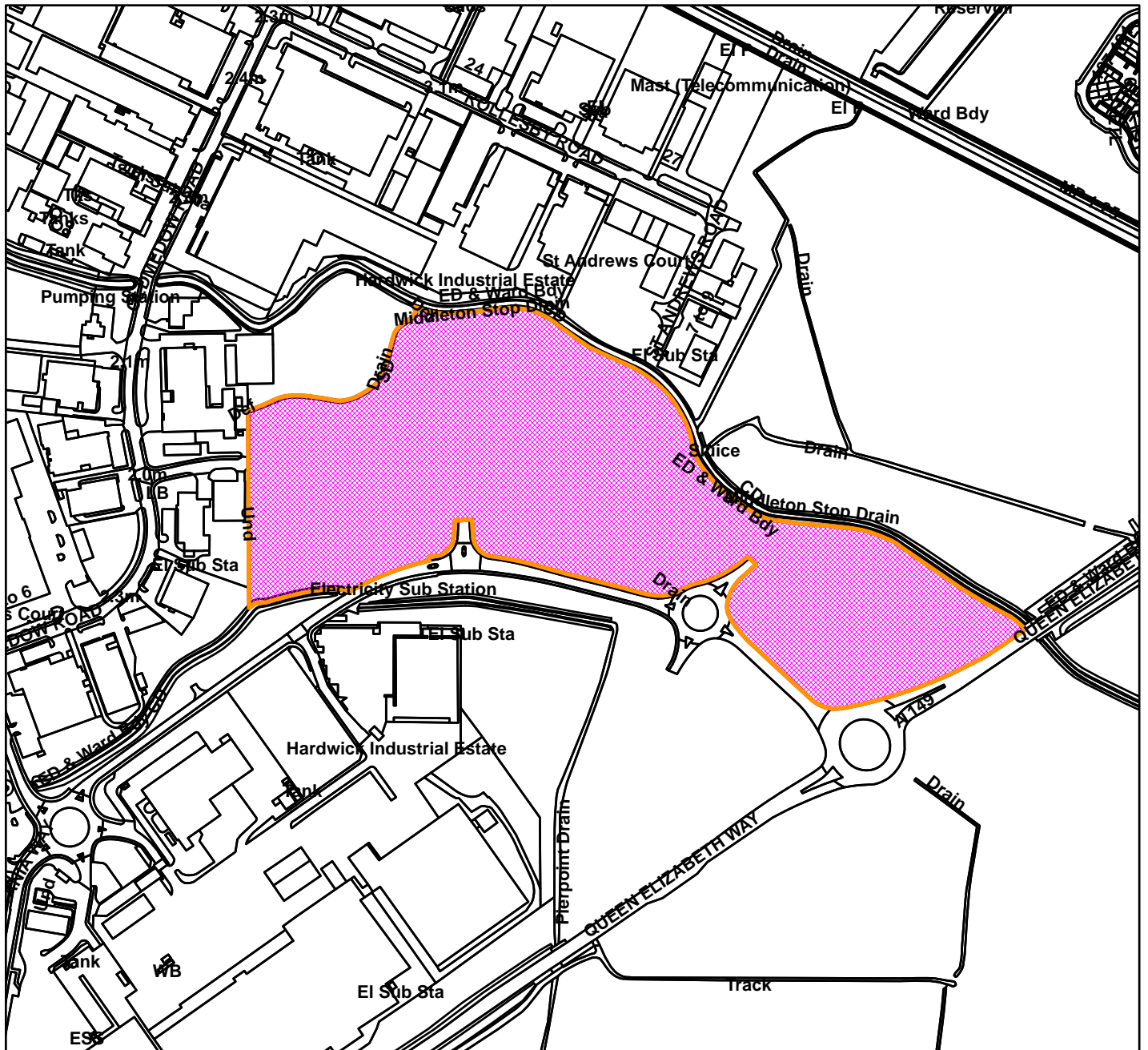


**Planning Committee**

**Monday, 5th October, 2015 at 10.00 am in the King's Court, Chapel Street, King's Lynn, PE30 1EX**

14/01114/OM

Morston Point Hardwick Industrial Estate King's Lynn



Scale: 1:5,000

Borough Council of  
**King's Lynn &  
West Norfolk**



Tel. 01553 616200 - Fax. 01553 691663

Organisation	BCKLWN
Department	Department
Comments	1:5000
Date	24/09/2015
MSA Number	0100024314

## AGENDA ITEM NO: 8/1(d)

<b>Parish:</b>	North Runcton	
<b>Proposal:</b>	Outline Application: mixed use development comprising business / industrial / storage and distribution floor space (Class B1 / B2 / B8), DIY superstore and garden centre (Class A1), limited assortment of discount supermarket (Class A1), Drive-Thru Restaurant (Class A3 / A5), Family Public House (Class A4), Hotel (Class C1), Car Showroom (Sui Generis) and associated access, car parking, road infrastructure, servicing and associated works.	
<b>Location:</b>	Morston Point Hardwick Industrial Estate King's Lynn Norfolk	
<b>Applicant:</b>	Morston Assets Ltd	
<b>Case No:</b>	14/01114/OM (Outline Application - Major Development)	
<b>Case Officer:</b>	Mr D Parkin Tel: 01553 616468	<b>Date for Determination:</b> 24 October 2014

**Reason for Referral to Planning Committee** – At the discretion of the Executive Director given the application raises issues of wider concern.

### Case Summary

The proposal relates to an area of land that forms part of the Hardwick Industrial Estate Expansion site to the south of King's Lynn, adjacent to the A149.

The application is in outline with only access to be determined at this stage. The development originally included a cinema, associated food and drink uses as well as a gym. The scheme has subsequently been amended to exclude these uses.

The amended scheme is now for the following mix of uses:-

Business/industrial/storage (B1/B2/B8) – 14,864 sqm gross floor area (GFA);  
Hotel (C1) – 1,765 sqm GFA;  
DIY Superstore and Garden Centre (Class A1) – 3,716 sqm gross  
Limited Assortment Discount Supermarket (Class A1) – 1,765 sqm gross  
Drive-Thru Restaurant Units (Class A3 / A5) – 167 sqm gross  
Family Public House (Class A4) – 372 sqm gross  
Car Showroom (Sui Generis) – 2,323 sqm gross  
Car parking, access, road infrastructure, servicing and associated works.

The total floor space would be a maximum of 24,972 sqm.

### Key Issues

The application raises the following key issues:-

- Principle of development;
- Planning history;
- Impact on existing centres;
- Flood risk and drainage;

- Highways;
- Archaeology; and
- Nature conservation.

### **Recommendation**

**APPROVE** subject to referral to the Secretary of State

## **THE APPLICATION**

The application is in outline with only access to be determined at this stage. The development originally included a cinema, associated food and drink uses as well as a gym. The scheme has subsequently been amended to exclude these uses.

The amended scheme is now for the following mix of uses:-

- Business/industrial/storage (B1/B2/B8) – 14,864 sqm gross floor area (GFA);
- Hotel (C1) – 1,765 sqm GFA;
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- Family Public House (Class A4) – 372 sqm gross
- Car Showroom (Sui Generis) – 2,323 sqm gross
- Car parking, access, road infrastructure, servicing and associated works.

The total floor space would be a maximum of 24,972 sqm.

The application site extends to 9.5ha. To the south-east is the A149; to the north is the Middleton Stop Drain; to the south and south-west is the link road constructed as part of the Sainsbury's supermarket proposals; and to the north and west is the Hardwick Industrial Estate. Access to the site would be taken from the roundabout and junctions constructed as part of the link road.

The site was previously farmed but since the construction of the link road has been vacant. A valid outline planning permission exists for a larger area of land under 12/01490/OM for 72,300 sqm of B1, B2 and B8 class uses. The current application forms part of this larger site.

Residential development at Kings Reach lies to the north on the opposite side of the railway line, some 300m north of the site. Open farm land lies to the south of the A149 Queen Elizabeth Way.

An indicative layout has been provided with the application showing the supermarket, drive thru' and family hotel on land closest to the A149. Beyond these uses, moving away from the A149, are the DIY store/garden centre and car showroom with the B1/B2/B8 uses at the northern end of the site adjacent to similar existing uses on the Hardwick Industrial Estate.

The site lies in Flood Zone 3a and is identified as an 'Employment Expansion Area' in Core Strategy policy CS03.

## SUPPORTING CASE

The application is accompanied by a suite of documents:-

- Planning Statement;
- Design & Access Statement;
- Retails & Leisure Impact Statement;
- Protected Species Survey & Ecological Appraisal;
- Archaeological Assessment;
- Transport Assessment;
- Framework Employee Travel Plan;
- Flood Risk Assessment: and
- Statement of Community Involvement.

The Planning Statement concludes as follows:-

*The development proposal represents a substantial investment in the regeneration of this vacant site.*

*The Council has already granted outline planning permission for the development of this site; accordingly, the principle of built form has already been established. This application seeks permission for an alternative mix of uses to reflect current market demands and aims to ensure the efficient delivery of the development, maximising the benefits it will bring to King's Lynn.*

*Although allocated within local planning policy for employment use, it has been demonstrated that there is currently limited market interest for purely employment floor space within King's Lynn. Additionally, after further investigation it has been demonstrated that it is not viable to implement the extant permission due to the inherent costs associated with the development, whilst sufficient employment land remains elsewhere within King's Lynn to meet policy requirements. The mix of uses represented through this application submission ensures the development is viable.*

*The key change when compared to the extant permission is the introduction of retail and leisure uses, which are to be positioned adjacent to the A149 Queen Elizabeth Way. In addition to creating numerous job opportunities within King's Lynn, the mix of uses proposed represents an exciting opportunity to create a 'gateway' development which delivers new facilities and attraction for King's Lynn. As such, the proposed layout of the development responds to the site's prominent location, albeit the design and layout is to be determined at reserved matters.*

*In conclusion, Morston Assets [sic] remain fully committed to the development of this vacant site, which will deliver significant benefits to the economy of King's Lynn. The scheme satisfies national and local planning policy and fully accords with the presumption in favour of sustainable development set out in the National Planning Policy Framework. The development proposal will not result in any significant or demonstrable adverse impacts; moreover, it will result in significant benefits. Most critically, it will deliver approximately 500 jobs and provide new retail and associated facilities for King's Lynn.*

*Taking account of the above, it is considered that planning permission should be granted for the revised scheme.*

Note: Since the planning application was submitted, Morston Assets Ltd (the original applicant) has gone into administration. The administrators, KPMG, are pursuing the application.

## PLANNING HISTORY

09/00197/FM - Construction of Hardwick extension link road between A149 eastern bypass and Scania Way – Approved at Committee – 22 June 2010

12/00826/OM - Outline Application for employment use Classes B1 (a), B2 and B8; Hardwick Industrial Estate, Hardwick Road, King's Lynn, Norfolk – Refused at Committee – July 2012

12/01490/OM – Outline application for employment use (B1 (a), B1(c), B2 & B8; Hardwick Industrial Estate, Hardwick Road, King's Lynn, Norfolk – Approved at Committee – December 2012

## RESPONSE TO CONSULTATION

**North Runcton Parish Council: OBJECT** The proposal will diminish the potential for the area to generate local employment. Although the cinema has been removed, the PC believes that the proposal will still have an adverse effect on King's Lynn town centre. The proposal will be wholly dependent on the private car and will create congestion. Landscaping shown on the masterplan is perfunctory.

**Highways Authority (NCC):NO OBJECTION** to secure details of parking, cycle parking, access, construction traffic management plan, wheel washing and provision of a cycle way along the northern and southern sections of the link road.

**Public Rights of Way: NO OBJECTION**

**Highways England: NO OBJECTION**

**Water Level Management Alliance:** Comments on IDB easement requirements, stating that the Masterplan shows planting within the required easement strips. Also refers to need to raise land and having to retain the slope to Board drains at the current angles. A developer contribution will be required through the IDB's procedures as well as consent from the Board under its own byelaws. Request details of drainage arrangements be secured by condition.

**Environment Agency: NO OBJECTION** subject to conditions re: implementation in accordance with flood risk assessment, flood resilience and foul and surface water drainage.

**Anglia Water: NO OBJECTION** subject to condition to secure details of foul drainage.

**National Grid (Gas)** Notes the presence of gas infrastructure in the area and contact details for the developer.

**Natural England: NO OBJECTION**

**Environmental Health & Housing – Environmental Quality: NO OBJECTION** subject to conditions to secure remediation of contaminated land. Also requests an air quality assessment.

**Environmental Health & Housing – Community Safety & Neighbourhood Nuisance: NO OBJECTION** subject to conditions to secure details of foul and surface water drainage.

**BCKLWN LDF Team:** Comment as follows: - Emerging Policy DM9 refers to retail development outside town centres. It sets a high priority on the need to support and maintain King's Lynn, Downham Market and Hunstanton as retail centres. All new proposals for main town centre uses will be required to locate in the town centre or, where sites cannot be found, in edge of centre sites. Out of town sites will only be considered where an applicant can demonstrate that suitable sites (within or adjacent to the town centre) are not currently available or are likely to come available in the near future, or that the format proposed would not be appropriate to a town centre location (i.e. bulky goods and trade).

The policy states that the "Council will strongly resist proposals for out of town retail uses that either individually or cumulatively would undermine the attractiveness and viability of the town centres. Retail impact assessments will be required for individual schemes having a floor space greater than 2,500 square metres, although in the case of the Hardwick area in King's Lynn (where there is already a significant accumulation of out of town retailing) greater weight will be attached to the cumulative impact of new development on the town centre. New town centre uses in this area will not be subject to a floor space threshold and will only be approved where they meet the sequential test set out in the NPPF and will not individually or cumulatively undermine the viability of the town centre."

So the applicants would need to demonstrate that the terms of the sequential test had been met and that an impact assessment, particularly considering cumulative impact on the town centre, has been carried out.

Emerging Policy E1.2 provides for the expansion of retail and other town centre uses (an additional 20,000 sq.m.) in the Town Centre Retail Expansion Area (again in line with Core Strategy policy CS03), in addition to these uses being permitted within the existing town centre area (E1.1).

The Core Strategy (CS03 and CS10) identified this area at Hardwick for employment uses. The emerging Policy E1.2 takes this strategic employment proposal forward as an allocation for 'business, industrial and distribution uses'. Provision for other uses is not made in the policy. Reference is made in the supporting text to the Hardwick Extension being identified as a strategic employment site for the County.

**Historic Environment Services:** The Desk Based Assessment and recent excavation results demonstrate that there is high potential for previously unknown heritage assets of prehistoric date across the proposed development area. At present, the significance of these assets cannot be determined by a desk based assessment alone.

We recommend, therefore, that the developer be asked to withdraw their application, and resubmit with the results of an archaeological field evaluation, in accordance with paragraph 128 of the National Planning Policy Framework. The Historic Environment Service will be happy to advise on the scope of the field evaluation.

Note that if, in weighing up the application, the LPA considers that other factors out-weigh the impacts on buried archaeology then conditions can be attached to secure further survey work and mitigation.

**King's Lynn Civic Society: OBJECT** (on original submission) raising the following issues:-

- Express concern at growth of out of town retail and potential impacts on town centre. In particular, fear the loss of the Majestic and the role that cinema plays in anchoring the offer of the town centre.

- Feels that allowing retail and leisure uses on the site would be short-sighted and that the land should be retained for B class uses to ensure the economy can grow in the future.
- The site is car dependant.
- Comments on the design of the site, fearing that it will be bland and present a poor gateway to King's Lynn;
- The development will not be sustainable; and
- Suggests that the application should be independently reviewed by an independent retail expert.

No comments on revised scheme.

**Norfolk Constabulary:** Comments on levels of permeability shown on the indicative site plan. Refers to proposals to incorporate cycle ways within the development and on boundary treatments. Concludes with comments on locks etc. and the need to design the car parking areas appropriately.

## REPRESENTATIONS

### On original proposals:-

Consultants on behalf of Wm Morrison Supermarkets plc:-

- Significantly adverse impact on King's Lynn town centre as the development would divert trade from the town centre and would have a significantly adverse impact on existing planned and proposed investment;
- There are sequentially preferable sites in the town centre that can accommodate significant new retail and leisure development;
- Consequently, the proposal is contrary to NPPF and should be refused; and
- Proposal would also be contrary to Core Strategy allocation as employment land.

Land and Associated Properties as owners and asset managers of Vancouver Centre:-

- Currently in negotiation with potential tenants seeking to establish a presence in the town centre for the first time;
- Multiplex at Morston Point may damage business at Majestic in the town centre, jeopardising future expansion plans and possibly leading to the closure of the cinema altogether;
- Impact on Majestic would be 'hugely detrimental' to the town. Cinema provides significant draw to the town centre and linked shopping trips are a 'crucial' element of the overall retail market; and
- LAP have always considered investment into Vancouver Quarter would be part of a re-positioning up the retail hierarchy for King's Lynn. If Morston Point were given consent LAP would need to review investment plans.

C&R Cinemas Ltd as operators of The Majestic Cinema:-

Further to discussions held I would like to take the opportunity to inform you that C & R Cinemas Ltd. will be applying for an amendment to the existing planning permission for an extension to The Majestic Cinema.

Alongside this amendment will be an application for an alteration to the current layout of one of the screens. Should we be successful with these requests the end result would be a



seven screen cinema which would embrace the listed qualities of the Majestic coupled with the modern amenities expected by today's demanding public.

We are in the process of finalising the drawings for submission early next year, and would hope to commence works within 2015.

There has been an inevitable delay due to the ongoing saga at Morston Point. This has always posed a threat to both us and the town centre as any growth and development within the town has been strangled whilst awaiting news of 'out of town' development.

The 'soft' opening of the new cinema in Wisbech demonstrates that there is no requirement for a new complex, however, the extension and enhancement of The Majestic would serve the community well and increase the footfall into the town.

**TWO** letters of **SUPPORT** received, one making specific reference to the cinema, the other supportive of the scheme generally and the DIY store in particular.

### **Amended proposals**

No additional comments received.

### **NATIONAL GUIDANCE**

National Planning Policy Framework – sets out the Government's planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

### **PLANNING POLICIES**

The King's Lynn and West Norfolk Local Plan (1998) contains the following saved policies that are relevant to the proposal:

None relevant

### **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS03** - King's Lynn Area

**CS08** - Sustainable Development

**CS10** - The Economy

**CS12** - Environmental Assets

# SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PRE-SUBMISSION DOCUMENT

## DM10 – Retail Development Outside Town Centres

### PLANNING CONSIDERATIONS

The application raises the following key issues:-

- Principle of development;
- Planning history;
- Impact on existing centres;
- Flood risk and drainage;
- Highways;
- Archaeology; and
- Nature conservation.

#### Principle of Development

The Development Plan consists of the Core Strategy and saved policies from both the King's Lynn and West Norfolk Local Plan 1998.

Core Strategy policy CS01 sets out the spatial strategy for development in the Borough, which include encouraging economic growth and inward investment as well as facilitating the regeneration and development aspirations in the RSS. CS01 goes on to state that, in supporting the overall development strategy, the Council will promote King's Lynn as the main centre and economic driver within the Borough and a significant 'engine of growth' in the East of England as well as making provision for new jobs within existing and new employment areas. CS02, which sets out the settlement hierarchy, supports CS01.

Policy CS03 deals specifically with development in the King's Lynn area and states that one element of the strategy for growth is to provide at least 3,000 new jobs in existing and new employment areas to the east and south of the town, including at the Hardwick Estate Expansion. The application site is part of the Hardwick Estate Expansion; consequently the B class uses (offices & light industrial; storage & warehouses; and light industrial) are acceptable. Indeed an application for such uses was approved under application reference 12/01490/OM.

The retail uses, drive thru, public house, hotel and car showroom were not included in the earlier application. The car showroom is a sui generis use so there are no specific development plan policies or national policies covering the location of such uses. The retail units, food and drink and hotel are, however, defined as 'main town centre uses' in the NPPF.

Section 2 of the NPPF sets out policies to protect the vitality of existing town centres; at paragraph 24 it states that local authorities should adopt a sequential approach to the location of town centre uses that are not in existing centres and not in accordance with an up-to-date Local Plan. Such uses should be located in town centres preferably, then in edge of centre locations and 'only if suitable sites are not available should out of centre sites be considered'.

Importantly, when carrying out the sequential test, applicants should 'demonstrate flexibility on issues such as format and scale'; i.e. can other, more centrally located sites accommodate the proposed development in a different, practical format; say, over two floors

and this taking up a smaller footprint? The Planning Practice Guidance state that 'It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal'.

Applications for main town centre uses over 2,500 sqm of floor space, which includes this application, should also be accompanied by an impact assessment. This assessment should cover the impact of the proposal on existing, committed and planned investment in centres within the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability.

Locally, emerging development plan policy DM15 supports this policy and removes the national threshold for impact assessments in the Hardwick area of King's Lynn pointing to the presence of a significant amount of out of town retailing here and stating that 'new town centre uses in this area...will only be approved where they meet the sequential test and will not individually or cumulatively undermine the viability of the town centre'.

The original application, which included a cinema, gym and more food and drink floor space than now proposed, was assessed by an independent consultant on behalf of the Council.

#### *Sequential Test*

As far as disaggregating the different elements of the proposal, the applicant relies on a Supreme Court decision in 2012 (Tesco Stores v Dundee City Council) and subsequent Inspectors' decisions. They interpret these as meaning that the sequential test is aimed at the entirety of the application and should assess whether ALL the development can be accommodated on sequentially preferable sites. In this context, they have looked at sites of 3.4ha (15% smaller than the town centre element on the application site) to see whether or not they can accommodate all of the following:-

- The two retail units,
- Food and drink uses,
- Hotel.

In this context, the applicant identified six sequentially preferable sites for the proposed development as follows:-

- Austin Fields;
- Boal Quay;
- The Timber Yard on Page Stair Lane;
- Town Centre Extension;
- Church Street Car Park; and
- St Nicholas Retail Park.

Of these, neither the Austin Fields site, the Church Street car park nor Austin Fields are currently available for development nor likely to be in the near future. Boal Quay is allocated under policy E1.5 for residential development and therefore not suitable for the development proposed. The St Nicholas Retail Park is classed as 'out of centre' and therefore no more sequentially preferable than the application site. The only remaining potential site is therefore the town centre extension identified in emerging policy E1.2. However, it too is currently unavailable for development at the current time and unlikely to be so within the life-time of any application granted on the current site. They conclude that there are no sequentially preferable sites available.

Whilst the Council's consultant was critical of the applicant's sequential test to some degree, commenting that they had not looked hard enough at whether smaller sites could accommodate the amount of development proposed, it was concluded that because there were no sequentially preferable sites available for the floor space proposed, the proposal passed the sequential test.

Although the size of the proposed development has subsequently been reduced by removal of the cinema etc., it remains true that there are still no sequentially preferable sites to accommodate the proposal.

### *Impact Assessment*

The Council's consultant reviewed the impacts of the following elements of the proposed development, as originally submitted:-

- DIY store;
- 'Deep discounter' supermarket; and
- Other commercial leisure uses anchored by the cinema.

They concluded as follows:-

*"Although there is no evidence in our view to suggest that the proposed DIY store and 'deep discounter' supermarket will result in a 'significant adverse impact' on the overall vitality and viability of either King's Lynn Town Centre or Gaywood District Centre, we conclude that it is likely that the proposals for the multiplex cinema and other commercial leisure uses at Morston point will harm the planned investment in the town's existing cinema, The Majestic, and result in a significant adverse impact on the town's overall vitality and viability. Given the importance of this cinema to the towns attraction and the ability for the planned extension to generate increased visits and linked trips to the town's other shops, cafés, restaurants and businesses, we advise the Council that the proposed multiplex cinema at Morston Point and other commercial leisure uses should be refused in accordance with the NPPF."*

In response to this assessment, the applicant modified the proposals to remove the cinema, gym, 1,023 sqm of restaurant floor space and 205 sqm of drive thru food and drink uses. The hotel, pub and 167 sqm of food and drink uses as a drive thru are, however, retained.

There is an implemented permission for a hotel and pub/restaurant on land close to the Southgate Roundabout; there is also provision in outline for similar provision within the hybrid permission that was granted for the re-development of the Campbell's factory that resulted in the Tesco/Dobbies unit on Hardwick Road. When these consents were granted it was concluded that (a) there were no sequentially preferable sites available; and (b) that hotels in the locations proposed would be unlikely to compete with the existing town centre provision at the Dukes Head or Bank House (for example) but would, instead, compete with existing hotels in out of centre locations such as the Premier Inn at the Pullover roundabout. The same is considered to be true for the hotel proposed for the current site.

The amount of retained food and drink floor space is considered to be too small to have a direct impact upon town centre uses. Rather than form a destination in their own right and thereby drawing trade from the town centre, the food and drink units will more likely serve those coming to the retail and other uses on the application site.

The NPPF also requires an assessment of the impact of the proposal upon committed investment in existing centres. At the time the application was submitted there was a valid permission for an extension to the Majestic cinema granted in January 2012 for 3 extra screens. The Council's consultant along with the operators of the Majestic and the owners

of the Vancouver Centre all expressed the view that the proposed out-of-centre cinema would jeopardise this town centre development. However, the application for redevelopment at the Majestic lapsed in January 2015 without being implemented and is no longer a material consideration in the determination of the current application.

Taking into account all the above and following the removal of the cinema and associated leisure uses, the remaining retail and other main town centre uses that form part of this proposal are considered to satisfy the sequential test required in national and local policy and will not, subject to appropriate conditions, have a significant, adverse impact upon the vitality and viability of either King's Lynn town centre or the Gaywood district centre.

### *Proposed Employment Allocation*

Third parties believe that the proposed retail uses on the site conflict with the proposed allocation in emerging policy E1.12 and will prejudice the ability to deliver employment uses. Whilst there is no objection from the Council's Local Plan team, they do mention that the proposed allocation on E1.12 is for business, industrial and distribution uses and that the policy does not mention other uses.

The proposed allocation in this location (E1.12-HAR) under E1.12 is 27ha. E1.12 also proposes to allocate another 23ha at Saddlebow (E1.12-SAD). The application site, as amended, covers 9.5ha i.e. just under 40% of the land area of E1.12-HAR and under 20% of the total land area proposed for employment uses in King's Lynn.

In addition, 60% of the floor space proposed (14,864sqm) as part of this application is for B Class employment uses. The applicant estimates that the proposal will create around 490 new jobs across all the land uses proposed.

Given the size of the application site and the amount of conventional employment uses the application will deliver, it is not considered the proposal will prejudice the supply of employment land in King's Lynn specifically or the Borough generally.

The applicant argues that the higher value main town centre uses are necessary to make the entirety of the proposal viable and will, effectively, enable the delivery of the B Class employment uses. Whilst this may well be the case, the application does not propose a mechanism to ensure delivery of the employment land so the weight that can be attached to the 'enabling' role of the main town centre uses must be limited.

The National Planning Policy Framework states that planning should contribute to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth. Section 1 of the NPPF specifically deals with building 'a strong, competitive economy'. Paragraph 19 concludes that 'significant weight should be placed on the need to support economic growth through the planning system'.

### **Planning History**

In December 2012 planning permission was granted under reference 12/01490/OM on a 26ha site, of which the current application forms a part. Reserved matters applications may be submitted against this application until it expires on 4 December 2015 so it is a material consideration in the determination of this application.

The earlier consent was for:-

- 5,000 sqm B1(a) offices;
- 19,350 sqm B1(c) light industrial;
- 29,750 sqm B2 general industrial; and
- 18,200 sqm B8 storage and distribution.

The current application is for a portion of the land covered by the earlier permission. The applicant argues that, in the current economic climate, development of the B Class uses on the site is not viable at least in part because of the costs associated with raising the site for drainage and flood risk reasons (see below). They argue that the retail uses, car showroom, hotel and food and drink uses are higher value uses that will make the development more viable and enable the site preparation works to be carried out not only for these uses but also for the B Class element of the current proposal. However, as stated above, no mechanism is proposed to link the delivery of the employment land uses to the main town centre uses, so the weight to be attached to this argument is limited.

### **Flood Risk and Drainage**

The application site lies in flood zone 3a and is therefore at high risk of flooding.

The NPPF states that Councils should adopt a sequential approach to development, guiding development to areas at lowest risk of flooding. This approach applies to the allocation of sites in development plans and to decisions on individual applications. In this case, the land in question has been identified for employment use in the Council's adopted Core Strategy.

The Core Strategy identifies a need to provide additional jobs in King's Lynn as set out in policies CS01 and CS03 (see above). From a strategic point of view, the ability to provide additional employment land to meet the need identified is not possible in an area at lower risk of flooding whilst still being located close to the town.

In terms of the application itself, according to the National Planning Practice Guidance, the proposed commercial and industrial uses are classed as 'Less Vulnerable' and are acceptable uses in zone 3a. The retail uses and food and drink uses are also 'Less Vulnerable' and therefore equally acceptable in this location from a flood risk point of view.

However, the hotel use and public house are classed as 'More Vulnerable' uses. Notwithstanding this, the application site has been judged sequentially available for development through the Local Plan process, informed by the Strategic Flood Risk Assessment. Policies CS01, CS03 and CS08 of the Core Strategy both acknowledge that some development will need to take place in flood risk areas to meet the regeneration objectives of the plan. Members will need to consider the wider benefits of the proposed development given that a relatively small proportion of the proposed floor space is not located in a sequentially preferable area.

The application is also accompanied by a site-specific flood risk assessment (FRA) demonstrating that the site can be safely developed.

The FRA and accompanying addendum report identify that the existing site levels average 1.75m above Ordnance Datum (AOD) but vary from 1.3m (AOD) to in excess of 3m AOD. It suggests that finished floor levels will need to be a minimum of 2.91m AOD for the commercial uses to protect the properties from flooding, which would mean levels being raised in some places by over 1.6m. For the hotel, it identifies that sleeping accommodation should no lower than 3.70m aOD.

It also recommends the following:-

- Flood resilient construction should be employed up to a minimum level of 3.91m AOD. The precise details will be building use specific and will need to be agreed at the detailed design stage;
- A temporary place of safe refuge should be provided for all buildings at a minimum level 3.91m AOD. This will need to be building use specific, able to accommodate all staff employed within each building and agreed at the detailed design stage;
- The preferred surface water drainage option will be detailed for consenting by WMA at the detailed design stage;
- The potential adverse effects of the necessary land raising to facilitate safe development have been assessed and the agreed compensation will need to be made at the time that each of the development areas are to be raised;
- A Flood Warning & Evacuation Plan has been prepared for the site and a copy of this should be passed to prospective building occupiers prior to occupation of the individual buildings.

The addendum to the FRA also outlines how the surface water from the site could be dealt with. It states that the preferred method of management and disposal of surface water runoff from the proposed development is:

- Attenuation of surface water runoff on-site and release to the IDB watercourse network at enhanced runoff rates in excess of pre-development 'greenfield' rates, but less than unattenuated rates, subject to an appropriate Surface Water Development Contribution (SWDC) payment to the IDB; and
- Limiting impermeable coverage across the development areas, with sustainable drainage features preferred to hardstanding, thereby reducing the SWDC payable to the IDB (as this is calculated per m<sup>2</sup> of impermeable surface).

The IDB has not raised an objection to the proposals but has requested that full details of the surface water drainage system are secured by condition. They also make detailed comments about the position of the buildings shown on the Masterplan and the landscaping in relation to the maintenance strips they require to maintain their drainage network. These are noted but as the layout and landscaping of the site are reserved matters the Board's concerns can be addressed at a later date. This approach also accords with the comments of the Environment Agency. Similarly, Anglia Water state that a condition should be attached but in their case to deal with foul water drainage.

## Highways

Access is not reserved and will be from a stub road and a roundabout that already exist on the link road between Sainsbury's and the A149.

The application as originally submitted was accompanied by a traffic assessment that concluded the retail and leisure uses, which at that time included the cinema, could create higher traffic flows at weekends but that in highway peak conditions during the week flows would be lower than for the consented scheme. The report does not consider that the higher flows on a weekend will present a problem as background traffic levels are lower than during the week.

The site is particularly well served by public transport but it is proposed to extend existing footpath and cycleway links on the link road into the application site.

The original transport assessment was accepted by both the County Council and Highways England, neither of whom objects to the proposal subject to conditions. Their response remains the same to the amended scheme that removes the cinema.

## **Archaeology**

Section 12 of the NPPF deals with 'Conserving and Enhancing the Historic Environment' and states that buried archaeological remains are an un-designated heritage asset. It also says that where development is proposed on a site that has or has the potential to include assets with archaeological interest that the application should be accompanied by an appropriate desk-based assessment and, where necessary, a field evaluation. In determining the application, the decision maker is required to identify and assess the significance of any heritage asset that may be affected by the proposal.

The application for the larger site approved in 2013 was accompanied by a Heritage Assessment, which concluded that "Iron Age activity has been recorded in the central southern region of the study site and there is a potential for further prehistoric activity to be present within other areas of the study site. Features associated with medieval agricultural practices may also survive. In light of this and in line with national and local planning policies, the Planning Authority will require further investigation to establish their presence or absence across the remainder of the study site and to mitigate their loss. Such work would be undertaken prior to the start of construction works and could be secured through a condition of planning permission".

The assessment is primarily a desk-based assessment and includes an examination of evidence in the Historic Environment Records, National Monuments Records, Norfolk Record Office and other data sets and mapping. A site inspection was carried out as part of the work but no intrusive investigation has been done.

The assessment stated that "The presence of recorded Iron Age activity within the study site and the potential for as yet unknown archaeological remains relating to the Prehistoric period in particular surviving below ground cannot be ruled out and as such the Planning Authority will require further investigation to establish their presence or absence across the remainder of the study site and to mitigate their loss. Such work would be undertaken prior to the start of construction works and could be secured through a condition of planning permission. This is in line with NPPF and Local Plan Polices".

The current application has up-dated the situation by including a Written Scheme of Investigation setting out a proposed schedule of field work.

However, in line with their representations on the earlier application, Historic Environment Services is of the view that the significance of any assets under the site cannot be assessed without carrying out the intrusive investigation. HES requests that the application be withdrawn and re-submitted once intrusive investigation has been carried out.

Any additional survey work may well help to identify the presence or absence of any remains but it would not help to assess whether or not they would be affected by the proposals as the application is in outline only. Whilst HES suggests that the application is withdrawn they do not object and it is questionable as to the value of any extra survey work at this stage unless the impact of the development upon it can also be assessed, which it cannot without detailed plans.

It is considered that the significance of the buried archaeology can be protected by condition. The earlier application was granted subject to such conditions.



## **Nature Conservation**

The application is accompanied by a 'Protected Species Survey and Ecological Appraisal'. The document concludes that overall the site is of 'lower' value for wildlife at the County scale on the basis of strong water vole population and use of the site by Otter and Grass Snake. The mitigated impact of the proposal upon wildlife is defined as 'Minor Adverse' with the mitigation being identified in Appendix 6 of the appraisal document.

The mitigation consists largely of protection and retention of the existing drains across the site that provide the habitat used by water voles and otters. In terms of grass snakes, the mitigation involves protection of the drains again and the method of site clearance. This can be secured by condition, as was the case with the earlier application.

Natural England has no objection to the application, concluding it will have no impact upon designated nature conservation sites.

## **Other Matters**

The Council's Environmental Health section has no objection subject to conditions to secure mitigation of any contamination found. They do, however, request that an air quality statement should be submitted. The impact of the development upon air quality is a material consideration according to paragraph 124 of the NPPF and should be addressed as a matter of principle at outline stage. Notwithstanding this, the main source of air pollution will be traffic generated from the development, something acknowledged by Environmental Health. Given the points at which traffic will enter the network are in existing employment areas or on main roads away from residential receptors, it is unlikely that the impact of the development would be sufficient to support a reason for refusal on this issue.

The Civic Society and the Parish Council make comment about the quality of the development. As appearance, layout and scale are all reserved matters it is impossible to draw any definitive conclusions about how the development will eventually look. However, the site is important as a gateway approach to King's Lynn and the quality of any buildings and their layout will need to be carefully considered when applications are submitted at a later date.

Norfolk Police make comments on designing out crime. Their comments refer to planting and boundary treatments as well as the layout of car parks and the position of cycle ways and footpaths. All these issues will be dealt with under either layout or landscaping at reserved matters stage. Other, more detailed comments about locks and doors are not material at this stage.

## **CONCLUSION**

The application proposes the development of part of an area of land allocated for employment uses as E1.12-HAR. It proposes just under 25,000sqm of floor space of which just under 15,000sqm is B1, B2 or B8 employment. The remainder is retail, hotel, public house and drive thru plus a car showroom.

The B class uses are in line with the proposed allocation. The other uses will not, in the view of your officers, substantially or materially affect the amount of employment land available in King's Lynn.

Excluding the car showroom, the retail uses etc. are main town centre uses. The application, as amended, satisfies the sequential test and following an independent review

will not significantly adversely affect the vitality of either King's Lynn Town Centre or Gaywood District Centre.

Access is to be determined at this stage but all other matters are reserved. There are no objections to the proposed uses or access arrangements from either Norfolk County Council or Highways England.

Other matters raised in consultation can either be addressed by condition or at reserved matters stage. Consequently, planning permission may be granted.

However, if the committee is minded to grant permission, the resolution must first be referred to the Secretary of State under the Town and Country Planning (Consultation)(England) Direction 2009 as the development proposed more than 5000sqm of retail floor space in an out of centre location that is not in accordance with an up-to-date development plan.

### **RECOMMENDATION:**

**APPROVE** subject to referral to the Secretary of state and the imposition of the following condition(s):

- 1 Condition Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.
- 1 Reason To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 4 Condition The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition With regard to access only, the development shall be carried out in accordance with drawing SK119 Rev H.
- 5 Reason For the avoidance of doubt and in the interests of proper planning

- 6 Condition Prior to the commencement of any works a Construction Traffic Management Plan shall be submitted to and approved in writing with the Local Planning Authority. The development shall be carried out in accordance with the agreed plan.
- 6 Reason In the interests of maintaining highway efficiency and safety. This needs to be a pre-commencement condition given the scale of the development and the volume of construction traffic that may be involved, particularly in relation to the raising of levels across the site.
- 7 Condition Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a detailed scheme for the provision of a 3 metre wide footway/cycleway along both the North and South Sides of the Scania Way - A149 Link Road have been submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the first unit hereby approved the agreed works shall be completed to the written satisfaction of the Local Planning Authority.
- 7 Reason To ensure that the development is accessible by modes of transport other than the private car in accordance with CS11 and the NPPF. This needs to be a pre-commencement condition to ensure that the proposed cycle and footway can be accommodated within the approved layout to a satisfactory standard.
- 8 Condition Prior to the occupation of any unit built pursuant to this outline permission an Overarching Travel Plan for the area to which this permission relates shall be submitted to and approved in writing by the Local Planning Authority, such Travel Plan shall accord with Norfolk County Council document 'Guidance Notes for the Submission of a Travel Plan' together with a timetable for their implementation.
- 8 Reason To ensure that the development is as sustainable as possible.
- 9 Condition Prior to the occupation of any building constructed pursuant to this outline permission an individual Plot Travel Plan, prepared in accordance with the Overarching Travel Plan approved under condition 8 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the Overarching Travel Plan and the agreed Plot Travel Plan.
- 9 Reason To ensure the development is as sustainable as possible.
- 10 Condition No development shall take place until a Written Scheme of Investigation for a programme of archaeological works has been submitted to and approved by the local planning authority in writing. The scheme shall include:
1. An assessment of the significance of heritage assets present
  2. The programme and methodology of site investigation and recording
  3. The programme for post investigation assessment of recovered material
  4. Provision to be made for analysis of the site investigation and recording
  5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  6. Provision to be made for archive deposition of the analysis and records of the site investigation
  7. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

- 10 Reason To safeguard archaeological interests in accordance with the principles of the NPPF. This needs to be a pre-commencement condition to ensure the archaeological remains are assessed and protected before groundworks commence and damage them.
- 11 Condition The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 10; and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 11 Reason To safeguard archaeological interests in accordance with the principles of the NPPF
- 12 Condition The development shall be carried out in accordance with the submitted 'Flood Risk and Drainage Strategy' (BSP Consulting 08454/FRA/DS/Rev B September 2012), as amended by 'Addendum to Flood Risk Assessment' (SLR Ref: 404.04486.00001) specifically:-
- Provision of a flood warning system to be submitted prior to occupation of any building constructed pursuant to this consent;
  - Finished floor levels shall be set no lower than 600mm above surrounding ground level (at a level of at least 2.91 AOD);
  - Sleeping accommodation in the hotel use hereby approved shall be provided at no lower than 3.70m AOD;
  - All units built pursuant to this consent shall have a safe place of refuge at first floor level consisting of, at minimum, a mezzanine floor.
- 12 Reason To minimise the risk to buildings and occupants of those buildings posed by flooding in accordance with the NPPF.
- 13 Condition Prior to commencement of works above ground level relating to the construction of a building pursuant to this consent a scheme for the provision and implementation of flood resilient/resistant construction methods shall be submitted to and agreed in writing with the Local Planning Authority. The building shall be constructed in accordance with the approved scheme.
- 13 Reason To protect the property against flooding in extreme circumstances in accordance with the NPPF
- 14 Condition No development shall commence until such time as a scheme for the provision of foul and surface water drainage of the land to which this consent relates has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall ensure that surface water is dealt with in such a way so as not to increase the risk of off-site flooding and shall be implemented in accordance with a timetable that shall be included within the scheme.
- 14 Reason To reduce the risk of on and off-site flooding to an acceptable level in accordance with the NPPF. This needs to be a pre-commencement condition to ensure the adequate drainage of the site, which is fundamental to the acceptability of the proposal.

15 Condition Prior to the commencement of works relating to a reserved matters application granted pursuant to this outline consent a detailed Species Mitigation Method Statement for the development to which the reserved matters relate based on Appendix 6 of the 'Protected Species Survey and Ecological Appraisal' (Landscape Partnership, July 2014) submitted with the outline application shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the timetable contained therein.

15 Reason To ensure the impact of the proposal upon protected species is acceptable in accordance with the NPPF.

16 Condition Prior to the commencement of groundworks, 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'.

16 Reason In the interests of protecting the environment and the future occupants of the development in accordance with the NPPF. This needs to be a pre-commencement condition as the remediation of the site is fundamental to the acceptability of the proposal and the measures necessary must be established up front.

17 Condition Prior to the commencement of groundworks pursuant to any reserved matters approval, a detailed remediation scheme to bring the site covered by the reserved matters approval 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 ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

17 Reason In the interests of protecting the environment and the future occupants of the development in accordance with the NPPF

18 Condition The remediation scheme agreed under condition 16 must be carried out in accordance with its terms prior to the commencement of groundworks, 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 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.

18 Reason In the interests of protecting the environment and the future occupants of the development in accordance with the NPPF

19 Condition 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 condition 15, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 16, 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 condition 17.

19 Reason In the interests of protecting the environment and the future occupants of the development in accordance with the NPPF

20 Condition The development hereby approved shall consist of:-

- Not more than 14,864 square metres gross floor area of B1, B2 or B8 uses of which not more than 5,000 square metres gross floor area shall be B1(a) office use;
- A single hotel (Class C1) not exceeding 1,765 square metres gross floor space;
- Two A1 retail units one of which shall be a DIY Superstore and Garden Centre not exceeding 3,716 square metres gross floor area that shall provide accommodation for a single retail operator and shall not be sub-divided and the second of which shall be a supermarket not exceeding 1,765 square metre square metres gross floor area that shall provide accommodation for a single retail operator and shall not be sub-divided;
- A single drive thru restaurant (A3/A5) unit not exceeding 167 square metres floor area;
- A single public house (A4) not exceeding 372 square metres gross floor area; and
- Car showroom uses not exceeding a total of 2,323 square metres gross floor area.

20 Reason To define the terms of the consent and in order to ensure that the impact of the development remains as predicted by the information that accompanied the application.

- 21 Condition The DIY Superstore and Garden Centre referred to in Condition 20 shall be used for DIY warehouse purposes only and for no other purpose within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Furthermore the development shall not be used for the retailing of any of the following goods:-
- i. Clothing and footwear (other than specialist items related to the carrying out of DIY and home/garden improvements);
  - ii. Fashion accessories (including jewellery, cosmetics, toiletries and pharmaceutical products);
  - iii. Books, newspapers and magazines (other than specialist publications relating to the carrying out of DIY or home/garden improvements); and
  - iv. Electrical goods (other than those relating to the carrying out of DIY or home/garden improvements).
- 21 Reason To ensure that the proposed development does not have a significant adverse impact upon the vitality and viability of established centres.
- 22 Condition Not more than 40% of the net sales area of the supermarket referred to in condition 20 shall be used for the sale and display of comparison goods.
- 22 Reason To ensure that the proposed development does not have a significant adverse impact upon the vitality and viability of established centres.
- 23 Condition Prior to the commencement of any development details of existing and proposed levels, including finished floor levels of all buildings or structures and any changes in levels proposed to the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
- 23 Reason To ensure that the development is compatible with the amenities of the locality in accordance with the NPPF.