MC/14/2239

Date Received: 4 August, 2014

Location: 57-59 Luton High Street, Luton, Chatham ME5 7LP

Proposal: Change of use from car showroom/sales garage (Sui Generis) to food retail convenience store (Use Class A1) with associated car parking and alterations to the building including installation of ATM, plant, external chiller, shopfronts and canopy

Applicant: Tesco Stores Limited

Agent: Mr Dempster CgMs Limited 7th Floor 140 London Wall London EC2Y 5DN

Ward Luton & Wayfield

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 3 December 2014.

Recommendation – Approval with Conditions subject to;

A. The applicants entering into an agreement under Section 106 of the Town and Country Planning Act to secure:

i) £11,000 towards pedestrian highway improvements;

B. the imposition of the following conditions:

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out in accordance with the following approved plans: 11924 310A;301;302;305 received 19 August 2014;11924 315e;311c;320 and letter received 20 Oct 2014

Reason: For the avoidance of doubt and in the interests of proper planning.

3 No development shall take place until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.
Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

4 Prior to commencement of the development, details of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed and made available for use prior to occupation of the development and shall thereafter be maintained. Reason: to comply with the Council's Parking Policy and in the interests of sustainable development, in accordance with Policy T13 of the Medway Local Plan.

5 The store shall be operated and laid out at all times in accordance with the submitted Servicing Management Plan hereby approved.

Reason: to ensure that site servicing does not compromise highway safety and the free-flow of traffic on the local highway network, in accordance with Policies BNE2 and T1 of the Medway Local Plan.

6 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected and landscaping to be provided. The approved boundary treatment shall be completed before the building is occupied and the soft landscaping implemented within the first available planting season after the store is first brought into use and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

7 The proposed access bollard's to the front of the site shall be installed prior to the store first being brought into use. The bollards shall be raised and the approved detachable panel to the ATM placed in front of the ATM, outside of the hours of opening and delivery set out in conditions 8 and 9 below. The bollards and panel shall at all times thereafter be retained and maintained on site.

Reason: In the interests of amenity protection in accordance with Policy BNE2 of the Medway Local Plan 2003.

8 The use hereby permitted shall only operate between the hours of 0700 to 2300 Mondays to Sundays inclusive and shall be closed on Public Holidays.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

9 Deliveries shall only be undertaken between 09:00 - 16:00 and 18:00 – 21:00 Mon – Sat and 08:00 – 16:00 on Sundays, with the exception of Newspaper and Magazine deliveries from single axle vehicles. No deliveries shall take
place on Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To regulate and control the permitted development in the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

10 Full details of the proposed external lighting arrangements including lux levels and means of management of spread of light shall be submitted to and approved in writing by the local planning authority prior to first occupation of the retail unit. The external lighting shall be installed in accordance with the approved details and thereafter maintained as such. The approved lighting units approved shall only be illuminated during the hours of opening of the premises or 30 minutes before and after the opening hours of the premises.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of amenity in the locality in accordance with Policy BNE2 of the Medway Local Plan 2003.

11 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: To protect the underlying groundwater from the risk of pollution and in accordance with the requirements of the National Planning Policy Framework (NPPF).

12 No occupation of any part of the retail unit hereby approved shall take place until a verification report demonstrating completion of the works set out in the approval scheme and confirmation of findings from the watching brief and any subsequent works to address any discovered contamination has been submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out to demonstrate that the site is fit for purpose and poses no significant risk to the wider environment, especially the public water supply. The report shall also include any plan (a "long-term monitoring and maintenance plan") for long-term monitoring of any discovered pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification report. Such long-term monitoring and maintenance plan shall be implemented as approved if required.

Reasons: To protect the underlying groundwater from the risk of pollution and in accordance with the requirements of the NPPF.

13 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that
there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons: To protect the underlying groundwater from the risk of pollution and in accordance with the requirements of the NPPF.

14 The proposed cat ladder shall be secured locked and no access provided unless needed for use for maintenance purposes of the site

Reason: In the interests of amenity protection and secure by design principles.

For the reasons for this recommendation for approval please see planning appraisal section and conclusion at the end of this report.

Proposal

This application is for the change of use from car showroom/sales garage (Sui Generis) to food retail convenience store (Use Class A1) with associated car parking and alterations to the building, including installation of ATM, plant, external chiller, shopfronts and canopy.

The works would involve changes to the external appearance of the building with a rendered finish and the introduction of a shop frontage, provision of automatic teller machine (ATM); chiller storage unit, plant room usage of a first floor level room and associated air conditioning units and plant at the first floor roof level enclosed by 1.8m timber fencing. A 500mm fence is also proposed to be installed on the southern boundary above the existing wall height. A canopy at 2.7m high is proposed on the south western side to provide cover to a compound for the chiller storage and refuse area. Pedestrian footpaths are proposed to both sides of the site that would run parallel to the flank walls to give access to the sales frontage. 9 parking bays are proposed to the front (1 being for disabled use) that would utilise the existing access. Raised planters are proposed to the front boundary with the highway and steel bollard's would be introduced at the entrance. The applicants aim to provide a minimum of 16 full time posts.

The site comprises 296 m2 of internal floor space. The applicants propose to trade between the hours 0700 to 2300 hours 7 days a week. Deliveries will be undertaken between 09:00 - 16:00 and 18:00 – 21:00 Mon – Sat and 08:00 – 16:00 Sundays, with the exception of Newspaper and Magazine deliveries from single axle vehicles. The applicants advise that the delivery hours are designed to avoid peak hours and thus minimise any impact on the public highway at this time.

A Servicing Management Plan (SMP) has been submitted which provides details on the management of delivery vehicles, hours of deliveries and site management to ensure health and safety is upheld.
The provision of 5 no. telescopic bollard's (at 1300mm distance apart) are proposed to the front access to prevent vehicles accessing the premises outside of trading hours. to mitigate against any potential anti social behaviour such as accessing the parking area out of hours. The bollard's will be opened by the member of staff opening the premises and closed by the last staff member leaving the premises. Signage in the car park would make customers aware of this practice. With regard to the ATM, the applicants advise that they can place a detachable panel over it to stop its use outside of opening hours.

Relevant Planning History

MC/06/1919 Change of use of ground floor from car sales to nail and beauty salon (Class A2) Approved 20/12/2006

82/601 Demolition of part of existing car showroom, office to form enlarged open car sales area and better access Approved 25/10/1982

74/668/C Renewal of temporary permission for car sales and showroom Approved 16/02/1981

74/668/B Renewal of temporary permission for car showroom Approved 02/02/1979

74/668/A Renewal of temporary permission for car sales and showroom Approved 20/01/1977

74/668 Renewal of temporary permission for car sales and showroom Approved 18/02/1975

ME/77/437 Redevelopment of site for car sales, workshop and offices Approved 9 August, 1978

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

A petition has been submitted with 509 signatures against Tesco putting a store in Luton Village.

14 Letters have been received objecting to the proposal on the following grounds
• The development would conflict with the objectives of policies T1, T13, BNE1, BNE8, BNE9, R10, R12, R13 and para. 6.5.34 of the local plan

• The development is too close to a very busy road junction and will cause traffic chaos during the expected 3-5 deliveries a day. If the car park is full, the driver will have no option but to reverse out into the busy Luton High Street causing obstruction of the highway. The traffic survey mentions bus routes but not commuter coaches and many pass through at peak times between 7:00 and 9:30hrs and between 15:00 and 20:00hrs when traffic is at its heaviest

• Luton High Street is the main road connecting Chatham Town Centre with surrounding residential areas and is regularly used by emergency vehicles. Access for such vehicles will be further hindered by the development in addition to the existing high levels of traffic movement and scale of vehicles that use this narrow road for passage. Accordingly the development would have an adverse impact on Highway safety through deliveries, obstruction of the highway and poor traffic flow

• Detrimental impact on hardworking mostly independent traders through longer opening hours and everything under one roof for sale with the proposed use introducing direct competition rather than a complimentary form of use to the village. The village is already well catered for in regard to retail uses which are established and employ local people. The village will be adversely affected within 5 years as the independent traders will go out of business and Economic benefits are unlikely due to impact on existing units which would result in Loss of community spirit

• job creation would be minimal compared to job loss

• The recent letter dropping approach to gain support will hopefully be seen as a cynical ploy by members from a company who clearly do not value reasonable objection. If objectors had the resources then a similar number of views objecting would be expected.

• The development would lead to crime and antisocial behavior from selling alcohol and loitering around the ATM

• The existing car sales use provides a good balance of varied business.

• Luton Village is almost silent during the early hours and the use of refrigeration units in constant use will shatter that resulting in an adverse impact on neighbouring amenities through the siting, duration and noise from air con units and chillers situated close to neighbouring residential property and habitable rooms; introduction of light sources, proposed siting of a bins store and volume of rubbish; smell generation; litter, activity levels and loitering/antisocial behavior. The intensity of use after 5pm from vehicle and people movement close to habitable room windows would add to this along with potential problem drinkers returning where alcohol is sold. This problem will return if Tescos are allowed to open late at night
and greater noise would be generated by people and car doors slamming close to habitable room windows in conflict with Policy BNE1 and BNE2 of the local plan

- Increased demand for off site parking on nearby roads
- The existing pay and display parking is for all shops and not just the proposed use as over spill
- Luton village is valued by the community with the shops it already has
- The on site parking layout could be improved with the removal of a pedestrian path to improve turning within the site for deliveries and reduce conflict with parking spaces
- The evidence base submitted is vague, unclear, deficient in nature and the cumulative impacts are very severe.
- The proposal fails to meet the Department of transport guidance document "guidance on transport assessment" march 2007 in terms of baseline transport data. The traffic numbers provided are incorrect as the planning fall back assumes the site operates over a 12 hour day. The data from the trip rate has only used the arrival profile, not the departure profile and has shown a multi modal travel table over 12 hours that hides actual traffic data. Parking provision is likely to lead to vehicles queuing on the highway or on the foot way. Increased free parking competition will result which may lead to traffic regulation orders being introduced. The development would entail a significant increase in traffic onto and off of the highway affecting highway safety in conflict with policy T1 and T2.
- The applicants advise that they would use 8m length GHVs but they do not use small HGVs. There would not be sufficient room for vehicle movement on or off of the site and turning within to accommodate the frequency of deliveries without impacting on the parking available for customers. This again would conflict with adopted policy and that contained within the NPPF para 32 that requires safe and suitable access to the site. Tescos do not use an 8.4m long vehicle for deliveries and use a Palmer and Harvey type of vehicle. An HGV or white van type have limited vision and would increase detrimental impact on pedestrian safety through poor visibility
- The local post office may lose custom due to the ATM which in turn would be a loss to pensioners.

**Tracey Crouch MP** has written in objecting to the proposal on the following grounds:

A Tesco Express Store will have an impact on local business on Luton High Street many of which provide a wide selection of goods to local residents. Tescos would undoubtedly sell the same goods for more hours of the day
which would be unnecessary and threaten the businesses already established on the high street. There is also a large Tesco Superstore in Chatham located 1 mile from the proposed site which further undermines the need. No retail assessment has been carried out raising local traders concerns that the impact of this application on their business is not fully understood. Furthermore, the development will lead to increased congestion on local road infrastructure where volume of traffic is already high.

Cllr Osborne has written in objecting to the proposal on the following grounds:

- The development would conflict with the objectives of policy T1, T13, BNE1, BNE8, BNE9, R10, R13 and para. 6.5.34 of the local plan;
- The development will significantly add to the risk of road traffic accidents and no remedial road improvements are proposed. The development would require a high level of HGV or major vehicle movements for loading and unloading near to the core junction for access to Chatham where it is already a bottleneck for traffic accessing Chatham from surrounding residential areas;
- Inadequate parking provision to meet expected demand leading to parking constraints in surrounding residential areas;
- The design approach is not appropriate to the historical nature of the high street and in its scale appearance and location would reduce the amenity of the surrounding area;
- The high level of road accidents in the vicinity of Luton road and the design of the application increase risk to personal safety;
- The development will reduce the positive character of the surrounding area including direct harm to small traders and small-medium business as defined by residents themselves;
- The development will result in the loss of nearby SMEs as defined by residents and traders themselves and noted no improvement to the local amenity or provision of community facility has been suggested;
- The application of a large Tesco Store is outside the core permitted retail development sites and the alternative sites suggested by the developer were in the core retail development site in Rochester. The proposals would have a detrimental impact of the core areas and that alternative would be more appropriate;
- The application will see the change in the original purpose of the land and will see Tesco utilise ancillary services within the store including bakery and meat counters which are not core services to many Tesco local stores. This would be detrimental to other retail establishments and local amenities. The applicant has not engaged in good faith on adopting appropriate restrictions on the store.

87 letters received (with 24 letters from 12 households) in full support of the application as a convenience store for an everyday range of fresh affordable products including fruit and veg and provision of 20 new jobs for recruitment locally.
Additional comments are as follows:

- Luton High Street needs a new focus and this development would visually enhance the area.
- The current food for sale locally can be out of date and expensive and a new store would bring more people to the area and encourage passing trade.
- The development would be within walking distance; would save customers money and avoid the use of a car.
- Would be an advantage for the elderly or disabled and carers in terms of fresh food available close to home.
- The hours of opening would be competitive and be beneficial to local people who work shift hours in particular as currently some shops close at peak times.
- Local jobs for local people supported and encouraged.
- Much improved choice of fresh food for local people giving greater choice.
- Free ATM encouraged in particular in store.
- Price matching with main store would be encouraged.
- Would be an asset to the village.

Kent Police advised initially that some crime prevention measures have been incorporated into the layout and design of the proposed ATM. Further Crime prevention measures are recommended to be imposed by condition. Following revisions, additional comments have been received that endorse CCTV and lighting provision to the ATM, alterations to the front boundary treatment and bollarding of the car park out of hours. The provision of a cat ladder to the roof level may breach security unless controlled and the Kent Fire and rescue service should be consulted in respect of means of escape. Further discussion with the applicants from a CPTED aspect would be welcomed in terms of the store layout. The applicants have been informed of these comments.

The Environment Agency advise that the submitted information identifies previous uses that could impact on the wider environment. In consideration of limited refurbishment and potential ground breaking in car park areas, it is recommended that a watching brief is carried out during works and a validation report submitted post works to include commentary from the watching brief and report any subsequent actions to address any discovery of hotspots identified. Conditions are recommended to control this in the event of the application being approved.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of
this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

Planning Appraisal

Background and Principle

The application site comprises an existing occupied cars sales area to the front of the site that has an open frontage with the high street. The tenant car sales area is served by a part single part two storey building used for car preparation and office use. The site has a slight gradient with land levels dropping in a north easterly direction and with the exception of the frontage (enclosed by a low wall) is enclosed by 2-2.9m approx high boundary walls. A neighbours rear store is located behind the rear boundary of the site and serves no 3 Capstone Road.

The site is immediately bounded by further car sales use to the north east, a vehicle repair/service company to the east, residential uses to the south and south west and car hand wash facility and residential terraced houses to the North West. No 1 Capstone Road in particular is located close to the site on higher ground with habitable room windows that face at an angle towards the main building on the site at the rear. Uses appear to be predominantly 8am until 7:30pm approx opening times in the vicinity of the site.

The site forms part of a number of property that together form Luton Village. The village comprises a mix of mainly retail (Class A1), hot food take away (Class A5), public house (Class A4), printing (Class B1) and car sales/repair/cleaning business with part of the village designated a Local Centre (Policy R10 of the Local Plan) within the addresses 25-49 odd nos. and 50-54 even numbers. Luton High Street (it was noted at the time of the site visit that 25-29 and 52 Luton High Street were in residential use). The site falls outside this centre and is in a sui generis use.

The site is located within a relatively busy centre in particular at peak times where the main highway is a key distributor of traffic from Chatham Town centre to the residential areas of Chatham and Gillingham.

The application site is located just outside the local centre of Luton as identified by the Local Plan 2003. Policy R13 of the Local Plan refers to retail development outside of main retail centres (including neighbourhood centres). Where retail development is outside of the neighbourhood centre a key consideration is whether the scale and type of retailing would by itself or cumulatively have a negative impact on the vitality and viability of the Local Centre. Policy R19 is specific to vehicle sales uses and in relation to changes of use from vehicle sales to retail similarly expresses a key consideration to be protection of the vitality and viability of main centres including neighbourhood centres.

The National Planning Policy Framework (NPPF) states that local planning authorities should apply a sequential test to planning applications for main
town centre uses that are not in an existing centre and are not in accordance with an up to date Local Plan. The applicant has undertaken a Sequential Test that has shown that there are no other more suitable alternative sites available in the local area.

The application site is on the very edge of the Local Centre and indeed, visually, could be considered to be part of it. The existing site is in a commercial use. The proposal is only for 267 sq m of retail floor space and only relates to a local convenience store. It will serve the local needs of the area and can be considered to function alongside other retail uses within the Local Centre to the benefit of the vitality and viability of the centre.

The NPPF also states that when considering applications for retail development outside of town centres which are not in accordance with an up to date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate locally set threshold. If there is no locally set threshold (such as in the case of Medway), the default threshold is 2,500 sq m. Consequently, given that this planning application is way below this figure in size, no Impact Assessment is required.

It is therefore considered that in principle the proposal is acceptable.

Design

The development would introduce visual enhancements to the site in terms of the soft landscaping, new front boundary treatment, rendering of the building and upgrading to improve the overall appearance of the site. The general upgrading of the appearance would enhance the site from its current situation. The proposed canopy would be of appropriate scale to the existing single storey building to the rear of the site and whilst the proposed fencing at roof level at the rear would not be ideal, taking into consideration the land levels and prominence of the rear of the site from the public highway and the degree of screening of the first floor of the building to the rear no objection is raised. In addition, the frontage enhancements and boundary treatment together with an element of soft landscaping and new hard surfaced car parking area would all be complimentary to the street scape and upgrade the presence of the site and the adjoining Local Centre. The proposed lighting, if carefully managed can contribute positively to the appearance of the site. Impact on amenity of the lighting will be considered later in this report. Overall, the development is considered to comply with the objectives of Policy BNE 1 and BNE9 of the adopted Medway Local Plan 2003.

Amenity

The levels of activity in and around the site would be greatly increased from the existing situation where the existing use is relatively low key and operational only during normal working hours of 9-5:30pm six days a week. The use could lead to significant activity levels associated with deliveries, refuse collections and activities such as cash collection that would far exceed the current situation of car sales use (the site is currently locked at closing
time by barriers to the front of the site). The use would generate levels of noise very close to residential property in particular No 1 Capstone road that has habitable room windows (bedroom and kitchen/diner) that face at an angle towards the south western boundary of the site. This could be made worse by deliveries of newspapers etc straight from the press during the early morning period to meet customer demand.

In response, the applicants have advised that they successfully operate other premises close to residential uses throughout the country safeguarding the amenity of residents. They have agreed to provide a management plan for the site and have committed to providing security bollard’s to the front of the site that would be raised and locked outside hours of operation and have agreed to prevent access to the proposed ATM again outside the hours of operation to prevent the encouragement of the public onto the site outside the opening times. They have also put forward a proposed boundary fence on the southern boundary to further reduce potential disturbance levels from activity during opening hours to mitigate again disturbance and potential smell and noise generated but advise that due to the low amount of refuse generated, this will not cause disturbance to the nearby residents in any case. The applicants advise that they trade in urban locations, including at sites adjacent or even underneath dwellings, where 11pm closing times are common. Ultimately it is not a sound business case to accept disturbance or anti-social activity at sites when customers are seeking to shop and they have business practices in place to ensure smooth operation of the premises. In addition, various public consultation responses to the application have noted the positives of a quality convenience store that they can use for top-up shopping. On this basis Tesco would look to have trading hours of up to 2300 hours.

In respect of noise generated from plant, the noise report prepared by KR Associates has been correctly undertaken and the findings and conclusions are considered acceptable. From the information supplied in relation to the proposed plant, the noise levels from the plant will not give rise to any adverse impacts on nearby residents and that the results give a positive indication that complaints are unlikely.

The proposed lighting could be of potential concern from light over spill and intensity. This could potentially be designed to prevent over spill into neighbouring gardens and windows and could be controlled by condition to safeguard amenity protection. CCTV would be provided that would improve surveillance of the site out of hours in particular. The proposed increase in height of the boundary treatment from the existing situation would be considered acceptable in terms of outlook from neighbouring property were garden levels are on higher ground.

A number of conditions are recommended to protect residential amenity, specifically relating to opening and delivery times, lighting, and access bollards. Subject to the imposition of these conditions it is considered that the proposal complies with Policy BNE2 and BNE8 of the Medway Local Plan 2003.
**Contamination**

The application has been supported by a Phase I Environmental Assessment undertaken by Deltasimons dated 29 July 2014 (report reference: 14-7028.01). The desk top study includes a site history, site walkover, information on the geology and hydrogeology at the site. A conceptual site model has been developed for the site. The desk top study concludes that ‘given that the current building is to be refurbished and to remain in a commercial end-use, further environmental site investigation is not considered necessary. The recommendations made in the report should be implemented by the applicant particularly in respect to the reconfiguration of the car parking area and an appropriate condition is recommended.

The site is located within a source protection zone 1 and the Environment agency has been consulted. With the limited refurbishment proposed no objection is raised in principle but as the works may involve some ground breaking in car parking areas as identified in the site report with mitigation, it is considered that due to the sensitive setting a watching brief is required to be carried out during works and a validation report submitted post works to include commentary from the watching brief and report any remedial works carried out to address any discovery of hotspots. Appropriate conditions are recommended to be imposed and subject to these the development would accord with the objectives of Policy BNE23 of the Medway Local Plan 2003.

**Highways**

The proposed retail use is most likely to generate more traffic and a higher demand for parking than the existing land use. Activity levels will increase where the use would have a greater frequency of visitors through intensification.

**Trip Generation and access**

Whilst the principle of traffic movements to and from the site is established, the proposed development is likely to generate significantly more trips than the existing use, with up to an additional 47 vehicles predicted to access the site during each peak hour and a total of around 80 trips by other modes. Over the course of a day the development is predicted to generate 402 vehicle arrivals, which is amounts to around 3% of the total daily vehicle movements recorded on Luton High Street. It should be noted, however, that this type of land use attracts a high number of pass-by trips, with around 90% of the traffic likely to be somewhere on the highway network already. Whilst the site is situated in a busy local centre with a high footfall, Luton Road and Luton High Street also carry significant levels of through traffic and have seen a total of 46 Personal Injury Accidents over the past three years, many involving pedestrians. In order to address this, the Council is currently considering ways in which these streets can better balance the needs of all
users, primarily by enhancing pedestrian safety and amenity through improvements to the public realm and crossing facilities. In light of the additional vehicle and pedestrian movements generated by the proposed development, with a total 1230 arrivals predicted during the course of a day, a Section 106 contribution of £11,000 towards this scheme is requested and agreed with the applicants. This is based on the cost of upgrading the existing Pelican crossing adjacent to the site to a Puffin crossing, or replacing it with an alternative crossing facility as part of a future improvement scheme. The application proposes to utilise the existing vehicular access to the site, with a minor increase in width to accommodate two-way traffic. The dropped kerb crossover is to remain, which would ensure pedestrian priority on the adjoining foot way. Suitable visibility in each direction along Luton High Street is available. The application proposes a footpath on both the eastern and western boundaries, which would provide a safe and convenient means of pedestrian access. On this basis, the application is considered acceptable in relation to Policies T1, T2 and T3 of the Local Plan.

Car Parking

Around 33% of arrivals are likely to be by car, with the proposed food store generating significantly more trips on foot. This is considered a robust prediction: the site is within a local centre adjoining a large residential area and public transport provision is good with an overall frequency of at least ten buses per hour through Luton. The Council's Parking Policy allows for new retail development in urban locations to limit on-site parking in order to promote sustainable development and recommends up to a maximum of 16 parking spaces be provided. On this basis, the total of 10 spaces proposed accords with Policy T13 of the Local Plan. Research indicates that the average duration of stay at a convenience store of this nature is less than 10 minutes and therefore on-site parking provision rarely, if ever, reaches capacity. The 10 car parking spaces proposed could, in theory, accommodate at least 60 cars every hour, which is greater than the maximum of 48 arrivals predicted during the peak hours. On this basis, the off-street car parking is predicted to comfortably accommodate the demand generated by the development, and no overspill parking on the adjoining highway network is anticipated. Notwithstanding this, existing parking restrictions along the site frontage, the relatively narrow carriageway and bollard's to protect the foot way all serve to discourage indiscriminate parking.

Servicing

A swept path analysis has been undertaken of the widened site access and internal layout, which demonstrates that a delivery vehicle would be able to access satisfactorily, turn on the site and leave in a forward gear. As with many convenience stores of this nature, site servicing would require careful management, with access to some parking bays suspended while deliveries are taking place. This would require a Servicing Management Plan (SMP) to be put in place and an appropriate condition is recommended. In effect the applicant has confirmed that deliveries will be managed by the store manager and trained assistants and spaces will be suitably closed off from public use.
All Express stores are notified of any day's delivery schedule in advance. In addition, any third party suppliers are bound by contract to this assessment. As with the example of a Tesco Express development at Rickmansworth Road, Harefield, a SMP was agreed as adequate by the Inspector as a satisfactory method of controlling deliveries. Hillingdon Council challenged the general delivery arrangement and the claim was deliberated at High Court. The Courts subsequently dismissed the challenge and agreed with the SoS' view that a SMP was a reasonable method of making the development acceptable. The condition would ensure that the details as submitted are adhered to, including the specified delivery vehicle size. On this basis and given the clear difference in delivery vehicle size i.e. between 8.4m rigid vehicle and 10.35m vehicle, it would be evident were Tesco to breach this condition. Subject to a Section 106 contribution of £11,000 towards pedestrian accessibility improvements in the vicinity of the site, and planning conditions securing details of cycle parking and a Servicing Management Plan, the application is considered acceptable in relation to the transport policies of the Local Plan.

Refuse

The refuse arrangement has been reconsidered, including the necessity to make it fully enclosed but the applicants consider that the generation and collection of waste is unlikely to deviate significantly from the existing use. The majority of refuse / recyclables is stored internally at site and loaded back onto delivery wagons to be taken away when servicing is undertaken. Refuse collections by third parties are likely to be once per week, a level similar to other commercial premises and indeed likely that of the car showroom use. This is considered acceptable.

S106 matters

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken in to account if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The obligations proposed comply with these tests because highway improvements would be needed within the vicinity of the site to improving pedestrian safety.

Local Finance Considerations

None relevant to this application

Conclusions and Reasons for Approval

The site is on the edge of a neighbourhood centre and the site is used for a commercial use. It is not considered that the proposal will negatively impact on the vitality and viability of the Local Centre and is therefore acceptable in principle. The design changes will result in a great improvement. Amenity
concerns can be addressed by the recommended conditions while in terms of highways the access and parking are considered satisfactory to serve the size of store proposed. The application is therefore considered to be in accordance with the above mentioned Development Plan policies and is recommended for approval.

The application would normally be determined under delegated powers but is being referred to Committee due to the extent of the representations received expressing a view contrary to the recommendation.

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**Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here [http://publicaccess.medway.gov.uk/online-applications/](http://publicaccess.medway.gov.uk/online-applications/)