

AMENDMENT SHEET

**Planning Committee
14 July 2016**

AMENDMENTS OF CONDITIONS AND REPRESENTATIONS RECEIVED

7.1 B & Q Warehouse, Lightship Way, Colchester

1. A late representation has been received from Martin Robeson Planning Practice stating:-

“I write on behalf of our client, Tesco Stores Ltd who as you and members will be aware have made valid and appropriate representations to this development. These were reported at the meeting on the 4th February and are again referred to in the updated report to Thursday’s meeting. Members came to a resolution on the application, to approve, but subject to a contribution towards upgrading the pedestrian rail bridge so as to provide for shared cycle use at the south east end of Lightship Way. This would provide for improved cycle accessibility in the area and to the university. Members resolved to grant planning permission on the basis of this matter being added to the S106 Agreement between the parties.

It is understood that Sainsbury’s do not wish to make the requested contribution and argue that it does not meet relevant legal tests. Officers appear to have agreed with this assertion.

We have carefully considered the relevant legal framework here and cannot share the applicant’s or the officer’s views. In our view the request for this enhancement fully meets the requirements set out in the Regulations.

Such an enhancement will improve cycle accessibility in the area particularly for university students who are on lower incomes and will then better benefit from access to a competitive choice of retail facilities i.e. both Sainsbury’s and Tesco.

If members nevertheless wish to review the contributions to transport and accessibility, they at the same time need to reconsider the whole of their resolution here since the February resolution was only made on the basis of their additional requirement relating to enhanced cycle facilities.

The proposed substitution of additional costs to bus services and highway improvements do not compensate for the specific local cycling requirement here.

We are therefore of the view that members need to resist this erosion of cycle accessibility that provides real local accessibility benefits for all sectors of society and on the basis that it is now not

to be offered, should refuse planning permission for reasons relating to the lack of appropriate accessibility to the proposal.”

2. B & Q Lightship Way, Colchester. A late representation has been received from Indigo planning consultants on behalf of the applicants stating:

“We have now had the opportunity to review the Committee report for the proposed Sainsbury’s scheme and wish to draw your attention to seven matters that need to be updated. None of these are particularly contentious, but we would be very grateful if you could make Councillors aware of them.

Paragraph 1.1

At the previous Committee, Councillors expressed an interest in duration of the bus subsidy. It would be useful for Councillors to be made aware that the sum agreed (£91,203) has been provided by the bus company as being the required cost to operate the extended bus service for a three year period.

Officer comment: This is in conformity with the committee’s resolution.

Paragraph 1.1 As a point of clarification, it may be worth noting to Members that the increased costs of the Greenstead Roundabout works are a result of more detailed costing rather than a change to the scope of works. For example, we are now able to factor in the costs of moving services.

Page 43 and Paragraph 17.2 – Economic Development

In our meeting with officers on 29 February 2016 and our subsequent e-mail dated 24 May 2016 we agreed to include the recruitment and training initiative in the S.106 on the basis that it would not include a percentage figure of final jobs to be channelled to the Council’s key partners. We, therefore, request that reference to the 26% figure at Page 43 be removed.

Officer comment: The reference to 26% is included simply to inform members of the success achieved at the Stanway Sainsbury’s store. It is not intended that this is a requirement but rather that Sainsbury’s will carry out the terms of the agreement to their best endeavours.

Conditions 14A and 27

The pedestrian/cycle-link to the south west corner of the site from Lightship Way and Colne Causeway cannot be delivered because it is not in the control of the applicants. This was confirmed in an e-mail to you dated 7 April 2016 and subsequently agreed. For this reason, we request that the two references to this link be removed from by amending condition 14 to delete sub-paragraph and deleting condition 27.

Officer comment: This is accepted and the deletion of these conditions is recommended.

Condition 20 The Service Yard Management Agreement (SYMA) was submitted to the Council on 10 May 2016. For avoidance of doubt, it would be helpful if the condition could confirm that the submitted and agreed SYMA must be adhered to, subject to review. We suggest the following amended condition:

The development hereby permitted shall be carried out in accordance with the Service Yard Management Agreement (SYMA) submitted on 10 May 2016 unless otherwise agreed in writing by the Local Planning Authority. From the date of 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.

Officer comment: The Licencing Food and Safety Team has confirmed that the suggested SYMA is acceptable and it is therefore recommended that the suggested revised condition be accepted.

Condition 13 It would be helpful, and it has been agreed with Officers previously, that if contamination is found within the site, development in the area affected only (rather than across the whole site) shall cease and not recommence until an investigation and risk assessment has been submitted and approved. As such, we suggest the condition be re-worded as follows:

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 in the area affected by the land contamination only

shall cease immediately. Development in the area affected by the land contamination 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 in the area affected by the land contamination 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 Page 56 of 156 DC0901MW 01/02 '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'.

Officer comment: It is considered that the suggested changes to the wording of condition 13 are reasonable and it is recommended that the suggested change is agreed.

Condition 30 For the avoidance of doubt, Condition 30 should refer to the plans prepared by Chetwoods (Reference: 3664-SK-040 RevF and 3664-SK-041 Rev F) which shows the form and location of the new bus stop.

Officer comment: The agreement to these drawings should be contingent on approval by the county council that they are satisfied with the detailed form of the bus shelter

We trust that this is clear and that Councillors can be made aware of these changes.”

3. B & Q, Lightship Way, 143715

A late representation has been received on behalf of the Colchester Cycle Campaign this states:

“Dear Councillors

Colchester Cycling Campaign is both alarmed and annoyed that Sainsbury's is bringing this plan back to committee to try to overturn the condition regarding changing the existing bridge into a cycling facility.

We are alarmed because the need for improved utility cycle networks is stressed in top-level planning documents, including the National Planning Policy Framework and the emerging Colchester Local Plan. Your officers are the experts and they should be able to provide statements in support of this. It is a matter of concern that none is given in the agenda for you to consider. Note that while

officers have been negotiating with the applicant, no one has approached the campaign which would have allowed us to put an alternative point of view; we were only notified of the new application last week. Also, it is unclear whether the council has taken its own expert legal advice.

We are annoyed because Sainsbury's and similar large supermarkets have for years helped to create a large amount of motor vehicle trips within Colchester and have avoided any social responsibility to the local community. In the case of Sainsbury's, it has been a struggle to persuade it to provide even cycle parking. It is little wonder that our community is the [second most car dependent town in the UK](#).

Unfortunately we are unable to attend Thursday's meeting, so please accept this letter/email as our comments on the scheme.

Council officers say (pp41/156 of your agenda) that the transport policy manager (Whose TPM? Sainsbury's or CBC's) has "cast serious doubt upon the validity of a contribution of this magnitude". Given the likely effect of this scheme on local roads it is hard to envisage a development of greater magnitude that could fund alterations to the bridge. At no point does the report give any independent costings for changes to the bridge.

The location of this store is such that it is very likely to draw a large number of customers from Colchester Knowledge Gateway and the university campus in general. If you map the likely walk/ cycle areas (1km/4.1km respectively in 10 minutes) it is clear that the "attraction area" for walking is extremely limited but the "attraction area" for cycling includes most of the campus — although the railway line is a major barrier.

This means that, without alterations to the bridge (giving a high quality alternative) , staff/students at KG or the university are far more likely to "pop in the car" for a trip to Sainsbury than to cycle/walk, adding to traffic pressures and compounding the problems of car use, including congestion and the numerous health, air quality and liveability issues. Such extra car trips are, in fact, quite likely to negate "congestion improvements" funded by the developer at the Greenstead roundabout, especially at peak times.

CCC notes the applicants' proposal for an increased contribution to a bus scheme. While there is no doubt that this will allow more people from Greenstead to use the store, we would highlight the three-year time limit. So many supermarket applications have, over the years, included such conditions, and the outcome is usually that the bus service is scrapped with alacrity when funding ends. This leads to fresh social isolation and an increased "need" to run a car.

Colchester has been in the doldrums with regard to providing for utility cyclists since the end of cycling town project in 2009. Other towns and cities, most notably our near-neighbour Cambridge, are racing ahead in providing high quality cycling infrastructure. While irrelevant to the planning consideration in this case, CCC views changes to this bridge as a good chance to try to catch up. In summary, these are our points:

:: we urge you to defer the application for your officers to take expert legal advice and to research and present arguments in favour of the applicant funding changes to the bridge (lacking in the current report):: if you decide to grant permission for the new application, we would request that funding for the bus service is extended to “the life of the premises as a grocery and mixed sales store, regardless of ownership” with a specification for a minimum level of service. The bus service should be not just from Greenstead but the Boundary Road bus stops too, helping to mitigate travel demand from KG.

Without the cycle bridge or continuous funding for a multi-stop hopper bus, the conclusion has to be that this site is not suitable for the use intended.”

Officer comment: The conclusions drawn in the committee report regarding the validity of the suggested s.106 contribution towards upgrading the existing pedestrian rail bridge are based on independent expert advice. The Transport Policy Manager referenced in the report is the Councils own expert adviser. This advice confirms that the proposed contribution would be vulnerable to challenge on the grounds of validity having regard to the CIL Tests and this view reinforces that of the applicant’s legal advisors set out at Appendix B to the report. The suggested extension of the bus subsidy in perpetuity would be unlawful and unreasonable in the opinion of officers.

7.4 160969 – 78 Villa Road, Stanway

Section 4.2 advises that the dwelling has been repositioned. It should have also pointed out that the bulk of the side element, adjacent to No 80, has been reduced (a first floor element has been removed) and the amount of first floor glazing in the rear elevation has been reduced.