

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 25/01/2012</b>	<b>Item No: 5.4</b>
<b>Report Originator</b>	<b>Louise Holland Development Officer</b>	<b>Application No: KET/2010/0826</b>
<b>Wards Affected</b>	<b>Desborough Loatland</b>	
<b>Location</b>	<b>Magnetic Park (land at), Desborough</b>	
<b>Proposal</b>	<b>Full Application with EIA: Foodstore and petrol filling station with associated access, landscaping, servicing and car parking</b>	
<b>Applicant</b>	<b>Hampton Brook Ltd &amp; Sainsbury's Supermarkets Ltd</b>	

### **1. PURPOSE OF REPORT**

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

### **2. RECOMMENDATION**

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

#### **1. Impact on Delivery of a Town Centre Site and Regeneration Objectives**

Delivery of an out-of-centre store would significantly risk the delivery of a sequentially preferable site, which represents a key opportunity to regenerate Desborough town centre. Given the marginal capacity for two foodstores within Desborough, the two proposed foodstores (Sainsbury's at Magnetic Park and Tesco on the Lawrence's site, Desborough) competing for the same market opportunity and investor concern that has been expressed it is considered that an out-of-centre store delivered first risks compromising the delivery of a sequentially preferable site (in-centre). If the sequentially preferable site, within the established shopping area, does not come forward there are likely to be significant adverse impacts on Desborough town centre. The sequentially preferable site would deliver wider regeneration benefits in terms of greater numbers of linked trips and spending in town centre shops and regeneration of a vacant, previously developed site which would not be delivered through an out-of-centre foodstore development.

#### **2. Policy - Sequential Approach to the Distribution of Development**

The proposed development does not accord with the sequential approach to the distribution of development set out in Policy 9 of the North Northamptonshire Core Spatial Strategy which directs development towards previously developed land in the first instance followed by other suitable land in urban areas. Town centres should be strengthened as the focus for retail, other town centre uses and uses that attract a lot of people. The development site is greenfield land and does not make use of an area of previously developed land within Desborough's established shopping area which has been identified by the Local Planning

Authority as being a sequentially preferable site that is suitable, viable and will be available within a reasonable timescale for development. Desborough town centre, which is currently underperforming, will not be strengthened as the focus for retail. The proposed development is considered to be contrary PPS 1, PPS 4, East Midlands Regional Plan Policy 22 and Policies 9 and 12 of the North Northamptonshire Core Spatial Strategy.

### 3. Sustainability - Location

Locating the proposed development out-of-centre (as defined by Annex B of PPS 4) would generate a large number of car trips and is unlikely to reduce the need to travel by car, one of the objectives of Planning Policy Guidance Note 13 (PPG 13) Transport. PPS 1, PPG 13 and Policies 9 and 13 (c), (e) and (k) of the Core Spatial Strategy focus uses that attract large numbers of visitors and generate large numbers of car trips within existing town centres. A town centre location would have greater accessibility than an out-of-centre site and would deliver a more sustainable development through delivering a greater number of linked trips, minimising car trips to a greater degree and encouraging more sustainable travel choices. The proposed development is therefore considered to be contrary to PPS 1, PPG 13 and Policies 9 and 13 (c), (e) and (k) of the North Northamptonshire Core Spatial Strategy.

### 4. Retail - Sequential Test

The applicant has not demonstrated compliance with the sequential approach (required by Policy EC 14 of PPS 4). There is a sequentially preferable site in-centre that is suitable, viable and will be available within a reasonable timescale for development. The sequentially preferable site will be capable of accommodating development which will meet the same need that the proposed development intends to meet. The proposal fails the sequential test and should be refused in accordance with Policy EC 17.1 (a) of PPS 4. The development is considered to be contrary to PPS 4, East Midlands Regional Plan Policy 22 and Policies 9, 12 and 13 (c) of the North Northamptonshire Core Spatial Strategy.

### 5. Retail - Impact Consideration EC 16.1 (a)

The proposed development would have a significant adverse impact upon existing, committed and planned public and private investment in Desborough Town Centre (PPS 4 EC 16.1 (a)). The proposed development should therefore be refused in accordance with Policy EC 17.1 (b) of PPS 4. The proposal is considered to be contrary to PPS 4, East Midlands Regional Policy 22 and Policies 1 and 12 of the North Northamptonshire Core Spatial Strategy.

### 6. Retail - Impact Consideration EC 16.1 (b)

The proposed development would have a significant adverse impact on the vitality and viability of Desborough Town Centre, including local consumer choice and the range and quality of the comparison and convenience retail offer (PPS 4 EC 16.1 (b)). The proposed development should therefore be refused in accordance with Policy EC 17.1 (b) of PPS 4. The proposal is considered to be contrary to PPS 4, East Midlands Regional Policy 22 and Policy 1 and 12 of the North Northamptonshire Core Spatial Strategy.

7. Retail - Impact Consideration EC 16.1 (d)

The proposed development would have a significant adverse impact on in-centre trade/turnover taking account of current and future consumer expenditure capacity in the catchments area up to five years from the time the application is made (PPS 4 EC 16.1 (d)). The proposed development should therefore be refused in accordance with Policy EC 17.1 (b) of PPS 4. The proposal is considered to be contrary to PPS 4, East Midlands Regional Policy 22 and Policies 1 and 12 of the North Northamptonshire Core Spatial Strategy.

Notes (if any) :-

**Justification for Granting Planning Permission**

Not applicable

## Officers Report

### 3.0 Information

#### **Relevant Planning History**

##### **KET/2004/0760**

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

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

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

##### **KET/2006/0734**

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

##### **KET/2008/0334**

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

##### **KET/2009/0452**

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

##### **KET/2009/0595**

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

##### **KET/2009/0734**

A full planning application, accompanied by an Environmental Statement, was submitted in December 2009 for the same development as currently proposed (foodstore with a total gross internal floorspace of 3,409 square metres and 1,993

square metres net sales space (1,672 sqm convenience and 320 sqm comparison) and a petrol filling station). The application was heard at Planning Committee in July 2010 and was refused on a number of grounds including policy (not in accordance with sequential approach/does not deliver regeneration of town centre), retail impacts and design reasons.

The current application seeks to address the previous reasons for refusal.

### **Site Description**

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

The site previously formed part of a larger mixed-use development scheme, which also included land to the east and north (the area was allocated for a business park under policy D6 of the local plan, not a saved policy). Some of this scheme has been delivered, including for example the Great Bear warehouse. Outline planning permission was secured on the application site for a public house, crèche and offices, however this was not followed by reserved matters (RMs) and therefore was not built out. No further RMs can be submitted under that outline permission (the uses therefore cannot be built out under the original outline).

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

The site benefits from two existing vehicular access points, one from Bear Way and another from Cockerel Rise. The site is however otherwise undeveloped. The site is currently open grassland and is bounded by a post and rail fence with a hedge to the west and south. A post and rail fence separates the site from the balancing pond and there is a close-boarded fence fronting Bear Way. In addition to the existing hedge along Harborough Road trees have also been planted at regular intervals around the edge of the site.

### **Proposed Development**

This application seeks planning permission for:

- The erection of a foodstore (supermarket) with a total gross internal floorspace of 3,409 square metres and 1,993 square metres net sales space (21,453 sq ft) (1,672 sqm convenience and 320 sqm comparison);
- Ancillary car parking providing 241 spaces of which 17 would be designated disabled spaces and 11 would be designated parent and child spaces;
- 40 cycle and 5 motorcycle parking spaces;
- Recycling area at the southern end of the car park;

- Ancillary servicing facilities and landscaping; and
- Petrol filling station (PFS).

Definition of types of retail development relevant to this proposal include:

**Supermarkets:** Self-service stores selling mainly food, with a trading floorspace of less than 2,500 square metres, often with car parking.

**Convenience shopping:** Convenience retailing is the provision of everyday essential items, including food, drinks, newspapers/magazines and confectionery.

**Comparison shopping:** Comparison retailing is the provision of items not on a frequent basis. These include clothing, footwear, household and recreational goods.

A number of design changes have been made following the refusal of the 2009 application. These include:

- Incorporation of brick work to the store and PFS elevations.
- Realignment of roof pitch to accommodate plant/machinery internally.
- Relocation and downsizing of PFS. The PFS remains adjacent to Cockerel Rise but is now sited south of its original position. Whilst the PFS retains 4 pumps the footprint of the kiosk building has been reduced from 135 sqm to 79 sqm gross internal area (82 sqm gross external).
- Introduction of additional shared footpath/cycleway from Harborough Road to the store.
- Introduction of full height glazing above fire escapes (glazed fire exits).
- Introduction of stronger entrance feature (no increase in size of canopy). Higher entrance block.
- Reconfiguration of car park circulation routes and PFS access to accommodate additional tree planting in car park aisles.
- Additional information about the materials to be used and store elevation detailing.

The supermarket building would be a single storey building with the following maximum dimensions 6.4m (H) x 95.1 (W including canopy) x 51.8m (D including canopy). The building combines light grey cladding panels and red brick with areas of glazing. A contrasting darker red brick is used to emphasise the soldier course, three horizontal bands and plinth detail. A proposed canopy wraps around the front and side (south) elevations. The roof of the store will feature sun pipes to provide natural light to the store. The service yard area will be approximately 1200mm below store level.

The PFS would be sited south of the store adjacent to Cockerel Rise. The PFS would provide 4 pumps under a canopy and a kiosk building similar in design and appearance to the main store. The canopy would measure approximately 5.076m (H) x 17.3m (W) x 14m (D) and the kiosk building would measure approximately 4.9m (H) x 9.1(W) x 9.5m (D).

The plans submitted indicate that 3 signs would be situated on the roof of the main store, with an additional one on the PFS and 3 totem signs (1 outside the application

site boundary). These signs would all need to be the subject of a separate application for advertisement consent and therefore they do not form part of the proposal currently being considered.

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

#### **Any Constraints Affecting the Site**

The site is considered to be in an out-of-centre location, as defined by Annex B of Planning Policy Statement 4. Trees and hedgerows are located on the site and along the site perimeter.

### **4.0 Consultation and Customer Impact**

Following the initial application consultation, two rounds of reconsultation have taken place due to the submission of a variety of new and revised documents and plans. The most up-to-date response for each consultee has been summarised. All third party letters received have been counted and summarised.

The following comments have been summarised. Copies of the full responses can be viewed at the Kettering Borough Council offices.

#### Environment Agency (EA)

No objection subject to conditions requiring the submission and implementation of a foul water drainage scheme and to ensure surface water from parking/hardstanding areas passes through an oil interceptor, to prevent water pollution.

#### Anglian Water

No objections. Comments made regarding wastewater treatment, the foul sewerage network and surface water disposal. The development should be carried out in accordance with the submitted flood risk assessment/surface water strategy (a condition to secure this is recommended).

#### Highways Authority

No objection subject to conditions and planning obligations.

#### Highways Agency

No objection.

#### Natural England

No objection subject to a planning condition ensuring that any site clearance does not detrimentally affect breeding birds. Any mitigation set out in the application should be secured by planning condition.

#### Wildlife Trust

The broad scope and content of the ecological information is considered to be acceptable in general terms. All ecological recommendations for retention, protection, enhancement and mitigation should be fully implemented. There is a

requirement for a post-construction phase ecological management plan to drive forward the conservation management of retained and to-be-created habitats. The submitted Construction Management Plan Rev 2 dated 14 December 2010 contains very little ecology related information. It is considered that the soft landscaping scheme should not include non-native species, which it does at present.

#### North Northants JPU – Design Action Comments

The scheme does not address the JPU's original comments (in relation to KET/2009/0734). Additional comments have also been made.

- Built form does not relate to Harborough Road and due to the layout the car park will be the dominant feature. It needs to relate better to surrounding streets and its residential context.
- It needs to relate to its industrial, residential and landscape context and the open space around it.
- Good public realm, a positive sense of place and distinct identity should be created; the car park is not high quality public realm and there is a lack of identity and no special features.
- There is potential for softer, more interesting landscaping and a scheme that relates better to its immediate landscape.
- Pedestrian avenues should be dominant feature. Pedestrian routes are not high quality. They should also be direct.
- There is potential to create outdoor eating space or external play space.
- The access and internal roads should be designed to place the greatest priority on pedestrians with tight junction radii to facilitate pedestrian/cycle movement. The scheme is car-led.
- Opportunity for a bespoke, gateway building and for balancing pond to be used as a landscape resource.
- The car park would be well surveilled.
- Easy access for car users due to simple car park layout.
- The development fails to meet CSS Policy 13.

No further comments have submitted in response to the reconsultation in May 2011, which included additional and amended design details.

#### Police Crime Prevention Design Advisor (CPDA)

No formal objection in principle. A number of informatives are recommended in the interests of reducing the likelihood of crime, disorder and anti-social behaviour.

#### North Northants Badger Group

No comment.

#### Northants Bat Group

No objection. The findings and recommendations of the ecological report are agreed with.

#### NCC County Archaeological Advisor

A condition is recommended to ensure the site is investigated for archaeological potential prior to development commencing.



### NCC Planning Policy

Prior to any development taking place the applicant should demonstrate how the development meets policies CS7 (efficient use of resources during construction and operational phases) and CS8 (integration of waste management facilities) of the Northamptonshire Minerals and Waste Development Framework Core Strategy.

### National Grid

The development is likely to affect apparatus. If planning permission is granted the applicant will need to contact National Grid so that technical advice and guidance can be given. No works should take place without consulting National Grid.

### Desborough Town Council

No objection subject to the following amendments/conditions:

- In respect of the S106 agreement it is considered that further negotiations are required to deliver community facility enhancement.
- The materials chosen should comply with the Rockingham Forest Trust “Countryside Design Summary” and their “Building on Tradition” document to ensure that the proposed building respects the distinctive character of the market town within the forest. Particular respect should be given to the previously expressed wish to blend with neighbouring Northamptonshire Stone buildings.
- Desborough would benefit from both the Tesco and Sainsbury’s stores.
- Sainsbury’s need to expand as they are not dominant in Kettering.
- Retail impact is a matter to be seen and does not impact on the need for more retail in a growing town.
- CJC need to build the bridge over the railway to enable access in both directions. Harborough Road bridge also needs improvement.

### Dingley Parish Council

Object on the following grounds:

- An out-of-town site will result in further decay of Desborough town centre by drawing customers away from the town centre shopping area. This will result in closures of small businesses and could result in the centre becoming a ‘ghost town’.
- Location of supermarket will lead to increased use of the dangerous, and already over used, A427. The section within Dingley village is too narrow for heavy goods vehicles to negotiate the bends in proximity of Church Lane. There is a danger that a fatal accident will occur.

### Wilbarston Parish Council

Supports the application for the following reasons:

- Site has good access.
- Appropriate use of the site; site is adjacent to an existing warehouse which has heavy goods vehicle movements already occurring.
- Provides a good service to Desborough and surrounding villages.
- Development will reduce shopping miles.
- Generation of employment opportunities.

### Brampton Ash Parish Council

Objection on the following grounds:

- Development will increase volume of traffic using Hermitage Road and make this road unsafe.
- Due to the proposed opening hours there could be a significant rise in traffic and noise at unsociable hours.
- The site is out of town and will become the closest supermarket to a number of villages. This will increase the amount of traffic, including heavy goods vehicles, using surrounding country roads not designed to take this level of traffic. The sustainability of the proposal is questioned.
- The proposal could have a negative impact on trade in Desborough and local villages.

### Stoke Albany Parish Council

No comments.

### Internal KBC Consultee - Environmental Health

Conditions are recommended in relation to noise, air quality, contaminated land, lighting and the construction phase.

### Neighbour Summary

A total of 16 objections and 124 support letters have been received. These responses have been summarised as follows (the letters of objection and support are available to view at the Council offices).

### Summary of Support

- The proposed development will reduce the need to travel, reducing traffic elsewhere and carbon emissions.
- Accessible site; the location has good access and will prevent congestion.
- Proposal is an opportunity and will be an asset to the community.
- No covenant on the site.
- Site is not greenfield land.
- This is the only suitable site for a supermarket capable of supporting a weekly shop and providing a petrol filling station, which the town needs.
- A town centre site is not suitable for a supermarket; a town centre site would not be capable of supporting a weekly shop, will not deliver a petrol filling station and pedestrian and vehicular access would be unsafe.
- The proposed location of Sainsbury's is favoured over development of a site within the town centre that would exacerbate traffic problems, increase noise and other pollution in the town centre.
- The development is more comprehensive than the smaller application proposed by Tesco; smaller stores are already located in the town centre.
- The Tesco proposal is too small and will compete with existing stores; the impact of Tesco on local trade has not been quantified.
- The Lawrence's site should be used as a free public car park to help encourage people to use the town centre and its shops.
- Site layout and design is well thought out.
- Customers and deliveries will be kept separate.
- Development will enhance a gateway to the town with landscaping and

planting.

- Highway improvements will be delivered.
- S106 is of a high calibre.
- Desborough needs the investment of a major supermarket.
- The proposal will encourage investment, kick-start retail development in Desborough and will regenerate the town.
- The development would encourage more people to visit and shop in Desborough.
- Traffic will not be greatly increased; the movement of traffic, including delivery vehicles, through the town centre will be avoided.
- Proposal will not involve the demolition of any buildings/homes.
- Generation of employment opportunities.
- Development will enhance choice and competition and will stop the Co-Op monopoly.
- Enhanced shopping facilities, including a large foodstore, are needed and will be delivered.
- The development will prevent trade and retail expenditure leakage to other centres.
- A recycling facility will be provided.
- A supermarket is needed to serve existing residents and planned growth.
- This part of the town has no facilities.
- A new supermarket in the town centre will not help attract other retailers.
- The town centre is currently run down and depressed, the proposed development could not harm it.
- Residents' privacy will not be affected.
- There will be no adverse impact when considered alongside the existing distribution warehouse facility.
- Proposal will improve the appearance of a derelict site and The Grange.
- Development of the site will cause least disruption in terms of the construction phase and traffic.
- The Lawrence's site should be developed for community uses.
- Both supermarket applications should be approved.
- The Urban Design Framework is a supplementary planning document to the Local Plan, which is the only official plan for the town.
- Development will lead to social interaction.
- Local support for the development.

#### Summary of Objection

- Previous reasons for refusal remain relevant; many of these relate to 'in principle' matters.
- Contrary to national, regional and local planning policy.
- PPS 4 must be considered.
- The Lawrence's Factory site is available in terms of PPS 4 and is sequentially preferable.
- There will be significant adverse impacts in terms of PPS 4.
- There is only capacity for one foodstore.
- Unsustainable location.
- Due to its location the development will result in unsustainable traffic

movements away from the town centre.

- The site location will not encourage trips by foot, cycle or bus; access for most residents, including the elderly, will be difficult as the site is too far out-of-town.
- The development will result in more car journeys, which will bypass the town centre.
- Given its location outside of the Established Shopping Area the vitality and viability of the town centre will be significantly affected; the focus for retail activity will be moved from the town centre to a peripheral location.
- It constitutes an unsustainable form of development and conflicts with CSS policy.
- The development will have a significant adverse impact on its own and cumulatively with the Tesco proposal.
- Significant risk that the proposed development would reduce rather than enhance the range of food and convenience goods shopping facilities in Desborough.
- The scale of development will mean that existing foodstores particularly the two Co-Op stores will come under significant pressure, reducing net margins.
- The development has the potential to close existing stores and would fail to promote competition, choice and affect the centre's viability and vitality.
- Scale is excessively large; there is no evidence that a smaller store would not achieve the required objectives and meet local needs.
- Linked trips from the development are likely to be limited given the distance between the site and town centre, linkage and the ability for the proposed store to be a one-stop shopping facility.
- Development would deter investment in the town centre.
- Scheme is poorly linked to the town centre and will be unable to regenerate or enhance it.
- The priority must be town centre or edge of town development so that Station Road can be brought back to life.
- The development will detrimentally affect the town centre and the community; what has happened to the plans to develop the High Street to attract people back into the town centre and support local businesses?
- Negative impact on a town centre that is already struggling as it will draw people away from it and reduce footfall.
- The elderly population who rely on local businesses in the town centre will be severely affected as the proposal will detrimentally affect the existing town centre.
- Further information should be submitted in relation to highways, ecology, noise and the Section 106.
- A new Environmental Statement should be submitted to make clear which parts of the ES remain relevant and which are superseded.
- Inaccurate application information.
- Changes to the design have not overcome the reasons for refusal.
- The landscaping scheme should be amended.
- Approving this application will create more separation between The Grange and the town centre.
- This scale and type of store is not required in Desborough.
- The increase in volume of traffic is likely to increase the risk of accidents and

- will create additional congestion.
- The increase in noise pollution will be unacceptable in a residential area, particularly during the summer months.
  - Light pollution is already unacceptable due to the warehouse and will be exacerbated by the development.
  - Overlooking.
  - The opening times of the store and petrol filling station close to residential properties are unacceptable.
  - The store and petrol filling station is too close to dwellings.
  - The store is not in keeping with the residential character of the area; the proposal should be located on a retail park or on a smaller scale site within the town centre.
  - The proposed development is extremely different to the previous proposal to build a public house and crèche.
  - Car journeys to the store would be too short and trips would not be economical in fuel usage or environmental considerations.
  - Location assumes that elderly residents can afford a car and drive.
  - Roads are already struggling to cope; there are already a large number of HGV movements in this area.
  - Proposal does not fit with the strategic plan for this area.
  - The development is not compatible with the adjacent warehouse use.
  - The food store and petrol filling station will result in over use of the land in this area.
  - Design fails to enhance the appearance or quality of a gateway to Desborough and the store will fail to integrate with its surroundings.
  - Internal layout is unacceptable when considering customer safety.

## **5.0 Planning Policy**

### **National Policies**

PPS 1: Delivering Sustainable Development  
 PPS 1 Supplement: Planning and Climate Change  
 PPS 4: Planning for Sustainable Economic Growth  
 PPS 5: Planning for the Historic Environment  
 PPS 9: Biodiversity and Geological Conservation  
 PPS 10: Planning for Sustainable Waste Management  
 PPG 13: Transport  
 PPG 14: Development on Unstable Land  
 PPS 22: Renewable Energy  
 PPS 23: Planning and Pollution Control  
 PPG 24: Planning and Noise  
 PPS 25: Development and Flood Risk

Circular 05/05 Planning Obligations.

Circular 11/95 The Use of Conditions in Planning Permissions.

Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System.

## **Development Plan Policies**

### East Midlands Regional Plan

- 1 Regional Core Objectives
- 2 Promoting Better Design
- 3 Distribution of New Development
- 11 Development in the Southern Sub-area
- 18 Regional Priorities for the Economy
- 22 Regional Priorities for Town Centres and Retail Development
- 27 Regional Priorities for the Historic Environment
- 29 Priorities for Enhancing the Region's Biodiversity
- 32 A Regional Approach to Water Resources and Water Quality
- 35 A Regional Approach to Managing Flood Risk
- 36 Regional Priorities for Air Quality
- 38 Regional Priorities for waste management
- 39 Regional Priorities for Energy Reduction and Efficiency
- 43 Regional Transport Objectives
- 45 Regional Approach to Traffic Growth Reduction
- 46 A Regional Approach to Behavioural Change
- 48 Regional Car Parking Standards
- 52 Regional Priorities for Integrating Public Transport

### MKSM Sub-Regional Strategy

Strategic Policy 3 Sustainable Communities.

### North Northamptonshire Core Spatial Strategy Policies

- 1 Strengthening the Network of Settlements
- 5 Green Infrastructure
- 6 Infrastructure Delivery and Developer Contributions
- 8 Delivering Economic Prosperity
- 9 Distribution and Location of Development
- 11 Distribution of Jobs
- 12 Distribution of Retail Development
- 13 General Sustainable Development Principles
- 14 Energy Efficiency and Sustainable Construction

### Northamptonshire Mineral and Waste Development Framework Core Strategy

CS7 Sustainable Design and Use of Materials.

CS8 Co-Location of Waste Management Facilities and New Development.

## **Saved Local Plan Policy**

D2: Environmental Improvements.

64: Development within Established Shopping Areas.

## **Saved Structure Plan Policy**

SDA1 (Strategic Development Area Proposals).

## **Supplementary Planning Documents**

SPD: Sustainable Design.

SPD: Biodiversity.

Development and Implementation Principles SPD (Northamptonshire Minerals and

Waste Development Framework SPD).

### **Emerging Policy**

Emerging Area Action Plan – Rothwell and Desborough Urban Extension AAP (Proposed Submission, December 2009).

### **Other Material Considerations**

Desborough Town Centre Urban Design Framework (2004).

Community Infrastructure Levy (CIL) Regulations (April 2010).

Desborough Town Centre Health Check Final Report July 2010 (Roger Tym and Partners on behalf of Kettering Borough Council).

Desborough Town Centre Health Check Update Report dated May 2011 (Kettering Borough Council).

Rothwell Town Centre Health Check Final Report dated May 2011 (Kettering Borough Council).

Draft National Planning Policy Framework July 2011 (Department for Communities and Local Government).

Written Ministerial Statement Planning for Growth 23<sup>rd</sup> March 2011 (The Minister of State for Decentralisation).

Roger Tym and Partners Retail Audit of KET/2010/0826 Sainsbury's at Magnetic Park Final Report July 2011.

Roger Tym and Partners Letter to the Local Planning Authority (Planning Application Case Officer) dated 12 August 2011.

Roger Tym and Partners Letter to the Local Planning Authority (Planning Application Case Officer) dated 14 November 2011 (clarification of previous advice).

Executive Committee Reports 16<sup>th</sup> September 2009 and 21<sup>st</sup> July 2010 (Kettering Borough Council).

North Northamptonshire Retail Capacity Update 2010 (February 2011) Roger Tym and Partners on behalf of the North Northants Joint Planning Unit.

## **6.0 Financial/Resource Implications**

None.

## **7.0 Planning Considerations**

The key issues for consideration in this application are:-

1. Planning Policy Context and Principle of Development
2. Retail Impact
3. Access, Movement and Connectivity
4. Urban Design
5. Landscape and Visual Impact
6. Sustainable Construction and Design
7. Residential Amenity
8. Contaminated Land
9. Noise
10. Air Quality
11. Lighting
12. Flood Risk and Drainage
13. Ground Conditions and Stability

- 14. Biodiversity and Green Infrastructure
- 15. Archaeology
- 16. Planning Obligations

## **1. Planning Policy Context and Principle of Development**

1.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises the East Midlands Regional Plan 2009, the North Northamptonshire Core Spatial Strategy 2008, the Northamptonshire Minerals and Waste Core Strategy 2010 and the saved policies of the Kettering Borough Local Plan 1995 and Northamptonshire County Structure Plan 2001.

### **Site Context**

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

1.3 The site is located within the town boundary of Desborough, as defined by the Local Plan Proposals Map for the town. This site is however positioned beyond the Established Shopping Area, being located around 750m to the north of this designation. Annex B of PPS 4 sets out a number of definitions for locations and types of economic development. Officers consider that in respect of definitions relevant to proposed retail development, the application site is in an out-of-centre location. For retail development, this is a location that is not in or on the edge of a centre (*edge of centre means a site that is well connected to and within easy walking distance (i.e. up to 300m) of the primary shopping area*) but not necessarily outside the urban area. The definitions for centres and edge of centre locations are also relevant to this planning application as they are locations to where retail proposals should be directed to prior to considering out-of-centre sites in the sequential approach.

1.4 The site is neither allocated nor protected from development. The application site was previously quarried and is therefore greenfield land (the definition of previously developed land, as defined in Annex B of PPS 3, excludes land developed for mineral extraction).

### **Previous Outline Planning Permission**

1.5 An outline planning permission (KET/2004/0760) granted approval for offices, a public house and crèche on this site (the application site was Zone A of the business park master plan). No reserved matters however have been submitted for this part of the business park and the uses never developed. No further reserved matters can be submitted under the outline as the time period for this has expired. The loss of this site for those particular uses is not considered to be grounds for refusal. The site is not allocated for any particular use through planning policy and there appears to have been no recent market interest in developing these uses on the site. The emerging Rothwell and Desborough Urban Extension Area Action Plan sets out that proposals for D1 community uses and A4 public houses within the planned SUE will be considered favourably and therefore could be accommodated within that area if



demand exists.

### **National Planning Guidance**

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

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

1.8 Retail assessment of the application, including against the PPS 4 sequential and impact tests, will follow in section 2. The application could be acceptable in principle if those tests are passed and there is no significant adverse impact on town centres. The proposal should deliver sustainable economic growth.

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

### **Draft National Planning Policy Framework**

1.10 The Government published a Draft National Planning Policy Framework (NPPF) on 25<sup>th</sup> July 2011. Consultation ended on the 17<sup>th</sup> October. The Draft NPPF sets out the Government's economic, environmental and social planning policies for England and together form the Government's vision for sustainable development. The NPPF, when finalised, will replace the majority of the existing National Planning Policy Statements/Guidance Notes, Circular 05/2005 on Planning Obligations and other national guidance. A review of supporting documentation/good practice guidance will also be undertaken. The document is a clear indication of the Government's direction of travel in planning policy. The Draft NPPF stresses the importance of sustainable development and states that the default answer to development proposals should be 'yes'; the presumption in favour of sustainable development is central to the policy approach in the Framework. The document states that significant weight should be attached to the benefits of economic growth. One of the Government's objectives to help achieve sustainable economic growth is to promote the vitality and viability of town centres and meet the

needs of consumers for high quality and accessible retail services.

1.11 The development management policies of PPS 4, which currently can be directly applied to decision-making, do not form part of this new draft national framework. Elements of PPS 4 are retained but these are in a broader, more overarching format. An impact assessment, as currently required by PPS 4, would still be needed for this development, as would an assessment of alternative sites and sequential assessment. The impacts of retail proposals, including on existing, committed or planned investment in centres and town centre vitality and viability, including consumer choice and trade in town centres, would also need to be assessed. The draft framework is however less prescriptive than PPS 4 about what impact assessments should include.

1.12 The Draft NPPS is capable of being a material consideration in a planning decision, but the weight given to it is a matter for the decision maker's planning judgement in each case. Sustainable development remains the core principle underpinning planning and a commitment to securing sustainable economic growth, promoting town centres and securing their vitality and viability is retained.

### **Planning for Growth (23<sup>rd</sup> March 2011)**

1.13 The ministerial statement Planning for Growth is capable of being a material planning consideration. This statement sets out the key role planning has to play in rebuilding the country's economy through ensuring sustainable development needed to support economic growth is able to proceed as quickly as possible. It also sets out the steps they expect local planning authorities to take. The top priority is to promote sustainable economic growth and jobs. The clear expectation is that the answer to development and growth should be 'yes' wherever possible, except where this would compromise key sustainable development principles set out in national planning policy. The statement goes on to specify a number of criteria that local authorities should take account of when determining applications; applications that secure sustainable economic growth should be treated favourably. The Secretary of State will attach significant weight, when determining applications before him, to the need to secure economic growth and employment.

### **East Midlands Regional Plan (EMRP)**

1.14 Regional Strategies were abolished in July 2010, but reinstated on 10<sup>th</sup> November 2010. The EMRP and Sub-Regional Strategies therefore still form part of the Development Plan. The CALA Homes judgement from the Court of Appeal in May 2011 has confirmed that the proposed abolition of the regional strategies can be regarded as a material planning consideration. It is for the decision maker to determine what weight the proposed abolition is given. The Localism Bill received Royal Assent on 15<sup>th</sup> November 2011. Regional Strategies are likely to be revoked in Spring 2012; revocation is subject to Royal Assent and a process of environmental assessment.

### East Midlands Regional Plan (EMRP)

1.15 Regional objectives (e) and (f) set out in Policy 1 of the EMRP are relevant to this application and the principle of development.

- (e) Improve the economic prosperity, employment opportunities and regional competitiveness.

- (f) Improve accessibility to jobs, homes and services.

1.16 The proposed development would be in accordance with these objectives as it would increase the number of employment opportunities and would provide additional convenience and comparison retail floorspace within Desborough, which would lead to more expenditure being retained in the town.

1.17 Policy 3 Distribution of New Development directs significant levels of development towards the three growth towns of Kettering, Wellingborough and Corby. Priority should be given to making the best use of previously developed land (PDL) and vacant or underused buildings in urban and other sustainable locations. The application could be in accordance with this policy if there are no areas of previously developed land to which development could be directed toward in the first instance.

1.18 Policy 11 Development in the Southern Sub-area is relevant to the determination of this proposal. Development should be concentrated in, or in planned extensions to, existing urban areas in accordance with the policies and proposals of the MKSM Sub-Regional Strategy and the spatial priorities set out in policy 11. Specifically in relation to small towns the priority is to maintain the role of these towns through the retention of basic services and facilities, environmental improvements and the safeguarding of their rural hinterlands from encroachment by larger centres. If the development delivers environmental improvements it could be in line with this particular policy.

1.19 Policy 22 (town centres and retail development) of the East Midlands Regional Plan advocates a partnership approach to the promotion of vitality and viability of existing town centres. The enhancement of town centres is a regional priority. The development could be in accordance with this policy if it does not harm the vitality and viability of town centres and delivers regeneration of these areas. This will be assessed in the next section of this report.

1.20 Other relevant regional planning policies are set out under Planning Policy Section. These predominately relate to the technical aspects of the proposed scheme (e.g. design) and will be discussed in the relevant sections of this report.

### **MKSM Sub-Regional Strategy**

1.21 The sub-regional strategy for the Milton Keynes and South Midlands Growth Area is included within the East Midlands Regional Plan. Paragraph 4.1.8 of the Sub-Regional Strategy identifies Desborough as a smaller town. These will seek to consolidate and extend their roles in providing for local services. The smaller towns share a common industrial heritage, which contributes to their distinctiveness, and regeneration of these towns is a key objective. The SRS sets out that growth in these locations will be accommodated in line with the sequential approach primarily within built up areas or in the form of one or more sustainable extensions at each of the towns. The exact scale, nature and location of growth and any enhancement proposal will be determined through the preparation of Local Development Documents (LDDs). MKSM Strategic Policy 3 sets out a number of principles which if implemented will help to achieve sustainable communities. The provision of the foodstore would help to meet the needs of local people in terms of main food

shopping. The proposal however needs to deliver regeneration of Desborough town centre and show how it will help to create a sustainable community.

### **Core Spatial Strategy**

1.22 The overall development strategy for North Northamptonshire to 2021 is set out in the North Northamptonshire Core Spatial Strategy (CSS) adopted in June 2008. This sets out the spatial vision and strategy for North Northamptonshire and the roles and relationships of settlements. Within Kettering Borough, development is to be focused upon Kettering and then secondly the smaller towns of Desborough, Rothwell and Burton Latimer (Policy 1). The role of the smaller towns is to complement growth town expansion by providing secondary focal points within the urban core. The scale of new development will be related to infrastructure provision and regeneration needs.

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

1.24 Town centres provide a focus for local communities and are one of the main means by which the three growth towns and surrounding towns and villages interact. Paragraph 3.10 of the CSS supports policy 1 and states that the regeneration and/or enhancement of town centres are a priority and will be a catalyst for growth in employment and housing.

1.25 It is evident that the regeneration and enhancement of town centres is a key priority and an integral element of CSS policy. The delivery of these objectives will help to create sustainable economic growth and will also be catalysts for growth.

1.26 The development would deliver economic development, resulting in job creation and meeting the main food shopping needs of people living in the town and surrounding towns/villages. The proposal could help the town become more self-sufficient. The application however needs to demonstrate how it will deliver regeneration and environmental improvements.

1.27 CSS Policy 9 sets out the strategy for the distribution and location of development. A sequential approach is advocated which directs development in the first instance to previously developed land (PDL) or buildings followed by other suitable land in urban areas. Further development will be focused on a small number of sustainable urban extensions. The proposal will be assessed against PPS 4 and the sequential approach in section 2. This will highlight whether there are any alternative sequentially preferable sites and whether these are PDL. If there is

no PDL available it will need to be assessed as to whether the site constitutes 'other suitable land'.

1.28 Policy 11, which focuses on the distribution of jobs, states that new employment allocations will be within or adjoining the main urban areas or, sustainable urban extensions, or areas that have a low jobs/workers balance and be in locations that are capable of being accessed by a choice of means of transport. The development is likely to be able to meet the requirements of this policy. This will however be assessed in section 3.

1.29 CSS Policy 12 Distribution of Retail Development states that smaller towns will consolidate their roles in providing mainly convenience shopping and local services. The policy goes on to state that where retail development cannot be accommodated within the town centre, a sequential approach will be followed. Proposals for major retail development will be assessed to ensure they do not have an adverse impact on the long-term vitality and viability of town centres; town centres will be strengthened as the focus of retail and other town centre uses. This considered in the next section of this report. The application will need to pass the sequential test (i.e. application must demonstrate there are no sites in-centre or edge-of-centre that are available, suitable and viable for development) and should not harm the vitality and viability of existing town centres. The application will be assessed against Policy 12 in the next section focusing on retail impacts.

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

### **Saved Structure Plan Policy**

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

### **Saved Local Plan Policy**

1.32 Policy D2 of the Local Plan, Environmental Improvements is a saved Development Plan policy relating to Desborough. This states that provision will be made for the implementation of a number of environmental improvement schemes including within the town centre. Urban realm improvements remain a key priority for the town centre; enhancement of the town centre and regeneration is a key part of the spatial strategy for the Borough, demonstrated by its inclusion in CSS policy. The application would need to demonstrate that it would deliver environmental improvements.

1.33 Policy 64 of the Local Plan 'Development within Established Shopping Areas' is a saved policy. This defines the established shopping area on the Proposals Map. It is relevant to this application in that the application site lies outside of the ESA and is defined as out-of-centre in terms of the definitions of PPS 4 for retail proposals.

### **Emerging Policy**

1.34 Emerging policy documents, and background documents, are also material considerations in the determination of planning applications.

1.35 The Council is currently producing planning policy for Desborough and Rothwell, the Urban Extension Area Action Plan (AAP). The purpose of the AAP is to address the planned housing expansion of the towns and set out the detailed requirements of the new developments. The Proposed Submission was consulted on during the period December 2009 to February 2010. The document was presented to Members in August 2010 and a resolution to submit was agreed. This position remains unchanged. The AAP's submission was delayed pending progress with the Kettering Town Centre AAP. It is intended that fresh progress will be made shortly. The commitment to provide growth at Rothwell and Desborough through a sustainable urban extension remains.

1.36 This document proposes the allocation of an urban extension on land north of Desborough for 700 dwellings, shops and necessary associated infrastructure. The sustainable urban extension (SUE) will include local centres of appropriate scale with facilities to meet day-to-day needs but will not provide significant convenience and comparison shopping provision or other facilities serving a wider area that would be better located within the town centre.

1.37 The AAP includes the provision of a local centre to meet the needs of the proposed population without competing with the vitality and viability of the town centre as well as demonstrating how the development will support economic prosperity. The AAP reinforces other Development Plan policies, seeking to improve the future health of Desborough town centre and ensure that any town centre uses within the SUE do not undermine it (proposed submission policy 6). It is considered that the proposed development would not prejudice the delivery of the SUE.

### **Site Specific Proposals Local Development Document (LDD)**

1.38 The Site Specific Proposals LDD will form part of the Local Development Framework (LDF) for North Northamptonshire. The Site Specific Proposals LDD will cover the whole of Kettering Borough with the exception of issues addressed in the Core Spatial Strategy (CSS) and the Area Action Plans (AAPs) for Kettering Town Centre, Kettering Urban Extension, and the Rothwell and Desborough Urban Extensions. It is anticipated that this document will explore the allocation of land for housing, employment, retail, leisure and community facilities. In addition to this it will contain policies relating to specific areas such as Rothwell, Desborough and Burton Latimer town centres and topics such as design, affordable housing, protection of the open countryside and protection of environmental assets. Issues consultation was undertaken from 9 March to 20th April 2009. The next stage of consultation on options (which sets out the preferred policy direction but no firm policies) is expected to take place February 2012.

## **Desborough Town Centre Urban Design Framework (UDF)**

1.39 The UDF was produced in 2004 and reflected the aspirations of the local community and local plan policies. The CSS was adopted in 2008 and a number of the policies relevant to development of the town centre were replaced. Planning policy at other levels has also undergone change since 2004. The UDF was never formally adopted as Supplementary Planning Guidance (SPG). The document was presented to Planning Policy Committee and Executive Committee to be adopted as SPG but before it was taken to Full Council, as required by the Council's Constitution, the draft 2004 Planning Act was published which removed SPGs from the system. It was therefore decided not to proceed with adoption of the document until the Act was agreed. This Act then formally removed SPGs. This document does not form part of the Development Plan. The Urban Design Framework is however a material planning consideration.

### **Summary**

1.40 Retail development of the site could be acceptable in principle subject to the applicant demonstrating:

- There is no sequentially preferable site(s) that is available, suitable and viable for development, which is capable of meeting the same need as the proposal.
- There is no previously developed land to which development should be directed toward.
- Impact tests of PPS 4 EC 10 and EC 16 are met and the proposal will not result in any significant adverse impacts.
- The vitality and viability of town centres will not be harmed.
- Sustainable economic growth will be achieved.
- Regeneration of the Desborough town centre will be secured.
- Environmental improvements will be delivered.

## **2. Retail Impact**

### **Policy Framework**

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

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

2.2 PPS 4 has removed the requirement for applicants to demonstrate that there is a 'need' for retail development proposals that are in edge or out-of-centre locations and which are not supported by an up-to-date Development Plan. In place of need, PPS 4 makes an assessment of the impacts of a proposal on the town centre of

great importance to the decision-making process. An understanding of the particular need that it is intended the proposal will meet will be relevant to the sequential assessment of other sites, and as a result the necessary scale and form of development.

2.3 The PPS 4 Practice Guidance does not constitute a statement of Government Policy. However it does help those involved in preparing or reviewing need, impact and sequential site assessments and in the interpretation of policies set out in the PPS. As a guide to interpreting how policy should be applied, this practice guidance may also be material to planning decisions.

#### **Relevant PPS 4 Policies**

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

**EC10:** DETERMINING PLANNING APPLICATIONS FOR ECONOMIC DEVELOPMENT.

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

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

**EC16:** THE IMPACT ASSESSMENT FOR PLANNING APPLICATIONS FOR MAIN TOWN CENTRE USES THAT ARE NOT IN A CENTRE AND NOT IN ACCORDANCE WITH AN UP TO DATE DEVELOPMENT PLAN.

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

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

2.5 Policy EC 10 is a policy that applies to all economic development proposals. EC 10.1 states that local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably. This policy goes on to outline the criteria against which planning applications for economic development should be assessed (part of the impact assessment).

#### **PPS 4 and the Sequential Assessment**

2.6 Policy EC 14 of PPS 4 sets out the supporting evidence required for planning applications for main town centre uses. A sequential assessment is required for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Development Plan (EC 14.3). A sequential assessment has therefore been required to support this planning application. Requirements for such



an assessment are set out in Policy EC 15. The onus for demonstrating compliance with the sequential approach is on the applicant. The sequential approach forms a key policy consideration and can itself be a clear reason for refusal.

2.7 Policy EC17.1 of PPS 4 sets out a key development control test. Under part (a) of this policy local planning authorities should refuse planning permission where the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15). Part (b) of this policy relates to the impact test.

2.8 The sequential test is an important part of the policy framework and is a key part of Development Plan policy, Core Spatial Strategy Policy 12. Failure should result in refusal, unless in the circumstances there are particular material considerations in support of the proposal that would justify non-compliance with PPS 4.

2.9 If the local planning authority proposes to refuse an application involving town centre uses on the basis of the sequential approach, it should be on the basis that it considers there is, or may be, a reasonable prospect of a sequentially preferable opportunity coming forward which is likely to be capable of meeting the same requirements as the application is intended to meet.

#### **PPS 4 and the Impact Test**

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

2.11 EC 16.1 sets out 6 impacts (a) to (f) which must be assessed. In this case criteria (e) and (f) do not apply; the site is not in or on the edge of the town centre and no locally important impacts on centres have been identified through the plan making process. EC 10.2 also sets out 5 impact considerations against which all planning applications for economic development will be assessed.

2.12 Under part (b) of Policy EC 17.1 local planning authorities should refuse planning permission where there is clear evidence of a significant adverse impact against one of the impacts identified in EC10.2 or EC16.1 (taking account of likely cumulative effect of recent permissions, developments under construction and completed developments). Where no significant adverse impact is identified it is necessary to balance the positive and negative effects of the proposal in terms of policies EC 10 and EC 16, any other material planning considerations and the likely cumulative effect of recent permissions, developments under construction and completed developments.

2.13 It is for the decision maker to judge the extent to which the applicant has demonstrated compliance with the sequential approach and what constitutes a significant adverse impact based on the circumstances of each case (PPS 4

Practice Guidance). Policy EC 17.3 of PPS 4 states:

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

### **Development Plan Policy**

2.15 Relevant Development Plan policies are set out in the previous section of this report. The sequential approach to locating retail development (town centre first) is part of Development Plan policy (CSS Policy 12). With regard to impacts, proposals for major development will be assessed to ensure they do not have an adverse impact on the long-term vitality and viability of town centres (CSS Policy 12). The CSS also advocates a sequential approach to the distribution of all development (CSS Policy 9) and regeneration and enhancement of town centres (CSS Policy 1). Regional Plan policy reinforces the CSS policies set out above.

2.16 MKSM Strategic Policy 3 sets out a number of principles that should be implemented through developments to achieve sustainable communities; skill levels and enterprise should be improved as well as providing high quality employment and premises.

### **Local Planning Authority (LPA) Approach**

2.17 A Retail Impact Assessment has been carried out by the applicants and submitted as part of the application. This has been reviewed by the local planning authority and its retained retail consultants (Roger Tym and Partners (RTP) who also advised the LPA on the previous scheme). The applicant has submitted further information and made points of clarification during the application process in response to the comments of Roger Tym and Partners. The LPA and Roger Tyms have also reviewed these details. The following assessment addresses the sequential test and impacts of the proposal by reference to the impact tests of EC10 and EC16 including the comments of Roger Tyms. The comments of Roger Tyms can be reviewed at Appendix 1.

2.18 Roger Tyms completed a town centre health check for Desborough in July 2010. This was updated by the LPA in May 2011. A health check for Rothwell town centre was also carried out by the LPA in May 2011 (Appendix 2).

### **Site and Proposal Context**

2.19 The application site is defined as out-of-centre according to the definitions of Annex B of PPS 4 for retail proposals. Paragraph 6.8 of the PPS 4 Practice Guidance states:

“‘Out of centre’ locations are not in or on the edge of the centre but not necessarily outside the urban area. They are not within easy walking distance of the centre and are therefore unlikely to contribute to linked trips or to share the level of public transport accessibility as the town centre. Where locations in existing centres or edge of centre locations are not available, preference should be given to out of centre sites well served by a choice of means of transport, which are close to a

centre and have a higher likelihood of forming links with a centre.”

2.20 Paragraphs 6.4-6.7 of the PPS 4 Practice Guidance provide more explanation of the PPS 4 definitions of ‘in-centre’ and ‘edge of centre’. Given the site’s location all in-centre and edge-of-centre sites must be considered by the applicant in their sequential assessment. As previously stated, the site is also greenfield land.

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

2.22 The primary catchment area (PCA) identified by the applicant is considered to be appropriate. The PCA represents zones 1 to 7 of the study area, which was used as the basis for surveying households, assessing shopping patterns and informing the retail impact assessment. The household survey results used in the 2009 application have also been used to inform the current application. This is considered to be acceptable. There do not appear to have been any significant changes in the study area that would necessitate a new household survey. The conversion of the Co-Operative to Asda in Kettering, which has occurred since the previous refusal, would be expected to increase the trade draw of this store, but this is likely to be at the expense of other stores in Kettering rather than those in Desborough or Rothwell.

### **Assessment of Proposal (1): Sequential Assessment**

2.23 Applicants must carry out a thorough assessment to explore alternative options. If more central sites are rejected it is for sound reasons which are clearly explained and justified. The applicant has assessed 18 alternative sites within Desborough and Rothwell in terms of their suitability, viability and availability. The assessment includes the Lawrence’s site. This was previously considered by the local planning authority (when assessing the KET/2009/0734) to be a sequentially preferable site that was suitable, viable and available for development. I therefore assess that site below. It is accepted that the other assessed sites are unviable, unsuitable and/or unavailable.

#### **Lawrence’s Site**

2.24 The Lawrence’s Factory is located on Harborough Road within the established shopping area of Desborough, as defined by the Kettering Borough Local Plan 1995. The Lawrence’s site is in-centre (in terms of PPS 4 definitions) and is therefore sequentially preferable to the Sainsbury’s site. The Lawrence’s Factory also lies within the Conservation Area. The Council is the landowner of the Lawrence’s site. The Executive Committee (16<sup>th</sup> September 2009) resolved to approve that the preferred option for redevelopment of Lawrence’s is for the site to be redeveloped as a supermarket. There was also an Executive Committee resolution (16<sup>th</sup> September 2009) that authorised the Head of Legal Services to negotiate and agree disposal of the site and agree terms and conditions of the disposal.

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

### **Suitability**

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

2.27 The PPS 4 Practice Guidance states that it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of the development proposed but rather it should be considered what contribution more central sites are able to make to meet the same requirements. Policy EC 15.1 (d) sets out that in considering sites in or on the edge of centres, developers and operators should demonstrate flexibility in terms of (1) scale: reducing the floorspace of the development; (ii) format: more innovative layouts and configurations; (iii) car parking provision: reduced or reconfigured and; (iv) scope for disaggregating parts of a retail or leisure development. The purpose of this requirement for flexibility is to seek wherever appropriate to accommodate new retail, and other main town centre uses, within town centres. The applicant has stated that they have taken a flexible approach to the consideration of sites, which is based on the requirement for 'main' food shopping. They have stated that the requirements for meeting this need include 2,000 sqm of net sales area, back-of-house areas of 1,500 sqm as well as servicing, parking, pedestrian/vehicular access and landscaping.

2.28 The applicant argues that the Lawrence's site can accommodate a foodstore of 1,500 square metres net which would translate into a convenience floorspace of 1,260 square metres net. This is supported by the Atkins Feasibility report (2009) for the Lawrence's site that assumes a sales area of 1,500 square metres (this report does not have any planning policy status). The applicant argues that this scale of provision would only fulfil a top-up shopping function and would not support main food shopping trips (there is a need for a foodstore in Desborough which would support such trips). The applicant is proposing an out-of-centre store with a net sales area of 1,993 square metres – approximately 1,672 (84%) convenience and 320 square metres (16%) comparison as they consider this scale is needed "to ensure that the majority of the main bulk food shopping needs are met". The local planning authority however disagrees with the applicant's conclusions.

2.29 The Lawrence's site represents a suitable location for a foodstore and is capable of meeting the main food shopping needs of Desborough. Sainsbury's have for example approximately 50 stores that are between 1,200 and 1,600 square metres net sales area (e.g. Ashbourne, Derbyshire; Calne, Wiltshire; and Kenilworth, Warwickshire) and which provide a sufficient range and depth of products to enable both main and top-up shopping to take place. It is considered that the Lawrence's site can accommodate a scale of development sufficient to meet the main food shopping needs of many local residents, 'claw back' expenditure currently being lost

to surrounding areas and represent a significant improvement in existing retail provision within the town. A planning application has been submitted for retail development on Lawrence's (KET/2010/0743); Tesco Stores Ltd proposes a store of 1,660 square metres net retail floorspace (2,387 gross). Tesco has stated in their application that their proposed store will be of a scale capable of meeting main food shopping requirements (as stated within their application including the Planning and Retail Statement, a supplement to this document and subsequent letters from the agent about retail issues). Officers agree with this assertion. It is considered that the Lawrence's site, which is sequentially preferable, is capable of meeting the same need as the Sainsbury's development is proposing to meet. The applicant in this case has not demonstrated that Lawrence's is not suitable for meeting main food shopping needs.

2.30 Although the applicant has demonstrated some flexibility this is based on assumptions as what scale of sales and back-of-house areas are required to enable the store to meet main food shopping needs. Officers disagree that this need cannot be met through a reduced scale, which can be accommodated on Lawrence's as demonstrated by the current application before the Planning Committee (KET/2010/0743).

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

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

2.32 The Lawrence's site is not covered by a specific planning policy (it was previously covered by policy D7 of the Local Plan which allocated the site for shopping/commercial uses subject to fulfilment of criterion) and is not allocated for any particular type of development. The Lawrence's site is however in the established shopping area where retail development is generally appropriate; the site would be suitable in principle when considered against local and national retail planning policy. The site is also previously developed land, which is sequentially preferable to greenfield sites in terms of Development Plan policy (CSS Policy 9). The Tesco planning committee reports, including the recommendations, demonstrate that retail development of the Lawrence's site is considered to be acceptable by officers, subject to conditions and planning obligations.

2.33 One of the principal issues in the determination of the Tesco applications is that of heritage and PPS 5. Given the existing buildings on that site and its location within the conservation area, certain policy tests have to be met. The Tesco Committee reports (planning application and conservation area consent) indicate that officers consider that the harm caused by the demolition of the existing buildings will be outweighed by substantial public benefits delivered through the application and that the loss of the buildings is necessary in order to deliver such benefit. There is not considered to be any impact on amenity (e.g. noise, lighting, loss of light, overlooking) that would render the site unsuitable for retail development. Highway, access, design, land conditions and all other environmental matters have also been assessed and do not raise any issues that cannot be overcome either by conditions

or planning obligations. Please see these committee reports for more detail.

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

2.35 The emerging Site Specific Local Development Document in its current form does not preclude retail use of the site. The Desborough Urban Design Framework does not form part of the Development Plan; although there were aspirations for a mixed-use scheme on Lawrence's this does not form part of policy and the site is not allocated for that type of development.

2.36 The Desborough Town Centre Urban Design Framework (UDF) identifies the Lawrence's site as a key opportunity whose redevelopment would help kick-start the regeneration of the town. The aspiration set out in the UDF was for a mixed-use development comprising retail, offices, enterprise units, crèche, restaurants, and residential uses together with the conversion of adjacent cottages to a heritage centre. This however was an aspiration with no feasibility work having had been completed at that stage. The UDF itself specifies a number of proposed projects to be undertaken in order to take the UDF forward and translate it from something aspirational to projects that can be delivered. Page 50 of the UDF specifies the feasibility and planning of Lawrence's re-development as one such project. Since that time Atkins were commissioned in early 2009 to complete a feasibility study for development of two separate sites, the Lawrence's Factory and Key Site 1 (south of the High Street). The work concluded that the aspiration for a mixed-use scheme on Lawrence's was unlikely to be viable. The development of a supermarket alone was found to be the most viable development option.

2.37 The protection of retail units and improvement of the town centre retail offer, including a new supermarket, are identified as key issues within the UDF. Retention of suitable employment opportunities to encourage vitality and activity in the town centre is also an objective of the UDF. These goals have not altered albeit being implemented using a different approach. The document has a key focus on the town centre and recognises development in this location is a key driver of sustainable economic growth and regeneration.

2.38 Within the application documentation the applicant refers to a refusal of outline planning permission on the Lawrence's site for retail development in October 2000. It should be noted that the reasons for refusal did not concern matters of 'principle' but related to elements that could be resolved. The refusal included matters relating to siting and layout of the proposal and insufficient details in relation to accessibility. There have also been changes in planning policy since the time of this refusal with all but one policy named in the refusal notice (Local Plan Policy 64 Development within Established Shopping Areas) having been replaced (one of the refusal reasons related to Policy D7 which was not saved) with the adoption of the CSS.

2.39 The PPS 4 Practice Guidance states that a key part of positive planning is to identify those sites likely to be most appropriate to meet any identified need.

Although the Lawrence's site has not been allocated through planning policy for retail use, the local planning authority is satisfied that the Lawrence's site constitutes a suitable location for a foodstore development of a similar scale to the Sainsbury's proposal, albeit it smaller vis-à-vis (333 square metres less net floorspace than the Sainsbury's proposal). It would be capable of meeting the needs of Desborough residents and would meet the same need as the proposed Sainsbury's store i.e. is capable of delivering a foodstore which facilitates main shopping trips and can 'claw back' trade leakage and expenditure currently being lost to surrounding stores.

### **Availability**

2.40 "Whether sites are available now or are likely to become available for development within a reasonable period of time (determined on the merits of a particular case, having regard inter alia, the urgency of need). Where sites become available unexpectedly after receipt of an application, the local planning authority should take this into account in their assessment of the application." (PPS 4 Practice Guidance, Page 43).

2.41 A site is considered to be available for development, when, on the best information available, there is confidence that there are no insurmountable legal or ownership problems. Two related points include whether there are any key policy pre-conditions to bringing the site forward (e.g. through allocation in the LDF) and the ownership of the site and whether the owner appears willing to bring it forward for the development in question within a reasonable timescale. In this case there are no such policy pre-conditions and the landowner, the Council, has actively promoted the site for a foodstore development. A developer has signed a conditional contract to purchase the Lawrence's site. This developer, Greatline Developments Ltd, in partnership with a major supermarket, Tesco Stores Ltd, submitted a planning application in December 2010 for a new foodstore.

2.42 There is currently a restrictive covenant on the site (imposed by the previous owner), which prevents the use of the site for certain types of retail including groceries, fruit, vegetables and frozen foods. The applicant concludes that this is insurmountable and renders the Lawrence's site unavailable. The LPA disagrees with this conclusion. The Lawrence's site is under the Council's ownership. The Council, as the landowner, has commissioned specialist legal and retail advice on the most effective means of removing the covenant. The Executive Committee exercises the functions of the Council as landowner and has authorised the investigation into the most appropriate way to remove the covenant. The Executive's preferred method of removal is through negotiation. If this does not prove possible the Executive has agreed in principle to exercise its powers under Section 122 of the Local Government Act 1972 to appropriate the Lawrence's Site for planning purposes. This will enable the powers under Section 237 of the 1990 Planning Act (as amended) to be utilised. The purpose of S237 is to allow development to proceed in accordance with a planning permission where covenants, easements and other rights exist. These rights can be overridden and compensation paid to the beneficiary of the covenant for the interference with their rights. The final decision on the appropriation of the land is subject to further financial information. A final Executive report and authorisation from that committee is needed to approve the appropriation; no further approval is needed to utilise the S237 powers. It is considered at the present time that the covenant is not an insurmountable issue as there are a number of routes available to resolve this. Although the precise

timescale for removing the covenant is difficult to predict at this time, officers consider that the site can come forward in a reasonable timescale.

2.43 It should be noted that application itself shows no evidence of proactive work being undertaken by Sainsbury's to explore the removal of the covenant. It is considered unreasonable for the applicant to conclude that there is no prospect of the Lawrence's site coming forward.

2.44 As stated at the beginning of this section a site is defined as available when it is available now or is likely to become available within a reasonable timescale. There is however no clear definition of 'reasonable timescale' in PPS 4 or the Practice Guidance. It is for the decision-maker to consider and determine this on the merits of a particular case, having regard to the urgency of need.

2.45 On the issue of 'reasonable timescale' a number of planning appeal decisions (e.g. Land at Mere Park, Newport or B&Q/Halfords, Holmer Road, Hereford) refer to periods of up to 5 years but these have been determined on a case-by-case basis and so cannot be directly applied here. The issue of availability and the sequential approach have to be considered together with the impact of development occurring in an out-of-centre location and the long-term consequences for town centres (paragraph 6.39 of the Practice Guidance). Urgency of need is also a consideration. It is considered that the need is clear and urgent given the current poor health of Desborough town centre, evidenced by a Town Centre Health Check. Officers consider that a reasonable timescale in this case would be 3 years given the site circumstances and balancing urgency of need and impacts.

2.46 Paragraph 6.41 of the PPS 4 Practice Guidance states that when promoting a proposal on a less sequentially preferable site, it will not be appropriate for a developer or retailer to dismiss a more central location on the basis that it is not available to the developer/retailer in question. The conditional contract that a developer has entered into with the Council (landowner of Lawrence's) means that site is currently unavailable to Sainsbury's. The Lawrence's site is however available for retail development, of a scale that would meet the same need. Advice and subsequent clarification from the LPA's retail consultants supports this view.

2.47 PPS 4 Practice Guidance advises that if a LPA proposes to refuse an application involving town centre uses on this basis of the sequential approach, it should be on the basis that there is a reasonable prospect of a sequentially preferable opportunity coming forward which is likely to be capable of meeting the same requirements as the application is intended to meet (paragraph 5.7 of the Practice Guidance). This is the case here.

### **Viability**

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

2.49 The Atkins report whose findings were reported to Executive Committee in September 2009 demonstrates that the site represents a viable opportunity for a



foodstore development. The Council actively promoted the site to the market, which generated interest from a developer and retail operator. As stated above the Council has entered into a conditional contract with them for the sale of land. A planning application for a foodstore has also been submitted by this developer/retailer (KET/2010/0743). PPS 4 Practice Guidance advises that where alternative sites are being actively promoted for new development by a developer/retailer, this is a reasonable indicator of viability. It is considered that development of a foodstore on this site is a viable development opportunity.

### **Sequential Summary**

2.50 The applicant has not demonstrated compliance with the requirements of the sequential approach. It is considered that there is a sequential preferable site that is suitable, viable and will be available within a reasonable timescale, for development that is capable of meeting the same need as the proposed Sainsbury's store. The sequentially preferable site is also previously developed land, locations to which development is directed toward in the first instance. The application is considered to be contrary to Policies 9, 12 and 13 (c) of the North Northamptonshire Core Spatial Strategy and East Midlands Regional Plan policy 22. The application should also be refused in accordance with PPS 4 EC17.1 (a).

### **Assessment of the Proposal (2): Impact Assessment**

2.51 In terms of the impact assessment this planning application must be assessed in relation to EC10, EC 16 and EC 17. Policy EC 17.1(b) states that where there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of the impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments, applications should be refused. Policy EC 17.2 states that where no significant adverse impacts have been identified in terms of any one of the impacts set out in EC10.2 or EC 16.1, planning applications should be determined by taking account of:

- (a) The positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and
- (b) The likely cumulative effect of recent permissions, developments under construction and completed developments.

2.52 EC 17.3 states that judgements about the extent and significance of any impacts should be informed by the Development Plan (where this is up to date). Local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy), will also be relevant. The applicant has included Town Centre Health Checks for Desborough and Rothwell as part of their submission. Roger Tym and Partners completed a health check for Desborough town centre in July 2010 on behalf of the Local Planning Authority (LPA). This was based on the indicators set out in Annex D of PPS 4. The LPA updated this health check in May 2011. A Town Centre Health Check for Rothwell was also completed by the LPA in May 2011. The Local Authority's health checks (July 2010 and May 2011) for both of these smaller towns are included at Appendix 2. Health Check assessments are an important tool for plan making and determination of planning applications and can help inform judgements about the

extent and significance of any potential impacts of planning applications (Policy EC 17.3). The LPA assessment of Desborough illustrates that its town centre is currently in a fragile state, exhibiting poor signs of vitality and viability. In contrast Rothwell town centre performs well against the vitality and viability criteria set out in PPS 4, with existing convenience retail provision playing an important role attracting people into the centre. Any impacts should be considered in this context.

2.53 The Tesco proposal does not have planning permission, is not under construction and is not a completed development. There was therefore no requirement for the applicant to consider cumulative impact. The LPA did however request that the cumulative impact of two stores being proposed in Desborough be assessed as part of the Environmental Statement. All likely significant environmental effects (which includes economic and social considerations) must be adequately assessed in the ES. This assessment considered the impact on Desborough and other centres. The LPA's retail consultants have reviewed and advised on the information submitted. Where applicable this report refers to cumulative impact in each impact consideration. The report also outlines key points in relation to capacity assessment and the capacity for two new foodstores within Desborough. Given the geographical distance between the two sites it is considered that the cumulative impacts are limited to economic and retail impacts.

### **Policy EC10.2**

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

2.54 There is a qualitative gap in the main food shopping provision in Desborough and therefore any development will result in a reduction in carbon dioxide emissions. The highways section of this report notes that the development would result in transferred trips on the highway network and a reduction in mileage; many people who currently travel out of the town to do a 'main' food shopping trip will remain in Desborough and those residing in surrounding villages will not have to travel so far. It is acknowledged however that there will still remain some leakage to other centres outside of the primary catchment area given the wider range of products available in those stores. Measures are proposed to improve the site's accessibility and to encourage sustainable travel choices (walking, cycling and bus service improvements). A travel plan has been submitted with the planning application. Although this would require additional measures and further detail to secure its robustness, the Travel Plan does commit to 20% modal shift targets away from single occupancy car trips to non-car modes for both staff and customer trips.

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

2.56 Specifically in relation to carbon dioxide emissions it is considered that there will not be a significant adverse impact. There are some benefits arising from the development in terms of reducing CO2 emissions and tackling climate change as

evidenced by the above.

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

2.57 As demonstrated within the highway section of this report the development will not have an adverse impact on traffic levels or congestion. Measures to enhance accessibility by a choice of means of transport to the site are proposed. The application site lies approximately 750 metres to the north of the town centre, and whilst the walk is relatively direct with adequate pavements, the site is somewhat divorced from existing commercial activity in the centre, with largely residential uses in-between. This suggests that limited volumes of linked trips will take place.

2.58 Officers were previously concerned about the lack of connectivity of the site with surrounding footpaths, which would have the effect of discouraging walking and cycling trips. The applicant has considered opportunities for creating pedestrian access and has created a link off Harborough Road. As the design and highway sections of this report show opportunities to encourage pedestrian and cyclist movement have been maximised where possible. The application site is also served by an existing bus service and financial contributions will be made to enhance bus services serving the site; the applicant is proposing to fund the extension of Service 18 and the Rushton Community Bus service for a five-year period.

2.59 Overall it is considered that there will not be a significant adverse impact in respect of choice of means of transport and the effect on local traffic levels and congestion.

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

2.60 The design section of this report considers the previous reasons for refusal and concludes that these have been overcome by amendments made to the scheme. The proposed project design is considered to be in accordance with Development Plan policy and national planning guidance. It is considered that there will not be a significant adverse impact in this regard. Section 4 of this report sets out the full assessment by officers and the conclusions formed.

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

2.61 The development will have both positive and negative impacts in terms of economic and physical regeneration.

2.62 The development will have a positive economic impact in terms of increasing local employment levels, increasing the level of convenience retail floorspace, for which there is a qualitative need, and reducing expenditure leakage out of Desborough. The development will also contribute towards town centre public realm

environmental improvements, shop front enhancements and town centre management (delivery of regeneration and environmental improvements within Desborough are key elements of Development Plan policy). Increased consumer choice and competition would also be benefits arising from this proposal.

2.63 The development will however have negative impacts. Permitting an out-of-centre foodstore without allowing a sequentially preferable opportunity (for the same form of development) to come forward first would have severe consequences. The Lawrence's site has been identified as a sequentially preferable site in the preceding sequential assessment analysis. That site constitutes an opportunity for improving the vitality and viability of Desborough Town Centre, which is currently in a fragile state as demonstrated by the conclusions of the Health Check (Appendix 2). Development of Lawrence's will result in increased footfall and spending in town centre shops (linked trips) and will improve the town centre's health. In light of the current marginal capacity for the two proposed stores (please see paragraphs 2.76 to 2.80) and investor concern (from Tesco) it is considered that there is a significant risk that the town centre site will not be delivered should an out-of-centre development be granted planning permission and developed first.

2.64 If Lawrence's is not developed and the proposed Sainsbury's store is permitted there are likely to be severe consequences for Desborough town centre. As will be shown in the assessment against the impact considerations of EC 16.1 the Sainsbury's store is likely to have a significant adverse impact on Desborough town centre (this is assuming Lawrence's is not developed), harming the vitality and viability of the centre. Linked trips from Sainsbury's to the centre would be limited and visitors are unlikely to be drawn in to use other services or shops. Although the Sainsbury's development would deliver public realm enhancements and improvements to the physical fabric of the main shopping area, planned and future investment in the centre is likely to be compromised should this out-of-centre store be permitted. Lawrence's could remain vacant and the opportunity to kick-start regeneration of the centre lost.

2.65 If Sainsbury's and Tesco are both permitted and delivered, the impact on Desborough town centre is likely to be acceptable, as the health of the centre would be improved to some extent by the opening of an in-centre store. The impact on economic and physical regeneration is also likely to be positive in this scenario.

2.66 Although it is considered that there will be an adverse impact on town centre regeneration objectives, when taking into account the benefits identified above a significant adverse impact cannot be demonstrated under 10.2 (d).

*(e) The impact on local employment*

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

### **Summary of Policy EC 10.2 Compliance**

2.68 The proposed development is not considered to result in any significant adverse impact in terms of the EC 10.2 impact considerations. The development is however likely to lead to material adverse consequences for the town centre. The extent of these is dependent on the timing and delivery of the Lawrence's site.

### **Policy EC 16.1**

2.69 The impact considerations set out in Policy EC 16 have been reviewed and it is considered that the key impacts are (a), (b) and (d). Roger Tyms, the LPA's retained retail consultant, have provided advice on the application and the impact considerations of EC 16.1. Roger Tyms advice can be viewed at Appendix 1. Paragraph 7.3 of the PPS 4 Practice Guidance states:

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

2.70 With regard to the impact assessment paragraph 7.15 states that:

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

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

2.71 Where the local planning authority and/or private sector have identified town centre development opportunities and is actively progressing them, it will be highly material to assess the effect of proposals upon that investment. Key considerations include the stage the proposal has reached, the degree to which key developer/occupier interest is committed and the level and significance of any predicted direct or indirect impacts. Page 54 of the PPS 4 Practice Guidance states that the level of risk to planned investment and its significance, in planning terms, will depend on, among other things:

- What stage they have reached e.g. are they contractually committed?
- The policy 'weight' attached to them e.g. are they a key provision in the Development Plan?
- Whether there is sufficient need for both?
- Whether they are competing for the same market opportunity, or key retailers or occupiers?
- Whether there is evidence that retailers/investors/developers are concerned; and
- Whether cumulative impacts would be a cause for concern.

2.72 Any adverse impacts as outlined above should be balanced against the positive effects of the proposal, in terms of employment generation, social inclusion and physical and economic regeneration.

2.73 Lawrence's is a sequentially preferable site, which is suitable, viable and will be available within a reasonable timescale. The development of this site (which is within

the established shopping area) is considered to be crucial to the regeneration of Desborough, which is one of the objectives of the CSS at the smaller towns. There are additional benefits to the wider vitality and viability of the town centre through the development of the Lawrence's site, which would not arise from an out-of-centre store; a town centre store would give rise to more linked trips (the closer to the town centre stores are the higher the volume of linked trips arises), greater footfall and spending.

2.74 The landowner, the Council, have actively progressed the site for a foodstore development as evidenced by a number of Executive Committee resolutions regarding the site and potential use of Section 237 powers, should negotiations fail, in respect of the covenant. Lawrence's is the principal town centre opportunity for a foodstore. There is a need for at least one foodstore within the Desborough/Rothwell area; there is significant expenditure leakage to outside the PCA with existing retail provision only meeting a top-up shopping function and not catering for main food shopping needs. This is evidenced by the North Northamptonshire Retail Capacity Update (February 2011). The Council as landowner, through its Executive Committee (16<sup>th</sup> September 2009), gave its approval for the Lawrence's site to be sold for supermarket use. Developer and retailer interest has been secured and a conditional contract is in place for the sale of the site. A full planning application for a foodstore on Lawrence's was submitted in December 2010 by the developer and retailer in question. Despite the site not being allocated for retail use through planning policy, it is within the established shopping area of the town and is a sequentially preferable site that can come forward within a reasonable timescale. This represents a highly material consideration in accordance with PPS 4 Practice Guidance. Although the Lawrence's site is not allocated within the Development Plan for retail use, the sequential assessment section of this committee report shows that officers consider that it is suitable for a supermarket development.

2.75 The applicant states that the Magnetic Park proposal would not compete with the town centre site, if it were to be developed for a foodstore, as that site would *'only meet a small-scale top-up demand'*. The local planning authority does not accept this view and considers that both the proposed Sainsbury's store and the Tesco proposal would compete for the same market opportunity; it is considered that the scale of store that could be accommodated on the Lawrence's site is capable of meeting main food shopping needs. The submitted Tesco planning application proposes a store of 1,660 square metres net retail floorspace, only 333 square metres (net) smaller than the Sainsbury's proposal. As mentioned previously in this report Sainsbury's has a number of stores which are of a scale similar to the Tesco proposal which have a sufficient range and depth of products to meet main food shopping needs, as well as serving a top-up function. The proposed Sainsbury's store will clearly compete with the Tesco store, if approved. Irrespective of the location of the store there will still be some expenditure lost to outside the PCA given the strength of existing provision.

2.76 It is considered that the quantitative need for two stores is marginal and there is not currently (and not until 2016) sufficient need for both. Given this and that the two developments will be competing for the same market opportunity, there is a significant risk that permitting an out-of-centre store first or at the same time will

prevent the in-centre site from being developed. This will result in significant adverse impacts for the Desborough town centre.

2.77 Roger Tyms have advised the LPA regarding capacity for foodstores in Desborough and have commented upon the assumptions made by the applicant in their retail assessment (Appendix 1). The applicant calculates a surplus capacity available for two stores is marginal, at £3.8m in 2014 and £5.4 million in 2016. If one or both stores trades at a slightly higher level than is forecast, the surplus expenditure would be nil. The applicant has however assumed in their capacity assessment that there will be 20% inflow from outside the primary catchment area (PCA) (i.e. 20% of trade derived from outside the catchment area). This is considered to be unrealistic given the strength of provision in Market Harborough, Kettering and Corby. There are existing Sainsbury's stores in Market Harborough and Kettering, the latter of which in particular has a much larger product range than will be accommodated within the Desborough store. There is also a large Tesco on the outskirts of Kettering as well as smaller provision in Market Harborough.

2.78 It is considered that current inflow into Desborough from outside the PCA is likely to be extremely low. The presence of one or two foodstores can be realistically expected to bring this closer to 10% than 20%. Competing developments in the surrounding towns for example the opening of the Asda in Kettering (in place of the Co-operative) and the potential for a Waitrose in Market Harborough (October 2011 – planning application approved subject to conditions and S106) might also serve to counter balance the inflow potential. It is considered that neither the proposed Sainsbury's nor the proposed Tesco store has the potential to draw 20% of its turnover from outside the PCA given the strength of provision outside the PCA.

2.79 Given the above conclusions regarding potential inflow, Roger Tyms have recalculated capacity at 2014. They have used the new store turnover figures provided by the applicant but have adjusted the inflow rate to 10% (it is likely that both stores, if permitted, could be trading by 2014). If both stores are developed, and trade at the levels predicted by the applicant, the amount of surplus expenditure (capacity) in the PCA at 2014 is extremely marginal, calculated by Roger Tyms as being just £0.5m. This is considered to be a more realistic assessment. If both stores are built they are likely to trade in line with or slightly below company averages. There is not considered to be clear capacity for two stores as is suggested by the applicant.

2.80 The level of operator interest in town centre sites, and particularly Lawrence's, is likely to be significantly reduced if this planning application for an out-of-centre foodstore is permitted. The potential trading viability of a store on Lawrence's or other town centre sites will be reduced because much of the available expenditure will be absorbed by the proposed development, hence any foodstore coming forward in the town centre would trade at lower margins with more limited viability. Given the marginal capacity at 2014 and the effect of this, it is considered that this proposal threatens to have a material impact on the development of a sequentially preferable development opportunity. Should this out-of-centre store be developed first and no town centre store comes forward, there are likely to be clear significant adverse impacts (which will be demonstrated in the following sections).

2.81 Investor concern is one of the key factors which will determine whether a proposal is likely to undermine committed or planned investment (PPS 4 Practice Guidance paragraph 7.19). The agent acting for Tesco has objected to this planning application. They state that should Sainsbury's obtain permission for their scheme Tesco would have to undertake a serious review of their intentions for the Lawrence's site, irrespective of whether their own application was successful. The objection to this planning application, which demonstrates investor concern, should be considered together with the officer's assessment. A copy of the Tesco agent's objections can be viewed at Appendix 3. The developer of the Lawrence's site and the agent for Tesco also submitted objections to the previous application.

2.82 With regard to existing investment, this will be assessed in the next part of this section under EC 16.1 (b). An objection has been received from an existing retailer within the town centre.

2.83 Roger Tymes consider that there is likely to be sufficient capacity in 2016 for both stores to trade successfully. However, it is considered that for the reasons given above it is important that the sequentially preferable site comes forward first. Cumulatively the impact of two stores on Rothwell could be a cause for concern but this is more balanced. This will be considered in more detail in following sections of the officer's assessment and in the separate overview report that is also before the members of the planning committee for consideration.

2.84 The positive aspects of the proposal, for example creating additional convenience retail floorspace within Desborough, generation of local employment opportunities and delivery of public realm enhancements are not considered by officers to outweigh the significant adverse impact that the proposed development would have upon planned investment as detailed above. The application is considered to be contrary to Policies 1 and 12 of the North Northamptonshire Core Spatial Strategy and East Midlands Regional Plan policy 22. The application should also be refused in accordance with PPS 4 EC17.1 (b).

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

2.85 PPS 4 Practice Guidance states that consideration of the effects on the Development Plan, committed and planned investment and impacts on town centre turnover provide a good indication of the overall effects on vitality and viability (paragraph 7.22).

2.86 The Borough Council is actively promoting the regeneration of the town centre to enable Desborough to become more self-sufficient, and meet the needs of its current residents and for future, planned growth. This regeneration objective is part of Development Plan policy. Desborough Town Centre has been stagnant for some time and this is reflected in the poor retail offer, poor environmental quality of the town centre and the outflow of expenditure to surrounding centres. The centre is considered to be fragile and this is evidenced by the Desborough Health Check undertaken by Roger Tym and Partners in 2010 and the LPA's 2011 update (Appendix 2). There have been no changes that significantly impact upon the



findings of the 2010 health check. The centre continues to suffer from poor vitality and viability when assessed against PPS 4 indicators. There is limited diversity of uses, the vacancy rate is above the UK average and there are a number of long-standing vacant units and derelict sites. There are several qualitative gaps in the retail offer, the centre has low footfall in parts, low rental values, high prime yields and a generally sub-standard environmental quality. The Health Check Update reinforces the view that Desborough town centre is in poor health and vulnerable to developments which will compete with the centre and further undermine its viability and vitality.

2.87 The applicant's assessment (assuming no Tesco in-centre) indicates that £0.25m (this equates to 1.4% of the store's proposed turnover) will be diverted from Desborough town centre to the new Sainsbury's store at 2016. The combined turnover (main and top-up shopping) from foodstores in Desborough is forecast to be £3.74 at 2016. With £0.25m trade diversion, this equates to a residual turnover of £3.49m. Taking on board the assumed £0.25m this would result in a 6.7% impact, which in itself raises concerns when considering this in the context of the existing fragile centre (evidenced by the Health Checks at Appendix 2 which show that the centre exhibits poor signs of vitality and viability). Roger Tyms however consider that trade diversion has been underestimated and have advised that any upward deviation in trade diversion forecast by the applicant will result in significant adverse impact on Desborough town centre. It is considered (as it was previously when the original application was assessed) that 5.0% is the minimum trade diversion which would take place (this figure is based on an assessment of the size and likely trade draw of the proposed Sainsbury's store vis-à-vis the existing offer in the town centre and lack of provision in the immediate area). This greatly increases the impact on the town centre; Roger Tyms has modelled the impact and states that a 5.0% trade diversion (£0.87m) would have a 23.26% impact on the centre. This is considered to be a significant adverse impact, which would undermine the vitality and viability of the town centre. It should be reiterated here that the applicant has again assumed a 20% inflow in their assessment, which is considered to be an over-estimate. It should also be noted that the increased spending by the 5% of visitors to Sainsbury's undertaking linked trips would not offset the trade diversion from existing retailers in the centre to the proposed foodstore.

2.88 The applicant argues that the proposed store at Magnetic Park will deliver significant volumes of linked trips, offsetting trade diversion and improving the vitality and viability of Desborough town centre. Officers however do not share this view. Conversely, it is considered that any loss of trade from the centre will not be offset by linked trips between the foodstore and the centre, given its out-of-centre location and the poor offer of the town centre at this time. The closer the store to the town centre, the higher the volume of linked trips and the greater combined benefit to the centre. A foodstore in-centre and within the established shopping area (i.e. Lawrence's site) would facilitate a greater proportion of linked trips. Desborough will benefit from a greater proportion of linked trips from a foodstore in the town centre compared to a store in an out-of-centre location.

2.89 Roger Tyms have provided some comment on the cumulative impact of two stores. It is likely that because of the location of the Tesco store within the established shopping area, there will be some scope for the combined impact of this

store and the Sainsbury's store to be offset by the attraction of more shoppers to the town centre than are currently visiting, which results in increased footfall and spending in town centre shops (linked trips). If the Sainsbury's and Tesco proposals are both permitted and delivered, the impact on Desborough town centre is likely to be acceptable as the health of the centre would be improved to some extent by the opening of an in-centre store; a cumulative impact of 6.08% (estimated by the applicant) could be considered reasonable (again it should be noted that trade diversion has been underestimated by the applicant). It is considered that the 'linked trips' will only arise to a significant degree if Tesco is developed, and that the scope for linked trips solely between Sainsbury's and the town centre is limited. If Tesco does not come forward the impact on Desborough town centre would be significantly adverse, as assessed above. This highlights the importance of a sequentially preferable opportunity coming forward first.

2.90 The applicant estimates that £0.5m (2.9% of the proposed store's turnover) will be diverted from Rothwell town centre, equating to an 11.5% impact. This however must be viewed in the context of Rothwell and its current good health. It is considered that the Sainsbury's store and the predicted level of trade diversion from Rothwell town centre will not result in a significant adverse impact. The majority of trade diversion is expected from out-of-town stores in Kettering and Corby and stores within Market Harborough town centre. Officers have also considered the cumulative impact of two stores (Sainsbury's and Tesco) on Rothwell town centre. Taking into account a turnover of £5.01m in Rothwell town centre in 2016 and £1.5m being diverted from here to Sainsbury's and Tesco (total), Roger Tyms have calculated that there will be a 29.94% impact on Rothwell town centre. This level of impact represents a level at which Rothwell town centre's vitality and viability might struggle. The convenience stores (e.g. Tesco/Co-Op) are the anchor retail stores in Rothwell town centre, and it is considered that impact in the order of 20-30% could constitute a significant adverse impact. This should however be balanced against the health of the existing centre and its current good level of vitality and viability. Officers therefore consider that Rothwell town centre could withstand the predicted level of trade diversion and impact. It is considered that there will not be a significant adverse impact on Rothwell town centre.

2.91 There is no fixed or standard acceptable level of trade diversion, which should be considered in the context of vitality and viability of a centre. Considering Desborough's current poor vitality and viability it is considered that irrespective of any benefits that may arise from the proposal, the level of trade diversion, which would constitute an unacceptable level of impact, is relatively low. The existing town centre of Desborough is weak and the level of over-trading of existing stores is relatively marginal, and would not offset the forecast trade diversion (which is itself considered to be an underestimate as stated above).

2.92 Whilst there will be some benefits from the proposal, given the poor offer of Desborough town centre and with little in the way of key attractors to draw visitors in, it is considered that the benefits to the town centre would be limited and certainly more limited than if a foodstore was developed within the centre.

2.93 An objection has been received from consultants acting on behalf of Midlands Co-Operative Society. The objection predominately focuses on retail, design and

sustainability considerations. In terms of retail impact they are concerned that the Sainsbury's proposal will prejudice the continued successful operation of Co-Op stores and will also weaken the vitality and viability of Desborough town centre. A copy of the objection is included at Appendix 4. Sainsbury's assessment does not name specific stores in its assessment of trade diversion. Consequently, the impact on individual stores is difficult to assess.

2.94 It is necessary to balance the desirability of maintaining and enhancing turnover of existing facilities with the benefits of improved choice, competition and new facilities. As stated above, there is no benchmark for an acceptable level of trade diversion. The turnovers needed to main vitality and viability vary between centres. In this case the level of trade diversion (with no Tesco in-centre) is likely to have a significant adverse impact on Desborough town centre and the positive impacts of the proposal do not outweigh this.

2.95 The effects on planned and committed investment can also provide a good indication of the overall effects on vitality and viability. The assessment of the impact on planned investment (EC 16.1 (a)) is therefore also relevant to EC 16.1 (b). Officers consider that the proposed development will have a significant adverse impact on planned investment, namely the development of the Lawrence's site. That site represents a clear opportunity to reverse the long-standing stagnation of the vitality and viability of Desborough town centre through the additional investment and reversing the loss of expenditure to surrounding areas. Please see the assessment under EC 16. 1 (a) for further detail.

2.96 Having considered the positive and negative impacts of the proposal it is considered that the proposed development will have a significant adverse impact upon the vitality and viability of the existing Desborough town centre, contrary to Development Plan policy and the aims and objectives of PPS 4. The application is considered to be contrary to Policies 1 and 12 of the North Northamptonshire Core Spatial Strategy and East Midlands Regional Plan policy 22. The application should also be refused in accordance with PPS 4 EC17.1 (b).

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

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

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

2.98 The impact of trade diversion upon existing convenience retail stores has been considered in the context of vitality and viability above. It is not considered

necessary to repeat the above points. Overall trade diversion would have a significant adverse impact upon existing retail convenience stores in Desborough and will significantly harm the vitality and viability of Desborough town centre, particularly in the context of an already fragile centre. The application is considered to be contrary to Policies 1 and 12 of the North Northamptonshire Core Spatial Strategy and East Midlands Regional Plan policy 22. The application should also be refused in accordance with PPS 4 EC17.1 (b).

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

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

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

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

### **Summary of Policy EC 16 Compliance**

2.101 For the reasons set out above it is considered that there will be a significant adverse impact in terms of (a), (b) and (d) of Policy EC16.1.

### **Retail Impact Summary Points**

2.102 The applicant has not demonstrated compliance with the sequential approach and the application should be refused in accordance with PPS 4 EC17.1 (a). The application is contrary to Development Plan policy (Policies 22 of the East Midlands Regional Plan and 9, 12 and 13 of the Core Spatial Strategy).

2.103 There is a sequentially preferable site that is viable and suitable for development, which would meet the same need as the proposed Sainsbury's store is intending to, and will be available within a reasonable timescale.

2.104 The proposed development will result in significant adverse impacts in terms of EC16.1 (a), (b) and (d) and should be refused in accordance with PPS 4 EC17.1 (b). The application is contrary to Development Plan policy (Policies 22 of the East Midlands Regional Plan and 1 and 12 of the Core Spatial Strategy).

2.105 Permitting the proposed out-of-centre store is likely to compromise the delivery of a sequentially preferable site, which represents a significant opportunity to regenerate the town centre and improve its vitality and viability (EC 16.1 (a)).

2.106 The proposed store would have a significant adverse impact on Desborough town centre (EC 16.1 (b) and (d)).

2.107 Officers have also considered the impacts on the assumption that Tesco is delivered (a two-store scenario). If both come forward, the impact on Desborough town centre is considered to be acceptable; due to the location of the Tesco store within the established shopping area, there will be some scope for the combined impact of this store and the Sainsbury's store to be offset by the attraction of more shoppers to the town centre than are currently visiting, which results in increased footfall and spending in town centre shops (linked trips). However it is not considered safe to assume that the Tesco store will be delivered in light of the potential impact of the Sainsbury's store on investment. The sequentially preferable site must be delivered first in order to ensure Desborough town centre is not significantly harmed.

2.108 The cumulative impact on Rothwell has also been considered. Rothwell town centre might struggle in light of the impact of two stores. However officers consider that this should be balanced against the health of the existing centre and its good level of vitality and viability. Officers therefore consider that Rothwell town centre could withstand the predicted level of trade diversion and impact. It is considered that there will not be a significant adverse impact on Rothwell town centre.

### **3. Access, Movement and Connectivity** **Policy Framework**

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

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

3.3 PPS 4 Planning for Sustainable Economic Growth sets out the Government's objectives for planning to help achieve sustainable economic growth. One of these objectives is to deliver more sustainable patterns of development and reduce the need to travel, especially by car. Policy EC18 of PPS 4 Application of Car Parking Standards for Non-Residential Development is relevant.

3.4 Policies 43, 45, 46, 48 and 52 of the East Midlands Regional Plan and MKSM Strategic Policy 3 apply to the determination of this planning application.

3.5 Core Spatial Strategy Policy 13 (e) states that developments should be designed to take full account of the transport user hierarchy of pedestrian-cyclist-public transport-private vehicle and incorporate measures to achieve modal shift. Policy 13

(n) states that developments should not have an adverse impact on the highway network and should not prejudice highway safety.

### **Methodologies**

3.6 A Transport Assessment (TA) and Travel Plan have been submitted as part of the planning application. The Environmental Statement (ES) also assesses the transport impacts of the development and considers both the construction and operational phases. Deliveries, customer and staff trips have been considered within these assessments.

3.7 The TA and ES assess the impacts on both the strategic and local highway network. Traffic surveys and modelling work has been undertaken to assess the impacts of the proposal on the local and strategic highway network. The approach undertaken in respect of the transport modelling has been agreed with the local highway authority and is considered to be robust. Accident records have been considered and analysed by the applicant for the 5-year period July 2004 to June 2009.

### **Site Access Proposals**

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

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

### **Strategic Highway Network Impact (A14 trunk road)**

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

### **Local Highway Network Impact**

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

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

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

## **Sustainable Travel**

### Bus Services

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

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

3.14 Funding for a 5-year period is required to successfully implement the above improvements to public transport infrastructure. These financial contributions would be captured through a Section 106 agreement. Sainsbury's will provide no separate private bus service beyond the enhancements described above. The existing bus stops on Cockerel Rise and Bear Way and bus gate on Cockerel Rise will be retained. No enhancement of bus service 19 is considered to be necessary. This currently serves the bus stops adjacent to the application site.

### Walking and Cycling Provision and Linkages

3.15 The development will deliver the following enhancements:

- Existing shared use footpath/cycleway running from the development site to be extended to the Railway Bridge on Harborough Road.
- Widening of existing pedestrian refuge on Harborough Road south of Gapstile Street to accommodate cycle and pedestrian crossing movements.
- Introduction of an advisory cycleway from south of Nichols Street to the puffin crossing located adjacent to Desborough High Street.
- Provision of tactile paving at pedestrian crossing points across Nichols Street and Gladstone Street.
- A zebra crossing will be provided on Cockerel Rise to link the proposed store to the existing bus stop.

3.16 These could be secured by planning condition, required prior to the store opening.

3.17 An additional pedestrian/cycle link (included since the previous refusal) is now proposed off Harborough Road. This will run from the western corner of the site adjacent to the balancing pond up to the store frontage. This link is in addition to the access off Cockerel Rise, which will be shared with customer vehicular traffic.

## **Conclusions**

3.18 The local highway authority has advised that the mode share data contained within the application indicates that the location of the site would lead to very few customers travelling to the proposed food store by non-car modes. This is however accepted by officers given the nature and scale of the development (a foodstore to meet a main food shopping need and claw back expenditure being lost to other centres). The application site is considered to be well served by public transport. The mitigation measures proposed and travel plan implementation will ensure that there is a choice of travel options and that the site is accessible by all modes. The development will encourage more sustainable shopping patterns, as currently people have to travel out of Desborough to do a main food shop and obtain petrol. There is however a sequentially preferable site within the established shopping area to which development should be directed to in the first instance.

## **Car Parking**

3.19 Policy EC18 of PPS 4 Application of Car Parking Standards for Non-Residential Development is relevant. This policy states (EC18.2) that in the absence of local car parking standards the maximum standards set out in Annex D of PPG 13 will apply. 241 car parking spaces are proposed (of which 17 will be disabled spaces and 11 will be parent/child spaces), a reduction of 3 spaces from the original scheme. This quantum of parking is in accordance with Annex D of PPG 13. Annex D sets out the maximum parking standards for particular uses. For food retail developments over 1000 square metres gross floorspace a maximum of 1 space per 14 square metres gross floor area is recommended. 5 motorcycle spaces and parking for 40 bicycles will also be provided. The level of parking is considered to be acceptable.

3.20 The positioning and design of the car parking area is discussed within section 4.

## **Travel Plan**

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

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



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

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

3.23 It is considered that the Travel Plan would benefit from further discussion. It needs to be ensured that the Travel Plan is robust and that the agreed measures will help to deliver the 20% modal shift. Financial penalties will also need to be agreed. The Section 106 will secure a final travel plan for the development, which will be implemented on opening of the store.

### **Construction Phase**

3.24 A Construction Environmental Management Plan (CEMP) has been submitted as part of the application and Environmental Statement. The purpose of this document is to ensure that any potential impacts that may arise from construction activities are minimised. The CEMP includes for example routing of construction traffic. Construction vehicles will access the site from the A6 and the B576 via the Harborough Road roundabout on the A6. There will be no need for vehicles to travel through the town centre to access the site. The CEMP is acceptable in principle but requires some minor revisions and additional detail. The submission and implementation of a final document could be secured successfully by planning condition.

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

### **Summary**

3.26 The site benefits from suitable access points and will be served by pedestrian, cycle and public transport links. It is considered that with the implementation of mitigation measures (via planning conditions or planning obligations) there will be no impact on the highway network or highway safety. The application site is located adjacent to other land uses (commercial and residential) and is well served by public transport infrastructure and services. It is accepted that the majority of trips will be by car given the nature and scale of the development (a foodstore to meet a main food shopping need and claw back expenditure being lost to other centres). The development will encourage more sustainable shopping patterns, as currently people have to travel out of Desborough to do a main food shop and obtain petrol; the provision of a large food store in Desborough will result in transferred trips on the highway network and a reduction in mileage.

3.27 PPG 13 states that the location of the development is key to encouraging sustainable forms of travel. The site is considered to be well served by public transport and the mitigation measures proposed and travel plan implementation will

ensure that there is a choice of travel options and that the site is accessible by all modes. There is however a sequentially preferable site to which development should be directed to in the first instance. PPG 13 sets out that large trip generator developments should be located to minimise the need to travel. Despite any enhancements described above locating this major development, which would generate a large number of car trips, in an out-of-centre location is unlikely to reduce the need to travel by car, one of the objectives of PPG 13. The local highway authority considers that very few customers would travel to the proposed foodstore by non-car modes. A site within the established shopping area, where retail development should be directed in the first instance to help deliver sustainable economic growth, would be more sustainable. This links to the requirement for a sequential approach to locating development. Although the proposed scheme is considered to be in accordance with Development Plan policy in highway terms there is a broader principle about locating development in accordance with a sequential approach to ensure the most sustainable locations are developed first.

#### **4. Urban Design**

##### **Policy Framework**

4.1 Good design is an essential part of good planning and building sustainable communities. PPS 1 Delivering Sustainable Development states that good design ensures that attractive, usable, durable and adaptable places are created, all important elements of sustainable development. Design should take the opportunities available for improving the character and quality of an area. Good design goes beyond aesthetic considerations; developments should for example address connections between people and places, be integrated into the existing urban form and the natural and built environments and contribute to delivering successful, safe and inclusive towns.

4.2 PPS 4 Planning for Sustainable Economic Development Policy 10.2 states that all planning applications for economic development should be assessed against a number of impact considerations, set out (a) to (e). Criterion (c) is:

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

4.3 Policy 2 of the East Midlands Regional Plan promotes better design and sets out the ways layout, design and construction of development, including reducing CO2 emissions and providing resilience to climate change, can be improved. MKSM Strategic Policy 3 details the principles through which sustainable communities will be achieved; design is a key principle in delivering sustainable communities.

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

## **Supporting Information**

4.5 The planning application seeks to address the previous design reasons for refusal. The ES Addendum that accompanies the planning application explains how the design for the scheme has evolved, and with an amended Design & Access Statement and the Sustainable Design Checklist, it explains the reasons for the chosen design; additional information and revisions to application drawings and documents have been submitted during the application process further to meetings and negotiation with the applicant. The previous design reasons for refusal are set out below along with an assessment of whether officers consider these to have been overcome.

## **Previous Reasons for Refusal and Assessment of Changes to Scheme**

4.6 The proposed development was considered to be contrary to the design policies of the Development Plan and national policy for a number of reasons. The previous reasons for refusal (refusal no. 10 (1) to (5) and refusal no. 5) are set out below in italics followed by an assessment of the design changes.

### *4.7 Refusal Reason No. 10 (1)*

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

### Officer Assessment:

4.8 The treatment of elevations has been altered since the previous scheme was considered and refused. The original application proposed store elevations of grey cladding panels, which reflected more of the industrial character of the area. The new design, which incorporates red brickwork, brick detailing and additional fenestration, takes design cues from both its industrial and residential surroundings. The revised scheme now relates better to the site's context. Further detail has been provided showing the detail of the brickwork on the north east (rear elevation facing toward Bear Way) and south east (side elevation facing onto the customer vehicular/pedestrian access) elevations. Narrow darker, contrasting red brick bands running through with a soldier course and plinth detail, also in a darker red, define red brick horizontal bands. The petrol filling station elevations also include brickwork as well as cladding panels.

4.9 The individual buildings now take their design inspiration from both the industrial and residential areas, which surround the site. The functionality of the buildings is retained but they respond more appropriately to their context. Opportunities have now been taken to create more visual interest, active frontages and natural surveillance; additional glazing has been introduced to allow views into and out of the sales area and brickwork and detailing has been added where needed. These changes are considered to be positive. I consider that the reason for refusal has been overcome.

#### 4.10 Refusal Reason No. 10 (2)

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

#### Officer Assessment:

4.11 Officers were concerned about the positioning of the store towards the rear of the site adjacent to Bear Way; the store remains sited as previously proposed, however information has been submitted to demonstrate why alternative design options have been discounted.

4.12 The proposed layout has been influenced by a number of factors and the design justification is set out in the applicant's Design and Access Statement. Reasons for the siting and layout include positioning the store away from residents with the service yard screened by the mass of the building; the area adjacent to Bear Way is the lowest point and therefore a lowered service yard can be achieved; existing access points can be utilised for the service and customer access points; siting the store against the backdrop of a large, bulky warehouse thereby lessening any visual impact; easy access to the petrol filling station; and development of a simple car park layout.

4.13 The applicant sets out that a store relocated to the front of the site adjacent to Harborough Road, Ironwood Avenue and Cockerel Rise has not been progressed for a number of reasons including the proximity to residential properties and actual and perceived impacts on living conditions; it would move the service area, and associated delivery movements, closer to residential properties; the main pedestrian access would be moved further away from the nearest dwellings as the service access would need to be relocated to Cockerel Rise; if a pedestrian access were to be created from Harborough Road at the front of the site this would not be at street level and could be convoluted with steps and ramps down to the store; a more convoluted car park layout and circulation route would be created and; the car park would still be the first feature viewed when travelling along Harborough towards the town centre. If the store were relocated to the front of the site it would still be set down from Harborough Road given that the existing topography is to be used (minimising cut and fill and removal of spoil off site) and acceptable site gradients for customers need to be developed.

4.14 The application site is a transitional space between residential properties which front onto streets and large, functional industrial buildings that relate better to their own access roads and parking areas. Officers were concerned about the visual dominance of the car park. These concerns have been addressed through the submission of additional information regarding surfacing materials and differentiation of circulation routes, parking areas and pedestrian routes. The car park, although

still a functional space, will be of a higher quality than previously proposed. The store entrance is now larger and incorporates additional glazing and therefore contributes to a stronger frontage. The proposed store itself still has an unassuming nature, set down from Harborough Road and uses the topography. A low impact store however has sustainability benefits. By building a low volume store, energy consumption to heat and cool the space will be minimised.

4.15 The elevation facing Bear Way (north east) has changed since the previous application was refused. Not only has brickwork and detailing been added as described above but two additional glazing panels have been added into the sales area. This will create more interest in the streetscene, an active frontage allowing views into and out of the store and increase natural surveillance (something which was previously absent from this elevation). This is a positive enhancement to a scheme, which originally proposed a blank, uninteresting elevation. A schematic drawing (ARCH/2007-289/P46) of the north east elevation is attached at Appendix 5. It should be noted that the Northamptonshire Police Crime Prevention Design Advisor does not raise any objections to the scheme.

4.16 The store will now positively interact with surrounding streets. Natural surveillance will be encouraged by additional fenestration thereby reducing the fear of crime and the likelihood of antisocial and criminal behaviour. The design now responds to its context and will make a positive contribution to the locality. Reason for refusal no. 10 (2) has been overcome.

*4.17 Refusal Reason No. 10 (3)*

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

Officer Assessment:

4.18 The refused scheme proposed a site frontage with a vast expanse of tarmac unrelieved by planting or other landscape features. Additional landscaping is proposed within the car park to help soften its functional role. More detail about materials to be used within the site frontage has also been included in the Design and Access Statement; the site frontage will benefit from a mix of surfacing materials and colours. The parking areas and pedestrian links across the site to the store will be differentiated from the circulation routes, which are likely to be tarmac. The parking spaces will be Bracken Herringbone brick pavers with pedestrian routes created in Mastertint Colour Buff. Additional planting is also proposed which will help to integrate the site with its surroundings. The car park, although still a functional space, will be of a higher quality than previously proposed. The officer's previous concern about the visual dominance of the car park has now been addressed and the reason for refusal has been overcome.

*4.19 Refusal Reason No. 10 (4)*

*The proposed landscaping around the edge of the site would provide a physical barrier between the site and its immediate surroundings, thereby failing to*

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

Officer Assessment:

4.20 The proposed design now better reflects its context and additional planting within the car park has helped to integrate the scheme with its surroundings. Previously the landscaping was predominantly around the site edges creating a sense of separation and a barrier between the site and its surroundings. The 'barrier' has also been broken by the introduction of a pedestrian access from Harborough Road; connectivity between people and place (i.e. local residents and the store) has been considered and links to the store developed where they can be. It should be recognised that the applicant has landscaped the edges in some respects to minimise the impact (actual and perceived) on neighbours for example from noise or lighting. It is considered that the reason for refusal relating to lack of integration, 'barriers' around the site and resultant effects has been overcome.

*4.21 Refusal Reason No. 10 (5)*

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

Officer Assessment:

4.22 Officers requested that Sainsbury's investigate opportunities for pedestrian access. This work has been carried out with potential links being considered. A new link off Harborough Road, adjacent to the balancing pond, now forms part of the scheme. Other potential accesses have been considered but have not been progressed for a number of reasons; level differences would require long, convoluted ramp/step arrangements, removal of landscaping would be needed and pedestrians would be directed into the car park and would not have a safe and direct route to the store. The preferred pedestrian route off Harborough Road (adjacent to the balancing pond) is argued to be safer, practical and less invasive.

4.23 Although the transport user hierarchy has been taken account of and sustainable travel choices will be promoted it is accepted that given the form of development proposed it would necessitate a large number of car trips. The siting of a large foodstore, petrol filling station and recycling area together will encourage combined car journeys. It should be noted that 20% modal shift targets away from single occupancy car trips to non-car modes for both staff and customer trips would be included within the Travel Plan. Pedestrian and cycle enhancements towards the town centre will also be delivered (described in full in section 3 under the heading 'Walking and Cycling Provision and Linkages').

4.24 The changes to the scheme and the submitted supporting information have been assessed. It is considered that the previous reason for refusal relating to pedestrian access and connectivity has been overcome.

*4.25 Refusal Reason No. 5: Retail - Impact Consideration EC 10.2 (c)*

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

**Officer Assessment:**

4.26 Officers consider that the previous design reasons 10 (1) to (5) have been overcome. It is considered that there would not be a significant adverse impact in terms of EC 10.2 (c) of PPS 4.

4.27 Positive improvements have been made to the scheme. The scheme now responds more appropriately to its context and character of its surroundings. It has taken opportunities to create a higher quality development than was previously proposed; more visual interest and activity has been introduced where needed on elevations and natural surveillance has been increased as a result. Not only have the individual buildings been improved, the quality of the site frontage has been enhanced through the proposed use of materials and differentiation between parking, pedestrian links and circulation routes. Connectivity and integration have been improved further to the previous scheme being refused. It is recognised that the siting of the store remains unchanged however this is considered acceptable in light of the other changes that have improved the overall scheme (not only aesthetic considerations).

4.28 The 'green' credentials of the development are also an important consideration (to be discussed in detail in the next section of this report). It is innovative in sustainability terms with 30% of the store's energy provided by decentralised and renewable or low carbon energy sources. Other sustainable construction and design measures will also be employed. The store therefore takes account of the requirement to tackle the causes of climate change. Given this and the improvements to the fabric of the building and site frontage, officers consider that the previous design reasons for refusal are no longer supported.

**Overall Conclusions**

4.29 Design changes have been made to the scheme along with additional supporting information being submitted as part of this planning application. The

design reasons for refusal have been overcome; the development in design terms is considered to be in accordance with Development Plan policy and national planning guidance.

## **5. Sustainable Construction and Design**

### **Policy Framework**

5.1 According to PPS 1 sustainable development is the core principle underpinning planning. PPS 22 Renewable Energy states that local planning authorities and developers should consider opportunities for incorporating renewable energy projects in all new developments. PPS 10 Planning for Sustainable Waste Management is also relevant to securing sustainable design, stating that new development should make sufficient provision for waste management facilities that are well designed and integrated with the development, without adverse impact on the streetscene. The supplement to PPS 1 (Planning and Climate Change) states that new development should comply with local requirements for decentralised energy supply and for sustainable buildings set out in adopted Development Plan Document policies. The PPS 1 supplement also reiterates the need to take advantage of opportunities to minimise energy consumption, the need for high quality environments and the creation of opportunities for sustainable transport to new development.

5.2 Policies 2, 32, 38 and 39 of the East Midlands Regional Plan are relevant to the determination of this application. There is a commitment to reducing carbon emissions and providing resilience to climate change. Minimising energy use, improving water efficiency, reducing waste and pollution, securing renewable energy use and employing sustainable construction methods are all elements promoted to achieve this. MKSM Strategic Policy 3 sets out that developments should promote the highest standards of environmental performance, manage or reduce water demand and take opportunities for delivering renewable energy.

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

5.4 Policy 14 (a) (large developments) applies to this application. This states that new development should meet the highest viable standards, with non-residential development being required to achieve a BREEAM assessment rating of 'very good'. Policy 14 (a) requires that at least 30% of the demand for energy is met on site, and renewably and/or from a decentralised renewable or low carbon supply.

5.5 The Northamptonshire Minerals and Waste Development Framework Core Strategy Development Plan Document (2010) and the Development and Implementation Principles SPD (2007) are also relevant to this application. Specifically, policies CS7 and CS8 of the Minerals and Waste Core Strategy apply in this case. Developments should embrace sustainable waste management principles, minimise waste production, use resources, energy and water efficiently, and employ sustainable construction methods, all essential to delivering sustainable communities.



### **Supporting Information**

5.6 The proposed development proposes to achieve a 'Very Good' BREEAM rating. A Sustainable Design and Energy Statement has been submitted as part of the application and sustainability is considered within the Environmental Statement. A 2008 BREEAM Assessment (interim design stage), renewable energy and energy efficiency assessment and a sustainability checklist have been included as part of these documents.

### **Sustainable Construction and Design Proposals**

5.7 The anticipated total energy consumption of the development is 1,182,511 kWh per annum. To meet the CSS Policy 14 target of 30% 354,753 kWh per annum would need to be met by renewables or a low carbon supply. A biomass boiler will be used to serve the heating and hot water demand, 38.1% of the development's energy demand will be met through the use of this technology. This exceeds the policy requirement of 30%.

5.8 Sainsbury's obtain their electrical energy from suppliers that produce 10% of electricity from renewable sources with an additional 40% from combined heat and power plants. The proposed store will benefit from this supply.

5.9 The proposed scheme incorporates a number of sustainable construction measures such as off-site assembly of components to cut down build time and waste minimisation through reuse and recycling of materials. In addition the scheme designs in features such as solar tubes on the roof, rainwater harvesting, waterless urinals, low flush WCs and natural light dimming. It is also proposed that routine checks of plumbing will be made to prevent leaks and wastage of water.

5.10 The energy demands of the new store will be minimised in a number of ways, including the use of a day-light linked dimming control system to the sales area, use of high efficiency florescent lighting, a reduction in lighting to 20% outside of opening hours, use of presence detectors for lights in staff areas, rainwater harvesting and use of a system to disperse cool air from chillers to warmer areas e.g. computer rooms/offices.

5.11 In addition to the proposed recycling of waste materials from the construction phase, food waste from the operational store would be recycled. Recycling facilities for customers are also proposed on the southern edge of the car park. A commitment to minimising waste during construction and operational phases and to providing a waste management facility for customers is set out in the Environmental Statement. A sustainable urban drainage system (SUDS) will also be utilised to manage surface water runoff.

### **Summary**

5.12 The proposed development takes account of the requirement to tackle the causes of climate change and sets out measures to deliver a sustainable development. The proposed sustainable construction methods, measures to reduce energy consumption and the use of renewable technologies are positive elements of the proposal. Energy efficiency and the incorporation of renewable technologies have been considered as part of the design evolution. The applicant is committed to sustainable construction, responsible sourcing of materials and site waste reduction.

The BREEAM rating of 'very good' will be met and 30% CSS renewable energy target will be exceeded. The proposal exceeds the requirements of Development Plan policy and could be an exemplar of sustainable construction in North Northants. Planning conditions could be imposed to secure the proposals.

## **6. Landscape and Visual Impact** **Policy Framework**

6.1 PPS 1 states that sustainable development should protect and enhance the natural and historic environment in both urban and rural areas. Policy 31 of the Regional Plan states that the region's natural and heritage landscape should be protected and enhanced.

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

### **Methodologies**

6.3 The Environmental Statement (ES) submitted with the application includes a visual impact assessment of the proposed development. The ES has assessed the baseline conditions in and around the site and predicts the potential change that the proposed development would have upon the landscape character, the visual impact upon the surrounding landscape and settlements and near and distant views. The ES states that the assessment has been carried out in line with the Landscape Institute and Institute of Environmental Management and Assessment 'Guidelines for Landscape and Visual Impact (2002)'. Construction and operational phases are both considered within this assessment.

6.4 The documents submitted with the application identify the site as being on relatively high ground on the urban fringe of Desborough. The ES states that the height of the proposed store is 144.800 AOD (above ordnance datum), with the roof mounted sign proposed at 146.754 AOD. In comparison the eaves height of the Great Bear unit adjacent to the site is at 156.257 AOD and the chimney stack on the Rigid Containers site is at 163.052 AOD.

6.5 National, regional and local landscape character assessments and the Northamptonshire Green Infrastructure Strategy have been used to establish the baseline. Other existing documents and site visits have also been used in this regard. An assessment of the landscape character, quality, value and capacity (sensitivity to change) has been carried out for the site, its immediate surroundings and the landscape surrounding Desborough. The ES identifies the landscape character and quality of the site and its immediate surroundings as being of medium value. Its landscape value and sensitivity are considered to be low.

6.6 The ES also includes an assessment of the sensitivity of nine viewpoints at varying distances from the application site. Photographs of the application site from each have been included in the ES. Viewpoints include Harborough Road, The Grange development, Stoke Albany Road, Braybrooke Road and Eckland Lodge (Desborough). In addition to the photographs, photomontages for four of the viewpoints showing the proposed development after Year 1 and Year 10 have been

provided.

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

### **Proposed Development**

6.8 The supporting information submitted with the application demonstrates that the site and its immediate surroundings have some distinct features and that the area is in a reasonable condition. Its value is considered to be low and therefore the site and its immediate surroundings can accommodate change without having a significant effect on the character of the area. The findings of the ES in this respect are not disputed.

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

6.10 The proposal should be considered in the context of its surroundings. The application site lies on the northern edge of Desborough within the town boundary. The immediate surroundings are comprised of a mix of commercial buildings and residential properties. The application site is bounded by Harborough Road to the west, Bear Way to the north/north east, Cockerel Rise to the east and Ironwood Avenue to the south. The site was part of a former employment land designation, some of which has been built out and is now called 'Magnetic Park'; the site had planning permission (now lapsed) for a public house, crèche and offices. Given this context it is considered that the site has the necessary capacity to absorb the physical changes proposed as part of this development.

6.11 It is considered that due to the scale and massing of the proposed store, the ground levels within the site which result in the store being set down from the surrounding land, and the siting of the store at the rear of the site the proposed development would not have a significant visual or landscape impact when viewed from the immediate surroundings or the wider area.

### **Summary**

6.12 It is considered by officers that the proposed development would not have a significant adverse visual or landscape impact.

## **7. Residential Amenity** **Policy Framework**

7.1 Sustainable development is the core principle underpinning planning (PPS 1). PPS 1 states that at the heart of sustainable development is the idea of ensuring a better quality of life for everyone, now and for future generations. In respect of promoting better design Regional Plan policy 2 sets out that layout, design and

construction of new development should be continuously improved through a number of key principles including design that maintains amenity and privacy and benefits the quality of life of people.

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

### **Impact on Residential Amenity**

7.3 The Environmental Statement, Design & Access Statement and the Sustainable Design and Energy Statement demonstrate how the design has evolved and present reasons for the chosen design. The proposal seeks to minimise adverse impacts arising from the operation of the store, petrol filling station and associated activities, which may affect neighbouring properties. The proposed design achieves a development which is not overbearing in nature, and does not give rise to loss of privacy or loss of natural light; the store is set back and down from the surrounding residential streets and is separated by a large car park to the front of the site. Air quality, noise and lighting are discussed elsewhere in the following sections of this report. It should however be noted here that the development will not have any significant adverse impacts in terms of any of these material considerations.

### **Summary**

7.4 The proposed development will not adversely affect the living conditions currently afforded to neighbouring occupiers. It therefore accords with the aims of Planning Policy Statement 1: and Policy 13 of the CSS.

## **8. Contaminated Land**

### **Policy Framework**

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

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

### **Site Conditions**

8.3 The site was historically used as farmland before being quarried for ironstone for

a short period during the 1950s, subsequently backfilled upon closure. The submitted ground conditions investigation, which includes a Phase II Geo-Environmental Assessment, and Environmental Statement considers the condition of the land with respect to this proposed end use, a major retail proposal and petrol filling station.

8.4 The ground conditions report includes a conceptual model, which considers the source, pathways and receptors of pollution, provides details of the testing of the site, findings and recommendations. The submitted reports conclude that the ground conditions on site are unlikely to present a risk to long-term human health (site users or construction workers). On this basis, the report recommends that no remediation of the site is required.

8.5 The reports submitted with the application stating no remediation is required are accepted. A condition would be needed to secure a methodology and process for resolving any unexpected contamination, which may be encountered as the site is developed.

### **Summary**

8.6 Officers are satisfied that the application site does not require remediation and that there is no likely risk to human health. A condition would be required to ensure that any unexpected contamination encountered during development is addressed appropriately. Subject to this condition being imposed, the proposed development is acceptable and in accordance with PPS 23 Planning and Pollution Control and Policy 13 (I) of the CSS.

## **9. Noise Impact**

### **Policy Framework**

9.1 The impact of noise can be a material consideration in the determination of planning applications. The planning system has the task of guiding development to the most appropriate locations and should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise. It is equally important that new development involving noisy activities should, if possible, be sited away from noise-sensitive land uses.

9.2 PPG 24 acknowledges that development, which is necessary for the creation of jobs and the construction and improvement of essential infrastructure, will generate noise. The planning system should not place unjustifiable obstacles in the way of such development. Nevertheless, local planning authorities must ensure that development does not cause an unacceptable degree of disturbance. The character of noise will also be an important factor in assessing impacts; characteristics and levels of noise can vary substantially according to the source and type of activity involved. The appropriate use of planning conditions can enable many development proposals to proceed where it would otherwise be necessary to refuse permission.

9.3 With regard to noise from industrial and commercial development PPG 24 refers to guidance in BS 4142: 1997, which can be used to assess the likelihood of new development generating complaints, and to BS 8233:1999 for guidance on acceptable levels of noise within buildings.

9.4 As set out in section 7 (residential amenity) Regional Plan policy 2 sets out that layout, design and construction of new development should be continuously improved through a number of key principles including design that maintains amenity and privacy and benefits the quality of life of people.

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

### **Methodologies**

9.6 The applicant has submitted a comprehensive noise assessment to predict noise emissions arising from the development during construction and operational phases, together with measures to mitigate noise emissions to acceptable levels where required. The Environmental Statement also considers the impacts of noise and vibration.

9.7 The noise assessment provides a description of the existing noise environment in and around the site. Noise levels have been predicted at representative receptors using noise modelling software. Noise surveys have also been undertaken with the results used to verify predicted short-term and long-term noise impacts. The noise assessment considers potential noise emissions arising from the development including those associated with traffic movements (including delivery vehicles), use of the car park, recycling area and petrol filling station, operation of building service plant, and construction works.

9.8 The proposed development is situated on the northern edge of the town close to residential properties. An existing commercial use is located to the north of the application site and consequently existing background noise levels are higher than those likely to exist in more rural areas. The submitted noise assessment assesses the predicted levels of noise emissions (individually and cumulatively) on nearby noise sensitive receptors including properties located on Harborough Road, Ironwood Avenue, Mulberry Close, Cranesbill Close and Buttercup Road.

### **Proposed Development and Noise Impacts**

#### **Construction Phase**

9.9 Noise arising during the construction phase is predicted to be below the target level of 75dB identified in BS 5228-1:2009 'Code Practice for Noise and Vibration Control on Construction and Open Sites' and is considered unlikely to generate complaints.

9.10 Hours of construction will be restricted. This detail will form part of a final Construction Environmental Management Plan that will need to be submitted to the local planning authority for approval (a draft CEMP has been submitted as part of the application and Environmental Statement). The CEMP will also set out a programme of noise monitoring for the first week of each phase of works to determine noise levels at each of the closest receptors. This will ensure that if further mitigation is required this can be identified and implemented quickly (the results of this noise monitoring will be submitted to the local planning authority). The CEMP will also identify the routing of construction traffic. Such traffic will be routed to avoid the town centre. Any impacts of construction noise will be short-term.

### Operational Phase

9.11 The noise assessment predicts the cumulative effect of all noise sources on receptors; overall there will be a 'slight adverse' impact on the existing noise climate with the dominant noise source being the increase in road traffic. This is to be expected given the type of development proposed. It is however considered that proposed mitigation measures will minimise these impacts so that no unacceptable level of impact occurs.

9.12 Considered individually, noise arising from traffic to and from the site is predicted to be negligible with the exception of five receptors along Ironwood Avenue, which will experience a marginal, slight adverse impact. However having considered this against the Noise Insulation Regulations, properties are not considered to be eligible for any mitigation works.

9.13 Assessment of noise from the proposed car park shows that internal noise levels of properties with windows open would be within BS 8233 'good' target levels. Noise levels from the car park at nearby receptors are predicted to be below existing background levels with the exception of one receptor (114 Harborough Road) which is predicted to experience noise marginally above the existing background level but will still achieve the 'reasonable' target level.

9.14 Noise arising from the recycling centre and the petrol filling station is predicted to remain below the existing background noise level and will achieve the 'good' target level (BS 8233). Although noise from deliveries will also be within the good target level they will be above background levels at some points. As a result it is considered necessary to limit the times in which deliveries can occur (deliveries only between 0600 and 2300) and also to secure the implementation of a service yard management plan.

9.15 With regard to building services plant, noise levels are predicted to be below existing background levels.

### **Mitigation Measures**

9.16 PPG 24 acknowledges that development necessary for the creation of jobs will generate some noise. Where necessary mitigation measures can be implemented to minimise any impacts and to ensure that any noise generated by the development remains within acceptable levels.

9.17 The following mitigation measures are considered necessary to make this development acceptable. With these measures secured and in place it is considered that there is no reason to refuse this application on noise grounds.

9.18 A construction environmental management plan, secured by planning condition, would include a restriction on construction hours and the routing of construction traffic. This would help to minimise any noise impacts arising from construction activities. As mentioned above a period of noise monitoring will also be required and this requirement will form part of the management plan.

9.19 The development will need to be completed in accordance with the conclusions and recommendations of the Noise Assessment April 2011 and the Noise chapter in

the Environmental Statement Addendum May 2011. A condition would be needed to secure this. Validation reports would also be required to ensure that the development accords with the noise assessment. A landscaped verge, retaining wall and acoustic fence are proposed to the rear of the recycling area to help minimise any noise emissions from the development. Full details of these would need to be required by condition.

9.20 A number of best practice measures to reduce noise from deliveries can be put in place via the implementation of a service yard management plan, the objective of which is to minimise the noise impact on residents. This will ensure that noise remains below the existing background level. Such a plan, which for example considers delivery schedules, use of the yard and the delivery process, has been included within the submitted noise assessment and is considered acceptable. It is also considered that deliveries or collections from the development should not occur outside the hours of 0600 to 2300. This would need to be secured by a planning condition.

9.21 Hours of operation would be restricted to those applied for, namely 0800 – 2200 (Mon – Sat) and 1000 - 1600 (Sun) for the retail unit and 0730 – 2230 (Mon – Sat) and 09:30 - 16:30 (Sun) for the petrol filling station. This would ensure that noise emissions remain within acceptable levels during night-time and early morning periods when receptors are most sensitive to noise.

9.22 Consultation with local residents has shown there is concern about noise from a few of the nearest neighbouring occupiers. It is considered however that with appropriate mitigation, as outlined above, there would be no significant noise impact arising from the proposed development.

### **Summary**

9.23 Subject to planning conditions securing mitigation measures it is considered that the potential noise emissions arising from the development will be within acceptable levels and will not have a detrimental impact on local residents. The development is therefore considered to be in accordance with PPG 24 and CSS policy 13 (l).

## **10. Air Quality Impact**

### **Policy Framework**

10.1 PPS 23 advises that any the impact of development on air quality is capable of being a material planning consideration. The planning system plays a key role in determining the location of development which may give rise to pollution, either directly or indirectly, and in ensuring that other uses and developments are not, as far as possible, affected by major existing or potential sources of pollution. A precautionary principle approach is advised where there is reason to believe that harmful effects may occur and there is uncertainty about the likelihood and consequences risks.

10.2 Regional Plan policy 36 sets out the region's priorities for air quality; the potential effects of new developments and increased traffic on air quality should be considered. As set out in section 7 (impact on neighbouring amenity) Regional Plan policy 2 sets out that layout, design and construction of new development should be



continuously improved through a number of key principles including design that maintains amenity and privacy and benefits the quality of life of people.

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

10.4 The Environment Act 1995 introduced legislation for local management of air quality. This introduced a statutory duty for local authorities to review and assess air quality throughout their districts and to identify areas where further measures are required to achieve specified air quality standards. Where a local authority considers that air quality standards will not be met it has a duty to declare the area affected as an Air Quality Management Area (AQMA). If such areas are designated local authorities are required to produce an action plan setting out the steps required to achieve the required standards.

10.5 The application site does not sit within a declared AQMA and does not require any special measures to prevent further deterioration. An air quality assessment, which considers construction and operational phases, has been submitted as part of the ES and planning application (this includes biomass boiler details). This assesses existing and future air quality surrounding the proposed development and uses air quality dispersion modelling to predict the effect of development on receptors. The submitted air quality report has identified a number of receptors (dwellings) within the surrounding area which are most likely to be affected by any deterioration in air quality which may occur as a result of the development. The main sources of air pollution arising from the development are predicted to come from increased vehicle movements to and from the site (nitrogen dioxide), operation of the petrol filling station (benzene), emissions from the retail store (odour) and emissions during the construction phase (dust and particulate matter). With mitigation measures in place the impact of these emissions is predicted to vary between negligible (petrol filling station/retail store odour/biomass boiler) and to slight adverse (traffic/construction phase). Given the scale of the development and the number of vehicles the use is likely to attract, a slight deterioration in air quality is inevitable and is accepted. Predicted air quality levels will still meet national air quality standards and the effects are not considered to be harmful.

#### **Proposed Mitigation Measures**

10.6 The following mitigation measures are considered necessary to make the development acceptable in terms of impacts on air quality. These would need to be secured by planning condition.

10.7 The construction environmental management plan would secure measures to minimise any impacts during the construction phase.

10.8 To mitigate the effects arising from traffic movements, a number of recharge points for electric vehicles would be installed. This would help to encourage the use of alternative methods of transport and minimise vehicle emissions. Details of extraction/ventilation equipment and odour abatement would also be required to mitigate any effects arising of food activities within the store.

10.9 The development would need to be completed in accordance with the

conclusions and recommendations of the Air Quality Assessment May 2011 and the Air Quality chapter in the Environmental Statement Addendum May 2011. A condition would need to be imposed to secure this. Validation reports would be required to ensure that the development accords with the air quality assessment.

### **Summary**

10.10 The applicant has demonstrated that the impact of the development on existing air quality levels is likely to range from negligible to slightly adverse. Subject to the implementation of mitigation measures the impact of the development on existing air quality levels is considered to be acceptable. The development is therefore considered to accord with PPS 23 and CSS Policy 13 (I).

### **11. Lighting Impact** **Policy Framework**

11.1 External lighting has the potential to give rise to adverse impacts on amenity in the form of light pollution. Poor lighting can result in glare hazards, light intrusion, sky glow and light spillage which can have an adverse impact on the ecology and wildlife of an area, as well as the amenity of neighbouring properties. In some circumstances poor lighting can also detract from the architectural appearance of nearby buildings. Whilst the impact of poor lighting is not explicitly considered under PPS 23, it is a form of pollution and should be treated as a material consideration. As set out in section 7 (residential amenity) Regional Plan policy 2 sets out that layout, design and construction of new development should be continuously improved through a number of key principles including design that maintains amenity and privacy and benefits the quality of life of people. Policy 13 (I) of the CSS is also relevant.

11.2 In order to assess the impact of lighting within the proposed development, the applicant has submitted a lighting assessment which sets out the design details (e.g. height/appearance) of proposed external lighting in the car park, entrance and service yard areas and includes details levels of illumination, lighting locations, and energy consumption. An external car park lighting statement has also been submitted specifying additional details including the percentage of lighting to be used for security and general purposes and timer controls to minimise light pollution during periods when the store is closed. Security lighting is intended to enhance safety and security within the site and eliminate 'black holes' within the site, which may otherwise provide opportunities of crime and disorder. The Environmental Statement also considers the impacts of lighting.

11.3 Consultation has revealed that some local residents are concerned about the effects of lighting and that this could exacerbate light pollution generated by the existing commercial site to the north. They have also raised a concern regarding the impact of illuminated advertisements associated with the proposed use; the issue of illuminated advertisements is considered outside the scope of this application as this would be controlled under separate legislative powers set out under the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended).

11.4 Subject to a condition requiring any on-site lighting to be implemented in accordance with the submitted details and a condition restricting opening hours as detailed earlier in the report (as lighting timer controls relate to opening hours), it is

considered that the on-site lighting will not harm the living conditions of neighbouring residents.

### **Summary**

11.5 The applicant has demonstrated the effects of illumination of the development within a lighting assessment and statement. Subject to conditions the development is considered and in accordance with Policy 13 (l) of the CSS.

## **12. Flood Risk and Drainage**

### **Policy Framework**

12.1 PPS 25 sets out the Government's spatial planning policy on development and flood risk. All forms of flooding and their impact on the natural and built environment are material planning considerations. The aims of planning policy on development and flood risk are to ensure that flood risk is taken into account at all stages of the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. In determining planning applications local planning authorities should have regard to this PPS and Development Plan policies regarding flood risk, ensure that planning applications are supported by site-specific flood risk assessments (FRAs) as appropriate, give priority to the use of sustainable urban drainage systems (SUDS), apply the sequential approach, and ensure all new development in flood risk areas is appropriately flood resilient and resistant. Regional Plan policies 32 and 35 reinforce the principles of PPS 25 in respect of reducing flood risk and promoting sustainable drainage. MKSM Strategic Policy 3 states that development should provide the required environmental infrastructure for example water supply or treatment.

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

### **Flooding and Drainage**

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

12.4 Flooding results from sources external to the development site and rain falling onto and around the site. The sustainable management of this rainfall, described as surface water, is an essential element of reducing future flood risk to both the site and its surroundings. The site will utilise existing foul and surface water drainage infrastructure already in place in connection with the Great Bear development and

Business Park master plan (Magnetic Park). The balancing pond, which is located adjacent to the site, was designed to accommodate the attenuated surface water runoff from the master planned Business Park up to and including a 1 in 100 year event plus climate change.

12.5 The Environment Agency has reviewed the FRA and Environmental Statement and considers that this development can be accommodated within the existing surface water drainage system. The impermeable area previously agreed for the overall Business Park site, which includes the application site, has not been increased by this proposal. Anglian Water recommends that a planning condition be imposed to ensure that the development is carried out in accordance with the submitted FRA and surface water strategy. Anglian Water has also advised that the foul drainage flows from this development will be treated at Broadholme Sewage Treatment Works, which has the capacity to treat these. The sewerage system also has sufficient capacity to accommodate these flows. It should be noted that Anglian Water are obliged under the Water Industry Act 1991 to provide water and wastewater infrastructure for new housing and employment developments when requested to do so.

12.6 The outline planning permission for the Magnetic business park has been implemented through the construction of the Great Bear development (Zone H of the outline master plan) in accordance with the approved reserved matters (KET/2006/0734). The time period for reserved matters submissions (3 years from the date of the outline planning permission (25.11.2005)) has however now expired. Any further development in this area would require both a new outline permission and reserved matters or full planning applications. The local planning authority would need to consider the flood risk and drainage of any future development if and when this comes forward.

12.7 The Environment Agency considers that the development is acceptable subject to planning conditions requiring the submission of a foul drainage scheme and securing the passage of surface water, from hardstanding and parking areas, through an oil interceptor to prevent pollution to the aquatic environment. Anglian Water recommends that a planning condition be imposed to ensure that the development is carried out in accordance with the submitted FRA and surface water strategy.

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

### **Pollution Prevention**

12.9 The applicant should adopt all proposed pollution control measures, both underground and on the surface, to ensure that the integrity of the aquatic environment, both groundwater and surface water, is protected during construction and operation of this development. A condition would need to be imposed to secure the pollution prevention measures identified within the Environmental Statement.

### **Summary**

12.10 The site lies within Flood Zone 1 where the probability of a flood event

occurring is low. It is considered that the proposed use would be appropriate within Flood Zone 1 and the Environment Agency has confirmed that the existing surface water drainage system could accommodate the run-off from the proposed development. Anglian Water has confirmed that there is sufficient capacity for foul water flows and for their treatment. Subject to conditions the proposed development is acceptable in terms of flood risk and drainage and accords with PPS 25 and Policy 13 (q) of the CSS.

### **13. Ground Conditions & Stability**

#### **Policy Framework**

13.1 PPG 14 Development on Unstable Ground explains that land may have been damaged through industrial activities or other processes and that such land can often be put to appropriate use given proper safeguards. This national guidance seeks to ensure that development is suitable and that the physical constraints of land are taken into account during all stages of planning. The guidance also notes that the responsibility for ensuring the development is safe lies with the developer; developers should carry out appropriate investigations of the ground and assess the suitability and sufficiency of proposed precautions to overcome actual or potential instability. PPG 14 states that where the investigations and assessments demonstrate that instability can be satisfactorily overcome planning permission may be granted. Where necessary the local planning authority may impose conditions if considered necessary where they meet the relevant tests.

#### **Methodology**

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

#### **Proposed Remediation**

13.3 The submitted application information demonstrates that it would be necessary to carry out improvements to the ground so that it is capable of supporting the development. The applicant's recommended solutions are full depth excavation across the site followed by the refilling and compaction of the ground or piled foundations. These are both considered to be possible and officers are satisfied that with the necessary remediation the scheme could be delivered.

13.4 Following excavation and refilling, the ground level would be slightly different to the existing but there would not be a significant raising or lowering of the land. At present the ground levels range from 141.88 AOD at the southern end of the site down to 138.200 at the northern end of the site. The scheme as proposed would result in the ground level being lowered to 141.225 at the southern corner with the store being on ground at 140.00. The service yard levels will be slightly lower between 134.849 and 138.80.

#### **Summary**

13.5 Although the application site historically formed part of a quarry the applicant has demonstrated that subject to remediation and proper safeguards being

implemented the proposed development can be achieved on the site. Based on the information submitted it is considered that the proposed development accords with PPG 14. A condition would be necessary to secure the above works. In any event the applicant should be aware that the responsibility to provide a safe and stable development lies with the developer and/or landowners. An informative would need be used to bring this to the applicant's attention.

## **14. Biodiversity and Green Infrastructure**

### **Policy Framework**

14.1 PPS 9 Biodiversity and Geological Conservation requires that developments should maintain, enhance, restore or add to biodiversity interests; developments provide opportunities for building in beneficial biodiversity as part of good design. Protected species should also be protected from the adverse effects of development. The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Policies 28 and 29 of the Regional Plan relate to biodiversity and green infrastructure (GI). These support the principles of PPS 9, promoting a step change in biodiversity and GI through protection and enhancement and are relevant to the determination of this application. MKSM Strategic Policy 3 sets out that development should protect and enhance environmental assets and deliver GI.

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

### **Methodologies**

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

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

### **Nature Conservation Designations**

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

### **Biodiversity and Protected Species**

14.6 The site is not identified as being part of any particular biodiversity character type when considering the Northamptonshire Biodiversity Character Assessment (Northamptonshire's Environmental Character and Green Infrastructure Suite, River Nene Regional Park). The Biodiversity Character Assessment excludes large urban areas such as Desborough. The site, which lies within the town boundary, is therefore excluded from this assessment. The site comprises habitats that have limited ecological value. Trees and hedgerows on site and along the site perimeter offer the greatest value in terms of providing potential opportunities for birds and the potential to support bat species; trees and hedgerows offer opportunities to roosting and foraging bats and nesting birds. The ecological assessment sets out recommendations for the mitigation of development impacts upon bird and bat species (for example inclusion of features for nesting birds within the development). The proposed recommendations are considered to be acceptable and would need to be secured by planning condition. Natural England, the Wildlife Trust and the Northants Bat Group all agree that the recommendations set out in the ecological assessment and ES should be secured by planning condition (no objection is raised by any of these consultees).

14.7 One of the recommendations is to use native species within the planting scheme to improve the wildlife value of the site. Currently the landscaping scheme incorporates both native and non-native planting. It is considered that only native species should be used in order to provide food sources and habitats for native wildlife. The Wildlife Trust concurs with the local planning authority's view that only native planting be used. The applicant has submitted a justification for the use of non-native planting however officers still do not find this acceptable. It is considered that a condition would be required to secure the submission and approval of a revised landscaping scheme.

14.8 Surveys have also been carried out for great crested newts, birds, badgers, reptiles, otters, invertebrates, dormice, water voles and white-clawed crayfish. There is no evidence that these species are supported by or located on the site apart from 3 records of butterflies on site and 3 species of bird observed on or adjacent to the site. The butterfly species are however considered common to the area and do not part of the Biodiversity Action Plan. As a result no mitigation is required. Although birds were observed the species identified are found regularly and furthermore no nests were found on site at the time of the survey. The ecological assessment demonstrates that the site conditions are generally sub-optimal for these species. It is therefore considered that the proposed development will not detrimentally affect these species.

### **Green Infrastructure Corridors**

14.9 The North Northants Green Infrastructure (GI) network, a series of sub-regional and local corridors, are identified within Figure 9 of the CSS and the GI Character Assessment of the Environmental Character and Green Infrastructure Suite of the River Nene Regional Park. The Jurassic Way, a sub-regional GI corridor, is found in Desborough (the routes shown in figure 9 of the CSS and the RNRP GI Map are broad-brush). This travels through the area of Desborough, where it links with the Willow Brook sub-regional corridor, and traverses along the eastern edge of

Desborough. The GI corridor continues along this path and connects into the Ise Valley sub-regional corridor to the south. As the development is proposing to enhance biodiversity on site (see below) it is not considered reasonable to seek any further contribution to GI.

### **Biodiversity Action Plan (BAP) Contribution**

14.10 The ecological assessment and Environmental Statement identifies the contributions the application will make to Northamptonshire Biodiversity Action Plan (BAP) targets. The BAP sets out the highest priorities for action, to conserve Northamptonshire's threatened and declining habitats. BAP habitats are an essential part of GI and contribution to these targets is vitally important. New development is an opportunity to integrate and enhance biodiversity, which plays an important role in developing a good environment and sustainable development. Specifically the development will contribute to both Northamptonshire BAP targets and National UK BAP targets through the enhancement of existing and newly created lengths of hedgerow, enhancement of foraging and nesting opportunities for birds, increasing numbers of trees on site, protection and enhancement of opportunities for bat foraging and commuting. An Ecological Management Plan would be required by planning condition. This would drive forward the conservation management of the site.

### **Summary**

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

## **15. Archaeology**

### **Policy Framework**

15.1 PPS 5 Planning for the Historic Environment sets out policies on the conservation of the historic environment and heritage assets (a building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions). A heritage asset does not necessarily have to be designated, for example Policy HE9.1 explains that many heritage assets with archaeological interest are not scheduled monuments and that the lack of a designation does not indicate a lower significance. PPS 5 states that heritage assets should be conserved in an appropriate manner so that they can contribute to our knowledge and understanding of our past. In addition opportunities should be taken to capture evidence from the historic environment, although this would not overcome the need to preserve heritage assets. Regional Plan policy 27 sets out the regional priorities for the historic environment. In this case the identification and assessment of archaeology (a historic asset) is relevant.

15.2 CSS Policy 13 (o) states that development should be sustainable and it should protect assets. Specifically new development should conserve and enhance historic



landscape and designated built environmental assets and their settings.

### **Archaeological Site Context**

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

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

### **Consultee View**

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

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

### **Summary**

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

## **16. Planning Obligations**

### **Policy Framework**

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

16.2 Paragraph B2 of Annex B of the Circular states:

“In dealing with planning applications, local planning authorities consider each on its merits and reach a decision based on whether the application accords with the relevant development plan, unless material considerations indicate otherwise.

Where applications do not meet these requirements, they may be refused. However, in some instances, it may be possible to make acceptable development proposals which might otherwise be unacceptable, through the use of **planning conditions** (see Department of the Environment Circular 11/95) or, where this is not possible, through **planning obligations.**” Paragraph B5 goes on to detail the tests each planning obligation must meet.

16.3 The Community Infrastructure Levy (CIL) Regulations came into force on 6<sup>th</sup> April 2010. The CIL is a new charge which local authorities in England and Wales will be empowered, but not required, to levy on most types of development in their areas (the proceeds of the levy going towards new local or sub-regional infrastructure). Section 106 agreements can still however be legitimately used where it meets the requirements of the regulations e.g. Section 106 can be used to secure site-specific mitigation measures. It is unlawful for a planning obligation to be taken into account when determining a planning application if it does not meet the following tests (which are also set out in the Annex B of the 2005 circular): (1) necessary to make the development acceptable in planning terms; (2) directly related to the development; and (3) fairly and reasonably related in scale and kind to the development.

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

### **Applicant's Heads of Terms**

#### **(1) Public realm works to improve pedestrian and cycle movements between the site and the town centre**

16.5 The applicant sets these out in the appended Heads of Terms document (Appendix 6). It is however considered that these could be secured by planning condition. Paragraph B51 of Annex B of the Planning Obligations circular states that if there is a choice between imposing conditions and entering into a planning obligation the imposition of a condition which satisfies the test of Circular 11/95 (The Use of Planning Conditions in Planning Permissions) is preferable as it enables the developer to appeal regarding the imposition of that condition. The enforcement of conditions is also considered to be more straightforward since it generally involves the use of the planning enforcement system. The Highways Authority considers these improvements are necessary to mitigate the highway impacts of the development; the improvements will encourage sustainable travel choices, reduce the need to travel by car and promote sustainable links to the town centre. Through the implementation of these measures the development takes account of the transport user hierarchy and will help to achieve modal shift. It is considered that these works are needed to make the development acceptable in terms of highway considerations, to promote sustainable travel choices, to encourage linked trips to the town centre and promote the health of the centre and enhance its vitality and viability. A planning condition could secure these works.

#### **(2) Works to provide an improved bus interchange for Route 18**

16.6 A sketch scheme (costed by applicant at approximately £45,000) has been

submitted illustrating proposed works for a new bus interchange, which would include a new seating area with canopy structure, new paving, landscaping and lighting. These environmental improvements link with the other public realm works improvements set out below. Improving this piece of infrastructure would help to create a more attractive gateway to the town centre and encourage more people to visit the main shopping area. Linked trips would be encouraged which would help to enhance its vitality and viability and ultimately deliver regeneration objectives of Development Plan policy. The policy support and justification for this obligation is the same as for the public realm works and shop front improvements identified below. These works are considered to meet the 3 tests set out at Regulation 122 of the 2010 CIL Regulations, as they are necessary to meet the requirements of Development Plan policy and deliver regeneration of Desborough town centre, directly related to the development and fairly and reasonably related in scale and kind to the development.

### **(3) Public Realm Works to Station Road (the area from New Street up to the 76 Station Road).**

16.7 Core Spatial Strategy policy (policies 1 and 12) focuses on regeneration of town centres through environmental improvements and mixed-use development; regeneration and enhancement of town centres is a priority of the CSS. Policy D2 is a saved local plan policy. This identifies a number of areas, including the town centre, as being in need of environmental improvement. Although some improvements were made during the 1990s there is a need for further improvements. This is evidenced by further research and policy documents that have since been produced. It is considered that a store located out-of-centre would not in itself help to regenerate the centre of Desborough. The existing centre is in a fragile state and is of poor environmental quality (evidenced by the Local Planning Authority's Town Centre Health Check 2010 and the May 2011 update). Improvements are vital to creating a high quality shopping area that draws people in. The Urban Design Framework (2004) for the town centre provides useful background information about issues affecting the town, its strengths, weaknesses and opportunities for enhancement. The document also identifies Station Road as an area that is in need of environmental improvement, including works to enhance building frontages, street and pavement surfacing, and landscaping. The physical fabric currently detracts from the visual quality of the centre. The UDF identifies the undertaking of high quality streetscape works along Station Road as an objective. The emerging Desborough and Rothwell Urban Extension APP also identifies town centre regeneration as a key priority. An emerging policy within the AAP sets out that planning obligations will be used to improve the public realm by improving its quality and appearance, improving gateways and creating interesting features in the streetscape. Significant environmental improvements are needed within the central shopping area to draw people in, encourage investment and physically regenerate the existing centre. These are also needed to encourage linked trips from the Sainsbury's development. Public realm works and improvements to the fabric of the town centre are considered a priority within Desborough and will help to promote the health of the town centre and enhance its vitality and viability. The applicant has offered £200,000 towards public realm works in the established shopping area (defined by a saved policy of the Local Plan). The level of contribution is based on the estimated cost of public realm works per square metre and the approximate area of works required. The scale of contribution is considered to be fairly and reasonably

related in scale and kind to the development.

16.8 Improving the quality of the town centre fabric would help to encourage investment, promote economic prosperity and support self-sufficiency, key policy objectives at the smaller towns, together helping to regenerate Desborough town centre. Regeneration of town centres through environmental improvements is identified in CSS Policy 1 as a key focus of the spatial strategy for the Borough. Policy support for the required works includes PPS 1, PPS 4, CSS Policy 1 and saved local plan policy D2. The works set out above and those to create a new bus interchange are considered necessary to meet the regeneration requirements of Development Plan policy, are directly related to the development and are fairly and reasonably related in scale and kind to the development.

#### **(4) Town Centre Management**

16.9 Sainsbury's propose to contribute £10,000 toward Town Centre Management to fund bespoke research and provision of advice on appropriate initiatives for the town centre. This financial contribution in combination with physical regeneration of the centre, through public realm and shop front enhancements, would ensure that the scheme contributes to regeneration in accordance with Development Plan policy (CSS Policy 1). This particular contribution is of a more strategic nature (funding research/advice on future projects) and would, together with short-term projects (shop front and public realm works), aid regeneration of Desborough town centre over the long-term. This planning obligation is therefore considered to meet the CIL tests.

#### **(5) Shop Front Improvements**

16.10 The Town Centre Health Checks (2010 and the 2011 update) demonstrate that the centre suffers from a poor physical quality with poor shop fronts contributing significantly to this problem. As discussed above, the quality of building frontages within the town centre have been eroded over time. The UDF identifies Station Road and High Street as a priority area for this form of improvement. The document also sets out that resources and funding is needed to assist owners in delivering these enhancements (e.g. through a grant scheme). The emerging AAP for the SUE also supports improvements to the public realm. The applicant has offered £50,000 towards their enhancement.

16.11 Enhancing shop fronts is a positive way to rejuvenate the fabric of the 'high street' (station road). Improving the quality of the fabric of the main shopping area would, cumulatively with the other town centre works, help to draw people in, encourage linked trips, encourage investment delivering economic prosperity, supporting self-sufficiency and regeneration, key Development Plan policy objectives at the smaller towns. Policy support for the above works includes PPS 1, PPS 4, CSS Policy 1 and saved local plan policy D2. It is considered that the works/contributions set out at (2), (3), (4) and (5) will work together to create the scale of improvements needed to meet the policy requirements for regeneration, to encourage linked trips, promote the health of the town centre and enhance the vitality and viability of the town centre. The works are therefore necessary, directly related, and fairly and reasonably related in scale and kind to the development (i.e. they meet the 2010 CIL tests set out at Regulation 122).

## **(6) Local Employment Partnership**

16.12 The applicant proposes to set up a Local Employment Partnership with relevant stakeholders which would involve advertising jobs locally, identifying suitable and appropriate parties interested in employment in the store and providing coaching and training to successful candidates. This would help to secure local employment in accordance with EC 10.2 (e) of PPS 4, deliver economic prosperity, minimise leakage of jobs and wider sustainability benefits including reducing the need to travel, allowing more sustainable trips between work and home and allowing employees to travel to work by a range of modes including walking, cycling and public transport or other methods such as car sharing with colleagues.

16.13 CSS Policy 8 states “training and employment agreements will be used where appropriate to facilitate increased opportunities for the local workforce.” Generation of local employment is a key impact consideration of PPS 4 (EC 10.2). In this regard it is considered vital to ensure employment opportunities are focused within the local community. The policy support for the above includes CSS Policy 1 and 8, PPS1, PPS 1 Supplement, PPS 4 and PPG 13. The setting up of a LEP is considered to meet the 3 Regulation 122 tests.

## **(7) Enhancements to Bus Services 18 and the Rushton Community Minibus**

16.14 A financial contribution of £650,000 is required and would be payable over a period of 5 years for the following improvements to public transport:

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

16.15 These enhancements are required to facilitate a choice of means of travel and enhance accessibility, promote sustainable travel to the store, achieve modal shift and provide sustainable links to the centre of the town. Without these enhancements the development would be unacceptable from a highways perspective. The improvements to public transport are considered to meet the 3 tests set out in Regulation 122 of the 2010 CIL Regulations. The development would be unacceptable without these improvements, are directly related to the development and fairly and reasonably related in scale and kind to the development.

## **(8) Travel Plan**

16.16 The local highways authority has asked for a condition to be imposed securing a travel plan. Officers however consider that the requirement for a travel plan should form part of the Section 106 agreement. This is in light of the requirement for financial penalties to be paid or other sanctions should targets not be met. The achievement of targets is a factor in the acceptability of the development. This approach is considered to be more robust. The development and implementation of a Travel Plan is considered to be necessary to make the development acceptable from a highway and sustainability perspective, are directly related to the

development and are fairly and reasonably related in scale and kind to the development.

**(9) Monitoring Contribution** *(final figure to be agreed)*

16.17 Members of the Planning Policy Committee (1<sup>st</sup> May 2008) resolved that a contribution of 5% of the financial contributions contained in each Section 106 Agreement would be secured for monitoring and management of legal agreements. This contribution is considered to meet the 3 tests set out in Regulation 122 of the 2010 CIL Regulations.

**Summary**

16.18 It is clear that there is planning policy support for each of the planning obligations set out above and they are considered to meet the 3 tests set out at Regulation 122 of the Community Infrastructure Levy Regulations 2010. It is however considered by officers that these are not capable of mitigating all of the impacts of the proposed development.

**17. Conclusion**

17.1 The applicant has not demonstrated compliance with the requirements of the sequential approach; there is a sequentially preferable site (an in-centre site) which is suitable and viable and which will be available for development within a reasonable timescale. This sequentially preferable site would be capable of meeting the same need the application is intending to meet i.e. main food shopping needs. Officers consider that there is a reasonable prospect of development coming forward on that in-centre site within a reasonable timescale. The application is considered to be contrary to Policies 9, 12 and 13 (c) of the North Northamptonshire Core Spatial Strategy and East Midlands Regional Plan policy 22. The application should also be refused in accordance with PPS 4 EC17.1 (a).

17.2 The proposed development is likely to have a significant adverse impact on planned and existing investment, the vitality and viability of Desborough town centre and in-centre trade/turnover (EC16.1 (a), (b) and (d)). The application is considered to be contrary to Policies 1 and 12 of the North Northamptonshire Core Spatial Strategy and East Midlands Regional Plan policy 22. The application should also be refused in accordance with PPS 4 EC17.1 (b).

17.3 There is a significant risk that the Lawrence's site (in-centre and sequentially preferable) will not be delivered should an out-of-centre development be granted planning permission and developed first. The sequentially preferable site represents a significant opportunity to regenerate the town centre and improve its vitality and viability, resulting in wider regeneration benefits that are unlikely to be delivered by an out-of-centre store. Should an out-of-centre store be developed first and no town centre store comes forward, there are likely to be clear significant adverse impacts on Desborough town centre.

17.4 Officers have considered the cumulative impacts of two stores (Sainsbury's and Tesco). If both come forward, the impact on Desborough town centre is considered to be acceptable; due to the location of the Tesco store within the established

shopping area, there will be some scope for the combined impact of this store and the Sainsbury's store to be offset by the attraction of more shoppers to the town centre than are currently visiting, which results in increased footfall and spending in town centre shops (linked trips). However it is not considered safe to assume that the Tesco store will be delivered in light of the potential impact of the Sainsbury's store on investment. The sequentially preferable site must be delivered first in order to ensure Desborough town centre is not significantly harmed.

17.5 The cumulative impact on Rothwell has also been considered. Rothwell town centre might struggle in light of the impact of two stores. However officers consider that this should be balanced against the health of the existing centre and its good level of vitality and viability. Officers therefore consider that Rothwell town centre could withstand the predicted level of trade diversion and impact. There will not be a significant adverse impact on Rothwell town centre.

17.6 The proposal is considered to be contrary to the policies of the Development Plan and PPS 4, which is a material planning consideration in this case. Although there are many benefits associated with this application it is considered that there are no material planning considerations that would outweigh the Development Plan.

#### **List of Report Appendices**

- Appendix 1 Comments of the Local Planning Authority's (LPA) retained retail consultants, Roger Tyms and Partners.
- Appendix 2 Health Checks for Rothwell Town Centre (May 2011) and Desborough Town Centre (July 2010 and Update Report May 2011).
- Appendix 3 Objection from the agent for Tesco Stores Ltd.
- Appendix 4 Objection from consultant acting on behalf of Midlands Co-Operative Society.
- Appendix 5 Sainsbury's Store Proposed North East Elevation (schematic drawing).
- Appendix 6 Applicant's Planning Obligations Heads of Terms.

#### **Background Papers**

Title of Document:

Date:

Contact Officer:

Louise Holland, Development Officer on 01536 534316

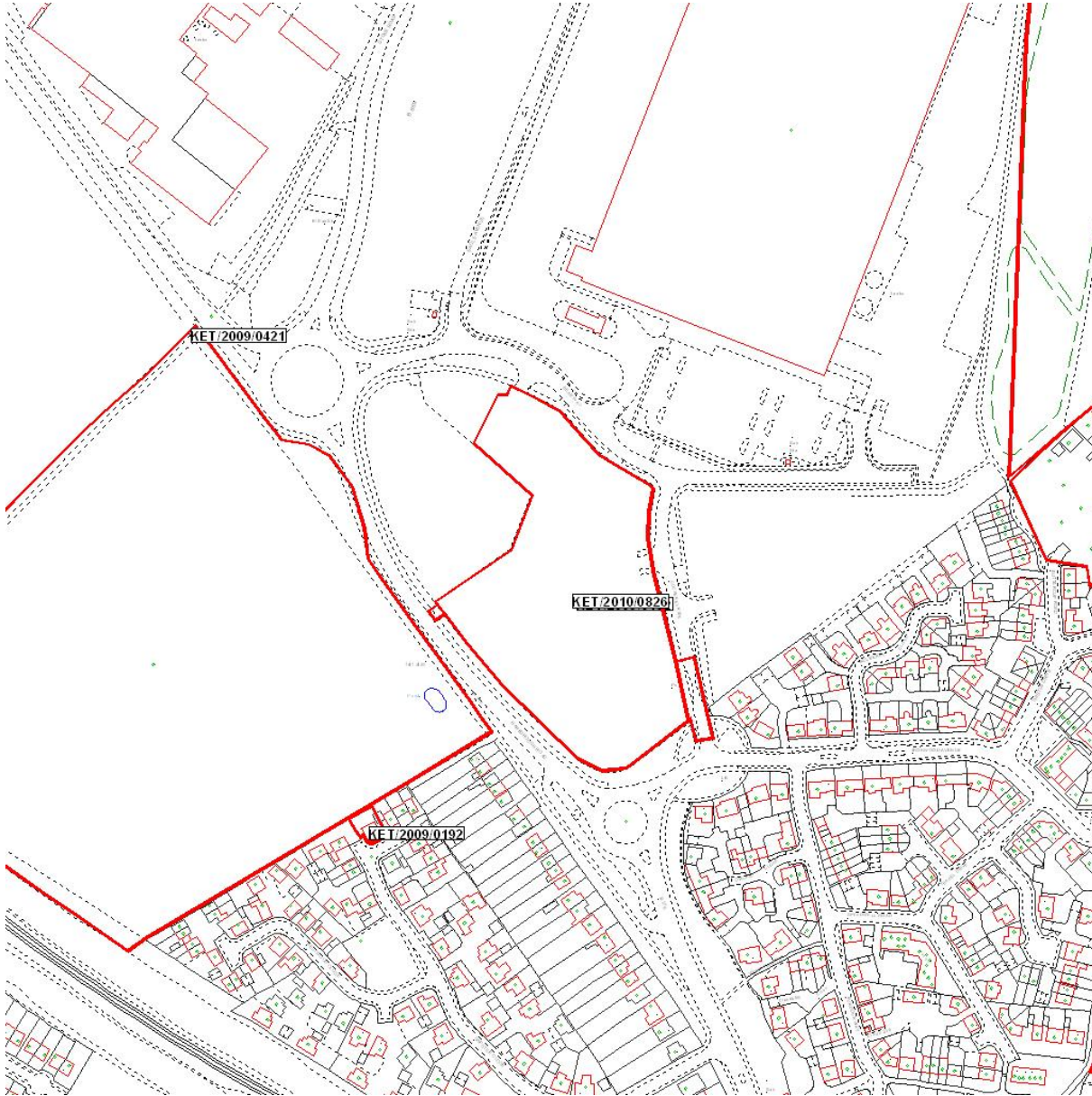
#### **Previous Reports/Minutes**

Ref:

Date:

## SITE LOCATION PLAN

Magnetic Park (land at), Desborough  
Application No.: KET/2010/0826



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