



Application No: 143715

Location: B & Q Warehouse, B And Q Warehouse, Lightship Way, Colchester, CO2 8JX

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **14th July 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Simon Cairns

MAJOR

Site: B And Q Warehouse, Lightship Way, Colchester, CO2 8JX

Application No: 143715

Date Received: 4 April 2014

Agent: Inidgo Planning

Applicant: Sainsburys C/O Agent

Development: Use of premises as a retail food store with external alterations; installation of a GOL facility, colleague area; two concessions and domestic area at ground level and a cafe at mezzanine level; the removal of the existing garden centre and builders' yard, provision of cycle parking, recycling facilities and reconfiguration of the customer park

Ward: St Andrews

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application was previously considered at the meeting of the 4 February 2016 when it was resolved to grant permission subject to an agreement under s.106 of the Act. The application is now referred back to the Planning Committee and changes to the original report are set out in bold text. The report seeks revisions to the heads of terms of the s.106 agreement following representations from the applicants. In essence, this entails removing a proposed contribution towards upgrading the pedestrian rail bridge for shared cycle use at the south east end of Lightship Way. This currently provides

pedestrian access to the university. This contribution is not considered to comply with the relevant tests under the Community Infrastructure Levy Regulations ('the CIL tests'). The applicants have agreed to increase their contribution to extend the bus service from £50k to £91K and the costs of the highway improvements proposed to Greenstead roundabout under s.278 of the Highways Act have increased to £863k.

2.0 Synopsis

- 2.1 The key issues explored below are the retail impact upon the Town and other centres, the appropriateness of the location in terms of sequential desirability in relation to town centre first policy hierarchy and the impact of the trips generated upon the capacity of the transport network, in excess of those generated by the existing DIY store use. The Highway Authority has no objection on highway capacity and safety grounds since following protracted negotiations the submitted modeling is considered adequate to allow the nature and magnitude of these impacts to be quantified and consequently for relevant mitigation to be identified and agreed with the developer. The change in the nature of the retail use requires planning permission, due to a planning condition that restricts the nature of goods permitted to be sold, despite the use falling within the same use in the Use Classes Order. In addition physical changes are proposed to the building and car park areas.

3.0 Site Description and Context

- 3.1 This application relates to the existing B & Q DIY superstore in east Colchester situated between the Hythe and Greenstead. The existing store has been trading since 2001 and is prominently located on the north side of Lightship Way, an unadopted highway (cul-de-sac) immediately to the north east of the roundabout junction of Lightship Way with Hawkins Road and Colne Causeway. The application site covers an area of 3.469 Hectares. The existing store is a substantial building of rectangular plan set within an extensive area of associated private forecourt parking to the south and east of the building accessed from the eastern end of the 'no through' road. On the east flank of the existing store is a garden centre facility whilst to the west side is an external builder's yard area with a service yard area set to the rear. The service yard is accessed via a driveway running across the northern flank of the store and garden centre areas. To the north of the store is a railway line that links the Town Station to Wivenhoe via the Hythe Station. The rail line provides separation of the store from the residential area to the north. To the immediate south of the store is a predominantly residential area. This comprises blocks of flats with limited retail uses on the frontage to Lightship Way. The eastern end of Lightship Way closest to the railway bridge that links the area to the University of Essex campus to the north east of the Salary Brook is predominantly in use as student accommodation. This area of residential development and student accommodation addresses the north bank of the River Colne that in turn creates a barrier to pedestrian and cycle movements from the wider hinterland to the application site. This barrier effect necessitates the use of the busy Colne Causeway distributor road by pedestrians and cyclists. It provides the sole connection between Greenstead roundabout in the north to the Hythe roundabout to the south west with the new landmark student 'Maltings' development set on the south east quadrant via the single bridge over the River Colne. In terms of vehicular and pedestrian/cyclist connectivity, Colne Causeway carries heavy traffic (including significant numbers of HGV's) and whilst it has a segregated shared use cycle lane (on the footway of the east side of the road) this does not extend into Lightship Way

nor are there any dedicated crossing points (Toucan etc.). The roundabout at the junction of Lightship Way with Colne Causeway provides direct access to Hythe Station via Hawkins Road on the opposite limb of the roundabout, approximately 300 m distant. The lack of formal pedestrian/cyclist crossing points on Colne Causeway has the effect that no provision is made for east-west or north-south movements at the busy roundabout that lies immediately adjacent to the south west corner of the application site. A single pedestrian access point presently provides direct access to the store from the north side of Lightship Way opposite the junction with Quayside Drive, a narrow residential close serving several blocks of flats. The existing store is served by a single public bus service on Lightship Way (61/61A/) with a 20 minute service frequency on Monday-Saturday and a 30 minute frequency on Sundays. The closest bust stop to the site is located at the south east end of Lightship Way adjacent to the student accommodation.

4.0 Description of the Proposal

- 4.1 The proposal seeks to remove the restriction imposed on the range of goods that may be sold from the premises. (outline planning permission ref: COL/98/1047 – condition 6) that states: “The retail development...comprising a DIY store, garden centre and builders yard....shall be used only for the sale of DIY goods or related products and materials, as may be agreed by the local planning authority and for no other purpose including any other purpose within Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987,,.”
- 4.2 The proposal thus seeks to remove this restriction in order to use the premises as a supermarket providing 15,787 sqm (120,115 sqft) gross external floor area. This would provide 7,197 sqm (73,529 sq ft) net retail floor area split between convenience (groceries) and comparison (homeware) goods. It is anticipated that the proposed Sainsbury operation would employ c.450 people (full and part-time) with an anticipated 10 further jobs in the two proposed concessions. Some 458 parking spaces are proposed (including 30 disabled and 30 parent and child dedicated spaces, 5 staff spaces) with covered cycle parking for 50 customer and 30 staff bicycles. The proposal would remove the existing builders yard and garden centre facilities and extend the parking area to occupy the area formerly occupied by the garden centre with a revised parking layout and circulation. The proposed service yard would remain in the same location (north west corner adjoining the rail line) with the same access arrangements as existing. A Sainsbury’s in-store café is proposed on a mezzanine level above the south east corner of the store with a proposed healthcare concession (in front of the service yard) and second small unspecified concession (adjoining the store entrance) with a total floor area of 337 sqm. Within the enclosed service area, a Home Delivery (Goods On-Line) facility and staff area is proposed. Within the store the usual range of goods/services are proposed including a ‘click and collect’ facility and externally cash points (ATM) are proposed within the south, principal elevation.
- 4.3 The proposals provide for the external rebranding and refurbishment of the existing store, including removal of the existing brise-soleil and canopy from the store frontage and the addition of a solid roofed canopy extending over the pick-up area on the south east corner of the store. On the store frontage a new glazed link is proposed between the entrance lobbies to match the adjacent glazed frontage areas. Any inevitable changes in signage would be subject to a subsequent application although indicative signage is shown that reflects the type of signage normally associated with Sainsbury’s stores. The scheme proposes to remove all of the existing trees within the

parking areas but the Plane trees inside the boundary walling would be retained. Replacement of the trees within the parking area is proposed by a smaller number of more mature trees.

- 4.4 The proposed Sainsbury's store has a net trading area of 6,831 sq m comprising 3716 sqm (54%) of convenience goods (grocery) and 3115 sqm (46%) of comparison goods.

5.0 Land Use Allocation

- 5.1 The site is allocated as an employment zone in the adopted local plan falling within the East Colchester Growth and Regeneration Area.

6.0 Relevant Planning History

- 6.1 The most relevant planning history relates to the original planning consent for the erection of the existing B & Q DIY store. This was granted outline consent under reference COL/98/1047 and reserved matters submitted under reference RM00/0153. Condition 6 of the outline consent restricts the range of retail goods that may be sold to DIY products and related goods. The outline consent is subject to a s.106 agreement that required the payment of various financial contributions and precluded the use of the site for uses falling in classes D(2)(d) or (e) and Class A3 of the Uses Classes Order 1987 (as amended).

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 The key paragraphs in the NPPF concerning the vitality of Town Centres and retail impact are as follows:

Employment sites:

22. Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

Town centre uses and the sequential test:

24. Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and

are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

26. When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:
- 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; and
 - the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.
27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

Promoting Sustainable Transport:

29. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe and suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

34. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.

The glossary to the NPPF includes the following definitions of relevance:

Edge of centre: For retail purposes, a location that is well connected and up to 300 metres of the primary shopping area.

Town centre: Area defined on the local authority's proposal map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in Local Plans, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, revised 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations (revised July 2014)
SD2 - Delivering Facilities and Infrastructure (revised July 2014)
CE1 - Centres and Employment Classification and Hierarchy identifies Greenstead Road as an Urban District Centre
CE2 - Mixed Use Centres
CE2a - Town Centre
CE2b - District Centres
CE3 - Employment Zones
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, revised 2014):

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP5 Appropriate Employment Uses and Protection of Employment Land
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010, amended 2014) policies set out below should also be taken into account in the decision making process:

SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area refers to Cowdray Centre

SA EC1 Residential development in East Colchester

SA EC2 Development in East Colchester

SA EC7 University of Essex Expansion

SA EC8 Transportation in East Colchester

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Vehicle Parking Standards

Sustainable Construction

The Essex Design Guide

External Materials in New Developments

Cycling Delivery Strategy

Adopted Colne Harbour [East Colchester] Masterplan Adopted January 2008 paragraphs 4.78-4.79 which refer to bridging the River Colne and connectivity as follows:

“4.78 Although the River Colne is a significant asset around which development in Colne Harbour will be structured; it nevertheless presents a barrier to east west movement. Therefore the provision of safe and convenient pedestrian and cycle bridging points over the River Colne will be a priority. New footbridges improve connections between the banks of the river and enhance the walkable catchment areas for ground floor commercial uses as well as access to public transport and footpath and cycle network.”

“4.79 Three primary bridging points have been identified – creating strong connections to the university quayside and both enhancing the walkability of the area while providing access to bus services operating from the university halls of residence:

- alongside the Coldock site at the southern end of King Edward Quay;
- the area around the end of Distillery Lane, continuing this route from the pond, through King Edward Quay and across the Colne; and
- Gas Quay to the east bank of the River Colne and beyond to Hawkins Road,”

8.0 Consultations

- 8.1 **Anglian Water:** comment “The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable as it is unclear how much flows are proposed to be disposed to the public sewer. We would therefore recommend that the applicant needs to consult with Anglian Water and the Environment Agency. We will request that the agreed strategy is reflected in the planning approval. The planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires our consent.” In addition, a planning condition is recommended. Officer Comment: The applicants have confirmed that there is no increase in drained areas

and the existing sewer connections would be retained as existing. Anglian Water's comments are in the mistaken belief that this is a new store rather than the re-use of an existing store and the conclusions drawn are therefore erroneous.

- 8.2 **Environment Agency:** confirms that the site is located within a flood risk zone. (zone 2 & 3). The site benefits from protection offered by the Colne Barrier and tidal flooding would only be expected at the site if the barrier failed to close or was breached. The risk to the site from tidal sources is therefore a residual risk. The Strategic Flood Risk Assessment demonstrates that if there were to be a breach in those defences during the 1 in 200 cc event the site would be flooded, giving a high, medium and low hazard across the site. A FRA prepared by RSKLDE LIMITED Ref:132205-R1(1) –FRA dated Feb 2014 has been submitted to inform your decision on this.

The risk of flooding is residual (tidal) in the event of a breach of the Colne Barrier and we are satisfied that the FRA provides you with the information necessary to make an informed decision.

In conclusion, the Agency in their response dated 16.05.14 raise no objection but request that a Flood Response Plan be prepared to cover potential safe refuge and evacuation should a significant flooding event occur.

Officer comment: This has been incorporated into the suggested conditions.

- 8.3 **Environmental Protection:** recommend conditions in the event that the application is approved. These relate to the provision of a Service Yard Management Agreement, details of flood lighting to be agreed and details of odour extraction and control also to be agreed prior to first use of the premises.

In relation to the issue of air quality, there is currently no monitoring undertaken on Colne Causeway. The applicants are referred to the Draft Guidance in relation to major development and the need to deliver appropriate mitigation for any adverse impacts resulting from the development. This could include the use of gas powered delivery vehicles.

Officer Comment: In the event that consent were granted, a condition requiring a programme of air quality monitoring and any requisite mitigation measures to be agreed could be imposed to address this issue in accordance with the draft guidance. However, given the existing retail use of the site this could be judged unreasonable and on appeal such a condition could be vulnerable.

The Environmental Protection Manager (EPM) subsequently requested (20.01.15) an air quality impact assessment (AQIA) report on the following grounds;

- This is a proposal that is likely to result in increased congestion
- This proposal will significantly alter the composition of traffic (increase in HDV trips) such that adverse air quality impacts may arise
- This proposal may cause a negative effect on nearby areas of poor air quality

The EPM notes that the transport assessment appears to only discuss peak times (Friday, Saturday, Sunday) and was unable to identify any projections for AADT of the operation phase of the development. The EPM concludes that there would be an increase of 5% traffic volumes which would also trigger the requirement of an AQIA.

Officer Comment: Given the lateness of this request, and present retail use of the site, it was considered unreasonable to request the preparation of an AQIA report.

8.4 Planning Policy Manager, spatial policy:

The proposal involves re-use of an existing B&Q warehouse for use as a Sainsbury's supermarket. The relevant retail planning policies include Colchester's adopted Centres and Employment policies along with the NPPF's guidance on how planning policies should guide the management and growth of centres over the plan period. Colchester's Centres and Employment policies were ultimately not included in the recent Focused Review of Colchester's adopted Local Plan which revised selected policies to bring them into compliance with the NPPF, which postdates the Core Strategy. Accordingly, the NPPF takes precedence over the Core Strategy Centres and Employment policies to the extent there are any inconsistencies between the two documents.

Policy CE1 - In terms of employment generation the Sainsbury's store will employ more than the B&Q store. In this regard, the proposal is considered to address the target in Core Strategy Policy CE1 (Centres and Employment Classification and Hierarchy) for the Borough to plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.

Policy CE3 - The site is located within an Employment Zone, which is covered by adopted Core Strategy Policy CE3. CE3 provides that 'retail developments will not normally be supported in Employment Zones', however given the current use of the site as a retail warehouse, it is not considered that the use of the building as a supermarket would represent a loss of the site to B use employment as it would be a continuation of the non-conforming use.

Retail Assessments

The proposal has been the subject of a series of retail assessments. The initial Indigo retail assessment sought to address the requirements of the NPPF to firstly, identify sequentially preferable sites for the proposed use, and secondly, to assess the impact of the proposed town centre use on the Town Centre. This initial work was then critiqued by Nathaniel Lichfield Planning (NLP) in a report dated 21 May 2014. The Council has retained NLP for several retail proposals in non-Town Centre locations across the Borough to ensure a consistent approach to their consideration. Martin Robeson (MRRP) then submitted a succession of representations. (24 July, 12 September, 7 November and 13th November 2014) on behalf of Tesco which raised concerns about the impact of a new supermarket on its nearby Greenstead store. These reports were rebutted by Indigo, Sainsburys planning consultants, in reports dated (12 June, 19 August and 24 October 2014). NLP carried out further review work commenting on the issues raised, with reports issued on 2 July and 27 November. The final NLP report on 27 November pulled together and updated previous advice in the light of submission received from the applicant and MRPP. The final report detailed a number of technical points concerning the study methodology, but in policy terms, the most important sections relate to the two key areas of retail policy around the sequential approach and impact on other centres. As the Council's retail advisor, the 27th November report by NLP provides the basis for key conclusions on these issues.

Sequential approach: The applicant appeared to concede in its assessments that a large food store could physically be accommodated on either the Vineyard Gate or

Cowdray Centre sites. NLP did not consider that based on the evidence provided by the applicant, these two sites had been adequately discounted on viability and/or suitability grounds. NLP advised that the Council should consider the suitability of a large food superstore of the size proposed by Sainsbury's on both sites.

Subsequently (12 June 2014), Indigo submitted a report elaborating on those sites which argued that the Vineyard Gate site, based on the latest information, would not be delivered until 2019 which was after the period for delivery of Sainsbury's at the B&Q site. NLP responded on 7th July by noting that the B&Q site could also be subject to delays given the need to relocate B&Q and that delivery periods could accordingly be comparable.

Deliverability issues were also highlighted for the Cowdray Centre. Indigo discounted that site on the basis that redevelopment has yet to proceed, with access, traffic, amenity, and viability issues to be resolved. Furthermore, Indigo noted that Sainsbury's is seeking re-use of a building rather than a cleared site.

Timing is accordingly a key consideration for both sites. In the case of Vineyard Gate, it is also important to establish whether the Council, as landowner, wish to consider a supermarket anchor for the Vineyard Gate site. The CBC Regeneration Officer has stated:

From a regeneration and economic growth perspective the Council are seeking a scheme in the Vineyard Gate area which provides for a mix of retail, possibly with some leisure uses to ensure the town centre continues to grow in a sustainable way and supports the expansion of its visitor and tourism economy. We do not consider from an economic growth and regeneration perspective that a single supermarket use in this area would deliver these aims.

Furthermore we have concerns about the amount of comparison goods within schemes being developed outside the town centre and would like this to be taken into account in your discussions.

The Council has confirmed that a supermarket anchor tenant is not being sought for Vineyard Gate, so the site is discounted as a sequentially preferable one. The concerns about the impact on long-term investment are covered in the following section on retail impact.

While the owners of the Cowdray Centre have not ruled out a supermarket on the site, the 2017 delivery date for a supermarket is not considered realistic in the short term given the lead time necessary to develop a workable scheme for the site. The current submission for half the site of a primarily residential development reinforces the view that the site is not available.

Impact assessment: - NLP accepted the conclusion that the proposed Sainsbury's would not have a significant impact on the Town Centre or on the Urban District Centre at Greenstead Road (although it would have a significant 28.1% trade diversion effect to 2017). Tesco, represented by Martin Robeson, submitted an objection to the Sainsbury's proposal on the basis that it would have a negative impact on the existing Greenstead Urban District Centre. The objection, however, is not accepted on the basis that the Greenstead Urban District Centre is formed of only one store. The proposal is not considered to be likely to result in the closure of the Tesco's. Accordingly, no harm to the Centre can be upheld. Significant trade diversion does not necessarily equate to a significant adverse impact in terms of the NPPF tests. This will depend on specific circumstances. In this case there will be no impact on local consumer choice or a dilution in Tesco's offer/role. The reduction in Tesco's turnover will reduce trading levels from above to slightly below average trading densities. This reduction will if anything improve the shopping experience for Tesco customers, i.e. less congestion and queuing at peak periods.

In terms of other planned supermarkets, NLP has assessed the impact of the Sainsbury's food store on the the North Colchester Urban Extension store which is not expected to be significant.

Indigo submitted further information on the cumulative trade impact on the Town Centre (combining comparison and convenience categories) which they considered reinforced the point about lack of impact of Sainsburys.

Martin Robeson has raised concerns regarding Indigo's retail impact figures. These concerns have been considered by NLP who undertook their own impact assessment. The average impact on convenience goods facilities in Colchester town centre is - 9.7% in 2017, primarily focused on the Priory Walk Sainsbury's store. There is no evidence to suggest the Sainsburys store will be forced to close. NLP considered that it is unlikely the reduction in convenience goods trade will lead to other shop closures within the town centre. The retention of the Priory Walk store could be secured by a Section 106 agreement for a five year period.

The comparison turnover of existing facilities within Colchester is estimated to decrease by -3.9% in 2017. This reduction will be offset by population and expenditure growth between 2014 to 2017 and this level of trade diversion is not expected to lead to shop closures within the town centre. The main concern is the potential impact on longer term planned investment. The 2019 projections suggest there is insufficient comparison goods expenditure capacity to support the level of comparison sales floorspace proposed as suggested by previous Vineyard Gate proposals. The maximum theoretical expenditure deficit at 2019 could be £49.50 million, about 5% of total expenditure available in the Borough at 2019, or around two year's growth in expenditure. A two year delay would not necessarily jeopardise the Vineyard Gate development, particularly given the lack of a developer/landowner objection to the Sainsbury's store planning application and the amount of comparison sales floorspace proposed.

There accordingly do not appear sufficient grounds to warrant refusal of the scheme on the basis of adverse retail impact on other Colchester retail centres.

8.5 Transport Policy Manager: Transportation Policy Comments

1. Introduction

The comments set out below are set out against the Core Strategy Policy. These are also supported by Development Control, Site Allocation Policies and Supplementary Planning Documents.

2. Policy TA1 – Accessibility and Changing Travel Behaviour

The proposal is located within the East Colchester urban regeneration area. In overall terms this is an accessible area being served by walking cycling, public transport and vehicle route. The site is close to major existing and developing residential areas.

Compliance with TA1 involves improvements to site accessibility as well as locating development in an accessible area.

The existing transport infrastructure in the area provides barriers to sustainable movement which need to be crossed to access the proposed development:

- Colne Causeway/Eastern Approach
- A133 St Andrews Avenue/Clinghoe Hill to the north east
- The Colchester Clacton Rail line to the north east
- The River Colne – forms a barrier to the west

The proposal relies heavily on the existing infrastructure for access and the store design does not promote sustainable access for both the shopper and employees. Issues relating to the specific sustainable modes are set out below.

The applicants have submitted a Framework Travel Plan which needs to be funded to ensure its success. Its success also depends upon changes to the design and existing infrastructure to promote walking, cycling and public transport. There is no evidence provided on how the Travel Plan will help manage car parking demand, especially as the number of car park spaces are at least 25% less than the adopted standard for retail. (See Policy TA5 and adopted Parking Standards, Design and good practice).

The travel plan has set targets for staff and this is welcomed however the target for customers is “xx% to be aware”. The target for customers needs to be more specific especially when the car park is less than the maximum provision.

The targets are set for 5 years, travel planning needs to continue after this date to ensure that the targets are not eroded. Within Colchester there is a number of organisations, public and private, who benefit from being part of the Colchester Travel Plan club. For a fee this gives access to resources, coordination of programmes and support for the organisation’s own travel plan officer.

3. Policy TA2 – Walking and Cycling

The current proposal does not make best use of its accessible location and the existing networks. To give priority to walking and cycling in accordance of policy TA1 the design of the site layout and improvements to connect it to the wider area are required and to deliver on the adopted Colne Harbour East Colchester Masterplan (January 2008) to support the creation of a cohesive development area. The adopted cycling SPD sets out the features of good quality cycle links including:

- Direct
- Traffic free
- Quality routes
- Continuous

Not all of these can be achieved but the proposed car park layout does not give those walking and cycling to the store a sense of priority. There are two obvious desire lines; one from Lightship Way (Quayside Drive) to the store entrance and the other from the existing Lightship Way bus stop to the store entrance. Pedestrians and cyclists should be given a step free segregated access route to the store entrance with priority across the internal car parking roads. A dedicated route has been shown on the latest drawings across the car park from the end of Lightship Way. Further improvements are needed to access from the Colne Causeway End of the road to the store entrance to provide continuity. This could either be achieved by providing a link from the adopted highway through the wall and or allow cycling on the pavement on the unadopted section. This would still require cycle rights to be given over the adopted section.

There are a number of points on the Highway Network where crossing of the road network is required to connect the store and improve its accessibility from the surrounding area. This can be achieved by extending the cycle network and the providing crossing points around the Colne Causeway Roundabout and along Lightship Way.

Much of Lightship Way is not adopted, has street lighting installed but is not in use. As the store is to be open into the evening hours the Sainsbury's needs to create a more secure environment for customers, staff and those passing through the area Sainsbury should pay for the running costs of the lighting and its upkeep.

These small changes can be delivered by condition or through a legal agreement.

The Borough Council adopted Colne Harbour East Colchester masterplan (January 2008) supports the creation of a cohesive development area. Sections 4.78 – 4.82 outline the need for the bridging the Colne to link together the different parcels of land with good quality walking and cycling routes to enhance the development area.

The adopted cycling SPD sets out the features of good quality cycle links including:

- Direct
- Traffic free
- Quality routes

The provision of a walking and cycling bridge to the east of the Colne Causeway links together the two banks of the development area where significant land use changes are occurring. A new bridge will also benefit the wider existing community by giving traffic free access from the Distillery Lane, Old Heath area.

The store will attract students as either customers or employees. However, the bridge across the railway line prohibits cycling. To provide real choice to travel this barrier to cycling should be removed.

We believe that a financial contribution should be made by Sainsbury's to support the delivery of the bridge to deliver sustainable transport and the wider objectives of the regeneration area.

Conclusion

Changes are needed to be given in the design and layout of the store to improve the access for walking and cycling, for both staff and customers. The proposed design is limited especially when the trip rates are based on local demography and the proposed car parking levels are less than the maximum.

4. Policy TA3 – Public Transport

The Core Strategy Policy and Development Policy 17 Accessibility and Access requires that proposals for development shall incorporate satisfactory and appropriate provision for public transport and measures that reduce dependency on private vehicles.

Currently the site is on one regular bus route; service 61 operating down Lightship Way. The 61 operates from Colchester Station, Town Centre and to the University. The 61A is a modified service 61 operated on a Sunday but not running the full route. (source: Traveline and First Essex website).

(Service 61c which is quoted in the TA appears to no longer run or is no longer identified as a separate service in the time tables).

Buses are particularly important for those without access to the car – the young, the old and 1 car families where the car is used for commuting. The six surrounding wards range from 69% to 83% of households do not have a car or access to only 1 car. This is higher than the average for those without access to a car in Colchester.

The residential areas of New Town and Old Heath will be connected to the store by service 61. However, those nearby but across St Andrews Avenue in Greenstead will not be connected by public transport.

Service 61 also serves the residents of Lightship Way to access other parts of Colchester, including the University, Whitehall industrial estate, the town centre and the railway station.

Current Service level and frequency

Most of other major supermarkets in Colchester are on multiple bus routes (3 or 4 routes). This proposal is reliant on the successful operation of only one bus service. All other bus services are further away than maximum 400m (IHT guidance) walk distance to a bus stop.

Weekday and Saturday Service

Service 61 operates on a 15 minute frequency on week days from 07:00 up until 19:45. On a Saturday the service starts around 09:00 and runs until a similar week day time. These times are in line with the current B&Q opening times.

Sunday Service

The service is approximately every 30minutes starting at around 11:00 and finishing at 20:00. The current Sunday service starts 1 hour after the store opens.

Conclusion

Part of the success of travel change behaviour (policy TA1) is to have services and infrastructure in place for both customers and staff to be able to use whilst the store is operating and the service should be extended.

Sainsbury have offered to cover the costs of extending the week day service for one year to run whilst the store is open, but not the Sunday morning service.

Access to Bus Stops and Queuing traffic

Currently the nearest bus stop is at the eastern end of Lightship way. This stop is some 250m away from the entrance to the store. The current stop serves the University Quays accommodation, the University and Knowledge Gateway via the railway footbridge. A new stop should be provided on Lightship Way (near the junction with Quayside Drive). This should be on the store side of the road to reduce the distance to the store entrance and crossing the road with bags of shopping. The stop should have a flag shelter and real-time information. Sainsbury will need to resolve the legal matters of locating such a feature on an unadopted road.

Real-time information should also be provided at the existing stop at the end of Lightship Way and innovatively in store. This could give customers time to have a refreshment in the café before going to catch the bus.

The continued success of service 61 along its whole route will be dependant on the operation of Lightship Way.

If the car park does not load efficiently and or demand is greater than the level of car parking provided queues will form back onto Lightship Way with an impact on the operation of the bus service. Queuing into the Colne Causeway Roundabout could also impact on bus operation.

We are aware of problems at other superstores, retail parks where the inefficient loading of the car park has resulted in queuing back onto the highway e.g. Sainsbury's Tollgate. Some of the queuing issues have been addressed by further investment in the car park post opening. First buses inform us that they had to withdraw a high frequency service from Asda Turner Rise due to queuing traffic.

Currently with B&Q operating First Essex Buses have confirmed that bus service is not delayed as it goes down Lightship Way or when it rejoins Colne Causeway at the roundabout.

The next nearest stop is 460m away near the junction of Elmstead Road and Colne Causeway (to the north of the site). This stop cannot be considered as an alternative as it is greater than the maximum 400m maximum distance prescribed by IHT guidance (desirable is 300m).

Concerns have been raised that the existing bus stop is some 250m away from the store entrance, which disadvantages those with mobility impairments. Local discussions with First Buses suggest that they would be willing to stop to pick up and drop off at the entrance in Lightship Way opposite Quayside Drive – this would reduce the distance to the store entrance to approximately 50m.

Part of increasing the use of public transport is the provision of timetable information. ECC have invested heavily in the upgrading the public transport real time information systems on the bus and at bus stops.

Attractive bus services require frequent reliable services and where possible avoid traffic congestion. The impact of congestion is that the bus operator could withdraw the service from Lightship Way to avoid queuing. However, there are no stops on Colne Causeway, which could serve Sainsbury's and the University Quays development.

In Hertford the legal agreement Sainsbury approved included a trigger point to release up to £250,000 if car parking was greater than expected and the funding was directed to Sustainable Transport Measures.

The traffic assessment indicates an increase in traffic movement at the Colne Causeway Roundabout with changes in turning movements and certain arms near or over capacity in the modelled time periods. We have raised these and a number of traffic concerns with ECC.

More information is required to demonstrate that the traffic flows generated do not impact upon the reliable operation of the bus service. Further comments relating to this matter are set out under section TA5 Parking.

Conclusion

There are some basic changes that could be made to ensure that the development is sustainable and is consistent with promoting sustainable transport and provide real choice. The bus service needs extending, stops and real-time information provided.

The major concern is the car parking standard, accumulation and trip rates and the potential impact on the wider operation of the bus service. An approach has been suggested in the TA and used at other Sainsbury stores to set up a monitoring scheme and release funding for sustainable transport if triggered.

5. Parking - Policy TA5, Development Policy DP19 and Adopted Parking Standards

Car Park Design

In discussion with the North East Parking Partnership Manager who manages a variety of public car parks in Colchester efficient loading of car parks relies on the design and layout which can greatly influence the individual car driver's behaviour in seeking a space quickly.

The most popular spaces are those nearest the store entrance and drivers tend to try and seek these first. The entrance, the pick up point, the cash points are close together and in an area where customers need to cross the car park circulation road. The combined impact of these movements can dictate how well the car park fills.

Sainsbury's have submitted car park accumulation data based on other stores. It is not clear how appropriate these stores are in terms of size, car parking use and demography and can be applied to Colchester.

There is no evidence that the car park as designed will fill efficiently at the rates set out the information provided.

Car Parking Standards

The proposal provides 548 spaces (including 30 disabled spaces) for a gross floor area of 11,147sqm.

The adopted parking standards suggest a maximum of 1 space for 14sqm of GFA (for A1 food), 1 space for 20sqm (for A1 non food) + disabled parking.

54% of the proposal is food, 46% of proposal is non food retail. Applying the adopted standards suggest a maximum of 718 including 32 disabled spaces.

The Transport Assessment (para 4.4, para 6.2) it appears that no parking allowance has been made for the health care concession and second in-store concession.

548 spaces are only 75% of the maximum number of spaces and is one space per 20.3sqm of store. The adopted standard does allow for a lower provision of vehicle parking standard if in an accessible urban area where there is good access to alternative forms of transport and existing car parking facilities. There is not any shared car parking in the area and there are concerns over access to alternative forms of transport.

In comparison the current B&Q store has 467 spaces. The Greenstead Road Tesco has 562 spaces (including 28 disabled) for a store of approximately 6900sqm (gross floor area). This is one space per 12.3sqm of store.

Car Park Design and Layout

The parking standard requires parking bays to be 5.5m x 2.9m. A smaller size bay can be used in the exceptional circumstances with approval of the LPA. It appears the extra bays Sainsbury have added are or of the same size as the existing B&Q bays which are no greater than 5m x 2.4m.

The car park layout only provides 548 spaces if the bays are less than the preferred size. If new bays are provided at the bigger new standard then the car parking will be nearly 30% below standard.

Pick up and drop off at the Lightship Way entrance

There is great potential that some customers will try and choose to pick up and drop off at the gap in the wall in Lightship Way (Quayside Drive). At peak times this could exacerbate the traffic problems in Lightship way.

Car Park Monitoring and Funding Proposal

The car parking should be monitored and if delays due to car parking are unacceptable then Sainsbury should be required to fund measures to ensure that the bus operation is not impacted on. This could include bus priority in Lightship Way, providing stops on Colne Causeway and suitable crossing points of this road and walking route to the store and enforcing pick up and drop off in Lightship Way

This monitoring approach has been included as part of S106 agreement obligations for Sainsbury stores in Hertford and Ely. (Para 15, Appendix E Development Trip Calculations).

In Hertford the legal agreement Sainsbury approved included a trigger point to release up to £250,000 if car parking was greater than expected and the funding was directed to Sustainable Transport Measures.

Conclusion

Notwithstanding that the overall location is accessible based on A1 (retail) there appears to be a significant under provision in car parking. Approval will be needed for parking bays below the preferred adopted standard. It is not evidenced how the travel plan will be successful in delivering 25% reduction car parking, especially as the design and layout as originally submitted is not consistent with providing and promoting sustainable transport. The Travel Plan is very weak on its targets for customers. The car park accumulation data is linked to the traffic forecasting, over which there are concerns and further justification is required.

Overall Conclusion

The store is in a sustainable location and the traffic assessment uses local demographic information making a strong case for sustainable travel but proposed design and provision for those walking, cycling and by bus compromises this sustainability.

The low level of car parking provided is a major concern and the potential impact on sustainable travel. The size of the parking bays needs approval from the Local Planning Authority. The accumulation data needs to be revisited especially as the traffic forecasting has been challenged.

The Travel Plan is comprehensive but needs funding and targets for customers need to be established, especially as the car park is below standard.

Essex County has requested further information on traffic forecasting and its impact. Depending on the results of further testing and if these unknown impacts can be addressed then through modification to the design or by contribution sustainable access to the store can be improved and the application brought into line with policy. Some of the changes required are related to the design of the site and others relating to the surrounding network to improve sustainable transport connectivity of the store to the local community.

8.6 Essex County Council in their role as Highway Authority: Comments that from a highway and transportation perspective the impact of the proposal is acceptable to the highway authority subject to:

- An agreement with the highway authority under the Highways Act 1980 to regulate construction of the requisite highway works in mitigation of the impact of trip generation on the highway network;
- 'Grampian-style' conditions requiring works to be undertaken to improve the highway prior to the commencement of development. These works include:
 - a) A minimum 3 metre wide pedestrian/cycle link between the south west corner of the proposal site and the food store building
 - b) A minimum 3 metre wide pedestrian/cycle link between the existing main pedestrian access off Lightship Way and the food store building
 - c) A minimum 3 metre wide pedestrian/cycle link between the end of Lightship Way and the food store building
- The pedestrian crossing central island on the A134 Colne Causeway, immediately south of Greenstead Roundabout, either narrowed and/or relocated to widen the two northbound running lanes at the crossing
- A condition requiring: . No occupation of the development shall take place until the following have been provided or completed:
 - a) A capacity enhancement at Greenstead Roundabout as shown in principle on planning application drawing number 120729A/SK/05 Rev E
 - b) An extension of the A134 Colne Causeway shared footway/cycleway to the end of highway into Lightship Way
 - c) For a minimum period of 3 years bus service number 61 extended on a 30 minute frequency from its current finish time at approximately 19:30/20:00 hours to approximately 23:00 hours Monday to Saturday (and/or to coincide with the food store opening hours)
 - d) A new bus stop (to current Essex County Council specification) within the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
 - e) A travel plan to include but shall not be limited to a travel plan coordinator and £3,000 contribution to cover Essex County Council's costs to approve, review and monitor the Travel Plan

Officer comment: The suggested conditions have been incorporated into the draft decision set out at the end of this report.

8.7 Economic Growth Manager: comments

“From a regeneration and economic growth perspective the Council are seeking a scheme in the Vineyard Gate area which provides for a mix of retail, possibly with some leisure uses to ensure the town centre continues to grow in a sustainable way and supports the expansion of its visitor and tourism economy. We do not consider from an economic growth and regeneration perspective that a single supermarket use in this area would deliver these aims.

Furthermore we have concerns about the amount of comparison goods within schemes being developed outside the town centre and would like this to be taken into account in your discussions.”

Officer Comment: The Council has sought independent scrutiny of the retail impact of the proposals (especially comparison goods) upon the town centre and planned investments and this aspect is specifically addressed in the report below.

8.8 Landscape Planning Officer: Does not object to the landscape elements of the proposals but identifies elements that require amendment in his opinion. Conditions are suggested in the event that the application is recommended for approval. Officer comment: The suggested conditions have been incorporated into the draft decision set out at the end of this report.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council’s website.

9.0 Parish Council Response

9.1 N/A

10.0 Representations

10.1 Three representations have been received from individuals objecting to the proposals. The following points are raised:

- No need for more supermarkets;
- No viable mitigation proposals to address traffic impacts proposed;
- Area already suffers from congestion;
- Must ensure Sainsbury’s contribute to sustainable transport improvements for the area;
- Increased litter, disturbance and parking within a residential area;
- Deliveries will detract from amenities of the neighbourhood;
- Deliveries to B & Q store are already disruptive.

10.2 A single representation in support has been received. The following points are raised:

- it will serve the community hugely

- 10.3 **Sir Bob Russell** on behalf of a local resident queried what action is being taken to improve cycle and pedestrian access and links to the site. The provision of cycle parking is also queried.
- 10.4 **Colchester Cycling Campaign (CCC)** objects to the development on the grounds that it represents unsustainable development with increased car dependency and decreased attractiveness for walking and cycling with decreased air quality. The CCC asserts that Sainsbury's is not improving cycling or walking infrastructure. The group queries the number of jobs created (450) and questions the full time equivalent number of jobs. The CCC supports the objections submitted by the Bus Users Group. The following objections are raised:
- excessive traffic generation and congestion would result;
 - encourage greater car dependency;
 - queries actual job creation.
- If the Council are minded to approve requests that:
- A £4m contribution towards sustainable transport in Colchester is sought with emphasis on provision of infrastructure to support cyclists and pedestrians;
 - Modification of the railway pedestrian bridge to make cycleable;
 - Funding secured for air quality case study of particulates in East Colchester to assess impact of the store;
 - Preclude creation of mezzanine floor or out of town retail centre;
 - Restrict numbers of shoppers arriving by car.
- 10.5 **Colchester Bus Users Group** Secretary comments that the existing bus services are very limited (No.61) and there is not a bus stop in close proximity to the store. The group concludes that pedestrians would be forced to use an unpleasant car dominated environment. The resultant congestion would harm the punctuality of the bus services.
- 10.6 **Martin Robeson** consultants on behalf of Tesco plc has submitted 5 detailed representations in response to the cascade of retail evidence submitted by Indigo on behalf of Sainsbury's and the independent reviews produced by NLP on behalf of the Council. Martin Robeson has helpfully submitted the following as a summary of the issues raised:

"Retail Assessment"

The turnover of the Greenstead Road UDC has been vastly overstated. The Council's 2009 Study accurately identified it as trading at £20.8m pa (applying 2011 prices). Yet the 2014 Assessment says it trades at £42.62m pa. As a direct result trade diversion is said to be 28.1%, rather than a more realistic 57.6%. The impact on the Greenstead Road UDC has thus been vastly understated. By basing its assumptions on the as yet unexamined 2013 CTRS, the Council's consultant fundamentally underestimates the impact on the UDC.

Impact on Greenstead Road Urban District Centre

The Council's consultant accepts that a 28.1% diversion of trade will cause a "*significant level of trade diversion*" but suggests that this does not constitute a "*significant adverse impact*" which is the threshold requiring refusal. But the correct diversion of 57.6% (see 1 above) must as a consequence cause a "*significant adverse*

impact” requiring refusal of permission by virtue of the Framework’s Paragraph 27. A lack of closure of the store (as asserted by the Council’s and the applicant’s consultants) is not the correct test here. Such an effect would, in any case, be well beyond a significant adverse impact. It would be fatal.

Sequential Test

The Framework confirms that planning permission should not be granted until the sequential test is met. The Cowdray Centre has not been adequately assessed by the applicant’s retail consultant and cannot therefore be discounted. The Council’s consultant agrees. Planning permission should therefore be refused.

Loss of Choice and Competition in the DIY Sector

The loss of a significant part of an important retail sector to the town without any confirmation as to relocation substantially reduces choice and competition to the public (which planning policy is charged with fostering).

Loss of Designated Employment land

The site is designated as part of an Employment Zone. Reinstating the site for such purposes is an important policy consideration, especially as employment land may need to be released elsewhere in the future to accommodate a replacement B&Q. This matter has not been satisfactorily addressed.”

Officer comment: These issues are explored in the report below.

- 10.7 **Councillor Julie Young:** Supports the views expressed by the Colchester Bus Users Group (CBUG) and comments that “Greenstead has low car ownership and that improving transport access is therefore key...Access to supermarket choice is key to health outcomes...The new supermarket would be inaccessible by bus from Greenstead for shoppers and staff.” The CBUG has commented via Cllr Julie Young that an additional daytime bus route is needed which must include Greenstead. Councillor Young also comments about the need to improve cycling links and concludes that “just extending already poor bus access is not acceptable.”
- 10.8 **First Plan on behalf of Waitrose Ltd** submit the following objections: “Urge the Council to refuse on the grounds that it fails to meet the requirements of the sequential test as set out in the NPPF and the adopted Core Strategy.” Reference is made to the Cowdray Centre and Vineyard Gate which in their opinion have not been discounted as unavailable or unviable.

Officer comment: The sequential test is considered in the report below and concludes that neither site is available for a store as proposed.

The full text of all of the representations received is available to view on the Council’s website.

11.0 Parking Provision

- 11.1 The proposal provides 548 spaces. The adopted parking standard is a maximum standard and the scheme provides for 75% of this standard. The relevant local plan policy DP19 encourages a relaxation of this standard where sites are sustainably located.

12.0 Open Space Provisions

- 12.1 The site is for retail use and attracts no requirement for open space provision.

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area but the associated vehicular movements beyond those generated by the existing restricted retail use as a DIY store could impact upon air quality. The Environmental Protection Manager suggested an Air Quality Impact Assessment report is justified. However officers believe this would be unreasonable given the lateness of this request and the existing retail use of the site. In officer's opinion the imposition of a condition requiring a programme of air quality monitoring and mitigation to be undertaken could be vulnerable to challenge on appeal on grounds of unreasonableness given the existing retail use of the site.

14.0 Development Team and Planning Obligations

- 14.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team (DT). The application was considered on the 14 January 2016 when it was agreed that a package of contributions/obligations would be sought to mitigate the impact of the development. These are set out below together with the applicant's response to each request in italics immediately following. Members are reminded of the relevant tests that must be applied. These are statutory and set out in The Community Infrastructure Levy Regulations 2010 (as amended) and at paragraph 204 of the NPPF.

"Paragraph 204. States: 204. Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

- 14.2 The following list sets out the requests for contributions/obligations made together with the applicant's response. These are grouped under a heading denoting the originator of the request.

Transportation Policy CBC:

- Create a shared walking and cycling entrance in the south west corner of the site from the existing Colne Causeway/Lightship Way junction path and provide a safe walking/cycling route to the store entrance by design. Enter into a legal agreement with ECC to provide the short link on Highway (20m). Estimated cost £10,000;

Applicant's response: *Sainsbury's will agree to provide this. We request that this be secured by condition.*

- Contribute to the creation of a shared use bridge across the River Colne link both side of the Colne Harbour reducing the barrier to movement and access to the store – contribution sought £250,000;

Applicant's response: *We would be grateful if you could confirm how this figure has been calculated. We cannot see how this contribution is necessary to justify the development. The County have already provided their recommendations and did not recommend this be provided. They clearly do not see this as being necessary to justify the development and nor do we. This proposed swing bridge would only benefit a very small proportion of people living to the extreme south of the store. When we spoke about this yesterday, you advised that it was necessary because of the anticipated modal split of customers coming to the store. The County Council did not accept this modal split argument which is why Vectos had to use a higher vehicle trip generation than they originally set out in their Transport Assessment in order to satisfy the County. It is the use of that higher vehicle trip generation in the vehicle modelling work that has led to the package of highway works at the Greenstead roundabout which amounts to approximately £700K (plus utilities diversion) which is not an insubstantial amount.*

*We cannot agree to the £250K contribution on the basis that it is not Regulation 122 compliant. To do so would make the consent challengeable. **The omission of this contribution was previously agreed by committee on 4.02.16. This is no longer sought.***

- Upgrade the existing bridge to allow cycling to the store from the University over the railway – contribution sought £100,000;

Applicant's response: *We cannot see how this contribution is necessary to justify the development. Again, the County have already provided their recommendations and did not recommend this be provided. They clearly do not see this as being necessary to justify the development and nor do we. The point made above regarding the modal split argument is also of relevance here. We cannot agree to this contribution on the basis that it is not Regulation 122 compliant. To do so would make the consent challengeable. **This contribution was previously sought as part of the resolution to grant permission on 4.02.16. Further dialogue with the applicants and investigation into the likely project costs by the Transport Policy Manager has cast serious doubt upon the validity of a contribution of this magnitude. Legal representations submitted by Dentons solicitors on behalf of Sainsbury's are reproduced at **Appendix B**. These representations contend that the proposed contribution would not conform with the CIL tests nor Government advice in the NPPG. Given the significant likely budget to deliver these alterations to the bridge, it is considered unlikely that the required additional contributions would be forthcoming within a reasonable timescale. Whilst deliverability is not strictly a consideration, the necessity of providing a cycle link to the university is a moot point. Given the overall magnitude of cost associated with providing modifications to the bridge to render it suitable for cyclists this is arguably disproportionate and it is recommended that this obligation is now struck out from the recommendation. The Council has sought independent legal advice on this matter and this has reinforced this view.***

- Improving security – develop a lighting scheme to illuminate Lightship Way to improve personal security for those walking. This could be achieved through lighting provided on-site throwing light onto Lightship Way;

Applicant's response: Sainsbury's will agree to develop a lighting scheme to illuminate Lightship Way during store opening hours only. *We suggest that this be secured by a condition rather than an obligation such as the following:*

Prior to the occupation of the development hereby approved a car park lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The car park lighting on the Lightship Way boundary of the site will be designed such that light spills onto Lightship Way while the store is open to the public.

- Public Transport Real time information – provide real time information panel in store.

Applicant's response: *Sainsbury's will agree to provide a real time information panel in store but we request that this be secured via a planning condition rather than through a s106 obligation.* Update: **The provision of real time information in the proposed bus stop has now been agreed.**

ECC Highways:

Sum requested: With exception of £3,000 Travel Plan monitoring fee, £0 - developer to deliver directly either as part of the site or a s278 agreement.

Project: S278 agreement for a capacity enhancement at Greenstead Roundabout and extension of the A134 Colne Causeway shared footway/cycleway to end of highway into Lightship Way.

Applicant's response: *Agreed*

Contribution direct from applicant to First Bus for existing route 61, which operates on Lightship Way to be extended on a 30 minute frequency from its current finish at around 19:30/20:00 to around 23:00 Monday to Saturday to coincide with store opening hours. Sunday services already cover anticipated opening hours. This would cost between £120 and £165 per day giving a total annual cost of £37,560 - £51,645. This funding should be provided for 3 years. **Now revised and increased to £91, 203**

Applicants response: *As the development is for a foodstore, the patronage will be in place from the day of opening unlike for example a residential development where occupation of the development would be gradual and phased and it would take time for the altered bus service to become established. As such, Sainsbury's will agree to provide this contribution for the first year only. This will be sufficient time to establish the amended bus service and for it to become self-sustaining.* **Update: A budget of £91,203 is now agreed towards the provision of an improved bus service.**

Applicant to also provide a new bus stop within the proposal site (eastbound Lightship Way) (subject to agreement with First) and a Travel Plan, Travel Plan Co-ordinator and £3,000 to the Highway Authority (Travel Plan fee). Sainsbury's will agree to providing a bus stop sign within the site, a Travel Plan, Travel Plan coordinator and £3,000 to the Highway Authority for the Travel Plan fee.

Applicants response: *Sainsbury's will not provide a bus shelter on the basis that real time information will be available in store where people can wait until just before the bus arrives. A bus shelter would therefore be unnecessary. There is a boundary wall which would prevent bus users from seeing the bus in any case if a shelter was provided. We request that this bus stop be secured by condition.* **Update: The applicants have since agreed to provide a bus shelter with real time information within the site and close to the Lightship Way frontage.**

Economic Development:

No funding requested but the Store operator is requested through the s106 process to work with the Council and key partners, including Job Centre Plus, to channel a percentage of final job (26%) to the partnership and to work with it to advise on and assist delivery of a pre-recruitment training initiative culminating in guaranteed job interviews for course completers. The proposal is to replicate the successful Sainsbury Tollgate initiative in 2010 which achieved 171 unemployed people into work out of a total of 180 additional permanent jobs (95%), equivalent to 26% of the final Store jobs. These recruits were either re-entering or new to the job market (i.e. didn't leave another job to commence employment with Sainsbury's). This developed a new model of placing unemployed people into work using the planning process and strengthened partnership working between the employer and the employability partners. The intention is to work with employer to achieve a similar percentage of final jobs secured by JSA claimants who have met and passed the requirements of a guaranteed job interview after pre-training; equivalent to 86 jobs out of the 450 available, or 1 in 4 of the JSA count total in the three MSOAs. (This will allow for potential transfers in of existing Sainsbury's personnel and those currently working for B & Q as well as Sainsbury's own direct recruitment processes).

Applicants response: *Sainsbury's are pleased that the Sainsbury's Tollgate initiative worked so well, however they will not agree to a percentage amount that they must work to. Sainsbury's will agree to the wording applied to the Sainsbury's Tollgate scheme as follows:*

1. *Sainsbury's will use all reasonable endeavours to carry out the operation of the Development in accordance with the provisions of the Training Plan*
2. *The operator of the New Store will advertise any additional jobs created at the New Store and any subsequent store vacancies at the local branch of Job Centre Plus.*
3. *The operator of the New Store will enter into genuine dialogue with the Council to develop an arrangement whereby the Local Employment Partnership (consisting at its core of:- the operator of the New Store and the support partners- Colchester Borough Council, Jobcentre Plus and the FE college (Colchester Institute)) - will work together to provide a pre-employment training and support initiative targeted at providing a qualified and suitable stream of applicants for new jobs created at the New Store and any subsequent store vacancies.*
4. *The Local Employment Partnership will work to create and deliver an 8-12 week package of training and skilling in key entry level areas to a designated number of local jobseekers who will be recruited via Jobcentre Plus and pre-selected by them as having the interest and aptitude to meet any standard recruitment screening process of the operator of the New Store. The training package will include the following elements:*
 - *Assistance with targeted course planning;*
 - *Facilitating store visits/work experience;*

- *Promoting the operator of the New Stores way of doing things while demonstrably taking an interest in participant progress;*
- *Guaranteeing to interview all those “passing” the course and completing the formal application; and*
- *Celebrating publicly the achievement of any course completers accepted by the operator of the New Store as new employees and to commit to working with the Local Employment Partnership partners, as appropriate, to maintain or enhance their skill achievement while in work.*

£60,000 - Reduction of crime and disorder within the immediate area of the development at CO2 8FR through the installation of two pole-mounted wireless cameras located on the north-western and south-eastern footways around the curtilage.

Applicant's response: *The proposal essentially seeks to replace a shop with a shop. This contribution is not necessary and cannot be justified. As such, Sainsbury's cannot agree to it.* **Update: Sainsbury's have agreed to provide two CCTV cameras on the Lightship Way frontage and link these to the Councils monitoring network.**

Conclusion

- 14.3 As members will note from the list of requests set out in the preceding paragraph, whilst the applicants have acceded to provide highway improvements directly under the Highways Act to address network capacity issues identified after protracted modelling; the requests made to support improved pedestrian and cycle accessibility have in many cases been rejected. The financial support to be provided for improved bus services will extend for a period of one year only. Whilst it is accepted that the request for a financial contribution towards the cost of a pedestrian cycle crossing over the Colne at King Edward Quay is perhaps aspirational; there are basic requests such as the provision of an on-site bus shelter, CCTV to improve pedestrian safety and the upgrading of the adjacent rail footbridge to improve use by cyclists that could encourage pedestrian and cycle trips and increase use of sustainable modes of transport. Members will wish to consider whether they are in agreement with the proposed solution suggested by the applicants or whether they wish officers to negotiate further to secure further contributions initially rejected by the applicants.

15.0 Report

- 15.1 The key issues to be considered are listed below and are considered thematically in the report
- *Sequential test*
 - *Retail Impact upon centres*
 - *Impacts on Transport Network and mitigation*
 - *Connectivity issues and encouraging modal shift*
 - *Amenity and impact upon locality*

15.2 Retail planning considerations

15.3 Chronology of reports analysing retail impact and sequential considerations

The submitted application was accompanied by a Planning and Retail Statement dated March 2014 (Indigo Planning Limited). A series of reports analysing the retail considerations pertinent to the case were then submitted. These were prepared having regard to the detailed issues successively raised by planning consultants instructed by Tesco (Martin Robeson). A summary of these representations is provided by Martin Robeson at paragraph 10.5 above. The methodology for the initial retail report had been previously agreed by the Council with the applicants on the advice of the Council's retail consultants (NLP). The submitted report provides coverage of the following issues: Planning Policy Context; Sequential Test and Impact Assessment (planned and committed investment, town centre and trade diversion, convenience and comparison impact). The report was first reviewed by consultants Nathaniel Lichfield Planning (NLP) on behalf of the Council in May 2014 (Retail Critique 21 May 2014). Indigo Planning then produced a response to this report dated 12 June 2014. A further Addendum Report was produced by NLP for the Council in July 2014 (Retail Critique Addendum 2 July 2014). Indigo Planning submitted a response to this Addendum Report dated 18 August 2014. NLP then produced a Final Report for the Council concerning Retail Impact in November 2014 (27 November 2014). This report reviews all of the submitted evidence and draws conclusions having regard to national and local policy and relevant guidance. On behalf of the applicants, Indigo Planning produced a final response dated 16 December 2014 to the final retail Impact report produced by NLP (27.11.14). The final reports/ rebuttal statements submitted by Indigo Planning on behalf of the applicants and the final NLP report are reproduced at **Appendix A** to this report.

15.4 The policy considerations against which the retail impact related issues pertinent to the application should be assessed are set out in the NPPF at paragraphs 24, 26 and 27 (set out at paragraph 7.2) with further interpretation of these policies provided by the National Practice Guidance (NPG) under the heading "Ensuring the vitality of town centres" (refer to paragraphs 001-6 and 008-016). The National Planning Policy Framework sets out two key tests that should be applied when planning for town centre uses which are not in an existing town centre and which are not in accord with an up to date Local Plan – the sequential test and the impact test. These are relevant in determining individual decisions as in this case.

15.5 The adopted local plan provides further policy context against which the proposals must be assessed within policies CE1, CE2a, CE2b and CE3. These policies establish a hierarchy of centres to "coordinate the use and scale of developments" and that "development will need to be consistent with the hierarchy and larger scale development should be focused on the Town centre." The site falls within the East Colchester Regeneration Area (policy UR1) which states that "new development in these areas will be encouraged within walking distance of centres and transit corridors". The application site is currently designated as an Employment Zone (policy CE3) and this policy states that "Retail developments will not normally be supported". However, in this instance the site is already in a restricted retail use within an existing large premises and the proposed relaxation of this restriction would result in an increase in the number of employees (to c.460). In these circumstances, it is not considered reasonable to seek a return to a less commercially desirable employment use within class B of the use classes order. There is also considered to be little

prospect of a return to employment uses in the event that B & Q vacate the premises. This site has effectively been lost to employment uses.

The Sequential Test

- 15.6 The NPG advises that the sequential test should be considered before the impact test (see below) as this may identify that there are preferable sites in town centres for accommodating main town centre uses (and therefore avoid the need to undertake the impact test). The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test then determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy).
- 15.7 However, the NPG acknowledges that it may not be possible to accommodate all forecast needs in a town centre: there may be physical or other constraints which make it inappropriate to do so. In those circumstances, planning authorities should plan positively to identify the most appropriate alternative strategy for meeting the need for these main town centre uses, having regard to the sequential and impact tests. The NPG advises that this should ensure that any proposed main town centre uses which are not in an existing town centre are in the best locations to support the vitality and vibrancy of town centres, and that no likely significant adverse impacts on existing town centres arise, as set out in paragraph 26 of the National Planning Policy Framework.
- 15.8 The NPG explains that the sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. The NPG confirms that the framework supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking.
- 15.9 The hierarchy of centres and sequential approach is set out in the Core Strategy (Policies CE1 and CE2). Colchester town centre is at the top of the hierarchy, followed by three rural district centres and five urban district centres and then local centres. Policy CE2a indicates that the sequential priority for retail is the Town Centre Core, followed by Urban Gateways and the Town Centre Fringe. These policies were based on National Policy within PPS6. The policy approach regarding the definition of the hierarchy of centres and the application of the sequential approach remains largely unchanged within the NPPF. Policies CE1 and CE2 remain up-to-date on this point. In terms of the sequential test, the initial retail report submitted on behalf of the applicants acknowledged that a store could be physically accommodated at either the Vineyard Gate or Cowdray Centre sites. NLP confirmed that both sites needed to be considered as sequentially preferable to the application site. The Vineyard Gate site was rejected by the applicants primarily on the grounds that it was unavailable but could provide a solution to a replacement of their existing town centre store (Priory Walk) in due course. In the case of Vineyard Gate, the Council as landowner has commented that a foodstore of this size would not be compatible with the strategic vision for the site (see comments of the Economic Growth Manager at 8.7 above). It therefore seems reasonable to conclude that Vineyard Gate is not available for the purposes of this assessment.

- 15.10 The Cowdray Centre site was also rejected by the applicants on the grounds that a wholly retail solution would not conform with the mixed use solution intended by policy (para.5.33 of the Site Allocations DPD) and moreover that the site was unavailable at the current time as it did not have the benefit of planning permission and the delivery time required for a project of this type would effectively render it unavailable. Regarding this issue in their final report, NLP comment “Recent legal/Secretary of State decisions suggest these sites would need to be brought forward quickly to match Sainsbury’s programme to deliver a store by 2017 on the application site. If this timetable is considered feasible, then the Council should liaise with the developer(s) to establish whether they consider that a large Sainsbury store would be suitable and that the site is available for that use.” NLP conclude that “More information is required regarding the suitability and likely timetable for delivery at the Cowdray Centre”. The applicants response to this report in December 2014 was to reiterate that their proposal was at odds with the policy framework (Policy SA TC1 that seeks a mixed use rather than a retail solution. Furthermore, the applicants submit that the site is effectively unavailable since “The lack of any interest in developing this site for food retailing purposes and the improbability of achieving a scheme on this site which could accommodate the proposed floorspace within the next 12 months should be sufficient to exclude the site on the basis of availability. The Council should not delay other new development schemes on this basis. This approach conflicts entirely with the precedents set out in recent appeal decisions including the Dundee and Rushden Lakes decisions referenced in our earlier submissions.” The recent planning application for a predominantly residential development (undetermined) also reinforces this view, namely that the Cowdray Centre is effectively unavailable as an alternative site.
- 15.11 Whilst the Cowdray Centre is a more sequentially preferable location being an edge of town centre location, it is accepted that the delivery of a consent for a large format store could be problematic in terms of the timescale to deliver such a project from scratch through the development process. NLP identify the fact that recent case law has defined the preconditions that must be satisfied in order for a site to be considered available. This includes the timescale for deliverability of the project sought on alternative sites. In this case, whilst the Cowdray Centre is technically available this does not necessarily equate to availability in the terms of the Sequential Test. In this case, timing associated with project development and delivery could be reasonably held to exclude the site as being available in the immediate term in line with the applicant’s 2017 timeline but rather available in the medium term.
- 15.12 In December 2015, the applicants provided a further update on this issue in the light of the current outline application on the site of the former Ozalid print works for a predominantly residential development. It is considered that this application reinforces the view that the Cowdray Centre is not available for a retail scheme of this scale (notwithstanding the highway capacity objections that this would be likely to generate). On this basis, as there are no sequentially preferable locations identified that are available, the application site could be judged to pass the sequential test and falls to be considered in terms of the Impact test. However the NPG confirms “Compliance with the sequential and impact tests does not guarantee that permission is granted – local planning authorities will have to consider all material considerations in reaching a decision.”

The Retail Impact Test

15.13 Paragraph 26 of the NPPF requires that out of centre retail proposals exceeding 2,500 sqm are assessed against the following criteria:

- 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; and
- the impact of a proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area up to five years from the time the application is made.

15.14 The NPG confirms that the purpose of the test is to ensure that the impact over time (up to five years (ten for major schemes)) of certain out of centre and edge of centre proposals on existing town centres is not significantly adverse. The test relates to retail, office and leisure development (not all main town centre uses) which are not in accordance with an up to date Local Plan and outside of existing town centres. The NPG states that as a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities. Conditions may also be attached to appropriately control the impact of a particular use. The NPG advises that “A judgement as to whether the likely adverse impacts are *significant* can only be reached in light of local circumstances. For example in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.”

15.15 The applicant's impact analysis (March 2014) suggests that the impact on planned investment, town centre vitality and viability would not be significant. However it is acknowledged that in terms of impact on the town centre cumulative convenience impact at 2017 would be -6.0%. The cumulative convenience impact on Tesco Greenstead Road was stated to be 34.7% at 2019 with a high level of impact. The Tesco Greenstead Road is allocated as an Urban District Centre in the retail hierarchy (although this is somewhat anomalous as the site is in effect a standalone store as opposed to a centre per se). The report concludes that diversion of comparison trade from the town centre would have a minor impact of 0.3% in 2017.

15.16 The review of impact carried out by NLP as part of their concluding report took into account the representations raised on behalf of Tesco by Martin Robeson consultants and the previous responses of Indigo Planning (IPL) on behalf of the applicants. Nothing within the submissions made by MRPP or IPL was considered by NLP to warrant changes to their methodology or key assumptions.

15.17 NLP's retail impact assessment concludes that the proportional impact on food stores in Colchester ranges from -6% to -28%. The highest impact (-28%) will again fall on the Tesco store on Greenstead Road. NLP predict higher trade diversion from food stores in Colchester town centre than IPL, whilst IPL predicts higher trade diversion from Sainsbury's in Stanway. The average impact on convenience goods facilities in Colchester town centre is -9.7%. Impact on the Priory Walk Sainsbury's store is expected to be higher than this average (-13.4%), whilst impact on other convenience facilities is lower (-6.0%). This -6% impact will primarily be focused on the Marks &

Spencer, Iceland and Tesco Express stores within the town centre. However, the report concludes that is no evidence to suggest the Sainsbury's store will be forced to close and moreover that It is unlikely this reduction in convenience goods trade will lead to shop closures within the town centre.

- 15.18 In terms of comparison goods (non-food retail), the report concludes that projections suggest the comparison turnover of existing facilities within Colchester is estimated to decrease by -3.9% in 2017. However comparison good trade diversion will be offset by expenditure growth between 2014 and 2017, and would still leave sufficient expenditure growth to allow a 2% growth in turnover. The report also concludes that in "the short term the Sainsbury proposal is unlikely to lead to a decrease in the number of comparison shops within the town centre or delay or prevent the implementation of the Williams and Griffin department store improvements. However there will be less theoretical comparison goods expenditure capacity to support the reoccupation of vacant shop units within the town centre."
- 15.19 The NLP concluding report reviews the impact on the Tesco store at Greenstead Urban District Centre and concludes that "If the Sainsbury's store is implemented along with commitments then the Convenience turnover of the Tesco store will decrease from £44.79 million to 32.22 million in 2017, a cumulative impact of -28.1%." The report specifically addresses the claim made by Martin Robeson (MRPP) on behalf of Tesco that this equates to a "significant trade diversion" and that this translates to a "*significant adverse impact*" as set out in the NPPF. MRPP's claim (letter dated 12th September 2014 – see paragraph 10.5 above) that NLP has "*identified that impact on Greenstead Road UDC will be significant*" is inaccurate in the opinion of NLP. NLP consider that the reduction in Tesco's turnover will reduce trading levels from above to slightly below average trading densities. This reduction will if anything improve the shopping experience for Tesco customers, i.e. less congestion and queuing at peak periods. NLP conclude that there is no significant adverse impact on Greenstead Road urban district centre. This is clearly disputed by Martin Robeson on behalf of Tesco plc.
- 15.20 In terms of the impact test required by the framework (paragraph 26 NPPF), it is concluded on the basis of extensive independent critical analysis and scrutiny by NLP on behalf of the Council, that the impact of the scheme would not be '*significant adverse*'. On this basis the NPG advises that "Where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out of centre proposal, the local planning authority must then consider all other material considerations in determining the application, as it would for any other development." The Planning Policy Manager has also provided a detailed review of relevant policies and analysis in her representation at paragraph 8.4 above. The Policy Manager concludes in the light of the policy considerations and detailed evidence submitted that there are insufficient grounds to warrant refusal of the scheme on the basis of either the sequential test or adverse impact on other Colchester retail centres.

Loss of retail choice in DIY sector in Colchester

- 15.21 MRPP also suggests the implications of loss of choice and competition in the DIY sector (i.e. B&Q) needs to be taken into account in this decision. This may be a material consideration when weighing up the benefits and disbenefits of the proposals. However if B&Q has taken a business decision to change their representation within Colchester then the closure of this store is not necessarily linked to the Sainsbury's

planning application. Furthermore, the 'Screw-Fix' outlet on the Whitehall Industrial Estate nearby is part of the same retail group and offers an extensive range of DIY products in a different retail format. On this basis, it is not suggested that the closure of the existing DIY store could in itself form a reason for refusal as this is a commercial decision for B& Q as part of their national restructuring of their business.

Impacts on Transport Network and mitigation

- 15.22 Paragraph 24 of the NPPF states that "When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale." In this case, the site is in an accessible location well served by the transport network. Highway capacity modelling has confirmed that there are potential capacity issues at peak periods associated with the Greenstead roundabout. This is a well-known hot spot for congestion.. The Highway Authority has negotiated a package of highway improvements including modifications to the existing roundabout to increase flow. They do not object to the scheme and have suggested conditions in mitigation and these have been agreed by the applicants.
- 15.23 Paragraph 32 of the NPPF states that: "32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe and suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe." (emphasis added). In this case, the impacts do not fall within the 'severe' category and the highway authority has concluded on the basis of extensive interactive modelling that the impact of the proposal is acceptable. On this basis, members are advised that there are no grounds for refusal based on the impact of the development on the highway network and the potential for congestion.

Connectivity issues and encouraging modal shift

- 15.24 The site is generally located in a sustainable location in close proximity to centres of population and well-served by distributor roads in accordance with paragraph 24 of the NPPF above. . Nevertheless, concerns have been raised by the Transportation Policy Manager (see paragraph 8.5 above) that in detail the scheme does not adequately seek to promote sustainable modes of transport including walking and cycling and is poorly connected to public transport (No.61 bus stop on Lightship Way). This view is reflected in the representations made by the Colchester Cycle Campaign and the Colchester Bus Users Group. Councillor Julie Young has echoed these concerns and requested that efforts are made to improve the accessibility of the site for pedestrians, cyclists and those dependant on public transport (including staff). These concerns reflect Government policy set out at paragraph 35 of the NPPF that states:"35. Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to

- accommodate the efficient delivery of goods and supplies;
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities; and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- consider the needs of people with disabilities by all modes of transport.”

15.25 To that end, officers have sought to encourage the applicants to support efforts to improve safety and connectivity for pedestrians/cyclists and to give financial support for improving the bus service for a period of up to three years. Members will note the responses received to requests made by the corporate Development Team (DT) (see paragraphs 14.2-14.3 above). In the opinion of officers, it is considered important that the applicants provide for an on-site bus shelter on the frontage to Lightship Way together with CCTV (given that Lightship Way is unadopted and unlit) and a financial contribution towards upgrading the existing pedestrian bridge over the rail line at the east end of Lightship Way (which is not cycle friendly and forms part of a key route through the campus to Wivenhoe). It is thought that in the circumstances these elements of infrastructure are fully justified.

15.26 Regarding the promotion of sustainable transport paragraph 29 of the NPPF states: “29.... the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.”. In the opinion of officers, it is common for public transport nodes to have a waiting room with information and then a sheltered waiting area next to the stop – for example this is dual facility is provided at Osborne Street. This is considered especially important for the elderly or those with young children carrying multiple bags of shopping across the car park area. These vulnerable groups would be reasonably expected to require a longer lead time in the open waiting for the arrival of buses as they are inherently less mobile. The NPPF requires safe and suitable access for all people. The lack of a covered waiting area would in your officer’s opinion discourage bus usage under this scenario. This approach conforms with the IHT Guidelines for Planning for Public Transport in Developments that states - “.... the bus stops or stops need to be as close as possible to the building that are the final destinations for passengers. Ideally, the walking distance from the bus stop should be less than from the car park”. The guidance suggests layouts for stores to bring the bus stop close to the entrance. The provision of a bus shelter would thus make the use of public transport more attractive and encourage choice in conformity with the NPPF. The requests made by DT are intended to improve sustainable transport. This is in accordance with Core Strategy policy TA1 Accessibility and Travel Change Behaviour – that states: “Sustainable transport will be improved to provide better connections between the community and their needs. In congested areas, the Council will seek to prioritise movement of sustainable transport.”

15.27 In the opinion of officers, the proposal goes part of the way to provide for sustainable transport e.g. cycle parking, extension of the cycle path into Lightship Way, walking and cycle route across the car park, extension of the bus service for one year, agreement with ECC to modify Greenstead Roundabout. However, there appears to be a lack of detailed appreciation of the needs of users (including employees working early/late shifts) of sustainable transport to make the user to feel safe. It is for this reason that the provision of CCTV is seen as fully justified. The applicant’s reliance upon the existing DIY store as a justification for non-provision of contributions towards mitigation fails to acknowledge the material difference between the restricted retail use

that exists currently and the proposed unrestricted superstore use that will attract quite different users and more pedestrian/cyclist customers than is normally the case with bulky DIY goods. It is for these sound reasons that members may wish officers to negotiate further contributions/obligations to deliver these elements of supporting infrastructure that members may see as essential.

Amenity and impact upon locality

15.28 The site is located in an area with many residential properties including student accommodation close by. The existing restricted retail use of the site is a material consideration. Nevertheless, the proposed unrestricted use will in your officers opinion result in a material intensification and the concerns expressed by existing residents (see paragraph 10.1 above) are noted and for this reason a series of conditions are proposed below that should ensure that existing amenities are not compromised by the proposals. These include those suggested by Environmental Protection and draw upon experience of a similar Sainsbury's store at Tollgate.

16.0 Conclusion

- 16.1 In the opinion of officers, the proposed development is acceptable insofar as the retail impacts on the scheme fall within acceptable limits based on the expert opinion of the Council's consultants NLP and a series of reports have responded in detail to the issues raised by objectors on retail grounds. In particular, the issues raised by MRPP including the magnitude of the adverse impact on the Tesco's store at Greenstead which although resulting in a significant diversion of trade is not considered to justify a refusal of consent as this would not lead to the closure of the store. Whilst the Council's adopted policies aim to protect Urban District Centres from harmful impacts, in this case the centre at Greenstead is in reality a single store and national and local policy is not intended to stifle competition and choice in the interests of consumer's.
- 16.2 The impacts of the proposals on the highway network have been subject to protracted and detailed modelling of flows and capacity over the last year. The highway authority supported by their consultants, Ringway Jacobs, have concluded that subject to the mitigation set out above in the report that the impact would be within acceptable limits and that there are no highways related grounds for refusal subject to delivery of the mitigation agreed.
- 16.3 The low car ownership statistics for wards surrounding the proposed store does provide justification for the view that a relatively high percentage of shoppers will arrive on foot or cycle or use public transport. Whilst the applicants have agreed to fund improvements in the bus service for a period of one year, officers have remaining concerns around accessibility given the busy road network serving the site and in the absence of a segregated footway/cycle way. The unadopted nature of Lightship Way compounds these concerns with no operational street lighting, CCTV or bus shelters close to the site. Furthermore, the existing pedestrian bridge over the rail line is currently unsuited to cyclists and this key linkage to the north and east (Wivenhoe) via the University campus is therefore inaccessible for cyclists. It is for this reason that Officers are seeking agreement in the recommendation for delegated authority to seek at the minimum i) an on-site bus shelter with real-time information (**now agreed with applicants and covered by condition 30 at 18.0 below**) ii) CCTV to improve pedestrian safety (**agreed**) iii) an enhanced bus service (**now agreed**) iv) **implementation of staff training and recruitment plan v) payment of travel plan**

monitoring fee to ECC in accordance with the recommendations of Development Team.

17.0 Recommendation

- 17.1. **That Officers be instructed by committee to seek the package of contributions in mitigation of the impacts of the scheme and to improve accessibility in accordance with paragraph 16.3 above**, and in the event that the applicants are uncooperative within a two month period thereafter, to report the application back for committees further consideration. If the package is agreed then;
- 17.2 **APPROVE** subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Commercial Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:
- **i) Secure provision of an extended 30 minute bus service (to a total budget of £91,203);**
 - **ii) Provision and maintenance of two operational CCTV cameras on Lightship Way frontage with connectivity to the Council's CCTV network. The developer to meet any associated connection charges;**
 - **iii) Review and monitoring costs for Travel Plan (£3k fee to ECC);**
 - **iv) Implementation of recruitment and training initiative to improve opportunities for the local unemployed.**
- 17.3 On completion of the legal agreement, the Head of Commercial Services be authorised to grant planning permission subject to the following conditions:

18.0 Conditions

Proposed modifications to the conditions indicated on the committee report of 4.02.16 comprise:

- i) Deletion of conditions 9 & 10 regarding noise as these are considered to be adequately covered by condition 8.**
- ii) Deletion of condition 13 relating to the storage of oil is not considered necessary;**
- iii) Deletion of condition 17 concerning highway improvements as drawing 120729A/SK/05 Rev F has since been received rendering this condition redundant;**
- iv) Modification of condition 19 (now numbered 15) part a) to update the drawing reference to the latest drawing draft (Rev F); Delete Part C) concerning provision of an enhanced bus service as this will be managed as a clause in the s.106 and duplication is not appropriate; Delete part d) concerning the provision of a new bus shelter on site as this is now addressed by a new condition 30.**

The revised recommended conditions are set out below:

1 - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of **three years** from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition/Reason

No development shall commence until a schedule of external facing and roofing materials and finishes to be used in connection with the new/reconfigured elements of the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented strictly in accordance with approved details.

Reason: To ensure the use of contextually suitable high quality materials in view of the townscape prominence of this site within a regeneration area.

3 - Non-Standard Condition/Reason

No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the local Planning Authority (see BS 1192: part 4). These details shall include, as appropriate: Existing and proposed finished contours and levels. Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, CCTV etc. indicating lines, manholes, supports etc.). Planting plans. Written specifications (including cultivation and other operations associated with plant establishment). Schedules of plants, noting species, plant size and proposed numbers/densities. Planting area protection or decompaction proposals. Implementation timetables.

Reason: To ensure the use of an appropriate choice of materials and suitable hard and soft landscaping having regard to the importance of this scheme in the townscape.

4 - Non-Standard Condition/Reason

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the local Planning Authority.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

5 - Non-Standard Condition/Reason

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the commencement of trading of the development hereby permitted.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

6 - Non-Standard Condition/Reason

All existing trees and shrubs shall be retained, unless shown to be removed on the approved drawings. All trees and shrubs on and immediately adjoining the site shall be protected from damage as a result of works on site, to the satisfaction of the Local Planning Authority in accordance with its guidance notes and the relevant British Standard. All existing trees shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that any trees and/or hedgerows (or their replacements) die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and shrubs.

7 -Non-Standard Condition/Reason

The retail units hereby approved shall not commence trading until a Flood Response Plan (FRP) for the site, has been submitted to and approved in writing by the local planning authority. The Flood Response Plan shall make provision for temporary safe refuge of people in the event of a flood event and set out rescue/evacuation procedures. The approved FRP shall subsequently be implemented in accordance with the approved details in the event of a significant flood event.

Reason: To mitigate the risk of flooding and ensure the safety of people using the site in the event of a significant flood event.

8 - Non-Standard Condition/Reason

A competent person shall ensure that the rating level of noise emitted from the fixed plant, equipment, machinery shall not exceed 0dB(a) above the background prior to the development hereby permitted commencing trading. The assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries of noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the Local Planning Authority prior to the store hereby permitted commencing trading. All subsequent conditions shall comply with this standard.

Reason: In order to safeguard the amenity of nearby residential properties.

9 - Non-Standard Condition/Reason

The development hereby permitted shall not commence trading until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the control of fumes and odours. This shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such fume/odour control measures as shall have been approved shall be installed prior to the development hereby permitted commencing trading and thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

10 - Non-Standard Condition/Reason

If any existing floodlighting is amended or augmented, details of the proposed floodlighting shall be submitted to and agreed, in writing, by the Local Planning Authority prior to its installation. The details shall be devised by a competent person and fully comply with the Code of Practice for the Reduction of Light Pollution issued by the Institution of Lighting Engineers. The development shall thereafter be carried out and maintained in accordance with the approved details. Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to residential properties in the area.

11 - Non-Standard Condition/Reason

Prior to the development hereby approved commencing trading, refuse storage and recycling facilities shall be provided in accordance with a scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority. Such detail as shall have been installed shall be retained and maintained in good working order.

Reason: To ensure that adequate facilities are provided for refuse storage and collection in the interests of the amenity of nearby properties.

12 - Non-Standard Condition/Reason

Prior to the development hereby permitted commencing trading, provision shall be made within the site and in the vicinity of the site for the disposal and collection of litter resulting from its use, in accordance with details agreed in writing with the Local Planning Authority. Such equipment, arrangements and facilities as shall have been installed/provided shall thereafter be retained and maintained in good order.

Reason: To ensure that adequate facilities are provided for litter disposal in the interests of the amenity of nearby properties.

13 – Non Standard Condition

In the event that land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's

'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of filled land and former industrial uses where there is the possibility of contamination.

14 - Non-Standard Condition/Reason

Prior to commencement of the development the planning application drawings shall be revised and submitted to and approved in writing by the Local Planning Authority to show the following:

- a) A minimum 3 metre wide pedestrian/cycle link between the south west corner of the proposal site and the food store building
- b) A minimum 3 metre wide pedestrian/cycle link between the existing main pedestrian access off Lightship Way and the food store building
- c) A minimum 3 metre wide pedestrian/cycle link between the end of Lightship Way and the food store building.

The development shall thereafter be carried out in accordance with the approved drawings
Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM9 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

15 - Non-Standard Condition/Reason

Prior to initial trading from the development the following works shall have been provided or completed in accordance with the agreed details:

- a) A **scheme of highway** capacity enhancement **works** at Greenstead Roundabout as shown in principle on planning application drawing number 120729A/SK/05 Rev F
- b) An extension of the A134 Colne Causeway shared footway/cycleway to the end of highway into Lightship Way **in accordance with a detailed scheme to be submitted to and agreed in writing by the lpa;**

C) A travel plan has been submitted to and approved in writing by the lpa to include but shall not be limited to a travel plan co-ordinator.

Reason: To protect highway efficiency of vehicular movement and safety and to ensure the proposal is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

16 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 the retail superstore building shall be used primarily for the sale of convenience goods and at no time shall more than 46% of the net retail sales area hereby approved be used for the sale of comparison goods without the prior written approval of the Local Planning Authority.

Reason: The retail impact of the development has been assessed on this basis and any increase in the proportion of comparison goods would need to be carefully assessed in order to avoid adverse impacts on the town and other centres. Council needs the opportunity to assess and control where necessary the expansion of comparison goods floorspace at this site in the interests of safeguarding the viability and vitality of the Town Centre as a sub-regional shopping centre.

17 - Non-Standard Condition/Reason

Notwithstanding the details previously submitted, floor plans showing the proposed internal store layout and clearly indicating the distribution of convenience and comparison goods sales areas at the time of initial opening of the store, shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of trading of the store hereby approved. The development shall be implemented in accordance with the approved details.

Reason: In order to ensure that the Council has the opportunity to assess and control where necessary the expansion of comparison goods floorspace at this retail site in the interest of safeguarding the viability and vitality of the Town Centre as a sub- regional shopping centre and to ensure that the viability of other centres is not significantly adversely impacted upon.

18 - Non-Standard Condition/Reason

Notwithstanding the General Permitted Development Order 2015 (as amended) or any subsequent enactment, no additional floorspace, including additional mezzanine floorspace, shall be created or otherwise formed within any part of the superstore building envelope hereby approved otherwise than in accordance with a subsequent planning permission.

Reason: In order to ensure that the Council has the opportunity to assess and control where necessary the expansion of retail floorspace on this retail site in the interest of safeguarding the viability and vitality of the Town Centre as a sub- regional shopping centre.

19 - Non-Standard Condition/Reason

Notwithstanding the General Permitted Development Order 2015 (as amended) at no time shall the principal retail store be subdivided into multiple separate retail units otherwise than in accordance with a subsequent planning permission.

Reason: In order to ensure that the Council has the opportunity to assess and control where necessary the sub-division of this retail unit into smaller units at this retail site in the interest of safeguarding the viability and vitality of the Town Centre as a sub-regional shopping centre and to assess the impact on other retail centres.

20 - Non-Standard Condition/Reason

No deliveries of goods for sale shall be made to the development hereby permitted until a Service Yard Management Agreement (SYMA) has been submitted to and approved in writing by the Local Planning Authority. The approved SYMA shall thereafter be adhered to unless otherwise agreed in writing by the Local Planning Authority. The SYMA shall include as a minimum:

- service yard gates to be kept closed except to admit delivery vehicles
- type of delivery cage, palletting or other such load transfer device/s to be used
- goods delivery strategy including timings of deliveries
- access details and loading arrangements for vehicles making home deliveries.

From the date one month after which the development begins trading, details of compliance with the SYMA and of any complaints received by the operator regarding deliveries to the store and use of the service yard shall be supplied to the Local Planning Authority every two weeks until the date which is four months after the date on which the development begins trading. The operator and the Local Planning Authority shall then carry out a review of the SYMA and the operation of the service yard. From the date which is five months after the date on which the development begins trading the service yard and deliveries shall take place in accordance with the SYMA and any amendments to it agreed between the operator and the Local Planning Authority.

Reason: To protect the amenity of nearby residential properties and in order to minimise any risk of pollution or nuisance. Experience has shown that the metal cages often used to transfer goods from vehicles into food stores can cause considerable noise disturbance to nearby residents, particularly when deliveries are made at unsocial times. The Council will expect noise attenuation systems to be used. The Goods Delivery Strategy element is intended to prevent delivery vehicles queuing, waiting or laying- over outside the service yard at any point along Lightship Way or between the Colne Causeway roundabout and the Greenstead roundabout in order to gain access to the premises and service yard.

21 - Non-Standard Condition/Reason

No external tannoy, public address or other such audio system (other than fire alarms) shall be used outside of any building hereby approved without the prior approval of the Local Planning Authority.

Reason: In order to safeguard the amenity of nearby residential properties.

22 - Non-Standard Condition/Reason

No external lighting fixtures for any purpose shall be constructed or installed, including car parking lighting, until details of all external lighting proposals have been submitted to and approved by the Local Planning Authority; and no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To protect the amenity of adjoining residents and in the interests of highway safety.

23 - Non-Standard Condition/Reason

Prior to the commencement of the development hereby permitted details of all materials to be used for new hard surfaced areas within the site including roads/driveways/car parking areas/courtyards/paths shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: In order to incorporate sustainable urban drainage mechanisms into the overall design and in order to ensure an acceptable visual appearance.

24 - Non-Standard Condition/Reason

Prior to the commencement of the development, and notwithstanding such detail as has currently been provided, full details of any new screen walls, fences, railings or any other means of enclosure or boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position/height/design and materials to be used. Such features shall be provided as approved prior to initial use of the approved retail units and shall be so retained thereafter.

Reason: In order to ensure that the public realm surrounding the units is of a high quality of design.

25 - Non-Standard Condition/Reason

The store hereby approved shall not commence trading until the car parking area has been laid out and made available for use in accordance with the approved drawings and that area shall not thereafter be used for any purpose at any time other than the parking of customer/staff/visitor vehicles.

Reason: In order to satisfy the Council's parking requirements, reduce car borne traffic and avoid queuing back of vehicles onto the roundabout adjacent to the main vehicular access at peak times.

26 - Non-Standard Condition/Reason

The development hereby approved shall not commence trading until bicycle parking facilities have been provided in the locations shown on the approved drawings, the design of such facilities, which shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be retained to serve the development.

Reason: To ensure that adequate provision is made for cycle parking in line with Council policy in order to encourage a reduction in the use of the private car as a mode of travel.

27 - Non-Standard Condition/Reason

Prior to the commencement of trading at the site a pedestrian/cycle link into the south western corner of the site from the corner of Lightship Way and Colne Causeway, shall have been provided and it shall be permanently maintained thereafter. A revised drawing shall be submitted to and agreed in writing and the site development carried out strictly in accordance with these approved details prior to the opening for trade of the proposed retail units. The details to be submitted shall include the form and treatment of the opening including hard surfacing and lighting.

Reason: In order to make provision for improved and safe pedestrian/cyclist accessibility having regard to the unadopted status of the adjacent highway in Lightship Way and in the interests of promoting sustainable transport.

28 - Non-Standard Condition/Reason

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities within the site and adjacent to the egress onto the highway
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of residential amenity, pollution prevention and to protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

29 - Non-Standard Condition/Reason

The development hereby permitted shall be carried out in accordance with the following approved plans subject to the revisions agreed in accordance with relevant conditions set out above:

Reason: For the avoidance of doubt as to which plans are hereby approved as the plans have been amended through the course of this application.

30. – Non-Standard Condition/Reason

A scheme detailing the provision of a new bus shelter sited on the frontage of the site to Lightship Way and providing real time travel information shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented in full and made available for public use prior to the commencement of trading from the development.

Reason: The development will generate a significant number of trips and it is important that the site is made accessible to sustainable transport modes in accordance with paragraph 29 of Section 4 the NPPF.

31. – Non-standard Condition/Reason

A scheme of street lighting to illuminate the northern footway of the unadopted Lightship Way shall be submitted to and agreed, in writing, by the Local Planning Authority prior to its installation. The details shall be devised by a competent person and fully comply with the Code of Practice for the Reduction of Light Pollution issued by the Institution of Lighting Engineers. The approved scheme shall thereafter be implemented and maintained in accordance with the approved details and made fully operational prior to the commencement of trading from the development. The approved illumination shall be maintained in a fully operational condition and illuminated at all times after sunset and before sunrise when the store is open for trading.

Reason: To enhance the safety of pedestrians and mitigate the fear of crime thereby to encourage the use of sustainable transport modes in accordance with paragraph 29 of the NPPF. Furthermore, To ensure that the street lighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to residential properties in the area.

19.0 Informatives

- (1) A competent person is defined as someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience.
- (2) The developer is referred to the attached advisory note for the avoidance of pollution during the demolition & construction phases. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the development.
- (3) The applicant's attention is drawn to the comments and guidance contained in the Environment Agency in their letter dated 16 May 2014.
- (4) Prior to any works taking place in the public highway the developer shall have entered into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- (5) All highway related details shall be subject to the prior written agreement of the Highway Authority (Essex County Council).
- (6) This permission is subject to an agreement under s.106 of the Town & Country Planning Act 1990 (as amended). A copy of this agreement should be available on the Council's website or on request.

- (7) Under Section 23 of the Land Drainage Act 1991, prior written consent from the Lead Local Flood Authority (Essex County Council) is required to construct any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River. If the applicant believes they need to apply for consent, further information and the required application forms can be found at www.essex.gov.uk/flooding. Alternatively they can email any queries to Essex County Council via watercourse.regulation@essex.gov.uk.
- (8) Environmental Protection have this site recorded as being on potentially contaminated land (former Moler Works) and on or within 250m of previously filled land. Some remedial measures were required for the B & Q development (chiefly removal of impacted soils and provision of a gas protective membrane). If there are to be any intrusive works, we would expect to see an assessment of potential risks: this would likely need to include provision of ground gas protection measures in any new structures. Any new works should not adversely impact on the existing ground gas protection measures.
- (9) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.
- (10) PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

20.0 Positivity Statement

- 20.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.