

GLOUCESTER CITY COUNCIL

COMMITTEE : **PLANNING**

DATE : **4TH JULY 2017**

ADDRESS/LOCATION : **ALLCOOPER SECURITY, 7 HUCCLECOTE ROAD.**

APPLICATION NO. & WARD : **16/00753/FUL
HUCCLECOTE**

EXPIRY DATE : **7TH JULY 2017 (TIME EXTENSION AGREED)**

APPLICANT : **THE TRUSTEES OF THE ALLCOOPERS LTD.**

PROPOSAL : **DEMOLITION OF EXISTING BUILDINGS, ERECTION OF NEW CLASS A1 RETAIL STORE WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING.**

REPORT BY : **CAROLINE TOWNLEY**

**NO. OF APPENDICES/
OBJECTIONS** : **1. SITE LOCATION PLAN
2. LETTER OF REPRESENTATION FROM RICHARD HOLMES PROPERTY CONSULTANTS DATED 4TH AUGUST 2016.
3. LETTER OF REPRESENTATION FROM RPS DATED 15TH NOVEMBER 2016.**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application site is approximately 0.6 hectares in area and is located on the northern side of Hucclecote Road to the east of the junction with Insley Gardens. The site is currently occupied by a former petrol filling station currently being used as a hand car wash fronting Hucclecote Road, a vacant building formerly occupied as a Halfords Autocentre and light industrial units to the rear. The buildings at the rear are occupied by Allcoopers. The site currently has two vehicular access points onto Hucclecote Road.
- 1.2 The site is located in a predominantly residential area with the rear gardens of residential properties in Insley Gardens sited along the north and north west boundaries. To the north east are properties in Ellesmere Close.
- 1.3 The application proposes to demolish the existing buildings within the site and construct a new Class A1 foodstore for Aldi with associated access, parking and landscaping. The proposed store would be located towards the rear of the site with a total of 95 car parking spaces to the front of the store including 4

disabled and 8 parent and children spaces. It is also proposed to provide secure and covered cycle parking. The proposed store has a gross internal floorspace of 1,800 square metres with a net sales area of 1,254 square metres. Landscaping is proposed within the development site both at the front of the site adjacent to Hucclecote Road and along the eastern and western boundaries of the site.

- 1.4 The proposed building is single storey in height with a flat roof with a combination of materials comprising brickwork, white render and glazing. The store will be approximately 5.5 metres in height falling to 4.5 metres at the rear of the building.
- 1.5 It is proposed to provide a singular vehicular access point from Hucclecote Road for vehicles entering and leaving the site together with a separate pedestrian access to the store.
- 1.6 The delivery ramp to the west of the site has been sunken into the ground to help reduce the impact of the servicing areas of the store to the neighbouring houses. The plant area is also proposed to be sited to the west of the building contained within a single storey structure.
- 1.7 Aldi and Allcoopers undertook a public consultation process to inform local residents about the proposal prior to the submission of the planning application.

2.0 RELEVANT PLANNING HISTORY

Application Number	Proposal	Decision	Decision Date
96/00039/FUL	Variation of condition No.4 on Planning Permission Ref: P/455/71 - Use of buildings for light industrial (B1) and single storey extension to existing offices.	Granted	05.03.1996
96/00697/FUL	Positioning of Portakabin to rear of workshop for use as vehicle hire office.	Granted	25.02.1997
97/00062/COU	Change of Use from storage area to parking area for hire vehicles. (Retention of development already carried out)	Granted	25.02.1997
97/00164/FUL	Extension to side and alterations to existing building to create 4 business (B1) units, 1 unit for storage and distribution (B8) and a vehicle washing bay.	Granted.	22.04.1997
97/00403/COU	Change of use, side extension and alterations to building to create 1 unit for storage and a vehicle washing bay on part ground floor and an educational training centre on part ground floor and first floor.	Granted.	06.08.1997
99/00493/COU	External alterations and change of use of part of building (2 vehicle servicing bays) to offices	Granted	12.10.1999

10/00375/COU	Change of use of two light industrial units into a veterinary surgery with provision of entrance canopy.	Granted.	02.06.2010
14/00584/FUL	Removal of an existing glazed doors to the front elevation and replaced with a new roller shutter	Granted	11.07.2014

3.0 **PLANNING POLICIES**

3.1 The following planning guidance and policies are relevant to the consideration of this application:

Statutory Development Plan

3.2 The statutory Development Plan for Gloucester remains the partially saved 1983 City of Gloucester Local Plan ("1983 Local Plan").

3.3 Paragraph 215 of the National Planning Policy Framework ("NPPF") states that '*...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.*'

3.4 The 1983 Local Plan is more than thirty years old and, according to the Inspector who dealt with an appeal relating to the Peel Centre, St. Ann Way (13/00559/FUL), '*...its sheer ages suggests it must be out of date...*' (par. 11 of the Inspector's report). Members are advised that the 1983 Local Plan is out-of-date and superseded by later planning policy including the NPPF.

Central Government Guidance - National Planning Policy Framework

3.5 This is the latest Government statement of planning policy and is a material consideration that should be given significant weight in determining this application.

Decision-making

The NPPF does not alter the requirement for applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing and determining applications, Authorities should apply the presumption in favour of sustainable development. For decision-making, this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent, or relevant policies are out of date, granting planning permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or
 - specific policies in the NPPF indicate development should be restricted.

Authorities should look for solutions rather than problems and decision-takers should seek to approve applications for sustainable development where possible (paragraph 14).

Core planning principles (paragraph 17)

Planning should:

- Be genuinely plan-led;
- Be a creative exercise in ways to enhance and improve places;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- Secure high quality design and a good standard of amenity;
- Take account of the different roles and character of different areas;
- Support the transition to a low carbon future, take account of flood risk and encourage the use of renewable resources;
- Contribute to conserving and enhancing the natural environment and reducing pollution;
- Encourage the effective use of land by reusing brownfield land;
- Promote mixed use developments;
- Conserve heritage assets in a manner appropriate to their significance;
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable;
- Take account of and support local strategies to improve health, social and cultural wellbeing and deliver sufficient community and cultural facilities and services to meet local needs.

The NPPF includes relevant policy on;

- Building a strong, competitive economy
- Ensuring the vitality of town centres
- Promoting sustainable transport, including the statement that development should only be prevented on transport grounds where the residual cumulative impacts of development are severe.
- Requiring good design and promoting healthy communities
- Meeting the challenge of climate change, flooding and coastal change, conserving and enhancing the natural environment, conserving and enhancing the historic environment

The National Planning Practice Guidance has also been published to accompany and to expand on the National Planning Policy Framework.

Emerging Development Plan

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (Main Modifications Version, February 2017)

- 3.6 The City Council is currently working on a new Development Plan that will comprise the Joint Core Strategy for Gloucester, Cheltenham and Tewkesbury ("JCS") and Gloucester City Plan ("City Plan") once they are adopted. On adoption, the JCS and the City Plan will provide a revised

planning policy framework for the Council. In the interim period, in accordance with paragraph 216 of the NPPF, weight can be attached to relevant policies in the emerging plans according to:

- The stage of preparation of the emerging plan
- The extent to which there are unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework

The JCS was submitted to the Government for Inspection in November 2014. Policies in the Submission Joint Core Strategy have been prepared in the context of the NPPF and are a material consideration. The Inspector published her Interim Findings in May 2016 and the JCS authorities have now approved Main Modifications to the plan for consultation. Consultation took place in February/March 2017 and further examination hearings are expected to take place summer 2017.

The JCS has therefore reached a further advanced stage, but it is not yet formally part of the development plan for the area and the weight that can be attached to each of its policies will be subject to the criteria set out above, including the extent to which there are unresolved objections.

3.7 Relevant policies from the JCS (Main Modifications) are:

- SP1 - The need for new development
- SP2 – Distribution of new development
- SD3 – Retail and City/Town centres
- SD4 – Sustainable design and construction
- SD5 – Design requirements
- SD7 - Landscape
- SD15 – Health and environmental quality
- INF1 –Transport network
- INF3 – Flood risk management

Gloucester City Plan

The Gloucester City Plan (“City Plan”) is at a less advanced stage than the JCS. The City Plan will deliver the JCS at the local level and provide policies addressing local issues and opportunities in the City. The Draft Gloucester City Plan 2017 takes forward the results of previous consultations and was subject to consultation January and February 2017. The Plan is at an early stage and therefore carries limited weight (*we are not currently making any references to the policies in the Plan given its early stage. However, if an application relates to a proposed site allocation this would be clarified in the Plan*)

3.8 On adoption, the Joint Core Strategy and the City Plan will provide a revised planning policy framework for the Council.

Gloucester Local Plan, Second Stage Deposit 2002

- 3.9 Regard is also had to the 2002 Revised Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. This cannot be saved as it is not a formally adopted plan, however with it being adopted for development control purposes it is still judged to be a material consideration, albeit of limited weight.

2002 Plan policies

- 3.10 Members are advised that the following “day-to-day” development management policies, which are not of a strategic nature and broadly accord with the policies contained in the NPPF, should be given some weight:

Policy S.4a (New Retail Developments outside of Designated Centres)

Policy FRP.1a (Development and Flood Risk)

Policy FRP.9 (Light Pollution)

Policy FRP.10 (Noise)

Policy FRP.15 (Contaminated Land)

Policy BE.1 (Scale Massing and Height)

Policy BE.6 (Access for All)

Policy BE.13 (Landscape Schemes)

Policy BE.21 (Safeguarding of Amenity)

Policy BE.31 (Preserving Sites of Archaeological Interest)

Policy BE.36 (Archaeology Preservation in Situ)

Policy BE.37 (Recording and Preserving Archaeology)

Policy BE.38 (Meeting the Costs)

Policy TR.9 (Parking Standards)

Policy TR.12 (Cycle Standards)

TR.31 (Road Safety)

B.10 – Trees and hedgerows on development sites

B.11 – Tree preservation orders

FRP.1a – Flood risk

FRP.6 – Surface water run-off

FRP.8 – Renewable energy

FRP.9 – Light Pollution

FRP.10 – Noise

FRP.11 – Pollution

FRP.15 – Contaminated land

BE.1 – Scale, massing and height

BE.4 – Criteria for the layout, circulation and landscape of new development

BE.5 – Community safety

BE.6 – Access for all

BE.7 – Architectural design

BE.8 – Energy efficient development

BE.12 – Landscape schemes

BE.13 – Landscape strategy

BE.14 – Native species

BE.17 – Design criteria for large scale residential development

BE.18 – Vehicular circulation and parking in new residential development

BE.21 – Safeguarding of amenity
BE.31 – Preserving sites of archaeological interest
BE.32 – Archaeological assessment
BE.33 – Archaeological field evaluation
BE.34 – Presumption in favour of preserving archaeology
BE.36 – Preservation in situ
BE.37 – Recording and preserving archaeology
BE.38 – Meeting the Costs
TR.1 – Travel plans and planning applications
TR.2 - Travel plans – planning obligations
TR.9 – Parking standards
TR.12 – Cycle parking standards
TR.31 – Road safety
TR.33 – Providing for cyclists/pedestrians
TR.34 – Cyclist safety

All policies can be viewed at the relevant website address:- Gloucester Local Plan policies – www.gloucester.gov.uk/planning; and Department of Community and Local Government planning policies - www.communities.gov.uk/planningandbuilding/planning/.

CONSULTATIONS

- 4.1 **Highway Authority** – No highway objection subject to the inclusion of conditions.
- 4.2 **Lead Local Flood Authority (LLFA)** – The LLFA originally objected to the application on the basis that insufficient details had been provided in the FRA and Drainage Strategy. It is proposed to discharge the surface water at 19l/s, which is a betterment of 50% of the existing discharge rate. Based on this and the submission of updated drainage information the LLFA is satisfied and raises no objections to the application based on the surface water management proposals for the site subject to the inclusion of conditions.
- 4.2 **DPDS Consulting** – Provided retail policy advice to the Council on the application. This advice has informed the Officer’s Opinion set out in Section 6 of this report.
- 4.3 **Severn Trent Water** – No objection to the proposal subject to the inclusion of a condition requiring the submission and approval of plans for the disposal of surface water and foul sewage.
- 4.4 **Drainage Advisor** – No objection subject to the inclusion of conditions.
- 4.5 **Worcestershire Regulatory Services (Contaminated Land advisors)** – Based on the reports submitted, WRS recommend that Gloucester City Council’s standard condition should be applied to any planning permission to ensure that the outstanding contaminated land issues are appropriately addressed.

- 4.6 **Environment Agency** – The site is located upon blue lias formation and charmouth mudstone formation and overlain by Cheltenham sand and gravel. It is designated as a Secondary A Aquifer. It is not located within a source protection zone. The site is also close to the Wotton Brook.

The Environment Agency has made no bespoke comment on contaminated land matters but advises that the Council seek the comments of the Environmental Protection Team and refer to the following advice:

All redundant tanks and pipe work associated with the former PFS should be appropriately decommissioned and removed from the site. Following their removal the bases and sides of the tanks should be validated to demonstrate that no leakage has occurred, this should be undertaken as part of a comprehensive Site Investigation (SI) of potential sources of contamination. Guidance on installation, decommissioning and removal of underground tanks is available.

Any contamination encountered should be suitably removed and the groundwater sampled to assess the extent of contamination beneath the site. We would advise that you refer to the Geo Environmental Assessment Report as part of the planning application to give certainty on the above approach.

The Geo Environmental Assessment Report (desk study) will assist in determining the need for and scope of further investigation, the problems that may require remediation and whether remediation can be secured by means of planning conditions. It may provide sufficient evidence that the planning decision can be made based on an appropriate conceptual model and the LPA being satisfied that there is a viable remedial solution. However, further investigations and risk assessment may be needed unless this initial assessment clearly and reliably demonstrates that the risk from contamination is acceptable. Where the Geo Environmental Assessment Report (desk study) does not provide sufficient information to assess the risks and appraise remedial options, you might seek further investigations before the application is determined.

The Environment Agency would expect a developer to carry out sufficient investigation to allow clear decisions to be made and to give you certainty on the application including funding to be finalised. In the absence of an appropriate investigation and options for remediation the potential costs for remediation etc. are unknown. It is advised that a condition be imposed on any planning permission, although the Agency has clarified that it does not wish to be party to any future discharge of any condition.

Where the planning application refers to our pollution prevention guidance we would advise that all pollution prevention guidance (PPGs) that was previously maintained by the Environment Agency has been withdrawn from use and can now be found on The National Archives (<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>) but may still be of assistance to inform the above. Pollution prevention guidance contained a mix of regulatory requirements and good practice

advice. The Environment Agency does not provide 'good practice' guidance. Current guidance explains how to: report an environmental incident, get permission to discharge to surface or groundwater, manage business and commercial waste, store oil and any oil storage regulations, discharge sewage with no mains drainage, work on or near water and manage water on land.

4.7 **Environmental Health Officer** – The Environmental Protection Officer has confirmed that the submitted Noise Assessment report appropriately considers national guidance. The Environmental Protection Officer has, however, raised a concern in relation to the impact of creeping background noise but does acknowledge that this is not a consideration in terms of current national guidance. The Environmental Protection Officer does consider that the proposed development will give rise to a material change to the current noise environment during peak times. However, on the basis that national guidance does not consider issues surrounding creeping background noise the Environmental Protection Officer has acknowledged that the increase in noise levels as a result of the development are not significant enough to justify a refusal of planning permission and on this basis has raised no objection to the application subject to the inclusion of a number of conditions.

4.8 **City Archaeologist** – The applicant has submitted the results of an archaeological evaluation for the site. In the event it was not possible to properly sample the site due to access restrictions and below ground contamination. The City Archaeologist is, however, content that the applicant has done everything reasonable to inform the application. From an archaeological perspective the position remains that this site may contain significant archaeological deposits, these may include:

- Palaeolithic artefacts/remains from within the terrace gravels;
- Roman period inhumations (burials); and
- Potentially material of Bronze Age and Neolithic date.

What remains unclear is the extent to which this material survives within the site, especially given the extent of quarrying in the area.

The City Archaeologist advises that the proposed development has the potential to damage or destroy significant heritage assets of archaeological interest within the site. In light of this it is advised that a condition is imposed requiring in the first instance a programme of archaeological evaluation across the site following site clearance. Following this, further mitigation in the form of either an archaeological watching brief, or an excavation (or both) may be required.

4.9 **Urban Design Officer** – No objections to the revised plans.

The revised plans shows an increased distance between the existing and proposed structures, have omitted the hedge along the rear boundary and amended the roof section to the eastern section of the building, which has reduced the overall height of the elevation.

The materials applied to the elevation have been amended and there is now a mix of brick and render which will help to mitigate the impact of the continuous façade.

5.0 PUBLICITY AND REPRESENTATIONS

5.1 Neighbouring properties were notified and press and site notices were published.

5.2 17 representation raising objections have been received raising the following issues:

- Concerns regarding the size of the building. It is too large and squeezed into the site abutting domestic gardens/boundaries. It will completely overshadow adjacent property and reduce the light into the house. Overbearing.
- Will result in the devaluation of adjacent houses.
- Concerned over traffic implications including congestion / increased traffic. Site is very close to the Hucclecote Road / North Upton Lane / Insley Gardens traffic controlled junction and two major bus stops.
- Traffic along Barnwood Road during peak hours already causes significant delay. Inconvenience and delay will be felt greatly by the local residents. Concerned it will cause a serious accident.
- Access to homes is already a problem. Visibility is an issue given the bus stops.
- Buses will be stretched by volume of people coming to the area, resulting in more litter and infringement on private ground while waiting for a bus.
- More fumes from increased traffic.
- HGV access to the site will be difficult. Hucclecote Road has a weight limit for lorries.
- Supermarkets are totally inappropriate for a residential area with a 19th Century road system.
- The car park is of limited capacity. Question where cars will queue while waiting to enter a full car park. Concern customers will illegally park causing traffic flow issues.
- Question how pedestrians will be separated from customers' cars and delivery vehicles and whether the size of delivery vehicles will be limited.
- Company is only interested in profit.
- More sensible site for a supermarket would be on the trading estate or Eastern Avenue. Size of store makes it a major food outlet in keeping with other properties on retail parks not housing estates.
- Impact on local business, area cannot support all of the shops. Already good local parade of shops at Hucclecote Road and Glenville Parade. Would have a harmful impact on their business especially the butchers and florist. The closure of the 'Morrison' store at the Old Fire Station site in Barnwood Road demonstrates that such operations are not viable.

- Loss of a very successful and hard-working car wash on the site.
- Increase in noise including that from fans, refrigeration and heating engines and slamming doors, deliveries, lorry noise, reversing, air brakes and hydraulic leavers. . Current background noise is minimal especially at night so will impact on neighbours.
- With predominantly s/s west winds, exhaust fumes and noise from the large car park will affect those living in houses in the vicinity.
- Could not verify tall hedging proposed for boundaries.
- Out of keeping with the area.
- Precedent for future development.
- Light pollution to neighbouring properties from car park lighting and store lighting. No lighting documents submitted with the application.
- This is a residential area not a shopping area.
- Concerns that car park should be locked to prevent youths gathering at night.
- More pests such as seagulls. Need to provide anti-seagull nesting netting on the building.
- Increase in litter.
- Potential security / crime issues.
- Noise, vibration, dust and general pollution during demolition and construction phase.
- Question existing covenants relating to use of the land.
- Suggest opening hours should be restricted, especially on Sundays.
- Hope noise and pollution are kept to a minimum and that lorries don't turn up late at night or very early in the morning.
- Concerned the new soft landscaping plan does not show any new planting at to the rear of 20 Insley Gardens and indicates that the building is very close to the existing wall yet the new north/south elevations give different impressions with planting and high hedging and building further away. Trust new hedging will be incorporated.
- No indication on landscaping drawing of proposed maintenance and object to the proposed hedges until a planned maintenance schedule is produced.
- Revised proposals in regard to the entrance of the store would bring car and HGVs alongside a residential home for people with disabilities. The access and egress of such vehicles day and night cause real concern.
- More information is needed in relation to deliveries including hours, whether the loads will be palletised requiring fork lift operation, will loads be in cages, frozen food is delivered in refrigerated vehicles with motors fitted outside of the vehicle and can be extremely noisy and disturbing for neighbours.
- A hotel or business units would have a far smaller impact on the environment.
- Silver Birch trees were requested in the landscaping plans and the applicant agreed to add them – these have not been incorporated.
- Hope the sewage authority will take into consideration the number of times sewers in Insley Gardens block up. The proposal could result in a 15% increased loading on the current system.

5.3 30 representations in support have been received raising the following issues:

- Development will improve Barnwood from both the architectural and services point of view. Will be vast improvement on the aging brownfield site.
- Will create new jobs for local people.
- Modern foodstore will be of enormous benefit to the community, especially elderly people unable to drive. Will give more local shopping choice.
- Regeneration of the site will improve the appearance of the local area.
- Good to increase competition in Hucclecote.
- Would possibly bring more business to the local shops in Hucclecote.
- Welcome the store providing that the incoming and outgoing traffic to the store would not impact on traffic exiting Insley Gardens and Chosen Way.
- Neighbourhood deserves an award winning Aldi/Lidl style supermarket that provides quality food and products at very competitive prices.
- There is much greater demand for medium sized competitively priced local supermarkets.
- When considering need should discount the existing Co-op stores as they are aimed at a different market sector. Their pricing structure and size reflect that they are aimed at the convenience store sector and not the supermarket sector.
- Due to history of the site and its uses do not believe the proposal would result in a significant increase in traffic movements to and from the site.
- Neighbours are unlikely to be adversely affected by traffic movements to and from the site as it sits on an extremely busy commuter road and immediate neighbours are used to high volumes of traffic.
- Central location will allow customers to visit on foot. Will reduce driving to nearest Aldi/Lidl stores on Eastern Avenue and Bristol Road, significantly reducing shopping mileage, pollution and impact on already congested city roads.
- Pedestrian access as well as adequate parking would be very welcome.
- More in keeping with a residential area.
- Would be beneficial to have a café/small restaurant within the store and a lottery terminal.

5.4 Representations have been received from Richard Holmes Property Consultants (RHPC) on behalf of Midcounties Co-operative Limited (the Co-op) raising concerns relating to the impact of the proposed development, need and matters relating the Sequential Test. A copy of Mr Holmes letter dated 4th August 2016 is appended in full.

A subsequent representation was received from Mr Holmes following the submission of additional reports from Mango Planning (the Applicant's consultant) and DPDS raising concerns about the estimated turnover figures referred to by Mango for the two Co-op stores. It is submitted that the

estimated turnover figures have been overstated by in excess of 100% and that effect of the proposed loss estimated by Mango on these two stores having regard to the actual turnover would make the future of one and possibly both stores unsustainable and closure would be inevitable.

It is suggested by RHPC that the store situated in the Parade on Hucclecote Road would be the most vulnerable as it is closest to the proposed store. The Co-op anchors the Parade and if it closed there would obviously be a knock-on effect which would impact on the vitality and viability of the remaining units.

RHPC subsequently provided turnover figures for both of the Co-op stores and confirmed that both stores are leasehold and, in both cases, the leases are subject to imminent renewal which will not be implemented until the current planning application has been determined.

- 5.5 A representation has also been received from RPS on behalf of Asda raising concerns in relation to the description of development, deficiencies in the applications supporting documentation, the extent of the chosen study area, the expenditure and turnover figures used, impact on the existing Asda store and the associated harmful impacts on the vitality and viability of the City centre arising from the loss of linked trips. A copy of the letter received from RPS dated 15th November 2016 is attached in full as an appendix.
- 5.6 The full content of all correspondence on this application can be inspected at Herbert Warehouse, The Docks, Gloucester, or via the following link, prior to the Committee meeting:

<http://planningdocs.gloucester.gov.uk/default.aspx?custref=16/00753/FUL>

6.0 OFFICER OPINION

Legislative background

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Local Planning Authority to determine planning applications in accordance with the Development Plan, unless material considerations indicate otherwise.
- 6.2 Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that in dealing with a planning application, the Local Planning Authority should have regard to the following:
- a) the provisions of the development plan, so far as material to the application;
 - b) any local finance considerations, so far as material to the application; and
 - c) any other material considerations.
- 6.3 It is considered that the main issues with regards to this application are as follows:

Retail Assessment

- 6.4 Given the proposal involves retail which is defined as a main town centre use by the National Planning Policy Framework (NPPF) and is in an out-of-centre location, it will need to satisfy the requirements of both the sequential test and the impact test (NPPF paragraphs 24 to 27). Policy SD3 of the Joint Core Strategy (Main Modifications) sets out the broad policy principles for Gloucester. The Policy provides that proposals for retail and other main town centre uses that are not located in a designated centre, will be robustly assessed against the requirements of the sequential test and impact test. Given the advanced stage of the JCS and the consistency with the NPPF, I consider that Policy SD3 can be afforded considerable weight.
- 6.5 The Council have commissioned a retail consultant, DPDS Consulting, to advise on the retail considerations and the consultant's advice is included in relevant sections of the report.
- 6.6 The current application is supported a Planning and Retail Statement prepared by Mango Planning Consultants together with a supplementary report on the Assessment of City Centre Sites and a number of letters addressing concerns raised by DPDS.

Sequential Test

- 6.7 The sequential test requires 'main town centre uses' to be located in designated centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered. It follows that when considering edge and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre, (Section 2 – Ensuring the vitality of town centres, paragraphs 24-27 in the NPPF).
- 6.8 The originally submitted Retail Statement was written before the Mansfield judgement (Aldergate Properties vs Mansfield District Council and Regal Sherwood Oaks Ltd (2016) EWHC 1670). This clarified that suitability in the sequential test was the suitability of the site for the broad type of development proposed and not the individual retailer. This clarification is of fundamental importance to the way the sequential test is carried out.
- 6.9 The originally submitted report also pre-dates the recent Secretary of State decision in Exeter. In this decision, the Secretary of State agreed that a site could not accommodate the same configuration of floorspace was an acceptable alternative within the sequential test and that it would be unreasonable to insist on the same degree of car parking on town centre sites, This gives one of the few indications of how much flexibility should be expected.
- 6.10 DPDS advised that the business model approach to the sequential test originally put forward by the applicants is contrary to how it is intended to operate. Whilst DPDS recognised that the originally submitted report was prepared before the Mansfield judgement, the subsequent letter of the 5th August 2016 did not answer the matters raised by it. The Council's planning policies set out a hierarchy of centres and the applicant had originally failed to

adequately assess sequentially preferable opportunities within or adjacent to them. There was also a failure to consider sequentially preferable opportunities in out-of-centre locations but which are more accessible to designated centres. The catchment area as defined in the original study was also not accepted by DPDS and it was originally concluded that the applicant had failed to demonstrate compliance with the sequential test.

- 6.11 In response the applicant submitted a further Supplementary Note which provides additional information in relation to the sequential test and considered sites and opportunities within and adjacent to the City Centre, namely Greater Blackfriars, vacant units (including the former BHS store), the Eastgate Centre and Kings Quarter.
- 6.12 It is agreed that Kings Quarter and Blackfriars are not available within the appropriate timescale for the application proposal. Mango identifies the former BHS unit as the only vacant premises large enough to accommodate the proposed development. DPDS confirm that they have seen other assessments of vacant units recently and agree that all other vacant units would be too small. The BHS unit is rejected by Mango on the basis that it is too large. Whilst the ground floor is large enough to accommodate the proposal and the unit could be split, DPDS acknowledge that it is not clear that this would be acceptable to the landlord at this early stage of disposal. While Aldi could take the entire unit and seek to sub-let the upper floor this would represent considerable commercial risk. On balance, DPDS conclude that it would be expecting more flexibility than is reasonable and also consider that the access to the car park would require considerable modification to be suitable for food retailing and doubt that this would prove possible.
- 6.13 The owner of the Eastgate Centre has previously indicated its interest in providing about 2000 sq. m of additional floorspace but in the absence of any further information or progress DPDS suggest that this should not be considered as being available in terms of the sequential test. This is consistent with the stance in relation to other recent applications.
- 6.14 Since DPDS submitted their final assessment report the former Argos unit on Eastgate Street has become vacant and is now being marketed. DPDS has prepared a further addendum letter commenting on the suitability and availability of the former Argos unit together with Brantano and Next at Quedgeley District Centre which are now also being marketed.
- 6.15 According to the marketing brochure the former Argos store comprises a unit of 4638 sq. m on four floors plus a basement. The ground floor area is given as 1571 sq. m. The unit is located at the end of the pedestrianised section of Eastgate Street near to the entrance of Kings Walk and the Eastgate Centre, although separated from these by Brunswick Road which at this point is restricted to buses, taxis cycles and delivery vehicles. It is a prominent and distinctive building on a corner plot. It is well located in relation to leading stores in the city centre including Boots, WH Smith and Marks and Spencer. It is also close the former BHS unit.

- 6.16 There are many similarities with the former BHS unit. The unit is clearly available. While it offers more space than is sought, the unit could be subdivided although it is not being marketed on this basis. DPDS therefore do not think the unit should be ruled out on size grounds. It is slightly further from the roof top parking than the former BHS unit but marginally nearer the surface level car parking on Hampden Way.
- 6.17 DPDS previously concluded that the former BHS unit was unsuitable for food retail units based on trolley shopping and suggest that this must be more the case in relation to the former Argos unit since it is separated from the roof top parking by Brunswick Street. Although nearer to surface level car parking on Hampden Way, this is too far for a trolley service to function effectively. DPDS therefore conclude that although suitable for a wide range of retailing, the former Argos unit is considered to be unsuitable for food supermarket shopping.
- 6.18 Mango has not considered opportunities at Quedgeley District Centre. The Next and Brantano units at Quedgeley are now being marketed. These provide 780 sq. m and 948 sq. m respectively. The units are adjacent and could clearly be combined to provide a unit only slightly smaller than the proposed and have adjacent parking. However, DPDS consider that the attraction of the units to food retailers would be limited by the existing the foodstores in the centre and that this is sufficient to rule the units out.
- 6.19 The application site is a long way from the City centre and Mango has not considered sites which are better connected to the centre. These comprise an 'inner ring' of retail parks. DPDS examined these for another application and concluded that there no available units in either the St Oswald's or Westgate Retail Parks. The proposed cinema redevelopment at the Peel Centre includes a food store but of insufficient size even allowing for some flexibility. Planning permission has recently been granted to vary a condition to allow for the sale of food from unit 3a at the Peel Centre. Unit 3a is described as having 1189 sq. m gross floorspace. This application is for a store of 1800 sq. m gross (1254 sq. m net) and Unit 3a is therefore not a suitable alternative even allowing for the flexibility required by retailers.
- 6.20 DPDS are not aware of any potential sites in Hucclecote itself or Coney Hill. It is accepted that the former Ridge and Furrow site adjacent to the Abbeymead District Centre is too small to accommodate the proposed development even allowing for flexibility in terms of parking provision.
- 6.21 In the Addendum report dated 17th March 2017 DPDS, updated by way of letter on 17th May 2017 and the Addendum letter of 17th May 2017 conclude that there were no suitable sequentially preferable sites available and that the sequential test is passed.

Retail Impact Assessment

- 6.22 The NPPF states that impact assessments should be required for retail developments over 2,500 sq m or any local threshold for out-of-centre retail developments that are not allocated in a local plan. The Practice Guidance

(PG) clarifies that this refers to “*the gross retail floorspace defined as the total built floor area measured externally which is occupied exclusively by a retailer or retailers, excluding open areas used for the storage, display or sale of goods*”.

- 6.23 Mango have consistently argued that as there is no locally adopted threshold and that on the basis that the application proposal is below the national threshold there is no policy requirement for a full retail impact assessment to be undertaken.
- 6.24 Nevertheless a retail impact assessment was submitted for consideration. In addition, retail impact has been raised as an objection to the application and the City Council does have to consider this. The revised assessment and subsequent clarifications provided by Mango Planning have now addressed the points raised by DPDS with regard to retail impact and enables them to assess the impact more accurately. DPDS conclude that overall the proposal would not have a sufficiently adverse impact on any designated centre to justify the refusal of planning permission.
- 6.25 Subsequent to the advice in the Addendum Report dated March 2017 by DPDS further representations were received from Richard Holmes Property Consultants (RHPC) on behalf of the Co-op. In their submission, they contend that the turnover of the Co-op stores in Hucclecote had been over estimated by Mango by about 100% and further information on the Co-op stores was also provided. Mango claims that its turnover figures are not estimates but based on independent survey data and wishes to continue to rely on its figures.
- 6.26 In their Addendum Report, DPDS had expressed doubts about the turnover of these stores as estimated by Mango but concluded that on the basis of the information before them that the proposal would not have a sufficiently adverse impact on the Hucclecote Centre to justify a refusal of planning permission. The figures provided by RHPC are more in line with what DPDS would expect and they have reassessed the impact on that basis.
- 6.27 If the combined turnover of the Co-op stores is half that estimated by Mango, the impact on the stores would be about double. RHPC suggests that the trade diversion would also be higher and concludes that at least one of the stores is likely to close. DPDS agree that there are a number of factors which appear to make a closure reasonable likely. First it is unusual to find two stores of the same retailer operating in the same local centre of this size. Both appear to be operating reasonably well at present but the loss of trade is likely to encourage consolidation into one unit. Second RHPC indicates that the leases on both units are up for renewal and on this basis DPDS consider that the closure of one unit is likely.
- 6.28 RHPC indicates that it is the unit in the Parade (39 Hucclecote Road) which is most likely to close. This is the smaller unit, with fewer lines of goods. However, the centre has a substantial number of other retail service and community uses in it and DPDS do not consider that it would be possible to demonstrate that the closure of the unit would be significantly harmful to the

centre as a whole – which is the policy test. The centre would also still have a good quality food shop in it and there would be a limited loss of facilities. Overall, while the impact of the closure on the Parade would be undesirable, many of the units in the Parade do not appear to be strongly dependent on the footfall generated by the Co-op, and given the lack of vacant units in the centre, it is considered likely that the unit would be let in due course. DPDS have advised that considerable weight would be likely to be given to these factors at any appeal and that it would be difficult to win an appeal based on impact grounds even if it would lead to the closure of one of the Co-op units.

6.29 Mango claim that Hucclecote is not defined as a designated centre in any up-to-date adopted development and the Co-op stores should therefore be treated as being out-of-centre. The Second Stage Deposit Local Plan (2002) identifies two district centres and 10 local centres and this plan was adopted by the Council for development control purposes. More recent iterations of the emerging Local Plan propose that these designated centres, along with others within new communities, are designated in planning policy, including the most recent Draft Gloucester City Plan. District and local centres provide an important role in helping communities' access shops, services and facilities within their local community and this is supported through the NPPF. Whilst not adopted formally within policy, these designated centres have been subject to an interim adoption through the 2002 Local Plan and the Council and the principle is being taken forward through the emerging Local Plan.

6.30 Hucclecote is also clearly a significant local centre containing a number of commercial and community facilities and is more than a small parade of shops of purely neighbourhood significance. The absence of an up-to-date adopted development plan would not make adverse harm to these facilities immaterial and the fact that the centre will be afforded such protection in the future is material.

Retail Policy Conclusion

6.31 As outlined above, the information submitted in support of the application demonstrates that there are no suitable sequentially preferable sites available and that the sequential test is passed. It is also accepted that the proposal would not have a significant adverse impact on any designated centre.

6.32 On this basis it is considered that the proposed development would accord with retail policies in the NPPF and Policy SD3 of the JCS.

Traffic and Transport

6.33 The NPPF requires that development proposals provide for safe and suitable access for all and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Policy INF1 of the JCS requires safe and accessible connections to the transport network. Policy TR31 of the 2002 Plan seeks to ensure that new proposals deal satisfactorily with highway safety issues.

6.34 The site is located to the north of Barnwood Road which is a class 3 highway subject to a 30mph speed limit. Barnwood Road/Hucclecote Road connects

Brockworth towards the southeast with A417 to the northeast and city centre beyond.

- 6.35 The site sits east of the signalled controlled junction of Barnwood Road and North Upton Lane. Insley Gardens is immediately west of the site but does not fall within the signalisation of the Barnwood Road, North Upton Lane junction. Alternative non-car based transportation is available on Barnwood Road via the bus stops located opposite the site frontage. The stops are served by a regular bus service with connect to the City centre.

Access

- 6.36 The site has two existing accesses serving 928.4sq m of B1 (a) use and 693.6sq m of Sui Generis. The proposed discount food store will create a priority T-junction access in the approximate position of the current eastern most access. The western access will be closed up and the footway reinstated. A dedicated pedestrian access abuts the eastern most boundaries, allowing a means of access that reduces the risk of conflict between other users.
- 6.37 The type of vehicular access is suitable based upon the vehicle flows in the major arm (Barnwood Road) and minor arm (site access) in accordance with TD42/95.

Visibility

- 6.38 New vehicular accesses that may be subject to an intensification of use are required to provide suitable visibility. A speed survey recorded an 85th percentile speed of 30mph. The Highway is on a bus route therefore the required visibility is calculated using the MfS2 parameters. The required visibility splays are 2.4m back from the carriageway edge along the centre line of the access (X-distance) to a point 45m to the nearside carriageway edge in either direction (Y-distance). The site access can achieve suitable levels of junction visibility.

Parking and Layout

- 6.39 The proposed development includes provision for 95 parking spaces of which 4 car parking spaces will be disabled and 8 parent and child spaces.
- 6.40 Gloucestershire no longer has local car parking provision standards with any previous standards since superseded by the NPPF, in particular paragraph 39. Paragraph 39 was further supported by a ministerial statement in March 2015 that stated parking standards should only be imposed in extraordinary circumstances.
- 6.41 Given the sites sustainable location and access via alternative means of transport, the level of parking provision is deemed acceptable in accordance with the NPPF.
- 6.42 Barnwood Road is subject to single yellow line parking restrictions in operating Monday-Saturday at peak hours which will limit and restricted indiscriminate parking occurring upon the highway at the busiest times of the day.

- 6.43 The application includes the provision of 12 cycle spaces are suitably located close to pedestrian entrances and will provide opportunity for an alternative sustainable means of travel other than the private motorcar.
- 6.44 The parking layout is sufficient and can enable adequate entry and egress from the site without conflict. The standard spaces are 2.5m x 5m in length with a 6-7m aisle width which exceeds the recommended minimum stated in Chapter 9 of the Manual for Gloucestershire Streets.
- 6.45 The HGV delivery vehicles will be required to undertake a reverse manoeuvre over a significant distance. This will be mitigated for by the presence of a banks person who is suitably training for such event. There is sufficient visibility for customers to see such manoeuvre preventing conflict.
- 6.46 The HGV when egressing the site back onto Barnwood Road will over-swing into the opposing lane when turning left. However, on the balance of risk, this would be regarded as low due to the limited number of deliveries that would occur per day. Furthermore, there is sufficient forward visibility on Barnwood Road for approaching vehicles to see and slow or stop comfortably to avoid/prevent conflict.

Existing Traffic Conditions

- 6.47 An Automatic Traffic Count (ATC) survey undertaken in support of this development recorded a PM peak flow of 464 vehicle movements from North Upton Lane between 16:00-17:00. Of those 464 movements, 303 turned right to travel eastbound on Barnwood Road, 65.3% of the total observed movements in the peak hour. 29.3% of traffic movements turned left to travel westbound on Barnwood Road and the remaining 5.4% travelled northbound onto Insley Gardens.

Trip Generation

- 6.48 The proposed discount food-store will generate approximately 1392 two-way daily vehicle trips with 39 occurring in the AM peak two-way and 130 two-way PM peak hour trips.
- 6.49 The nature of the proposal will allow an opportunity for pass-by or linked trips, whereby the trip is already occurring on the network but enters the site while passing by or linked with an additional stop before travelling to a destination. When assessing impact, consideration must therefore be given to the effect of these pass-by/linked trips in order to avoid double counting movements and skewing the actual impact of the development negatively.
- 6.50 With the link-trip and diverted trips discount applied, the proposed discount food-store will generate 627 new total daily two-way trips with 18 two-way trips in the AM and 58 two-way trips in the PM peaks. 30% of the new trips would originate from the west and travel through the North Upton/Barnwood Road Signalised junction.
- 6.51 The extant use of the site based upon its gross floor area could have generated the following number of trips; 286 daily two-way trips consisting of

44 two-way trips occurring in the AM peak and 36 two-way occurring in the PM peak.

- 6.52 The proposed development would generate 18 fewer trips in the AM peak and 22 additional trips in the PM peak compared to the extant use in the week days. Therefore any impact assessment has focused on the PM peak hour.
- 6.53 The proposed discount foodstore's Saturday retail peak was determined as being between 11:00-12:00pm. It is estimated that the site would generate approximately 216 two-way vehicles trips consisting of 109 arrivals and 102 departures, or 2 cars per minute leaving the site.

Impact

- 6.54 An ATC traffic survey was undertaken to establish the vehicle flows along Barnwood Road. The ATC observed the following flows;
- Barnwood Road 5 day average daily flow: 8427 vehicles two-way.
 - Barnwood Road AM Peak: 760 two-way movements.
 - Barnwood Road PM Peak: 711 two-way movements.
- 6.55 Saturday flows were recorded as: 332 in the proposed developments retail peak. The development would increase this by 216 movements to a total of 548. The Saturday peak flow falls within the max weekday peak flow.
- 6.56 To assess the impact the development may have on the local highway network and the effect of potential queues blocking right turn movements out of the site access, a LinSig assessment model has been submitted. The LinSig was reviewed by GCC's signal consultant and JCT who are the company that develop the LinSig software. Both were in agreement that the final model inputs are sound and reliable.
- 6.57 The functionality of a signal controlled junction is assessed by its Degree of Saturation (DoS), delay and queue lengths. A degree of saturation of 85% or less would suggest that the junction is operating with spare capacity. DoS above 85% would suggest that some queuing is present and the junction is heading towards capacity. DoS above 100% demonstrates that the junction is operating over capacity where delay and queues are to be expected.
- 6.58 Queue lengths and the types of vehicles within it are often converted to a Pcu value. To establish the queue length in metres, the Pcu value is multiplied by the length of the vehicle, approximately 6m with a gap in front and behind. Therefore the Pcu value of 20.8 x 6m = 124.8m queue length.
- 6.59 The 2017 opening year recorded a DoS between 95.3 and 97.2% with Delays of 52.8 seconds on the Barnwood Rd (W) arm for eastbound traffic and 59 seconds on the Barnwood Road (e) arm for westbound traffic. North Upton Lane was subject to delays of up to 81 seconds. Queue lengths on the Barnwood Rd (E) arm would be 133m which is a 16m (2.66 cars) increase over the observed 2016 base.

- 6.60 The 2017 opening base without development will see queuing back from the Barnwood Road signals for vehicles travelling westbound. The queue length would be beyond the site access.
- 6.61 The 2017 base + development would increase the degree of saturation on the three arms by less than 1% compared to the observed base. The Barnwood Road (E) arm which is the most likely arm to affect the ability for right turners out of the development site is only increased by 1.3 Pcu's which equates to an increase in the queue length of 7.8m or 2 additional vehicles to accommodate rounding, with delay increasing by 5 seconds when compared to the observed 2016 base.
- 6.62 However, the 2017 base opening year + development would result in a slight improvement to the junction performance compared to the 2017 base opening year as a result of the linked trips and diverted trips discount. This would reduce the queue lengths by 8.2m (1 car approximately) and reduce delay by 2-4 seconds across the junction. The 2017 opening year + development results in a very minor improvement.
- 6.63 The signal junction performance is poor with the junction operating almost at capacity and delays and queuing common place in the observed base year and 2017 opening year without development. The 2017 opening year + development will not result in a material difference in the performance of the signalised junction and therefore the impact as a result of the development is not regarded as significant. The proposed discount food store will not materially alter the poor performance of the junction and as such in accordance with the NPPF it would be unreasonable for the development to fund any improvements or to mitigate an existing performance related issue with the signalised junction.
- 6.64 Advisory Keep Clear boxes can be conditioned on the westbound running lane on Barnwood Road to ensure that access blocking does not occur for those wishing to leave the site and turn right. This can be secured by way of planning condition.

Travel Plan

- 6.65 The NPPF Paragraph 36 states that all significant generators of traffic movements should be required to provide a Travel Plan. JCS Policy INF1 provides that applications may be required to be accompanied by a Travel Plan. The Travel Plan should be formulated in accordance with the GCC Travel Plan Guidance for developers.
- 6.66 The Department for Transport (DfT) defines a travel plan as "a long term management strategy that seeks to deliver sustainable transport objectives through positive action". Such plans could include; car sharing schemes, commitment to improving cycle facilities, dedicated bus services or restricted parking allocations. A successful Travel Plan should offer users whether they are employees, residents or visitors a choice of travel modes from sites or premises.

6.67 The submitted Travel Plan for this application aims to reduce the dependence upon single occupancy private car travel when accessing the site and in order to do so the Travel Plan aspires to:

- Encourage staff to use more sustainable modes of transport to travel to and from the site;
- Improve awareness of transport issues and reduce the impact of traffic on the local environment;
- Minimise the proportion of private car journeys to and from the proposed development;
- Increased the proportion of journeys to and from the proposed development by sustainable modes of transport such as walking, cycling and public transport; and
- Minimise the number of single occupancy car trips to and from the proposed development.

6.68 The Highway Authority has recommended that the draft travel plan should be amended to include annual reviews in order to accord with the Gloucestershire County Council Travel Plan Guidance. The Travel Plan can be secured by way of planning condition.

Highway Conclusions

6.69 The proposed development would result in a slight increase in vehicular movements in the PM peak hour traffic flow levels over the extant use of the site. There would be an increase in traffic movements on the Saturday; however, traffic flow levels will be below those recorded in the weekday AM/PM peaks. The small increase in PM peak hour traffic would not be regarded as significant. The Barnwood Road/North Upton Lane signalised junction is subject to delays and queues currently and operates with a poor performance that results in congestion at peak hours. The Highway Authority is satisfied that the proposed development would not materially worsen the performance of the junction with marginal increases in delay and queue length. On this basis no highway objection is raised to the application subject to the inclusion of conditions.

Siting and Design of the Building

6.70 The NPPF emphasises the importance of high quality and inclusive design for all development. Policy SD5 of the JCS sets out requirements for high quality design. In the 2002 Plan policies including BE1, BE4, BE5, BE6, BE7, BE12, BE13, BE17 and BE21 seek to ensure that new developments are of good design that is in keeping with its surroundings and follow accepted urban design principles in relation to scale, external appearance, layout, amenity and community safety.

6.71 The proposed store would be located towards the rear of the site with car parking spaces to the front of the store. Landscaping is proposed within the development site both at the front of the site adjacent to Hucclecote Road and along the eastern and western boundaries of the site.

- 6.72 The proposed building is single storey in height with a flat roof with a combination of materials comprising brickwork, white render and glazing. The store will be approximately 5.5 metres in height falling to 4.5 metres at the rear of the building. The delivery ramp to the west of the site has been sunken into the ground to help reduce the impact of the servicing areas of the store to the neighbouring houses. The plant area is also proposed to be sited to the west of the building contained within a single storey structure.
- 6.73 A glazed shopfront with a canopy above is located along the front elevation of the store with the customer entrance located at the south-eastern corner. The originally submitted plans proposed the use of white rendering for the entire building with the exception of the glazed frontage. Amended plans have since been received which have introduced a red multi stock facing brick to the front elevation and to part of the rear elevation. The Urban Design Officer has confirmed that the proposed changes to the elevations are considered to be an improvement and acceptable in design terms subject to a condition requiring the submission and approval of the external materials.

Residential Amenity

- 6.74 Paragraph 17 of the NPPF provides that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is reflected in Policy SD15 of the JCS which provides that new development should not harm local amenity including the amenity of neighbouring occupants and Policy BE.21 of the 2002 Plan which seeks to protect amenity.
- 6.75 The proposed store is adjacent to existing residential properties. The main impacts on the neighbouring properties need to be considered in terms of the physical impact of the building itself and any disturbance associated with its use.
- 6.76 The existing buildings and structures on the site will be demolished. The proposed store will back onto the rear gardens of existing houses in Insley Gardens. Amended plans have been received during the application process providing an increased distance between the existing houses and rear wall of the proposed new store. In the original plans the closest distance was approximately 4 metres between the rear wall of the store and the rear garden fence at 30 Insley Gardens and 11 metres to the single storey rear extension to the house and 14 metres to the main rear elevation of the house. These distances have been increased to approximately 7 metres to the rear garden fence and 14 metres between the buildings
- 6.77 The revised plans have also reduced the height of the rear of the proposed new store from 5.5 metres to approximately 4.5 metre with the introduction of a sloping roof. The 3.6 metre high hedge has also now been removed from the rear boundary. The materials have also been amended to a mix of brick work and render to help mitigate the visual impact of a continuous façade. There are no windows proposed in the rear elevation of the store.

- 6.78 The application site is approximately 1.5 metres lower than the gardens to properties to the east of the site in Ellesmere Close. The distance from the rear elevation of bungalows backing onto the site in Ellesmere Close is approximately 10 metres to the site boundary and 14 metres to the side elevation of the proposed new store. The side elevation of number 18 Ellesmere Close is approximately 6.5 metres from the side of the proposed new store.
- 6.79 The properties along the western boundary of the application site in Insley Gardens are approximately 11 metres from the boundary and 26 metres to the side elevation of the store. The delivery and plant area are however, located along the western side of the store and these are sited between approximately 16 and 20 metres from the rear of the residential properties.
- 6.80 A Daylight and Sunlight Study has also been submitted in support of the application to help assess the impact of the proposed development on neighbouring residential properties in Hucclecote Road, Insley Gardens and Ellesmere Close. The study is based on various numerical tests laid down in the Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice' by P J Littlefair 2011. The study looks at the impact on daylight and sunlight to windows and overshadowing of gardens. The study concludes that the proposed development will have a low impact on the daylight and sunlight availability to both windows and gardens and conforms to the BRE guidelines.
- 6.81 Given the distances between the rear of the dwellings, orientation, design and overall height of the proposed building it is not considered that it will result in any undue impact in terms of overlooking, overbearing or overshadowing that would warrant a refusal of planning permission.

Noise

- 6.82 The application site currently has a number of businesses operating from it including Allcoopers and a car wash business with associated car parking and deliveries. The site was also previously occupied by a petrol filling station. There is therefore already noise associated with these activities.
- 6.83 A Noise Impact Study has been submitted with the application to assess the impact of the proposed development on the occupiers of the neighbouring residential properties. The report identifies that the most sensitive receivers are the properties that back onto the site particularly those in Insley Gardens that back onto the proposed service area.
- 6.84 The application forms state that the proposed store opening hours would be 8am to 10pm Monday to Saturday and 10am to 4pm on Sunday and Bank Holidays. The submitted Noise Report states that the proposed delivery hours will take place an hour before the store opens, during store opening and not after 9pm. It is recommended that a condition is imposed on the planning permission restricting the store opening hours and hours of servicing/delivery vehicles arriving and leaving the site is repeated for the current proposal.

- 6.85 The supporting statement has indicated that Aldi have two main deliveries per day by HGV supplemented by 1 or 2 smaller deliveries of fresh bread and milk. The proposed delivery ramp is sunk into the ground and the delivery ramp arrangement removes the need for any external activity to help reduce noise disturbance to neighbouring properties. The plans also indicate a 4 metre high acoustic fence to the delivery and plant area together for a 2.4 metre high acoustic fence to the eastern and western boundaries within the car parking area.
- 6.86 A noise survey was undertaken on the site perimeter between the properties in Insley Gardens and the application site. The noise sources assessed in the report includes the car park, service yard, delivery arrivals and departures and mechanical plant. The Environmental Protection Officer has confirmed that the report appropriately considers national guidance.
- 6.87 The report concludes that the proposed development would result in “no” or “low” adverse effects in terms of noise annoyance and would not result in “significant observed adverse effects” which national guidance states should be avoided. The report also makes a number of recommendations including suggesting the use of condition to ensure that reversing alarms turned off during deliveries at the site and a condition relating to the mechanical plan.
- 6.88 The Environmental Protection Officer has, however, raised a concern in relation to the impact of creeping background noise but does acknowledge that this is not a consideration in terms of current national guidance. The Environmental Protection Officer does consider that the proposed development will give rise to a material change to the current noise environment during peak times. However, on the basis that national guidance does not consider issues surrounding creeping background noise the Environmental Protection Officer has acknowledged that the increase in noise levels as a result of the development are not significant enough to justify a refusal of planning permission and on this basis has raised no objection to the application subject to the inclusion of a number of conditions.
- 6.89 Overall, when taking into consideration the existing use of the site, it is considered that the proposals would not result in any demonstrable harm to the amenities currently enjoyed by the occupiers of the neighbouring houses. Subject to conditions the proposals would comply with the national and local policies relating to amenity issues.

Economic Considerations

- 6.90 The construction phase would support employment opportunities. The application submission states that the proposal would provide for 40 jobs. The proposal would have some economic benefit. In the context of the NPPF advice that ‘significant weight should be placed on the need to support economic growth through the planning system’, this adds some limited weight to the case for granting permission.

Drainage and Flood Risk

- 6.91 The NPPF requires that development is directed to the areas at lowest risk of flooding, that new development should take the opportunities to reduce the causes or impacts of flooding, should not increase flood risk elsewhere and take account of climate change. Policy INF3 of the JCS reflects the NPPF, applying a risk based sequential approach, requiring new development to contribute to a reduction in flood risk and requiring the use of sustainable drainage systems. Policy FRP1a of the 2002 Plan also promotes the risk based approach and policy FRP6 requires the provision of appropriate surface water disposal.
- 6.92 The application site is located within Flood Zone 1 and so the risk of fluvial flooding at the site is considered low. A Drainage Strategy has been submitted by the applicant and additional information has been submitted during the consideration of the application. Sufficient information has now been received in relation to the surface water drainage proposals and SUDs proposals. The proposed surface water discharge rate will result in a betterment of 50% of the existing situation. Based on this figure and the submission of updated information the LLFA and City Council's Drainage Engineer raise no objection to the application subject to the inclusion of conditions.
- 6.93 Sufficient information has now been provided to demonstrate that subject to conditions the proposals will comply with the policies relating to drainage and flood risk.

Land Contamination

- 6.94 Policy SD15 of the JCS and Policy FRP15 of the 2002 Plan require that development proposals incorporate the investigation and remediation of any land contamination.
- 6.95 The City Council's Contaminated Land Advisors (WRS) has reviewed the Remediation Strategy and Groundwater Detailed Quantitative Assessment (DQRA) submitted in support of the application.
- 6.96 The submitted report sets out the requirements for remediation and earthworks to prepare the site for a commercial use. Having reviewed the submitted report WRS advise that:
- The location of the most recent tank farm of the petrol station is known, however, during the different stages of development of the petrol station and garages on site, tanks may be present in different locations across the site. The historic planning records should be reviewed and the petroleum officer contacted for information.
 - Additional intrusive investigation is required in areas not previously investigated due to access.
 - Further investigation around Geotechnical Engineering BH5 is required the elevated methane reported could be as the results of hydrocarbon contamination as with BH105.
 - As stated in the desk study as a minimum 6 ground gas monitoring visits should be undertaken over period of low and falling pressure.

- W Confirmation from the Environment Agency as regulator for controlled waters that 50ug/l for benzene is acceptable for use within the risk assessment.
- The permeability has reportedly been chosen from site specific falling head tests, these tests have not been provided within the Phase II or the Remediation Strategy and DQRA, a copy of these should be provided for review.
- In the absence of detailed information on historic tanks, additional tanks should be anticipated/activity located during remediation/enabling works.
- The presence of soft landscaping areas is not sufficiently addressed within the report. Landscape Proposal Drg 1208-01 Rev B March 2016 submitted with the planning application indicated that there are areas of soft landscaping. Whilst the majority of the site is proposed to be building or hardstanding; where this is absent there is a potential pathway to soils which have been identified as containing asbestos.
- The importation of clean soils for soft landscaping areas required consideration within the remediation strategy.
- Long term groundwater monitoring is considered necessary to demonstrate the effectiveness of the proposed remediation of natural attenuation. A monitoring programme should be designed to obtain sufficient groundwater information to demonstrate that MNA is reducing the concentrations of contaminants.
- With regard to ground gas protection measure whilst the proposals are generally acceptable site the remediation strategy is generic with regard to ground gas protection measures, specific details of the proposed ground gas/vapour protection measures are required, including but not limited to:
 - a. details of the membrane,
 - b. foundation details,
 - c. who is installing the gas protection measures
 - d. who is verifying the gas protection measures, and
 - e. if any warranties provided.
- Details are required on the validation works proposed for groundwater and ground gas protection measures.

6.97 WRS also advise that an asbestos survey should be carried out prior to the demolition of the existing buildings, to ensure asbestos is identified and properly dealt with during demolition and enabling works, this is to ensure works on site do not result in contamination.

6.98 In conclusion, and based on the reports submitted, WRS recommend that the standard contaminated land condition should be applied to any planning permission.

Ecology

6.99 Policy SD10 of the JCS provides that the biodiversity and geological resource of the JCS will be protected and enhanced.

6.100 An Ecological Appraisal of the application site and buildings was undertaken in September 2015. The assessment included a detailed internal and external inspection survey of the existing buildings on the site for bat roost potential.

6.101 The survey found that habitats on site were of low ecological value and that the buildings have negligible roosting potential for bats. The report concludes that there are no important or priority habitats and the potential for protected or notable species is low and restricted to low numbers of foraging bats of common species and nesting birds. The impact of the proposed development is therefore considered to be neutral with opportunities for modest gains for biodiversity through appropriate planting and the provision of bird and bat boxes.

7.0 CONCLUSION

7.1 The site is located in a sustainable location on previously developed land.

7.5 This application has been considered in the context of the policies and guidance referred to above. It is considered that subject to conditions, the proposed use, design, scale and siting of the development would not have any significant impact on established retail centres, the amenity of neighbours and the local area, highway safety, drainage, flooding, ecology or archaeology. The development is therefore considered to be consistent with the policies and guidance referred to in the report and there are no material considerations that indicated that planning permission should be refused.

8.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER

That planning permission is granted subject to the following conditions:

Condition 1

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

Reason

Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition 2

The development hereby permitted shall be carried out in accordance with the approved drawings comprising:

- 7903-PL01- Site Location Plan received on 16th June 2016
- 7903-PL05 C - Proposed Floor Plan received on 8th November 2016
- 1208-1 Revision D – Landscape Proposals received on 6th April 2017
- 7903-PL04 rev K – Proposed Elevations received on 6th April 2017
- 7903 –PL03J – Proposed Site Plan received on 16th May 2017

except where otherwise required by conditions of this permission.

Reason

To ensure that the development is carried out in accordance with the approved plans and in accordance with policies contained within Second Deposit City of Gloucester Local Plan (2002).

PRE-COMMENCEMENT

Condition 3

No development, groundworks or demolition below slab level shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason

To make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost, in accordance with paragraph 141 of the National Planning Policy Framework and Policies BE.36, BE.37 & BE.38 of the Gloucester Local Plan (2002 Second Stage Deposit).

Condition 4

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 demolition and construction period. The Statement shall:

- i. specify the type and number of vehicles;
- ii. provide for the parking of vehicles of site operatives and visitors;
- iii. provide for the loading and unloading of plant and materials;
- iv. provide for the storage of plant and materials used in constructing the development;
- v. provide for wheel washing facilities;
- vi. specify the intended hours of construction operations;
- vii. measures to control the emission of dust and dirt during construction

Reason

To ensure that appropriate measures are in place prior to the commencement of development to reduce the potential impact on the public highway and accommodate the efficient delivery of goods and supplies in accordance paragraph 35 of the National Planning Policy Framework and to safeguard residential amenity and prevent pollution in accordance with policies TR.31 and BE.21 of the Second Deposit City of Gloucester Local Plan.

Condition 5

Prior to construction commencing (including demolition and preparatory groundworks) an Environmental Management System should be submitted to and approved in writing by this Authority which specifies mitigation measures in respect of the following issues in order to prevent nuisance –

- a) Dust from demolition
- b) Dust from groundworks
- c) Dust from haulroads
- d) Dust from stockpiles and material handling/removal
- e) Light from security compounds etc.
- f) Storage of waste
- g) Keeping highways clear

Reason

To ensure that appropriate measures are in place prior to the commencement of development to safeguard residential amenity and prevent pollution in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 6

No works shall commence on site (other than those required by this condition) on the development hereby permitted until the first 20 metres of the proposed access road, including the junction with the existing public road and associated visibility splays, has been completed to at least binder course level.

Reason

To ensure that appropriate measures are in place prior to the commencement of development to minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians in accordance with the National Planning Policy Framework.

Condition 7

Prior to the commencement of development details of surface water attenuation/storage works shall be submitted to and approved in writing by the Local Planning Authority. The volume balance requirements should be reviewed to reflect actual development proposal, agreed discharge rate and the extent of impermeable areas and runoff to be generated. It is important to confirm dimensions and depth of proposed tank to the LPA. The scheme shall subsequently be completed in accordance with the document 10347-01 - "stormwater Drainage strategy and calculations" and approved details before the development is first brought into use/occupied.

Reason

To prevent the increased risk of flooding and to minimise the risk of pollution in accordance with SuDS principles. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality.

Condition 8

No development shall take place until a SUDS maintenance plan for all SUDS/attenuation features and associated pipework, in accordance with The SuDS manual (CIRIA, C753), has been submitted to and approved in writing by the Local Planning Authority. The approved SUDS maintenance plan shall be implemented in full in accordance with the agreed terms and conditions.

Reason

To ensure the continued operation and maintenance of drainage features serving the site and avoid flooding. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality.

Condition 9

Development shall not take place until an exceedance flow routing plan for flows above the 1 in 100+40% event has been submitted to and approved in writing by the Local Planning Authority. The proposed scheme shall identify exceedance flow routes through the development based on proposed topography with flows being directed to highways and areas of public open space. Flow routes through gardens and other areas in private ownership will not be permitted. The scheme shall subsequently be completed in accordance with the approved details before the development is first brought into use/occupied.

Reason

To ensure satisfactory drainage of the site and avoid flooding. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality.

Condition 10

The development hereby permitted should not commence until drainage plans for the disposal of foul water flows have been submitted to and approved by the Local Planning Authority, and The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason

This is to ensure that the development is provided with a satisfactory means of foul drainage. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality.

Condition 11

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts A to D have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning

Authority in writing until part D has been complied with in relation to that contamination.

A. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must accord with the provisions of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to elsewhere as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with part C.

E. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason

To ensure that appropriate measures are in place prior to the commencement of any works to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy FRP.15 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 12

Notwithstanding the submitted drawings, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of all boundary treatments including precise details and specification of the acoustic fencing to be erected. The boundary treatment shall be completed in accordance with a timetable to be agreed in writing with the Local Planning

Authority. Development shall be carried out in accordance with the approved details.

Reason

It is important that these details are provided prior to the commencement of development to ensure that adequate protection is provided to neighbouring properties in the interests of residential amenity and to ensure dwellings have satisfactory protection and privacy in accordance with policies BE.21 and BE.4 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 13

Prior to the commencement of development, a detailed plan, showing the levels of the existing site, the proposed levels of the site, the proposed slab levels of the building approved and a datum point outside of the site, shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason

To ensure that levels are agreed prior to the commencement of development in order to define the permission and ensure that the development is of a scale and height appropriate to the site in accordance with policy BE.1 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 14

No development works above DPC level shall take place until details or samples of materials to be used externally on walls, roofs, windows, external doors and rainwater goods have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason

To ensure a satisfactory appearance to the development hereby approved and in accordance with policies BE.7 and BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 15

No development works above DCP level shall take place until details of a lighting scheme to illuminate the external areas of the application site have been submitted to and approved in writing by the Local Planning Authority. The details shall include the lighting fixtures, their location on the site/on the buildings, and the extent of illumination. The scheme is also to include details on how the impact of how floodlights (if any) and external lighting will be minimised. The approved lighting scheme shall be implemented prior to the commencement of the use of the development and maintained for the duration of the use of the site unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of crime prevention and to protect the amenities of the occupiers of neighbouring properties in accordance with Policies BE.5 and BE.21 of the City of Gloucester Second Deposit Local Plan 2002

Condition 16

No development works above DCP level shall take place until a scheme for the provision of refuse recycling and storage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted and thereafter maintained for the life of the development.

Reason

In the interests of amenity in accordance with Policy BE.4 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 17

No works shall commence on the development hereby permitted until a Travel Plan has been submitted to and agreed in writing by the Local Planning Authority, setting out;

- i. objectives and targets for promoting sustainable travel,
- ii. appointment and funding of a travel plan coordinator,
- iii. details of an annual monitoring and review process,
- iv. means of funding of the travel plan, and;
- v. an implementation timetable including the responsible body for each action.

The approved Travel Plan shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure that the opportunities for sustainable transport modes are taken up in accordance with paragraphs 32 and 36 of the National Planning Policy Framework.

Condition 18

No development works above DCP level shall take place until details of the design, number and location of bat and bird boxes to be erected on the site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development.

Reason

To enhance the biodiversity of the site in accordance with policy B.8 of the Second Deposit City of Gloucester Local Plan (2002).

DURING CONSTRUCTION

Condition 19

During the construction and demolition phase (including ground works) no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 08.00hrs - 18.00hrs, Saturday 08.00 hrs - 13.00hrs nor at any time on Sundays, Bank or Public Holidays.

Reason

To protect the amenity of local residents in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

PRE-OCCUPATION

Condition 20

The building hereby permitted shall not be occupied until the vehicular parking and turning and loading/unloading facilities have been provided in accordance with the submitted plan 7903-PL03 Rev J, and those facilities shall be maintained available for those purposes thereafter for the lifetime of the development.

Reason

To ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with Section 4 of the National Planning Policy Framework.

Condition 21

The building hereby permitted shall not be occupied until details of Keep Clear road markings located on Barnwood Road in the vicinity of the site access have been submitted to and approved in writing by the Local Planning Authority and those works have been completed in accordance with the approved plans.

Reason

To ensure that safe and suitable pedestrian access for all users to create a safe and secure layout which minimises conflicts between traffic and cyclists or pedestrians and considers the needs of people with disabilities in accordance with paragraph 35 of the National Planning Policy Framework.

Condition 22

The development hereby permitted shall not be occupied until the cycle storage facilities have been made available for use in accordance with the submitted plan drawing 7903-PL03 Revision J (for a minimum of 12 cycles) and those facilities shall be maintained for the duration of the development.

Reason

To ensure that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with paragraph 32 of the National Planning Policy Framework.

GENERAL

Condition 23

The landscaping scheme as shown on the approved drawing No. 1208-01 Revision D shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The planting shall be maintained for a period of 5 years. During this time any trees, shrubs or other plants which are removed, die, or are seriously retarded shall be replaced during the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year maintenance period.

Reason

To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment in accordance with policies BE4 and BE.12 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 24

The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the following times: Monday to Saturday 07.00hrs-21.00hrs, Sunday and Bank Holidays 08.00hrs-18.00hrs.

Reason

To safeguard the amenities of the locality in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 25

The store shall only open to the public between the hours of 08.00 hrs and 22.00 hrs Monday to Saturday and 10.00 hrs to 17.00 hrs on Sunday.

Reason

In the interest of the amenities of the occupiers of neighbouring residential properties and in accordance with policy BE.21 contained within Second Deposit City of Gloucester Local Plan (2002).

Condition 26

No fixed plant and/or machinery shall come into operation until details of the fixed plant and machinery serving the development hereby permitted, and any mitigation measures to achieve this condition, are submitted to and approved in writing by the local planning authority. The rating level of noise emitted from all fixed plant and machinery shall not exceed the background noise level when measured or calculated at 1 metre from the façade of the nearest noise sensitive property. The measurements and assessment shall be made according to BS 4142:2014.

Reason

To safeguard the amenity of the area in accordance with policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 27

The reversing alarms for all plant and vehicles servicing the site must be switched off when operating on the site.

Reason

In order to protect the amenity of the occupiers of neighbouring properties in accordance with Policy BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

Condition 28

The gross external floorspace of the approved building shall not exceed 1,800 square metres and the net sales floorspace as defined by the National Retail Planning Forum* shall not exceed 1,254 square metres. No less than 80% of the net sales floorspace shall be used for convenience goods sales.

Reason

To define the terms of this permission and in order to protect the vitality and viability of existing centres and to ensure the store retains its status as a 'limited product line deep discount retail food-store' and in accordance with Policy S.4a of the Second Stage Deposit City of Gloucester Local Plan (2002).

*The area within the walls of the shop or store to which the public has access or from which sales are made, including display areas, fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail concessionaires, customer services areas, and internal lobbies in which goods are displayed; but not including cafes and customer toilets

Condition 29

The development hereby approved shall only be used as a Class A1 retail foodstore. This shall be restricted to 'limited product line deep discount retailing', and shall be used for no other purpose falling within Class A1 of the Town and Country Planning (Use Classes) Order 1987. 'Limited product line deep discount retailing' shall be taken to mean the sale of no more than 2,000 individual product lines. No increase in the number of product lines shall be permitted without the prior written approval of the Local Planning Authority.

Reason

To define the terms of this permission and in order to protect the vitality and viability of existing centres and to ensure the store retains its status as a deep discount retail food-store and in accordance with Policy S.4a of the Second Stage Deposit City of Gloucester Local Plan (2002).

Notes

1. The proposed development will involve works to be carried out on the public highway and the Applicant/Developer is required to enter into a legally binding Highway Works Agreement (including an appropriate bond) with the County Council before commencing those works.
2. You are advised to contact Amey Gloucestershire 08000 514 514 to discuss whether your development will require traffic management measures on the public highway.
3. The archaeology works required by condition 3 will consist, in the first instance, of a programme of archaeological evaluation across the site following site clearance. Following this, further mitigation in the form of either an archaeological watching brief, or an excavation (or both) may then be required.
4. It is advised that an asbestos survey should be carried out prior to the demolition of the existing buildings, to ensure asbestos is identified and properly dealt with during demolition and enabling works, this is to ensure works on site do not result in contamination.
5. All crushers and screens that may be used on site shall be accompanied by a Permit to Operate issued under the Environmental Permitting Regulations 2010.
6. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Statement of Positive and Proactive Engagement

In accordance with the requirements of the NPPF the Local Planning Authority has worked with the applicant in a positive and proactive manner in seeking solutions to secure sustainable development which will improve the economic, social and environmental wellbeing of the area. In particular, the Local Planning Authority has negotiated issues relating to retail policy, highway safety and design.

Decision:

Notes:

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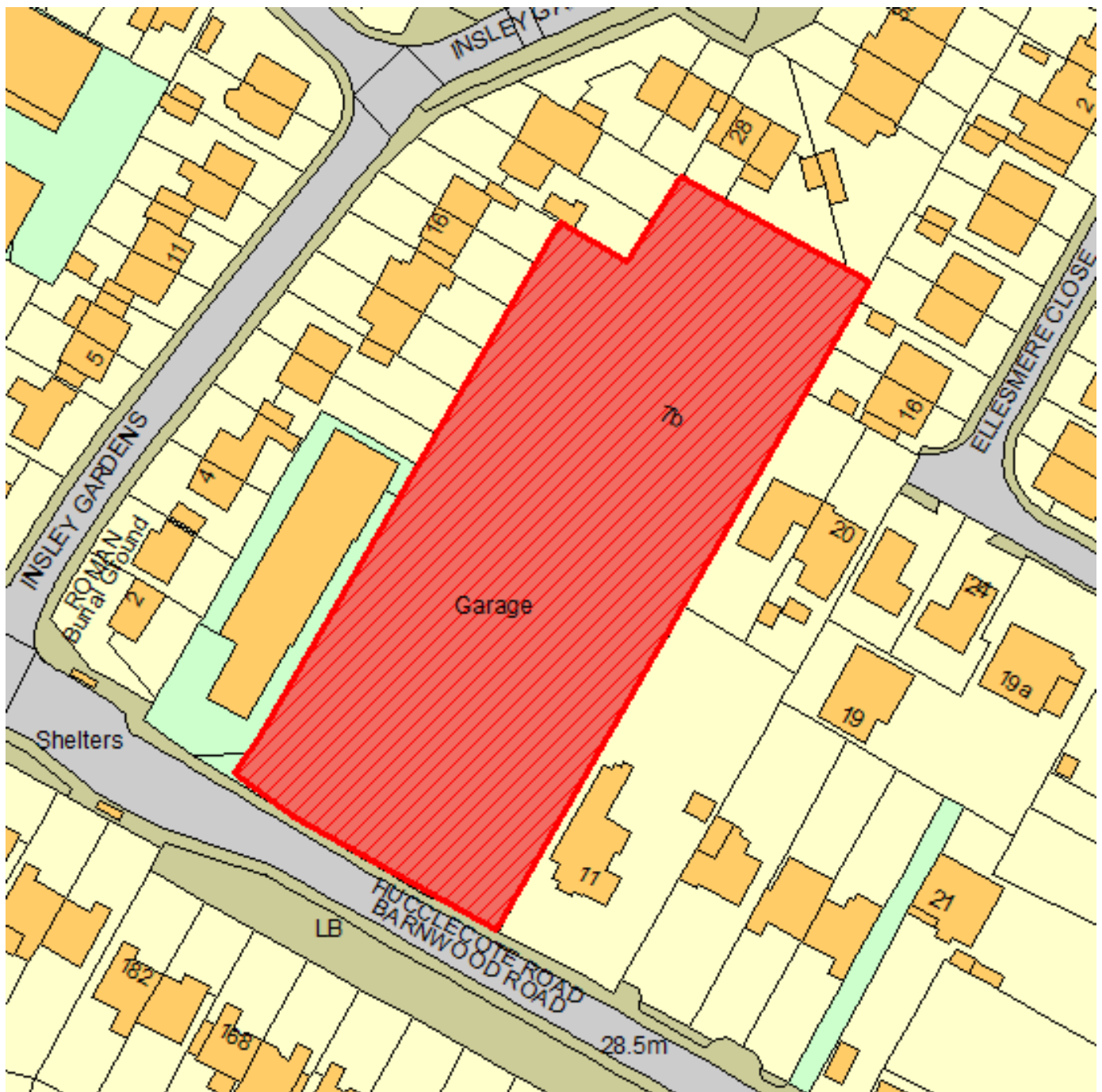
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Person to contact: Caroline Townley
(Tel: 396780.)

16/00753/FUL

Allcooper Security
7 Hucclecote Road
Gloucester
GL3 3TQ

Planning Committee 04.07.2017



RICHARD HOLMES

PROPERTY CONSULTANTS

Gloucester City Council
Development Control
Herbert Warehouse
The Docks
Gloucester GL1 2EQ

4th August 2016

Dear Sir

Re: Application NO: 16/00753/FUL

I am writing to object to the proposed development on behalf of the Midcounties Co-operative Ltd (the Co-op). The Midcounties Co-operative is a locally based Co-operative Society which operates food shops predominantly in the Gloucestershire, Oxfordshire and West Midlands areas. These shops vary from small neighbourhood stores to large food supermarkets for main food shopping. The Co-op has an extensive network of shops in Gloucester and relative to this application has shops in Hucclecote Road and Hill View Road.

The application is for a new food store of 1,800 sq.mts. gross (19,375 sq.ft.) and the net retail floor area is 1,254 sq.mts. (13,498 sq.ft.). The proposal also has parking for 102 cars.

The proposed store would be located on Hucclecote Road approximately 300 metres to the west of the Hucclecote Centre which has a range of shops anchored by a Co-op convenience store together with other facilities including a local library, public house, takeaways etc.

Policy

The Development Plan includes the saved policies of the old Local Plan and the City of Gloucester Second Stage Deposit Draft which was not finally adopted but approved for use for development control purposes. The Joint Core Strategy has been through public examination and is likely to be adopted in 2017. This supports the earlier retail policies within the Local Plan. The Development Plan and its constituent parts should be read in conjunction with the NPPF.

Mango Planning Consultants, on behalf of the applicants, Aldi, make detailed reference to the operator as a Limited Assortment Discounter, with specific requirements required to support the company's business model (with regard to this I refer later to the recent case of Aldergate properties, Mansfield District Council and Regal Sherwood Oak Ltd. This was a High Court decision which was handed down by Mr Justice Ouseley on the 8th July 2016). Mango make a case that on the basis of the nature and size of the LAD stores limits their ability to compete directly on product range with the main supermarkets thus creating a point of difference and limiting the impact they would have on traditional town centre outlets.

Cont/.....

Richard Holmes Property Consultants Ltd,
Highfield House, The Greens, Leafield, Oxon, OX29 9NP
Tel: [REDACTED] Mobile: [REDACTED] E-mail: [REDACTED]
Registered in England & Wales, Registered Office: 30 St Giles, Oxford, OX1 3LE
Company Registered Number: 6486545

Both the market and Aldi's preferred store size has changed and this proposal is for a store which would be suitable for other supermarket operators and should be considered as a normal supermarket and not one specific to the requirements of a particular named operator. In the Mansfield decision, it was made clear that a condition relating to a named operator would not be sustainable as it would be very difficult preventing the transfer of the unit to another operator. In their report, Mango refer to Aldi having a range of approximately 1,500 separate lines, this is in conflict with a recent submission made on behalf of Aldi by Turley Associates at Coleford where they refer to a range of 2,500 lines (Forest of Dean District Council application no: P1719/14/FUL). Mango's evidence seems to be out of date and inaccurate in this respect.

Impact

The success of Aldi has been well documented in the national press over the last couple of years, with frequent reference to increase in range and quality and it is obvious from their success and market share that they are a significant competitor for the main supermarkets. It is inevitable that a new store in this location would have a major impact on the nearby Hucclecote Centre. In particular, the Co-op convenience store would be affected and as this acts as an anchor for the other units there would obviously be a knock on effect leading to the potential degradation of the whole Centre and therefore impacting on its vitality and viability.

In the study prepared by DPDS, as part of their work on the Joint Core Strategy, they identify that there is no need for any additional convenience retail floor space beyond that for which there are already consented commitments. I see from the recent Joint Core Strategy note which was recently updated to the 15th July that there is currently a surplus beyond their estimated need and throughout the Plan timeframe. It is inevitable therefore that any additional space provided will not soak up latent demand but will merely attract spending from existing outlets.

Whilst I appreciate that an objection to a proposal cannot be sustained on the grounds of competition, it is important to bear in mind the effects that any diminution in trade would have on the future of existing outlets, particularly where they perform an anchor role. Initially, this would be a lack of investment in existing stores which leads to a cycle of decline, reducing customer numbers and in some cases closure. Generally, this affects the most disadvantaged members of the community, the elderly and young mothers who might have more limited access to transport.

Sequential Test

Obviously, Mango prepared their commentary on the Sequential Test prior to the availability of the Judgement in the Mansfield case. This established in the words of a legal report that:

"The application of the Sequential Test required by the National Planning Policy Framework para 24 to planning applications for main town centre uses should not depend on the individual corporate personality of the applicant or intended operator, but on the content of the applications. Para 24 did not require the suitability and availability of sites to be judged simply from the retailers perspective, but according to the type of retail use for which permission was sought."

The applicant's retail study with regard to the Sequential Test relies heavily on the fact that the applicant is a discount retailer and cannot be flexible with regard to sites. This is clearly a flawed interpretation of the Sequential Test and the Council should not give it weight. The application should be refused under Paragraph 27 as the Test has not been satisfied.

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I would also refer to the case of Exeter City Council and CPG Development Projects Ltd and enclose a copy of the Secretary of State's decision letter dated the 30th June 2016. This gives a clear indication of the SoS's current position on the *Rushton Lakes*' decision and his interpretation of the *Dundee* decision. No doubt due to the timing of the SoS's decision this has not been reflected in Mango's report.

Conclusion

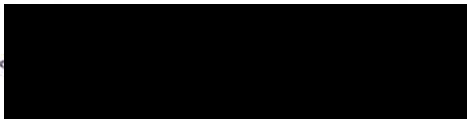
The "Mansfield" decision makes it clear that the Sequential Test should not be influenced by the individual corporate personality of the operator. The application should be determined in accordance with the Development Plan Policy and the Joint Core Strategy which still require town/city centres to be put first.

In any event, the proposed development would be suitable for a variety of different operators in the main stream supermarket sector and this should be taken into account in determining any application. It should not be assessed considering merely the requirements of an LAD.

Following the Mansfield and Exeter decisions, the information provided by the applicants is out of date. The interpretation of "Rushton Lakes" and "Dundee" decisions need to be reconsidered. On the basis of the evidence provided, the application does not satisfy the Sequential Test and should be refused in accordance with paragraph 27 of the NPPF.

Notwithstanding the above, the proposal for a medium sized supermarket would have a severe impact on the vitality and viability of the Hucclecote Centre and should be refused on the basis set out in the Development Plan and NPPF.

Yours faithfully

A large black rectangular redaction box covering the signature of the sender.

Richard Holmes FRICS

Enc.



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T +44 (0)29 2066 8662 F +44 (0)29 2066 8622 E rpssw@rpsgroup.com W rpsgroup.com

Our Ref: JPW0885
Your Ref: 16/0753/FUL

E-mail: ross.bowen@rpsgroup.com
Direct Dial: 02920 550681
Date: 15th November 2016

Ms C Townley
Principal Planning Assistant
Gloucester City Council
Herbert Warehouse
The Docks
Gloucester
GL1 2EQ

Dear Ms Townley

**APPLICATION REF: 16/0753/FUL
PROPOSED USE CLASS A1 FOODSTORE AT 7 HUCCLECOTE RD, GLOUCESTER
OBJECTION ON BEHALF OF ASDA STORES LTD**

On behalf of my client, Asda Stores Ltd, we object to the above planning application, and consider that the application should be refused as contrary to the provisions of the Development Plan and the National Planning Policy Framework. The reasons for our objection are detailed below.

The application proposal is for a food store of 1,800 sq m gross, with a net sales area of 1,254 sq m with 102 car parking spaces. The application documentation indicates that the intended occupier is Aldi. It is noted that in Section 4 of the Planning and Retail Statement (PRS) produced by Mango Planning Limited, and the proposed operation of Aldi is described with reference to its specific trading characteristic such as a limited product range of 1,500 lines. Notwithstanding this, it is important to note that the whole premise of the PRS is based upon Aldi, the description of the development refers to the erection of a 'Class A1 Retail Store' and nowhere in the supporting document is it suggested that any permission be conditioned to limit the occupier to Aldi or similar 'discount' operator. The application must therefore be assessed as an A1 foodstore which could be occupied by any retailer.

Our client, Asda Stores Ltd operates a superstore at Bruton Way. The store is situated approximately 400 metres to the east of the City Centre's Primary Shopping Area. The Asda store has a direct pedestrian route to the town centre, via a signalised pedestrian crossing across Bruton Way and along Station Road. It performs an important role in being the largest foodstore in walking distance to the city, with linked trips generated between the store and the town centre. Our client is concerned that the proposed development will adversely impact on the store, reducing the turnover of the store and critically reducing the number of linked trips made to the City Centre. Similarly, it may also adversely impact on proposals to invest in the store, such as the proposed extension to and overhaul of, the existing car park. This would similarly have an adverse impact on linked trips to the town centre.

The applicant's own household survey demonstrates that the Asda store is the most popular store for main food shopping in the study area. It is also the closest to the town centre with the strongest pedestrian linkages. We contend that it operates as an edge-of-centre store in terms of

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generating linked trips with many customers parking at Asda and walking to the centre pre or post Asda shop.

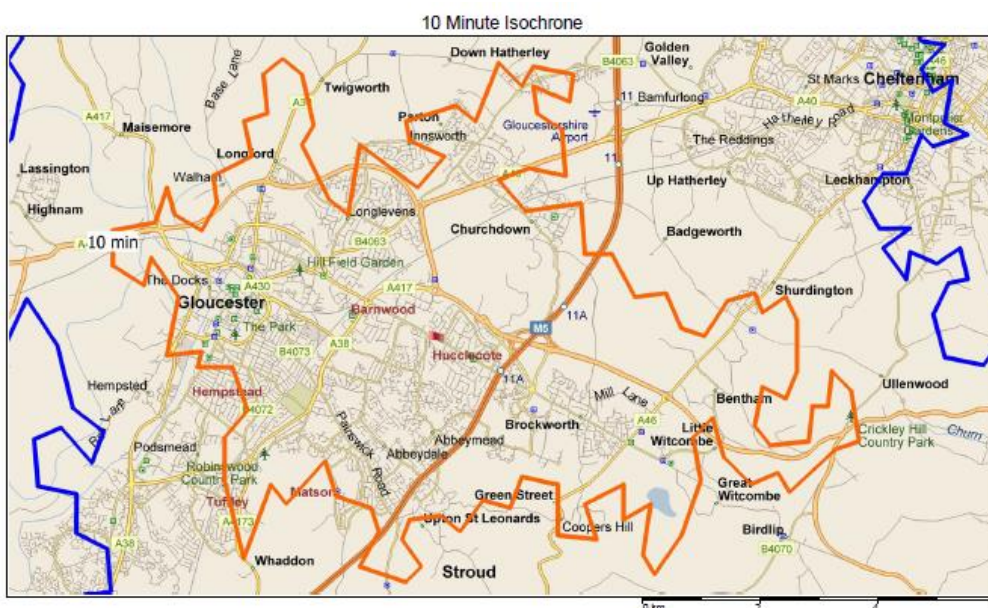
DPDS have provided the Council with independent retail planning advice on this application, and they have identified a number of concerns and deficiencies in the application supporting documentation. They recommend that without the submission of further material to address the points raised, the application should be refused.

The applicant's agent Mango submitted a response dated 5th October. This response in the main took issue with the conclusions reached by DPDS in relation to impact and the sequential test. On the first issue, Mango suggest that the concerns of DPDS in relation to retail impact should be dismissed, by arguing after submitting a Retail Assessment, that the NPPF does not require an impact assessment. Mango clearly felt that the potential impact of the store was worthy of assessment in submitting the evidence they have, which to be clear included a bespoke household survey and detailed quantitative assessment. Once in receipt of this information, it is clearly a material consideration for the Council and DPDS are quite right to raise legitimate concerns. It is therefore puzzling for Mango Planning to argue that the DPDS concerns should be disregarded. On the second point of the sequential test, we note that Mango Planning suggest that they will submit further evidence on specific sites. We reserve the right to comment further once this information has been submitted.

We do not intend to repeat the valid comments of DPDS here but nevertheless, based on the information submitted we make the following observations:

Study Area

We concur entirely with the point raised by DDPD that the chosen study area is illogical and excludes areas which are clearly within the expected catchment area of the proposed store. The explanation that the study area represents a 10-15 minute drivetime isochrone does not stand up to scrutiny given the below plan clearly demonstrates that the City Centre, excluded from the study area, clearly falls within 10-minutes drivetime.as shown by the orange line below. This fundamentally undermines the reliability of the entire study.





Expenditure Per Capita

We concur that with DPDS that it is also puzzling that whilst individual population data per zone has been obtained, a uniform expenditure per capita figure has been adopted. This can mask disparities between the individual zones. We would agree that the tables should be updated with the expenditure per capita by zone.

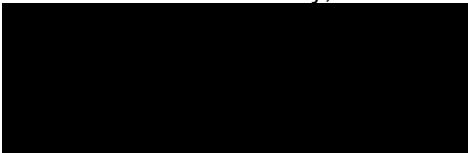
Turnover of the Proposed Development

The basis of the applicant's estimated turnover is based on the occupation of the store by Aldi, but as we have stated, the permission sought is neither restricted to the discount sector or personal to Aldi. It could be occupied by another grocery retailer with a substantially higher turnover – in the region of an additional 50% - and therefore impact could be higher. A sensitivity assessment should therefore be undertaken.

Nevertheless, we note that even on the specific Aldi-based sales density, DPDS consider that the adopted figure has been substantially underestimated, and comparison goods turnover completely ignored.

We trust my clients concerns in relation to the impact on their store, and the associated harmful impacts on the vitality and viability of the town centre arising from a loss of linked trips will be fully considered. As matters stand, we agree with DPDS that the application is not in a position to be positively determined, and with the apparent reluctance of the applicant to address the points of concern we consider that planning permission should be refused.

Yours sincerely,



ROSS BOWEN
Director