure this revision with the applicant. The applicant has submitted a justification for the use of non-native planting however this is still considered to be unacceptable and the landscaping scheme requires revision.

Surveys have also been carried out for great crested newts, badgers, reptiles, otters, invertebrates, dormice, water voles and white-clawed crayfish. There is no evidence that these species are supported by or located on the site apart from 3 records of butterflies on site which are considered common and not part of the Biodiversity Action Plan and is therefore not considered to require any mitigation. The ecological assessment demonstrates that the site conditions are generally sub-optimal for these species. It is therefore considered that the proposed development will not detrimentally affect these species.

Green Infrastructure Corridors

The North Northants Green Infrastructure (GI) network, a series of sub-regional and local corridors, are identified within Figure 9 of the CSS and the GI Character Assessment of the Environmental Character and Green Infrastructure Suite of the River Nene Regional Park. The Jurassic Way, a sub-regional GI corridor, is found in Desborough (the routes shown in figure 9 of the CSS and the RNRP GI Map are broad-brush). This travels through the area of Desborough, where it links with the Willow Brook sub-regional corridor, and traverses along the eastern edge of Desborough. The GI corridor continues along this path and connects into the Ise Valley sub-regional corridor to the south. As the development is proposing to enhance biodiversity on site (see below) it is not considered reasonable to seek any further contribution to GI.

Biodiversity Action Plan (BAP) Contribution

The ecological assessment and Environmental Statement identifies the contributions the application will make to Northamptonshire Biodiversity Action Plan (BAP) targets. The BAP sets out the highest priorities for action, to conserve Northamptonshire's threatened and declining habitats. BAP habitats are an essential part of GI and contribution to these targets is vitally important. New development is an opportunity to integrate and enhance biodiversity, which plays an important role in developing a good environment and sustainable development. Specifically the

development will contribute to both Northamptonshire BAP targets and National UK BAP targets through the enhancement of existing and newly created lengths of hedgerow, enhancement of foraging and nesting opportunities for birds, increasing numbers of trees on site, protection and enhancement of opportunities for bat foraging and commuting. An Ecological Management Plan could be secured by planning condition and would drive forward the conservation management of the site.

Summary

The proposed development will not have an adverse impact on any protected or notable species (with mitigation measures /recommendations secured) and will not impact upon any statutory or non-statutory sites of nature conservation. Contributions will be made to the UK and Northamptonshire Biodiversity Action Plan targets to deliver a net gain in biodiversity. The development should be carried out in accordance with the recommendations of the ecological assessment and the Ecological Chapter of the Environmental Statement. The development is therefore in accordance with Development Plan policy and PPS 9 in terms of ecological considerations and the protection and enhancement of biodiversity.

O. Archaeology

Policy Framework

PPS 5 Planning for the Historic Environment sets out the policies on the conservation of the historic environment and heritage assets (a building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions). A heritage asset does not necessarily have to be designated, for example Policy HE9.1 explains that many heritage assets with archaeological interest are not scheduled monuments and that the lack of a designation does not indicate a lower significance. PPS 5 states that heritage assets should be conserved in an appropriate manner so that they can contribute to our knowledge and understanding of our past. In addition opportunities should be taken to capture evidence from the historic environment, although this would not overcome the need to preserve heritage assets.

CSS Policy 13 (o) states that development should be sustainable and it should protect assets, specifically new development should conserve and enhance historic landscape and designated built environmental assets and their settings.

Archaeological Site Context

During the development of the Magnetic Business Park the previous discovery and potential of an early Saxon cemetery was highlighted. It was thought that the cemetery was identified during the 18th century whilst gravel was extracted and therefore the exact location of the cemetery is unclear.

The ES draws upon a desktop cultural assessment that was carried out in 2005 and a watching brief in 2007 for part of the site. The overall conclusion is that as the site was formerly a quarry there is no potential for archaeological remains. The ES does however accept that it would be appropriate to have a watching brief in place when the topsoil is removed from the site to ensure that the proposal would not have an adverse impact upon archaeology.

Consultee View

The County Archaeology Advisor (NCC) has confirmed that there is no objection in principle to the proposed development. However the finding of the ES regarding the lack of any potential for archaeological remains is disputed. A small area of the site has not been investigated previously. It is considered that the discovery of archaeological remains cannot be ruled out and, despite the small size of the area, should Anglo Saxon remains be discovered they would be of at least regional significance. It is therefore considered reasonable to impose a condition to ensure that appropriate investigation takes place when works are carried out in the area of the site that has not yet been investigated and appropriate mitigation be carried out if required.

The County Archaeologist has confirmed that provided adequate investigation and the recording of any remains takes place then the presence of archaeology would not represent an over-riding constraint on the development.

Summary

Subject to a condition being imposed to secure appropriate investigation of the land not previously investigated, recording of any remains and appropriate mitigation as appropriate, it is considered that the proposed development would not have an adverse impact upon archaeology. The proposal therefore accords with PPS 5 and CSS Policy 13 (o).

P. Planning Obligations

Policy Framework

Planning Obligations Circular 05/2005 provides national guidance on the use of planning obligations. Such obligations may restrict development or use of the land; require operations or activities to be carried out in, on, under or over the land; require the land to be used in any specified way; or require payments to be made to the authority either in a single sum or periodically.

Paragraph B2 of Annex B of the Circular states:

“In dealing with planning applications, local planning authorities consider each on its merits and reach a decision based on whether the application accords with the relevant development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements, they may be refused. However, in some instances, it may be possible to make acceptable development proposals which might otherwise be unacceptable, through the use of **planning conditions** (see Department of the Environment Circular 11/95) or, where this is not possible, through **planning obligations**.” Paragraph B5 goes on to detail the tests each planning obligation must meet.

Community Infrastructure Levy (CIL) Regulations came into force on 6th April 2010. The CIL is a new charge which local authorities in England and Wales will be empowered, but not required, to levy on most types of development in their areas (the proceeds of the levy going towards new local or sub-regional infrastructure). Section 106 agreements can however still be legitimately used where it meets the requirements of the regulations e.g. Section 106 can be used for site-specific

mitigation measures. It is unlawful for a planning obligation to be taken into account when determining a planning application if it does not meet the following tests (which are also set out in the Annex B of the 2005 circular): (1) necessary to make the development acceptable in planning terms; (2) directly related to the development; and (3) fairly and reasonably related in scale and kind to the development.

Policy 6 of the CSS states that developments will either make direct provision or will contribute towards the provision of local and strategic infrastructure required by the development either alone or cumulatively with other developments. The applicant has submitted a Section 106 Heads of Terms.

Applicant's Heads of Terms

(1a) *Public realm works to improve pedestrian and cycle movements* between the site and the town centre are set out by the applicant in the appended Heads of Terms document (Appendix B). It is however considered that these could be secured by planning condition. Paragraph B51 of Annex B of the Planning Obligations circular states that if there is a choice between imposing conditions and entering into a planning obligation the imposition of a condition which satisfies the test of Circular 11/95 (The Use of Planning Conditions in Planning Permissions) is preferable as it enables the developer to appeal regarding the imposition of that condition. The enforcement of conditions is also considered to be more straightforward since it generally involves the use of the planning enforcement system. The Highways Authority considers these improvements are necessary to mitigate the highway impacts of the development.

(1b) *Works to provide an improved bus interchange for Route 18* – a sketch scheme (costed by applicant as approximately £75,000) has been submitted illustrating potential works for a new bus interchange which would include a new seating area with canopy structure, new paving and new landscaping and lighting.

(1c) *Town Centre Management Support* – Sainsbury's have proposed to contribute £50,000 toward Town Centre Management, and proposed that the role, structure and objectives of the Town Centre Management for Desborough be established in conjunction with the Council. In addition on site/in-store initiatives will be introduced to provide links between the store and the town centre.

(1d) *Local Employment* – the applicant has suggested that a Local Employment Partnership be set up with relevant stakeholders which would involve advertising jobs locally, identifying sustainable and appropriate parties interested in employment in the store and providing coaching and training to successful candidates.

(2) *Enhancements to Bus Services 18 and the Rushton Community Minibus* – this will be via financial contribution and secured for a period of 5 years (the total contribution offered is £650,000 over 5 years). The applicant considers that subsidising Route 18 will provide similar accessibility to the site to that is currently enjoyed by Route 19. The applicant considers that it is unnecessary and unreasonable to subsidise Route 19 beyond April 2011 (it is currently subsidised until April 2011 by existing planning obligations).

(3) *Monitoring Contribution (figure unknown at this stage)* – Members of the Planning Policy Committee (1st May 2008) resolved that a contribution of 5% of the financial contributions contained in each Section 106 Agreement is required towards monitoring and management of legal agreements.

Summary

The Heads of Terms proposed by the applicant have been taken into account. It is not considered that the planning obligations will make the proposed development acceptable. No contribution relating to environmental improvements or community improvements (for regeneration objectives) has been proposed by the applicant. The impacts of the development determined through the application assessment and set out in this report (i.e. retail impacts – significant adverse impacts and failure of the retail sequential test – as set out in section B of this report, the unacceptable design of the scheme as specified in section D and the development's lack of accordance with Development Plan policies as shown in section A) will not be mitigated by either the imposition of conditions or the use of planning obligations. Officers have not entered into extensive negotiation for a S106 agreement as it is considered that no contribution, works or financial, will be capable of mitigating the unacceptable impacts set out in this report.

Conclusion

The proposal will result in an unsustainable form of economic development for the reasons set out in the report. It will not deliver the much needed regeneration and enhancement of Desborough town centre which are key objectives and priorities of Development Plan Policy. The development also fails to make the use of previously developed land, within the existing centre, which has been demonstrated as being capable of accommodating this form of retail development.

The proposed development is contrary to PPS 4. The proposal fails the sequential test of PPS 4; it has been demonstrated that there is a town centre site which is available, suitable and viable. The proposed development will also result in significant adverse impacts, as set out in the retail section of this report, including having a significant adverse impact upon the vitality and viability of Desborough Town Centre. This will harm the CSS objective and policy of regenerating (economically and physically) and enhancing centres.

The development should be directed to the town centre to help facilitate and foster regeneration of and direct investment in the town centre, to encourage people to visit the town centre and reduce the need to travel particularly by car.

The proposal does not achieve a high quality design. The scheme is considered to be unacceptable in terms its layout, siting and appearance. The design fails to respond to its context and does not enhance the appearance and quality of Desborough's northern urban fringe. Furthermore, the design fails to take the opportunity available to improve the character and appearance of a prominent gateway site to Desborough.

For the above reasons, and those set out in full within this report, the proposed development is considered to be contrary to the following policies of Development

Plan and national planning policy statements/guidance: PPS 1 Delivering Sustainable Development, PPS 4 Planning for Sustainable Economic Growth and PPG 13 Transport and Policies 1, 9, 12 and 13 (e) and (h) of the North Northants Core Spatial Strategy.

There are no material planning considerations that indicate that the proposed development should be determined contrary to the Development Plan.

Background Papers

Title of Document:

Date:

Contact Officer:

Louise Holland, Development Officer on 01536 534316

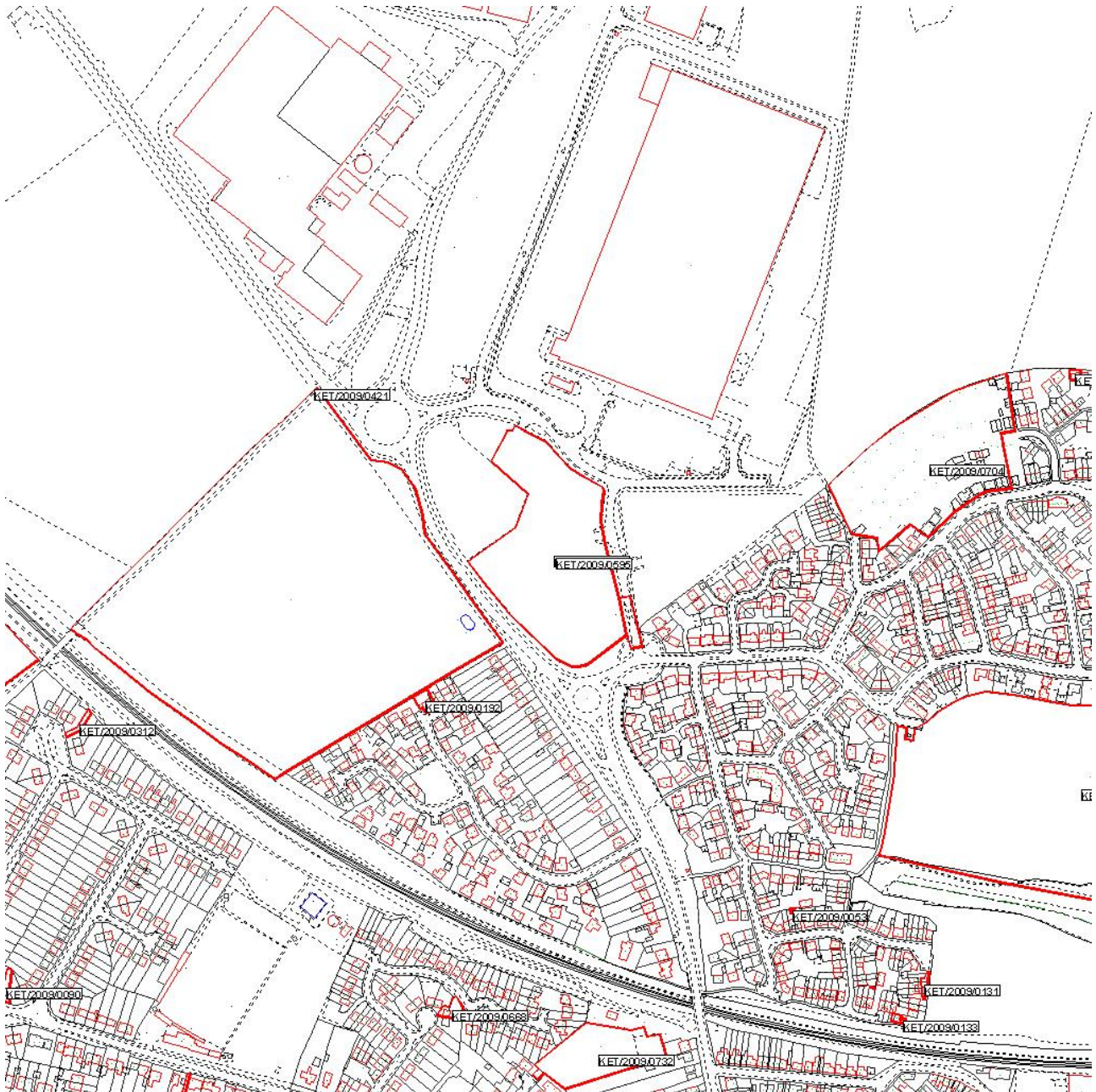
Previous Reports/Minutes

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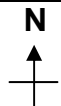
Date:

SITE LOCATION PLAN

Magnetic Park (land at), Desborough
Application No.: KET/2009/0734



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