

MC/17/4259

Date Received: 11 December, 2017

Location: Unit D, Horsted Retail Park, Maidstone Road, Chatham, ME5 9SQ

Proposal: Construction of 1no. drive-thru Restaurant (Class A3/A5) and 1no. foodstore; refurbishment of existing retail unit; revised car parking arrangements; widening of existing retail park access road; landscaping; and associated works including relocation of substation and off-site highway improvements

Applicant: Royal London UK Real Estate Fund

Agent: Mr Rainbird Quod Ingeni Building 17 Broadwick Street London W1F 0AX

Ward: Rochester South & Horsted

Case Officer: Majid Harouni

Contact Number 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 11 April 2018.

Recommendation - Approval subject to;

A Section 106 Agreement under the terms of the Town and Country Planning Act 1990 to secure the following developer's contributions:

- i) Secure a £1000 for an initiative at Vale pre school and/or Horsted infants and Juniors. These initiatives could include nutritional resources for the school, community food growing and commissioned physical activities.
- ii) Payment of £54,528.08 toward planting and maintenance of new trees in the locality in place of the trees to be removed on the public highway.

B. To impose 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:

V13620-SK02 Rev H, 13620-170 Rev A, 13620-171 Rev A, 13620-172 Rev B, 13620-173 Rev A, 13620-174 Rev B, 13620-175, 13620-176 Rev A, 13620-177 Rev A, 13620-178 Rev A, 13620-179 Rev A, 13620-180 Rev A received 11/12/17 and 29/01/18.

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

- 3 No development above ground floor slab level of any part of the development hereby approved shall commence until schedule/samples of the materials and finishes to be used in the construction of the external walls, roofs, windows doors and guttering of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. 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.

- 4 Notwithstanding the landscaping details submitted, no development above ground floor slab level of any part of the development hereby approved shall commence until further details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include existing and proposed contours and finished ground levels. Soft landscaping details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme. Development shall be carried out in accordance with the approved details. The scheme shall include full details of all proposed boundary treatments and shall be designed using the principles established in the Council's adopted Landscape Character Assessment. The approved details shall be carried out in full prior to the end of the first planting season following the first occupation of the development or in such other date arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan.

- 5 Prior to the first occupation of the commercial units hereby permitted a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to and agreed, in writing, by the Local planning

Authority. The landscape management plan shall be carried out thereafter; any variation to the approved management plan shall be agreed in writing in advance by the Local Planning Authority.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan.

- 6 Prior to the commencement of any development, a scheme for the protection of trees and hedges to be retained shall be submitted to and approved in writing by the local planning authority. All trees and hedgerows to be retained must be protected by barriers and or ground protection in accordance with BS5837 (2012) "Trees in relation to Construction Recommendations". No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barrier and/or ground protection measures shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed nor fires lit, within any of the area protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground level changed, nor excavations made within these area without the written consent of the Local Planning Authority.

Reason: To Safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development in compliance with Policy BNE43 of the Medway Local Plan.

- 7 No outdoor space or spaces shall be used for the purpose hereby permitted within the building unless and until an outdoor area management plan has been submitted to and agreed in writing by the Local Planning Authority. This plan shall include details of:-

- physical extent of such areas as defined on a site plan.
- intended use of such areas.

The defined outdoor space shall only be used for the prescribed purposes only during the opening hours of the commercial unit(s).

Reason: In the interests of visual amenity and highway safety and in compliance with Policies BNE2 and T13 of the Medway Local Plan.

- 8 No part of the development shall be open for trading until the following have been provided or completed:-

- i) Widening the retail park access to provide two exit lanes, with the off-side lane for right turns and the nearside lane for ahead and left turn movements.
- ii) Adjustments to the give-way line and cutting back of vegetation

at the retail park egress to improve visibility to the south.

- iii) Provision of barriers on in the central reservations to reduce visibility and approach speeds on the northern and southern arms of the junction.
- iv) Widening of the southern arm of the junction, providing a short left-turn lane for traffic entering the retail park.
- v) The provision of a signalised pedestrian crossing across the southern arm of the junction to improve accessibility to and from the south-east, which would also assist in creating gaps in the traffic flow.

Reason: In the interest of highway safety and amenities of the users of the commercial units and in compliance with Policies T12 and BNE2. of the Medway Local Plan.

- 9 The A3/A5 Restaurant with drive thru and the retail foodstore uses hereby approved shall not be open to customers outside the following times: 07:00 and 23:00 on any day.

Reason: In the interests of residential amenities of the occupiers of the nearby residential properties and in compliance with Policy BNE2 of the Medway Local Plan.

- 10 No part of the development shall commence until full details of the following highway improvements have been submitted to the Local Planning Authority for approval:

- a. Adjustments to the give-way line where the retail park access road joins the A229/Shirley Avenue roundabout junction and the cutting back of vegetation at the retail park egress
- b. Visual barriers in the central reservations on the northern and southern arms of the junction and a soft landscaping scheme for the centre of the roundabout
- c. Widening of the southern arm of the junction, providing a short left-turn lane for traffic entering the retail park
- d. The provision of a signalized pedestrian crossing across the southern arm of the junction and new sections of connecting footway on the east and west sides of the A229 carriageway

The approved details shall thereafter be implemented in full prior to first occupation of the development.

Reason: to ensure the development preserves conditions of highway safety, pedestrian safety and the free flow of traffic, in accordance with Policies T1, T2 and T3 of the Medway Local Plan.

- 11 Prior to the occupation of the development, a Green Travel Plan, including measures to promote sustainable travel to and from the site, shall be submitted to the Local Planning Authority for approval. The Travel Plan shall thereafter be implemented in accordance with the approved details prior to first occupation of the development.

Reason: In the interest of highway safety and to improve traffic flow in accordance with Policy T1 of the Medway Local Plan.

- 12 Prior to the commencement of the development hereby permitted (including demolition works) details in respect of the followings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- i) the routing of construction traffic throughout the construction process and the mechanism for securing adherence to approved routes.
- ii) loading and unloading of plant and materials.
- iii) storage of plant and materials used in constructing the development the erection and maintenance of security fencing.
- iv) wheel washing facilities.
- v) measures to control the emission of dust and dirt during construction
- vi) a scheme for recycling/disposing of waste resulting from the construction works.
- viii) construction hours.

Reason: In the interests of highway safety and amenity of the area and in compliance with Policies BNE2 and T1 of Medway Local Plan.

- 13 No part of the development hereby permitted shall be occupied or brought into use until a full details of any proposed air conditioning equipment or other external plant has been submitted to and approved in writing by the Local Planning Authority. The approved equipment and plant shall be installed strictly in accordance with the approved details and maintained as such thereafter.

Reason: In the interests of residential amenities and in compliance with Policy BNE2 of the Medway Local Plan.

- 14 No development with the exception of demolition and refurbishment works shall take place until a scheme showing details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority.

Those details shall include (if applicable):

- i. a timetable for its implementation, and
- ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or

statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To manage surface water during and post construction and for the lifetime of the development.

- 15 Before any of the commercial units hereby approved are first brought into use, the cycle shelter provision and car parking areas shown on the drawing 13620-172 Rev B shall be provided and surfaced with the individual parking bays clearly delineated and thereafter be retained for the life of the development .

Reason: In the interests of amenities and highway safety and in compliance with Policies BNE2 and T13 of the Medway Local Plan.

- 16 The Estate Road, car parking and service yard area lighting within the site shall be provided in accordance with a lighting scheme to be installed on site before occupation of any commercial unit on site in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To safeguard conditions of amenity within the scheme of development permitted in accordance with Policy BN2 of the Medway Local Plan.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

This is a full application comprising the rearrangement of the car park area of Toys R Us to allow the construction of the followings:

- Erection of a single storey new supermarket building with total external 1990 m² floor area and net retail floor area of 1430m² along the eastern flank of Toys R Us, to be operated by Aldi
- Erection of a two storey restaurant with a drive-thru total floor areas on two floors of 477.5m² on the southwest corner of the Toys R Us car park
- The re- arrangement and provision of 196 car parking spaces including 15 disabled parking spaces out of the existing 373 car parking spaces and provision for bicycle shelters with capacity for 20 bicycles to facilities to serve the proposed KFC drive thru and the retail convenient store.
- Provision of on site road widening off site highway improvement, comprising Road widening and new controlled pedestrian crossing to the south side of Tiger Moth Roundabout and associated highway and pedestrian works.
- Relocation of an existing electricity sub-station from the eastern boundary of the site to the northern boundary. It is likely the works associated with the substation relocation would be carried out by the electricity company under the Town and Country Planning General Permitted Development (England) Order 2015.
- Landscaping proposed along the eastern flank of the new A1 retail store

- building and within and off site.
- Refurbishment of the front elevation of the Toys R Us store.

Relevant Planning History

MC/04/2720	Use of part of car park for the siting of a mobile catering facility Decision Refusal Decided 26/01/2005
MC/02/1005	Application for variation of condition 15 of planning permission ME/86/0428 for insertion of mezzanine floor for use as showroom Decision Approval with Conditions Decided 12/02/2003
86/428/A	Details pursuant to outline for the erection of retail units with car parking spaces and associated road works Decision Approval with Conditions Decided 27/03/1987
86/428	Outline application for retail (non food) with ancillary offices, storage and parking facilities Decision Approval with Conditions Decided 11/09/1986

Representations

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

12 letters have been received in support of the application

37 letters of representations have been received making the following comments:

- Adverse impact of the proposals on the shops in the Shirley Ave local centre where there are other takeaways and shop. The proposed KFC is not necessary.
- The proposed takeaway will not help with obesity level in Medway area.
- Additional traffic to and from the Horsted Park would make leaving Davies Estate very difficult, particularly during the rush hour period. This problem is more noticeable when one is heading from the Estate towards north to Chatham. Traffic light signalling is the only way to keep this area safe.
- Tiger Moth Roundabout should have a traffic light to allow people leave Davies Estate.
- Cumulative impact of traffic from industrial units at the Airport and the proposal make highway condition and traffic flow very difficult.
- People will take a risk and increase potential of accident.
- The proposed controlled crossing would not help with the
- Difficulty of leaving Davies Estate.

- There is already an ASDA in the area.

The following supporting statement is received from the applicant's agent regarding the submitted sequential assessment

The sequential approach to site selection was fully assessed as part of the application submission. The assessment that has been undertaken reflects best practice, including the approach advocated by the Planning Practice Guidance and has been informed by a wide range of sources, including site visits and direct discussions with Officers at Medway Council. The application of the sequential approach has also had regard to relevant case law and appeal precedent. This has demonstrated that no sequentially preferable site exists that could accommodate the proposed development or a flexible interpretation of it.

Despite this, in response to specific queries raised by the Council's Policy team we have provided additional justification that demonstrates that there is no policy requirement to consider disaggregation and that no sequentially preferable sites exist. Given that the sequential approach to site selection is satisfied and no concern has been raised by the Policy Team with regard to retail impact, it follows that both retail tests have been satisfied and the principle of the retail floorspace proposed has been demonstrated as being acceptable. Paragraphs 24 and 26 of the NPPF have been satisfied, and paragraph 27 of the NPPF need not be engaged. As such, there is no retail planning reason why planning permission cannot be granted.

KCC Archaeology

States, due to the site's previously developed nature – including extensive services, and truncation and levelling to form the existing car park that no archaeological measures would be required.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). 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

Screening Opinion

In establishing whether an Environmental Impact Assessment (EIA) is required, local planning authorities need to consider whether the development falls within any of the criteria set out in Schedule 1 or Schedule 2 to the Regulations. Development of a type listed in Schedule 1 always requires an EIA. Development listed in Schedule 2 requires an EIA if it is likely to have significant effects on the environment by virtue of the factors such as its size, nature or location.

The proposed development is of a character and size that falls within Article 10b (Urban Development Projects) to Schedule 2 of EIA Regulations 2017 by virtue that it exceeds the indicative threshold for development in this category of 1ha.

The planning application is accompanied by a number of supporting statements, including Planning and Retail assessment, Flood Risk Assessment, Noise and Air Quality assessment, Transport Assessment, Design and Access Statement, Unexploded Ordnance Risk Assessment, and Arboricultural Implication report.

Given, that the site is already developed and is in use by the Toys R Us, the additional floor area proposed would be 2467.5m², the site is not within a sensitive area and only exceeds the thresholds of 1 hectare set out in the Regulations and Schedule 2; It is considered that the proposals would not have any significant environmental effects and therefore it is considered an EIA is not required.

Background

The application site occupies an important gateway position on the main route into Chatham from the south. It is prominently located on the northwest corner of Tiger Moth roundabout between the road and the Rochester Airport.

The application site is currently occupied by the Toys R Us store and the associated car parking area.

The condition no 12 of the permission granted under ref ME/86/0426 for the Horsted Park development restricted retail sale of food from the Horsted Retail Park and states that:

“The use hereby granted...shall not include retail sale of food products (other than the ancillary sale of infant food and confectionary, on not more than 150sqm gross floor space) for consumption off the premises at which they are sold.

Reason: In order not to adversely affect existing retail outlets in the town centre.”

The above planning condition is also translated to a covenant restricting the sell or permits the sale of food or drink from the retail units at Horsted Park.

It is likely that if planning permission is granted the freeholder will apply to the Council in order to be released from the covenant.

Principle of the development

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan for the area is Medway Local Plan 2003 (saved policies).

Paragraph 14 of the NPPF, sets out a presumption in favour of sustainable development and within the Ministerial Foreword, states *“development that is sustainable should go ahead, without delay.* Therefore, consideration has to be given to whether the proposed development constitutes a sustainable form of development and whether any adverse impacts would significantly and demonstrably outweigh the benefits it would deliver.

Paragraph 7 of the NPPF, provides a definition of sustainable development, identifying that there are three separate dimensions to development, namely its economic, social and environmental roles.

The economic role is expanded upon through Paragraph 19 of the NPPF, which advises that:-

“Planning should operate to encourage and not act as an impediment to sustainable economic growth. Therefore significant weight should be placed on the need to support economic growth through the planning system”,

Whilst Paragraph 21 states that planning policies should recognise and seek to address potential barriers to investment.

Paragraph 23 provides advice specific to the vitality and viability of town centres and advises Local Planning Authorities to promote competitive town centres that provide a diverse retail offer. It is advised that each authority should allocate suitable sites of a scale and type suitable for town centre uses such as retail, leisure and residential development.

Paragraph 26 says when assessing applications for retail, leisure and office 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 floorspace threshold (if there is no locally set threshold, the default threshold is 2,500sq m). This should include assessment of:

- 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; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

Paragraph 24 says that retail development must be both outside of an existing centre and not in accordance with an up-to-date development plan to trigger the requirement for a sequential test. The application site lies about 3.5 km south of Chatham town centre, as identified by the proposal map of the adopted Local Plan 2003. Policy R13 requires the proposed retail and drive thru development to be subject to a Sequential Assessment.

The Retail Impact Assessment

In relation to the Retail Impact Assessment arising from the proposed development in relation to the main town centre uses not in a centre and not in accordance with an up to date local plan, Paragraph 26 of the NPPF states that the default threshold for

requiring an impact assessment is 2,500m².

The supermarket comprises 1990 square metres of A1 use and a two storey hot food takeaway restaurant with drive thru measuring 477m² of floor space (A3/A5). The proposal would create a combined floor area of 2,467.5m².

It is considered that the total retail floor space of the proposed development is below the threshold of 2500m² set by the Paragraph 26 of NPPF. It is therefore considered that a Retail Impact Assessment would not be required.

The Sequential Test

The proposed development represents a new retail development outside the Chatham town centre. The Local Plan Policy R13, Paragraph 24 of the NPPF and Paragraph 10 of the National Planning Practice Guidance (NPPG) require that if development like the proposal is to be considered, they must be subject to a sequential test and the test must demonstrate that a flexible approach has been taken to the proposal.

The applicant has undertaken a Sequential Test and considered a number of sites within or on the edge of Chatham town centre locations. Having regard to the need for the developers to be flexible in terms of their requirements but at the same time, an alternative site must be suitable for the proposed development. This means that the site should be able to accommodate a convenience retail superstore, a drive thru A3/A5 restaurant and associate surface car parking.

Concerning the Sequential Test and the availability of potential site in the Chatham town centre or on the edge of the town centre to accommodate the proposed development, the applicant assessed the following sites:-:

1. Vacant units within Pentagon Centre
None of the units was large enough to accommodate the proposed development.
2. Queen Street and Slickett Car Park site
The land due to its topography and difficulty in providing service and delivery arrangement from the Brook and potential adverse impact on the highway safety and free flow of traffic was considered to be an impediment and as such the site was considered not suitable. The site is also not available.
3. Richard Street/Best Street
This site was considered unsuitable due to the topography of the land and the adjoining car parking areas with gradient not appropriate for trolley use by the customer of the proposed convenient retail store. The site is also not available.
4. 270-272 High Street
This site comprises a vacant unit within Chatham town centre that previously comprised a small indoor market (Trafalgar Centre) and extends to approximately 1,920 square metres of floorspace. This floorspace will be wholly unsuitable due to irregularly configuration of the floorspace and does not provide a uniform shape that is required for the development proposed (a

modern retail unit).

This site's unsuitability was previously considered and dismissed as a sequential alternative to a proposed Aldi (now trading) at Gillingham Retail Park considered under ref MC/14/3867. In this case, the Council concluded that this site would not be suitable for an Aldi store requiring a minimum floorspace of 1,533 square metres. In addition, this site lacks any adjacent car parking and servicing is constrained due to the site's location. This site would also not be able to achieve the development as proposed.

The idea that the drive thru alone could be accommodated in the town centre was also considered and it was ruled out for the following reasons:-

1- In addition it is considered that a drive thru in or on the edge of Chatham Town centre would potentially be prejudicial to the survival of the existing KFC and other A3/ A5 uses in the High Street/ town centre and could lead to more empty retail units in the High Street/town centre area and as a consequence undermine the vitality and viability of the High Street/town centre.

2- The decision of the Supreme Court in Tesco Stores Ltd v Dundee City Council [2012] UKSC 13 (21 March 2012). On the facts of that case, it held that there was no need to demonstrate disaggregation of a large Asda when considering the need to demonstrate flexibility. Furthermore it concluded that 'suitable' should be taken to mean 'suitable for the development proposed by the applicant', rather than 'suitable for meeting the identified deficiencies in retail provision in the area'.

3- The above court decision was reiterated by the planning inspector in a recent appeal decision for a scheme comprised a public house/restaurant, 3 restaurants and 2 drive through restaurants, surface car parking, a play area and outdoor seating over 4 km outside Colchester town centre. The planning inspector regarding flexibility and disaggregation of the proposed development said:-

"I have had regard to the need for the developers to be flexible in terms of their requirements but, at the same time, an alternative site must be suitable for the proposed development. This means that the site should be able to accommodate the development. This means that the site should be able to accommodate a public house/restaurant, 3 restaurants and 2 drive through restaurants, surface car parking, a play area and outdoor seating. These cannot reasonably be disaggregated as they comprise "the development".

In light of the above consideration and assessment it is concluded that there is no suitable or available sequentially preferable location for the proposed development and as such the sequential approach to site selection is satisfied and the sequential test is passed.

With regard to retail impact, it follows that both retail tests have been satisfied and the principle of the retail floorspace proposed has been demonstrated as being acceptable. Paragraphs 24 and 26 of the NPPF and policies S2 and S5 and R13 of the local plan have been satisfied, and paragraph 27 of the NPPF need not be engaged.

With regard to the condition no 12 of the planning permission granted under ref ME/86/0426 for the development of the Horsted Retail Park mentioned in the background section above; it is considered that although the reason for the condition was to protect the retail units in the town centre at the time, some 32 years ago. There have been other town centre developments since, in particular, the Asda superstore not too far away from the application site was allowed on appeal.

Chatham town centre is some 3.5 km away from the town centre, it is considered unlikely that there would be any significant overlap in the town centre catchment areas and Horsted area. The proposal therefore would not result in harmful impact on trading in the town centre and its vitality and viability

Design, Scale and Visual Impact

Local Plan Strategy Policy S4 states that “a high quality of built environment will be sought from new development with landscape mitigation where appropriate. Development should respond appropriately to its context and reflect a distinct local character”.

The NPPF (Section7) advises that “good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”. The document continues to state that “permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”. The NPPF also attaches great importance to the design of the built environment, which should contribute positively to making places better for people. As well as understanding and evaluating an area’s defining characteristics, it states that developments should:

- function well and add to the overall quality of the area;
- establish a strong sense of place;
- respond to local character and history, and reflect local surroundings and
- materials; create safe and accessible environments; and
- be visually attractive as a result of good architecture and appropriate
- landscaping

Local Plan Policy BNE1 advises that design of the development should be appropriate in relation to the character, appearance and functioning of the built environment by being satisfactory in terms of its use, scale, mass, proportion, details, materials, layout and siting.

The existing Toys R Us car park is disproportionately large and under used relative to the Toys R Us size. The proposed retail food store development (Aldi) and the A3/A5 drive thru (KFC) would fill the car park and make Horsted Retail Park more efficient and allow the northern end of the Horsted Park to become more efficient and vibrant.

The proposed food store would be a rectilinear detached building along the eastern flank of the Toys R Us store. It would have a mono pitched roof, sloping from east to west behind a parapet facing south and east flanks of the building. The building would

have a maximum height of 9m. The parapet would help to bring the mass and elevational appearance of the food store to face the car park to the south and the eastern flank and be similar to overall height and the mass of the Toys R Us.

The primary active frontage of the food superstore has been positioned so as to overlook south, the entrance will face onto the car park.

The external appearance of the building would be a combination of metal cladding and glazed frontage and wraps around the corners either side, where it is proposed to drop down to a low level brick plinth course.

The proposal would also involve removal of the existing Toy R Us Mansard roof and giving the existing tired and dated front elevation a contemporary metal wall cladding and external finish to match the food store.

The A3/A5 drive thru (KFC) building would be a two storey flat roof with a height of about 8m and sited along the south west corner of the car park area with service and delivery from the western flank aspect of the building.

The main elevations of the A3/A5 unit (KFC) would face the car park area to the east and north. The building would be cladded with similar materials; metallic silver micro-rib metal. This material would also frame the glazed frontage and wraps around the corners either side, where it would drop down to a low level brickwork plinth course.

The proposed finished material would be similar to the Toys R Us and retail food store which would provide continuity with the design and appearance in this part of the retail park.

Given the simple design of both the retail food store and the restaurant drive thru unit, the quality of materials to be used would be of importance to the final appearance of the development. Full details of the materials to be used for these buildings have however yet to be submitted, and as such, are recommended to be secured by condition

The proposed siting of retail food store along the eastern side of Toys R Us would bring the building to about 2m of the eastern boundary and as a result the existing hedgerow and a number of trees on and off site will be lost. This would make the eastern flank of the building exposed and potentially prominent and visible from the highway. To mitigate and soften this aspect of the development, the applicant has proposed landscaping measures along the eastern boundary of the site to deal with this issue. Also to compensate for the loss of valued public property trees on the highway has agreed to make a payment to allow the Council to plant new trees elsewhere in the locality. It is considered that subject to a landscaping condition the proposal would be acceptable.

The proposed mass scale siting and external appearance of the proposed KFC unit and its associated drive-thru is considered to be appropriate within the site and the context of its surrounding and given its set back position from the Tiger Moth roundabout and the highway it would not appear intrusive in the street scene or detract

from the character of the area.

The proposed layout shows that the new retail food store would share the same service yard and access as the Toys R Us to the along the northern boundary of the site. This part of the site is well screened and as such would not detract from the visual amenity of the area.

The main vehicular access point to the site would remain and the rearranged parking expanse of the car park would be within the central and eastern part of the site. To screen the car parking area from the high way it is considered that additional landscaping would be necessary. This would be covered by the landscaping condition referred to above.

Overall, there is a simple contemporary design character utilised across the site. Whilst it is evident that generic buildings applicable to each business are being used they are, given the surrounding context, appropriate to the character of the area and will ensure a development, which will visually be acceptable and therefore compliant with the requirements of both local and national planning policy.

Condition no 13 of the ME/86/0428 requires that the height of the buildings in Horsted Retail Parks should not exceed 10m above ground level. The proposed development complies with this condition by keeping the height be the proposed building below 10m.

Highway Issues

Paragraph 34 of the NPPF seeks to ensure that development which generates significant movement, is located where the need to travel can be minimised and the use of sustainable travel maximised.

The proposed development will undoubtedly create an increase in the level of traffic by virtue of the increased intensity of use of the site. The volume and movement of traffic along Maidstone Road will be particularly affected, with an increased vehicles accessing and exiting Horsted Retail Park.

Trip Generation

The Transport Assessment submitted with the application uses the TRICS trip generation database to estimate that the development proposals are likely to generate approximately 224 two-way trips during the weekday evening peak hour (110 arrivals and 114 departures) and approximately 500 two-way trips (241 arrivals and 259 departures) between 1215 and 1315 on a Saturday. It is estimated that 50% of these trips would be new to the road network, with the remainder either diverted from the nearby ASDA, linked with the other outlets on the retail park or pass-by trips already on the A229.

Traffic Impact

The average annual daily flow on the A229 to the south of Rochester Airport is circa 40,250 vehicles per day based on 2016 counts, with no material change since 2007 and 2.5% less than the peak in 2005/2006. A traffic survey of the roundabout junction

indicates that vehicle queues on the approaches exist at peak times. Average queues on the Maidstone Road northern arm are high at certain times during the evening peak, (up to 40 vehicles were recorded by the survey) due to the number of u-turn movements, but average around 18 vehicles across both lanes. A maximum average queue of 17 vehicles was recorded on the southern approach and queues on Shirley Avenue ranged between 2 vehicles and 10 vehicles. The northbound arm experiences much lower average queues during the Saturday peak and across the junction as a whole average queues amount to an average of up to 16 vehicles, with an average queue of 19 vehicles attempting to leave the retail park. The survey results submitted are broadly consistent with those undertaken by the Council in 2017, as part of a wider study.

The development is predicted to increase traffic flows by 39 movements on the Maidstone Road arms of the junction during the evening peak (an increase of up to 1.1% over 2016 flows) and 79 movements during the Saturday peak (an increase of up to 2.7% over 2016 flows). Up to 5 additional movements are likely to be added to the Shirley Avenue arm of the junction during these times. The greatest increase would be experienced on the retail park arm of the junction: traffic flow would increase by 83 movements during the evening peak and 180 movements between 1215 and 1315 on a Saturday, representing an increase of 30 – 45%.

The transport assessment contains baseline capacity assessments of the junction in 2016, 2018 and 2023. This assessment is then repeated with development traffic added. The baseline assessments demonstrate that, by 2023, the junction would still be operating within its theoretical capacity during the Saturday peak period, but over capacity on all arms except Shirley Avenue during the weekday evening peak. With the addition of development traffic, by 2023 the capacity of the junction would be reduced further during the evening peak, with longer queues and delays on all arms except Shirley Avenue. Two arms of the junction (northern approach and the retail park access) would operate over capacity during the Saturday peak.

Mitigation measures

Converting the roundabout into a standard signalised junction is not advisable, due to the number of U-turns associated with the ASDA and Business Park to the south. Currently there are an estimated 400 vehicles doing a U-turn during peak hours, all of which would either look to turn right into Shirley Avenue and then use the roundabout to the east, or proceed further north to the gyratory before turning back to head south. The existing roundabout is considered too small to signalise: there would be insufficient space to stack vehicles on the roundabout itself, which could not accommodate the volume of u-turning traffic. This would lead to significant blocking back and long queues and delays on the approaches.

The transport assessment therefore proposes some alternative off-site highway works to mitigate the impact of the development, which have been subject to a Road Safety Audit:

1. Widening the retail park access to provide two exit lanes, with the off-side lane for right turns and the nearside lane for ahead and left turn movements.
2. Adjustments to the give-way line and cutting back of vegetation at the retail

- park egress to improve visibility to the south
3. Provision of barriers on in the central reservations to reduce visibility and approach speeds on the northern and southern arms of the junction
 4. Widening of the southern arm of the junction, providing a short left-turn lane for traffic entering the retail park
 5. The provision of a signalised pedestrian crossing across the southern arm of the junction to improve accessibility to and from the south-east, which would also assist in creating gaps in the traffic flow

With these measures in place, a capacity assessment indicates that the junction would operate better in 2023 than the baseline scenario with no development, with the exception of the northern arm. Overall, the junction would still operate at, or very close to, its theoretical capacity during the evening peak period and the northern arm would operate over capacity with queues predicted to double in length.

Sustainable transport

The site is served by high frequency bus services operating every 12 minutes Monday-Friday and every 30 minutes on Saturdays. An alternative service links the site with the Davis Estate. An existing Toucan crossing on the northern side of the roundabout links directly with the site, and a new crossing is proposed on the southern arm, along with an additional section of footway. The Toucan crossings also provide a connection with the National Cycle Route on the eastern side of Maidstone Road.

Parking

The proposed development would result in the loss of 177 spaces from the northern car park, leaving a total of 220 spaces. No changes are proposed to the southern car park and the existing provision of 321 spaces would remain. Across both car parks, there would be a total of 541 spaces. Medway Council's parking policy indicates maximum provisions for non-residential developments and therefore the proposed development would not be contrary to Policy T13 of the Medway Local Plan. The transport assessment estimates that there would be a demand for 60 spaces associated with the proposed development during the weekday PM Peak hour, and for 109 spaces during the Saturday afternoon peak hour. This estimate is based on an average duration of 45 minutes for the Discount Foodstore and 15 minutes for the KFC, taking into account trade using the drive-thru. It is predicted that overall occupancy levels in the northern car park would increase to 173 spaces (79%) during the Saturday afternoon peak hour. This is considered to be a reasoned, evidence-based assessment, and it is considered that the proposed levels of parking would accommodate the demand generated by the development.

Internal layout

As with many restaurant outlets on retail parks, it is proposed to service the restaurant via the car park. There would typically be 4 deliveries per week by an articulated HGV planned to occur outside of peak trading and commuter periods. The discount foodstore would be serviced via the service yard to the rear with on average 5 to 7 deliveries per day. The on-site turning facilities in the yard, which cater for the retail outlet currently on the site, are not proposed to be altered and are considered

suitable for use by vehicles servicing the foodstore.

The proposed drive-thru lane would have the capacity for up to 13 cars behind the order point, with capacity for a further 12 cars to wait within the car park. Customers would be able to use other aisles within the wider parking area if necessary, and there would be stacking capacity for a further 6 cars through to the internal roundabout without affecting access to the southern car park.

Overall, the proposed development makes adequate on-site provision for parking, servicing and the collection for food from the restaurant, and it is considered that there would be no detrimental impact on the operation of the adjoining highway network.

Highways Conclusion

The proposed development would increase the number of trips to and from the existing retail park, which would have a material impact on the adjoining highway network. Whilst it is not possible to significantly change the existing layout of the junction, the application proposes some mitigation measures in the form of localised widening on the retail park access road and on the southern side, along with measures to reduce vehicle speeds. It can be demonstrated that these measures would mitigate the impact of the development in future years, although some concern remains in respect of the northern arm, which would experience increased delays and queues at peak times. Notwithstanding this, the site is located on a high-frequency public transport corridor and the application proposes a new pedestrian crossing that would improve non-car accessibility, particularly for residents of the Davis Estate. On balance, therefore, it is considered that the proposal complies with the transport policies of the Local Plan. In accordance with the National Planning Policy Framework, the development provides sustainable transport opportunities and safe and suitable access for all users. Overall, the residual cumulative impacts of development are not considered to be severe.

Trees and Landscaping

Paragraph 118 of the NPPF advises that permission should be refused for development resulting in the loss of aged or veteran trees, unless the benefits of the development outweigh the harm. Policies BNE42 and BNE43 of the local plan also seek to protect trees and hedgerows that provide a valuable contribution to the local character.

The proposed scheme could result in the loss of a number of individual trees and hedgerow which runs along the eastern boundary of the site fronting on to Maidstone Road. None of these trees and hedgerow is protected by a tree preservation order, although it is noted that some of the trees to be removed are off site and within the highway verge area. The tree survey undertaken by the applicant's arboricultural consultant notes that a number of trees within the application site and on the verge are category B trees and these are worthy of retention. However, some of these are proposed to be removed. The trees and hedgerow that are to be removed to permit the siting of the proposed Retail food store would make the new food store building and in particular its eastern flank elevation to some extent exposed and visible. The applicant has submitted a landscape strategy plan to demonstrate the impact could be

mitigated by new landscaping. It is considered that subject to a landscaping scheme that screen and mitigate the visual impact of the building together with a financial compensation for the loss of trees on the public highway the proposal would be in compliance with Policies S4 and acceptable.

The compensation fund would be used by the Council to plant new trees in the locality and maintain them for the next 15 years.

Residential Amenities

The NPPF core planning principles includes the requirement that planning should seek a good standard of amenity for all existing and future occupants of land and buildings, Local Plan Policy BNE2 seeks to protect amenity of the local residents by avoiding development which causes harm through unreasonable traffic generation, noise, or other disturbance.

Noise

The applicant has submitted a noise assessment report and the conclusion of the report is that there would be night-time maximum noise levels due to heavy goods vehicles servicing the site may just exceed the 60dB criterion set out in the World Health Organisation's Guidelines for Community Noise. However, the WHO state that the threshold would need to be exceeded 10 to 15 times per night to disturb sleep, and since only two heavy goods vehicle movements are anticipated at night, it is unlikely that sleep disturbance will occur.

Furthermore, the night-time maximum noise levels at receptors close to the site are already likely to exceed this criterion due to activities at the existing commercial buildings at the site, and road traffic on the A229 Maidstone Road. Therefore, on balance, it is considered that maximum noise level events from the site will not adversely impact residential properties close to the site.

The 1986 planning permission for the Horsted Retail Park did not restrict the opening hours or the frequency and hours of service vehicles to the site.

On the basis of the information set out in this report, it is considered that noise from the site does not pose a material constraint to the proposed development.

The Council's environmental Protection team raises no objection to the proposal subject to appropriate condition with regard to opening hours to minimise impact on the nearby residents.

In order to limit the impact of the opening hours of the development on the residential properties on the east side of Maidstone Road, it is appropriate to ensure that reasonable opening hours are allocated for these units. The opening hours proposed by the applicant, for the food retail and A3/A5 restaurant with drive-thru (KFC) units are as follow:

Food Retail 07:00 – 23:00 Monday to Sunday inclusive.

Also to ensure that noise from any external chilling units is controlled relevant conditions is recommended.

It is noted that local residents have raised a concern regarding potential anti-social behaviour associated with the drive-thru restaurant. It is considered that the business will largely self-police such issues, but that the opening hours identified would prevent this occurring at anti-social hours. Subject to the application of the abovementioned condition the development would comply with the requirements of the local and national planning policies.

Although the 1986 permission did not impose any operating hours, given the change in the nature of the new uses proposed it is considered that the above hours suggested by the applicant is considered to be acceptable.

It is considered that the noise issue could be mitigated and subject to the above conditions the proposal would be in compliance with Policies BNE2 and BNE3 of the local Plan and acceptable.

Construction

The need for dust mitigation measures has been identified within the applicant's air quality report. However, to identify what mitigation measures will be utilised and how issues such as noise, vibration, working hours and deliveries will be mitigated for during the construction process. Therefore a construction management plan should be secured via condition.

Overlooking, Loss of Light and Overbearing Impact

There are a number of dwellings site along the Eastern side of Maidstone Road. These dwellings are located a minimum of 40 metres from the closest commercial unit. This distance and the fact that A299 separates the application site from these dwellings ensures that there would be no adverse impact on the residential or visual amenities of these properties from the development.

In conclusion, the impact of the development on neighbouring occupiers has been fully assessed. It is considered that subject to conditions, as recommended, the development will not result in unacceptable impact upon the amenities of occupiers of nearby residential properties by reason of overlooking, over-dominance or general noise and disturbance and as such the development is compliant with the requirements of Local Plan Policies BNE2, BNE3 and BNE24.

Contamination

In light of the close proximity of the site to the Rochester Airport and the use of the air port by the Royal Air Force and its bombardment by the Luftwaffe during the II WW, there is a possibility that some unexploded ordnance might be uncovered during the construction period. The applicant has submitted a risk assessment report with the application. The report recommends that necessary information is made available to those who will be working on site and safety steps to be undertaken during the construction period. An informative in this regard is recommended to any permission.

Flood Risk and surface water

The applicant has submitted a flood risk assessment report, this has been considered acceptable subject to the imposition of an appropriate condition

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 into 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 they are directly related to the impact of the development. A Section 106 Agreement under the terms of the Town and Country Planning Act 1990 to secure the following developer's contributions:

- i) Secure A £1000 for an initiative at one or some of these schools. These initiatives could include nutritional resources for the school, community food growing and commissioned physical activities.
- ii) Payment of £86,352.53 toward planting and maintenance of new trees in the locality in place of the trees to be removed on public highway.

Local Finance Considerations

None

Conclusions and Reasons for Approval

In assessing the factors that weigh in favour of the application site as a sequentially preferable out of centre location for an A1 convenience store and an A3/A5 restaurant with a drive thru facility, paragraph 24 of the NPPF states that "When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre."

The main factor in favour of the application site is its location on the main road between the Chatham town centre and Horsted Retail Park. The site is on the A229, Maidstone Road and enjoys good accessibility and public transport connection (bus stop is just a few steps away on the Maidstone Road) to the Chatham town centre and Davies Estate.

The proposals involve the enhancement of highway infrastructure which would improve access to Horsted Retail Park.

The proposals would bring an under used site into more efficient use. The design of the buildings together with the proposed face lift of the Toys R Us would enhance the appearance of the site provide the buildings good visibility

The details of the landscaping would be required by a condition and this would help to

mitigate the trees and hedgerow loss and soften the visual impact of the development.

The occupiers of these units are known which means the development is not speculative and the economic benefits including substantial investment and jobs during the construction period will take place. In addition, according to the applicant 100 permanent new jobs would also be created close to residential areas. All these issues weigh in favour of the scheme.

The development would be likely to result in a high level of car use by customers. It is likely some trips to the Horsted Retail Park new facilities would be on foot or by public transport and there would be some shared trips, but it is highly likely that the overwhelming majority of customers would arrive by car. This would be contrary to development plan objectives and weighs against the scheme. However, there would be some highway improvement and better pedestrian connectivity to the Retail Park and that the Council highway officer has not raised any objection.

It is also considered that the operators of the proposed development units and the operators of the other existing retail units at the Horsted retail Park would mutually benefit from each other high profile.

On balance it is considered that all the above issues weigh in favour of the scheme.

The proposal therefore accords with the provisions of Policies S2, S4, S6, BNE1, BNE2, BNE3, BNE5, BNE6, BNE7, BNE23, BNE24, BNE42, BNE43, T1, T2, T13, R2, R13 and R18 of the Local Plan and the Paragraphs 7, 14, 19, 21, 23, 24, 26, 27, 34, 118 of the NPPF and is recommended for approval.

This application would normally fall to be determined under delegated powers but has been referred to committee due to the number of representations contrary to the Officers recommendation.

The application was reported to the Planning Committee on 14 March 2018 and was deferred for further consideration of, in particular, car parking issues. This has been raised with the applicants and the response will be reported to the Committee.

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/>