

MC/18/1818

Date Received: 18 June 2018

Location: Plot 1 Anthony's Way Medway City Estate Frindsbury Rochester

Proposal: Construction of retail development (Use Class A1), trade counter units (Use Class B8) and a drive-thru restaurant together with associated access, servicing and infrastructure works, car parking and landscaping - resubmission of MC/16/1084

Applicant Location 3 Properties Ltd

Agent Mr Roger Birtles
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London
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Ward: Strood Rural Ward

Case Officer: Tim Chapman

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 26th June 2019.

Recommendation – That if the Committee had been able to make a decision on this application, Planning Permission would have been refused for the following reasons:

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 24th June 2019

1. Insufficient information has been submitted to demonstrate that the traffic implications of the development would not be detrimental to the capacity, functioning and safety of the public highway, particularly in respect of the existing severe operating conditions at the Anthony's Way junction with the A289. The proposal is therefore contrary to Policy T1 of the Medway Local Plan and paragraphs 109 and 111 of NPPF.

Proposal

The proposed scheme will provide a mixed-use development comprising a drive-thru restaurant, employment floorspace and retail floorspace. In total, nine units are proposed as follows:

Unit No	Use	GIA
1	Retail (discount food store)	1,894m ²
2	Retail	1,393m ²
3	Retail	1,393m ²
4	Retail	557m ²
5-8	Use Class B8 (trade units)	4no units – 464.5m ² each
9	Drive-thru restaurant	167m ²

The proposal comprises 4 retail units, 4 trade counter units and a single Drive Thru' unit in three separate buildings. The larger of the buildings will have 4 retail units in a 'terrace' running east-west. The trade counter terrace will have 4 equally sized units, running roughly north-south adjoining Whitewall Creek on the east side of the site. The drive thru' unit will stand alone adjacent to the site entrance. There will be a split of approximately 65:35 comparison / convenience across the retail units on the site.

The proposed retail units will all be single storey buildings. Units 1 to 4 have been designed to accommodate future mezzanine space if required by the tenants. Unit 1 will be a food retail unit and will be located adjacent to Anthony's Way and is set slightly forward of Units 2 to 4.

Customer access will be from the car park to the north and all servicing for these units will be from George Summers Close to the south.

These units will be serviced separately from the car park.

The Drive Thru' unit will be connected to the main units by a covered walkway through the car park.

The proposal has 319 parking spaces in total including 261 retail spaces with 17 staff spaces, 17 spaces for disabled visitors, 15 parent and child spaces, 3 electric car charging spaces and covered cycle parking as identified in the supporting transport statement and on the application plans. The Trade Counter Units have 58 parking spaces including 7 wheelchair accessible spaces and 4 larger spaces for vans and cars with trailers in accordance with the Local Authority guidelines. There will also be 5 spaces for trolley bays positioned across the car park.

The heights of the units varies from 5.4 metres for the Drive Thru' unit to 10 metres for the retail units. The design of the retail buildings is in the form of modern sheds, with signage and lower level glazing on the frontage and a parapet wall above. The rest of the building is faced with a variety of materials, including blue bricks at the lower level

with silver composite panels above, with dark grey composite panels on the eastern (Whitewall Creek) elevation.

The drive thru' has a grey edged mono-pitch roof with silver cladding and red feature panels, including extensive signage. Glazing is in the form of 2.8 metre high dark grey edged windows on two side of the building.

The four trade Counters are in a simply shed form with a mono-pitch roof and glazing and entrances facing west into the site.

Landscaping is proposed surrounding the site, providing a landscape buffer between the development and Anthony's Way, Whitewall Creek and George Summers Close to the South. The development provides a pedestrian footway along the length of the site boundary with Anthonys Way.

This application has been appealed on the basis on non-determination and so the Planning Committee's view is being sought about what decision it would have made had it been in a position to make a decision.

Relevant Planning History

MC/16/1084	Construction of retail development (Use Class A1) together with associated access, servicing and infrastructure works, car parking and landscaping. Refused 31 August 2017 on the ground of adverse retail impact and lack of park and ride facility as required by Medway Local Plan Policy T17. Appeal lodged but then withdrawn.
MC/14/1413	Application for a Lawful Development Certificate (Existing) to confirm the lawful commencement of planning permission MC/10/2125 Approval 29 July, 2014
MC/10/2125	Construction of a Park and Ride facility and Class A1 retail store together with associated car parking, delivery yard, vehicular access, highway improvement works, landscaping and other works including land reclamation. Approval with Conditions 6 May, 2011
MC/10/0936	Town and Country Planning [Environmental Impact Assessment] [England and Wales] Regulations 1999 - request for a scoping opinion for development of a Class A1 retail food store with associated facilities and a park and ride facility - EIA Required - 19 April, 2010
MC2009/0671	Variation of conditions of planning permissions MC2003/1301 (construction of park & ride car park with ancillary building; non

food retail warehouse with ancillary builders yard; garden centre & car parking; & engineering & other works including land reclamation), MC2007/0238 (variation of condition 18 of planning consent MC2003/1301 to allow a wider range of goods to be sold being; crockery, glassware china and kitchenware; books and stationery; and televisions, video recorders, dvd players, hifi's, microwave ovens, ovens and similar new DIY electrical equipment) and MC2007/0239 (variation of condition 19 of planning consent MC2003/1301 to allow sub-division of retail unit into separate units of no less than 929m2
Approved with Conditions, 15 January 2010

MC2007/0239 Variation of condition 19 of planning consent MC2003/1301 to allow sub-division of retail unit into separate units of no less than 929m2.
Approved with Conditions, 13 June 2007

MC2007/0238 Variation of condition 18 of planning consent MC2003/1301 to allow a wider range of goods to be sold being; crockery, glassware china and kitchenware; books and stationery; mobile phones; and televisions, video recorders, dvd players, hifis, microwave ovens, ovens and similar new DIY electrical equipment
Approved with Conditions, 13 June 2007

MC2003/1301 Construction of park & ride car park with ancillary building; non-food retail warehouse with ancillary builders yard; garden centre & car parking; & engineering & other works including land reclamation
Approved with Conditions, at 'Call In' Public Inquiry 25 September 2006

Representations

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

British Gas Networks advise that there may be a gas main near the site and recommend an informative be added to any approval.

Lead Local Flood Authority has no objection subject to conditions

Frindsbury Extra Parish Council has no objection

KCC Archaeology has no objection

Historic England has concerns regarding the application on heritage grounds, namely low level harm caused to the views of Chatham dockyard. Further details of interpretation boards are requested.

Gravesham Borough Council has no objections.

KCC Ecology have no objection to the proposal.

Southern Water have no objections subject to condition and informatives.

Ellandi, (on behalf of the Pentagon) objected to the proposal on the basis of its negative impact on existing retail centres. This objection has now been withdrawn.

Three Objections have been received from members of the public regarding the increase in traffic congestion as a consequence of the development

One letter of support has been received from a member of the public welcoming the provision of retail in this location.

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, 2019 and are considered to conform.

Planning Appraisal

Site and Surrounding Area

The site has an area of 2.845 hectares and is largely flat and overgrown. It is located on the west side of the River Medway and to the immediate south of the Medway Tunnel.

The principal access to the site would be from Anthony's Way, the main estate road serving the Medway City Estate, with a further access from George Summers Close. This land is located to the east of Anthony's Way and to the south of Vanguard Way (A289). Anthony's Way is the main or principal access into the Medway City Estate, while Vanguard Way is a dual carriageway and links to the Medway Tunnel, which leads to Chatham, Gillingham and those parts of Medway to the east of the River Medway.

The development site has a frontage onto Anthony's Way and is bounded to the north and east by Whitewall Creek, a tidal inlet of the River Medway. To the south, the site is bounded by George Summers Close, which serves units on the wider industrial estate to the south. To the immediate north of the site there is a Mc Donald's drive-thru restaurant and BP petrol filling station, which includes a small convenience store. To the south of the development site lies the main portion of Medway City Estate, which comprises a range of industrial and warehousing units.

Strood Town Centre is approximately 2.3km to the south-west of the site while Chatham Town Centre is some 3.2km to the south-east on the opposite side of the River Medway.

The main issues for consideration are highways matters including the lack of the park and ride facility and retail issues in the context of the complicated planning history of the site.

Background and historical context

The MC/16/1084 refusal and subsequent appeal

This proposal was for the construction of retail development (Use Class A1).

The proposal was refused planning permission on the following basis:

- 1) *The proposed development would introduce an out-of-centre retail park that, if Permitted, would have a significant adverse impact on the vitality and viability of Chatham, Strood and Gillingham, including impact on in-centre trade/turnover from the scheme and other commitments, and on investment.*

Therefore the development cannot be considered to be sustainable as it fails to:

- *Contribute to building a strong, responsive and competitive economy, being a development in the -wrong location that would fail to support growth and innovation (The Economic Role) and;*
- *Support strong, vibrant and healthy communities, by providing a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being (The Social Role).*

In the light of all of the above, the proposed would not if permitted amount to Sustainable development as detailed in Paragraph 7 of the National Planning Policy Framework and, if permitted, would be contrary to paragraphs 14, 23, 24, 26 and 27 Of the National Planning Policy Framework and saved Policies S1, S2, S5, R1, R2, and R13 of the Medway Local Plan 2003.

- 2) *In the absence of the provision of a park and ride facility, there is no justification, when assessed against the adopted Development Plan policy, for the provision of any retail, commercial or industrial development on the site. This out-of-centre retail park would be prejudicial to the ability to develop infrastructure to widen transport choice for which the site was allocated in the first instance amounting to an unsustainable development in terms of the economic and social roles identified at paragraph 7 of the National Planning Policy Framework. The development, if permitted, would therefore not amount to a sustainable form of development and would be contrary to the objectives of Paragraphs 7, 30, 35 and 41 of the National Planning Policy Framework and Policy T17 of the Medway Local Plan.*

Following the refusal of planning permission the proposal was appealed. The appeal was subsequently withdrawn to enable consideration to be given to a

reduced scheme, which then became the subject of the current application.

Park & Ride

The site is presently covered by Local Plan Policy T17, which designates it for a park and ride allocation. This allocation was a long-term proposal for the Council, being repeated again in the Medway Local Transport Plan 2011-2026. However the assumptions for this allocation were based on an older transport evidence base that is now being replaced by the one emerging for the emerging Local Plan.

The emerging evidence base for transport is being directed by the Strategic Transport Assessment (STA). The initial STA work has indicated that a park and ride scheme is not a potential solution to the transport issues that Medway currently faces. As a result the emerging Local Plan evidence base is indicating there is no need to protect this site for a park and ride use in the future. It is recognised that this is a departure from the present Local Plan and will still need to be confirmed by the emerging Local Plan that will outline transport policy and allocations when published later this year (2019).

Background and the fallback position.

An important element of the assessment of the proposal is the weight to give the previous extant permission for the Sainsbury's proposal. The following points are critical to the fallback issue:

- 1) Whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use;
- (2) Whether there is a likelihood or real prospect of such a use occurring; and
- (3) If the answer to the second question is "yes", comparing the proposed development and the fall-back use.

The planning history for this development site is detailed earlier in this report. It is clear from this Planning History Section that various previous planning consents have been granted on this development site.

The earliest of these applications, planning reference MC2003/1301, was granted by the Secretary of State following a call-in public inquiry and related to a B&Q warehouse development together with Park & Ride. This scheme was granted consent having regard to the considerations surrounding the B&Q Gillingham appeal decision. Namely that no sequentially preferable sites existed for a B&Q 'Warehouse' format store and that there was an unmet need for a store of that type and as such was therefore a very specific departure from the development plan. The Secretary of State applied conditions that reflected the exceptional nature of that consent. These covered the types of goods that could be sold (which explicitly exclude food, toiletries and other 'convenience' goods), and sub-division of the premises

There have been a number of consents in the intervening period and in 2009 an application seeking to consolidate those earlier consents and vary conditions was granted. (See planning reference MC2009/0671). That scheme allowed for the sub-division of the building previously approved and also allowed a wider range of goods

to be sold on site. Effectively allowing a retail warehouse park with convenience goods trading, albeit still restricted by planning condition. That condition prevented the sale of: food; alcoholic drinks; tobacco; fashion clothing and footwear including children's clothing; chemist/pharmaceutical goods; jewellery/fancy goods and luggage; perfume and toiletries; sports clothing and equipment; mobile phones and newspapers, greeting cards, stationery and writing/drawing equipment.

Both of the above mentioned previous applications had the potential to be implemented up until 25 September 2011. However, they have both now lapsed and can no longer be implemented. They do not amount to a fall-back use as there is no longer a lawful ability to undertake such a development.

Whilst the above permissions have lapsed, they both had the capability of being implemented in 2010 when the Sainsbury's planning application, Planning Reference MC/10/2125, was being considered and they were a material consideration in relation to that planning application, when it was granted consent, on the 06 May 2011.

The Sainsbury's planning permission allowed consent for the construction of a Park & Ride facility and Class A1 retail food store with a gross external area totalling approximately 9,822sq.m of which 6,276sq.m would provide the net retail floorspace. In addition to this retail food store, the application also proposed associated car parking, delivery yard, vehicular access, highway improvement works, landscaping and other works including land reclamation. It should be noted that the associated S106 agreement stated that the retail component could not be occupied until the Highways works required under S278 had been completed. The site area in total extended to an area of approximately 7.85 hectares (19.40 acres).

A Certificate of Existing Lawful Use or Development (CELUD) was issued by the Council, under Planning Reference MC/14/1413, on the 29 July 2014, confirming that the Sainsbury's planning permission MC/10/2125 had been lawfully commenced. It is therefore clear that there is a lawful ability to undertake the use.

The applicant for this current planning submission places significant emphasis on the Sainsbury's Consent and its implementation as the fallback position. They state at paragraph 1.11 – 1.14 (inclusive) of their Planning and Retail Statement (PRS):

- “1.11 The planning history is, as such, extremely important to the consideration of these proposals. It sets the base parameters or ‘backstop’ position against which these proposals should be judged. In particular, it establishes that:-*
- There has been a long history of permitting a significant quantum of retail floorspace at this location stretching back to 2005;*
 - The Secretary of State, in 2006, endorsed the acceptability of retail development on the site;*
 - The principle of the site being developed to provide a retail warehouse park is well established by the consents of June 2007 and January 2010;*
 - The site continues to benefit from an extant consent for some 9,354m² of unrestricted retail floorspace which could be built out today.*

- 1.13 *In short, the principle of the development of this site for a significant quantum of either comparison or convenience floorspace (or a combination of the two), well in excess of that contemplated in this application, is long established. Moreover, the most recent consent (the Sainsbury's consent) which allows for 9,354m² of open A1 floorspace remains extant and could be built out without further recourse to the Council. That consent could be occupied by a foodstore such as say Sainsbury's or Asda or equally could be occupied by any other retailer including fashion retailers such as Marks and Spencer, a department store such as Debenhams or John Lewis or a mixed retailer such as B&M Bargains.*
- 1.14 *Accordingly, in any assessment of this current proposal, and in particular in any consideration of retail impact, this fall-back or back-stop position carries very significant weight."*

However, there are strong opposing arguments regarding the weight to be given to the Sainsbury's proposal taking into consideration the issue of whether there is a likelihood or real prospect of such a use occurring and by comparing the proposed development and the fall-back use.

The CEULD that was issued confirming the commencement of MC/10/2125, amounted to an agreement that the pre-commencement conditions had been appropriately discharged and that work had commenced in the form of the laying out of part of a road. This was considered to represent a material operation for the purposes of Section 56(4) of the Town and Country Planning Act 1990 (as amended). It should also be noted that the CEULD related to the whole of the development proposal and not just supermarket element.

In this regard it is considered that the applicant's claim in regard to the fall back position needs to be more carefully examined. The extant Sainsbury's permission is for an integrated development of a 9,354sq.m gross (6,276sq.m net) of Class A1 retail store and a park and ride facility. There are clearly two parts to planning permission MC/10/2125 and under the current planning consent they cannot be disaggregated, such that the retail limb of the consent can be implemented in isolation. Even if this assessment is incorrect, the Section 106 legal agreement prevents the operation of the retail element of the development in the absence of the provision of the park and ride facility. Therefore, if the retail store was built out in isolation from the park and ride, the Council could seek an injunction preventing the occupation of the retail element in the absence of the park and ride facility.

It is highly unlikely that any developer would build the park and ride scheme in order to facilitate the retail part of the development and therefore significantly reduced weight should be attached to the Sainsbury's proposal as a fall-back.

In addition to the above, the site area approved in relation to the extant permission (MC/10/2125) is much larger than the proposed site area for the current submission. The extant permission requires reclamation of land, which is currently saltings and mudflats within Whitewall Creek. The current submission excluded this element from the application site.

Another factor in the fall back argument is that two of the planning conditions imposed on the extant permission limit the use of the site. The extant permission can only be operated as a 9,354m² gross (6,276m² net) Class A1 retail store (Condition 30), whilst planning condition 27 prevents the sub-division of the retail unit. Therefore the extant permission can only be implemented as a single, stand-alone retail unit, without further recourse to Medway Council under Section 73 of the Town and Country Planning Act 1990 (as amended), seeking to removal or vary those conditions and that submission being granted. Furthermore the extant consent, is currently tied by way of the accompanying Section 106 Agreement to the provision of a park and ride facility for Medway Council on the application site.

The retail permission was the enabling element of the development to provide for the park and ride facility and whilst any developer or retailer could seek to implement that extant permission further, they would need to obtain agreement from the Council in regard to being released from the Section 106 obligation. There has been no such application and certainly without going through the appropriate procedure to determine such a request, there is no certainty that such a release would be secured.

The decision of Sainsbury's not to develop out their extant permission indicates that there is unlikely to be any appetite in current market conditions for a Class A1 retail food store of the size permitted. Other supermarket operators within the area, including ASDA, Tesco and Morrisons' each have two large stores in Medway, whilst Tesco has determined not to implement a planning permission for a significantly increased floorspace at its Strood store. This suggests that there are market and viability reasons why the major food store operators would be highly unlikely to take up the extant permission on the application site.

Finally, the extent of off-site highways improvements proposed as part of the extant permission is substantially greater from the current proposal. Again this limits the weight that can be given the Sainsbury's proposal.

Conclusion:

On the basis of the above it is considered that little weight can be given to the fallback position. Therefore the current extant planning permission does not set a precedent in policy terms in favour of the current application, which needs to be considered on its own merits.

Retail considerations

The NPPF was published in February 2019 and is supported and expanded upon by the advice in the NPPG. Central to the NPPF is a presumption in favour of sustainable development. For decision taking (see paragraph 14) this means:

- Approving development proposals that accord with the Development Plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:

- Any adverse impacts of doing so would significantly demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- Specific policies in this framework indicate development should be restricted.

The key retail policy and guidance of the NPPF appears in paragraphs 85-90.

Paragraph 85 sets out a number of objectives for town centres which include to:

define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

- a) Define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;
- b) Retain and enhance existing markets and, where appropriate, re-introduce or create new ones;
- c) Allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;
- d) Where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and
- e) Recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.
- f) Paragraphs 85 to 90 establish the key (well-known) retail tests against which retail proposals such as this should be judged. They are, first the sequential approach (paragraph 86) and secondly, retail impact (paragraph 89).

Paragraph 90 is clear that '*where an application fails to satisfy the sequential test or is likely to have significant adverse impact ... it should be refused*'.

Sequential test and retail impact.

In retail planning policy terms, the site is out-of-centre.

Compared to the previous proposals, this latest scheme:

- Proposes a mixed-use development of both retail floorspace and employment (B8) floorspace together with a drive-thru restaurant.
- Has reduced significantly the quantum of retail floorspace. It is now just 5,237m² (GIA), which is 44% less than previously proposed.
- Includes 1,858m² or almost 20,000ft² of employment (B8) floorspace.
- Omits the former pod units.
- Reduces the total number of retail units from the previous 10 to 4.
- In refusing consent to the previous application, MC/16/1084, the Council raised two concerns. In summary, they were - the quantum of retail floorspace would lead to an unacceptable impact on the vitality and viability of, and investment in, the defined centres of Chatham, Strood and Gillingham; and the scheme's failure to provide a Park and Ride facility.

The positions on retail issues can be summarised as follows:

The applicants argue that the proposed retail element is acceptable for the following reasons:

- Retail impact: the proposal does not damage the existing town centres, namely Strood and Chatham;
- Sequential test: there are no more suitable and available sites for the proposed development than this one;
- Previous permission: that the approved and part implemented Sainsburys scheme is capable of being fully implemented and should be given substantial weight.

The fall-back position has been considered above.

The Council's own retail consultants, Litchfields concludes the following:

Sequential Test:

The current application proposals include less retail space than the previous permission (5,404sq.m gross compared with 9,354 sqm gross) and could be accommodated on a smaller sequential site. The applicant has provided an update for all sites considered for the previous application and two further sites.

Based on the information provided and the conclusions drawn for the recent Aldi store application at Horsted Retail Park, the applicant has demonstrated compliance with the sequential test.

Retail Impact:

Strood: The application proposals are unlikely to result in a significant reduction in local consumer choice or existing investment in terms of convenience shopping provision within Strood district centre.

The potential loss of trade from other shops and services within the centre has been considered.

The direct and indirect impact on comparison goods shops in Strood district centre is estimated to be -£1.2 million in 2020 (-£0.7 direct and -£0.5 million indirect trade diversion). The impact on the comparison goods sector in Strood district centre is - 4.8%.

However, this level of trade diversion should be offset by expenditure growth between 2018 and 2020. The direct and indirect comparison goods trade diversion is unlikely to result in a reduction in local consumer choice or existing investment of comparison goods shopping within Strood district centre.

Residual expenditure growth (1.7%) between 2018 and 2020 could restrict the ability to reoccupy vacant retail space within Strood in the short term, but there are only 4 vacant units.

Chatham: Lichfields' impact analysis suggests the application proposals will reduce Chatham town centres turnover by - 2.3% in 2020. Lichfields' residual turnover (£238.1 million) at 2020 is 3.7% higher than the current 2018 base year turnover (£229.5 million), which suggest impact will be offset by expenditure growth between 2018 and 2020, but the figures suggest Chatham town centre will achieve only modest levels of turnover growth between 2018 and 2020.

Convenience goods floorspace in Chatham is trading significantly above benchmark, and modest trade diversion (-£0.5 million) from this sector is insignificant.

The Council's previous concerns related primarily to comparison goods trade diversion (-£9.88 million to -£15.0 million). Lichfields' assessment suggests comparison goods trade diversion of -£5.2 million, compared with SP's estimate of -£4.33 million.

Lichfields' analysis suggests Chatham's residual comparison goods turnover (£200 million in 2020) will be 18.7% higher than the 2015 base year turnover. This level of growth should be sufficient to maintain the vitality and viability of the comparison goods sector in Chatham town centre, and is unlikely to lead to shop closures.

The application proposals are unlikely to result in a reduction in local consumer choice or existing investment of comparison goods shopping within Chatham town centre, or have a major impact on investment confidence.

While Ellandi objection, on behalf of the owners of the Pentagon Shopping Centre, have been withdrawn, the issue they have raised have been addressed in the above analysis.

Conclusion

In conclusion in terms of retail issues, the impact of the proposal upon both the issues of retail impact and sequential test meet the requirements of the sections 86 and 89 of the NPPF and thus the proposal is acceptable. The weight to be given to the previous Sainsburys consent is considered to be limited.

Highways matters

In reviewing the transport aspects of the planning application, the Council has sought the advice of TTHC consultants. The technical exchanges set out within this Report relate to the advice received in relation to the submitted technical information.

Within the last 10 years the Site has been subject to two previous planning applications which have relevance to the review of application MC/18/1818, namely: MC/10/2125 and MC/16/1084.

The 2010 application (MC/10/2125) related to a standard foodstore (intended to be Sainsbury's) and a Park & Ride (P&R) facility in accordance with Local Plan Policy T17. This was supported by a TA (Transport Assessment) and follow-up work by Mayer Brown. The application was granted (06/05/11) subject to; conditions, including the provision of a Park & Ride (P&R) facility and shared parking spaces within the Site, a S106 requiring a sum of £600,547 (to contribute to the P&R) and the implementation of a shuttle bus strategy and S278 Agreement for the provision of highway works, including improvements to the A289/Anthony's Way roundabout. It is understood that the consent has been lawfully implemented. However, the Section 106 Agreement stated that the retail development could not be occupied until the S278 works had been completed.

The 2016 application (MC/16/1084) relates to a retail scheme comprising a discount foodstore, non-food retail units and no P&R provision. This was supported by a TA prepared by Vectos along with a follow-up technical note. The TA proposed the improvement of Antony's Way in conjunction with site access improvements. With regard to off-site impacts, the TA referred to the development contributing towards off-site highway improvements on a pro-rata trip impact basis, but then sought to offset these costs against the Anthony's Way site access works. The 2016 application was refused on 30/08/17.

The current application is for a mixed-use scheme comprising a discount food store, non-food retail units (smaller floorspace), trade counters and a drive-thru unit, omitting the park and ride element. The developer's highways consultant proposes to provide an improvement to Anthony's Way in conjunction with proposed access works (which is suggested to cost £1m) in lieu of any contribution to off-site highway works. No technical justification is provided as to why the development proposals should not provide any off-site contribution.

Transport-related Policies relevant to the consideration of this application are Medway Local Plan Policies T1 and T17 (Park & Ride) and the objectives of paragraphs 103, 104, 108, 109 and 110 of the updated National Planning Policy Framework (NPPF2).

Local Plan Policy T1: Impact of Development states:

In assessing the highways impact of development, proposals will be permitted provided that:

- (i) the highway network has adequate capacity to cater for the traffic which will be generated by the development, taking into account alternative modes to the private car; and*
- (ii) the development will not significantly add to the risk of road traffic accidents; and*
- (iii) the development will not generate significant HGV movements on residential roads; and*
- (iv) the development will not result in traffic movements at unsociable hours in residential roads that would be likely to cause loss of residential amenity.*

Local Plan Policy T17 (Park & Ride) states:

Whitewall Creek, at Anthony's Way, on the Medway City Estate, as defined on the proposals map, is allocated for a new bus Park and Ride site and, on any surplus land, commercial and industrial development which takes advantage of that facility. Additional Park and Ride facilities will be permitted provided that:

- (i) where it is for bus Park and Ride, the site is well related to the primary or secondary route network, and related bus priority measures can be implemented to improve bus journey times;*
- (ii) it will not adversely affect residential amenity or environmental protection;*
- (iii) there is satisfactory access, lay-out, design, screening and high-quality landscaping.*

The explanatory text for T17 states:

8.5.60 The proposed T17 allocation at Whitewall Creek is on land adjoining an established employment area. The allocation reserves land for a major park and ride facility together with structural landscaping and appropriate environmental mitigation. On any land within the T17 allocation that is not required for the park and ride facility, commercial and industrial development will be permitted which takes advantage of that facility. This may include facilities that would provide services benefiting the adjacent Medway City Estate, and take advantage of the site's status as a major public transport node and prominent location.

The TA includes walking and cycling isochrones for the Site, based on 15 and 30 minute journeys. These represent theoretical catchments of 1.2km for walking and 7.5km for cycling, which are reasonable for staff trips to and from the Site but less probable for retail customer trips.

With regard to bus services, on weekdays there are two services per hour in each direction on Anthony's Way which is an acceptable level of service. However, there is only an approximately hourly service in each direction on Saturdays, and there are no services on Sundays. This represents a poor level of accessibility given the proposed retail uses at the site.

The public transport position would have improved with the P&R site – the 2010 TA refers to a service of either 5 or 6 buses per hour. Furthermore the 2010 application included a proposed shuttle bus between Strood/Frindsbury/Wainscott and the Site, whereas the 2016 and 2018 applications do not include this provision.

Therefore, in the absence of additional bus services, the proposed development could not be described as having good accessibility by public transport.

However, the applicant has offered a contribution of £75,000 to be used towards the development of a Medway City Estate-wide Travel Plan, which would assist in addressing the non-car accessibility of the Site.

Trip Generation and Distribution

The trade counters and non-food retail have been assessed together as non-food retail floorspace. Within the TA, only 25% of the trade counter floorspace has been assessed with the rest disregarded on the basis of the retail-related trip rates which had been applied. No evidence had been presented which supported this assumption but following further exchanges with Vectos, a surveyed Trade Counter site was used within later trip generation work, which were higher than the effective rates adopted within the TA. However, there has been no subsequent operational assessment of the highway with these higher rates.

The TRICS site selections for trip generation for the other uses are reasonable. However, it has been noted that it is possible the site selections have a higher walking catchment population than this site (see point re Medway Tunnel above), which might mean that Vectos have under-estimated the car modal split for the discount foodstore and drive-thru uses in particular. It is recognised that these rates were accepted by officers in connection with the 2016 application. In this regard, they are accepted but noted as potentially being at the lower end of the likely range.

The Vectos TA adopts various adjustments for 'Trip Types'. Technical exchanges have taken place which has sought to obtain the evidence for these adjustments. However, as matters stand, the adjustments adopted by the applicant in respect of trip type proportions are considered optimistic.

The trip distribution methods (for primary and transferred trips) are reasonable, based on either observed flows or transfer trips from other similar sites as appropriate.

The TA does not identify the level of impact relative to baseline flows at the A289/Anthony's Way roundabout. There is only a comparison of the 2010 and 2018 development flows (the 2018 flows being lower). However, the 2010 proposals were reliant on significant S278 improvements as noted. This is not an appropriate basis upon which to examine the proposed development implications. If there is no reasonable prospect of the 2010 proposals (and their associated improvements) coming forward, then this application should consider what implications need to be mitigated in the absence of any of the previously committed improvements.

There is also no baseline PICADY assessment of the Maritime Close and Terance Butler Avenue priority junctions with Anthony's Way. TA Para 5.18: "As we are

significantly improving the layout of Anthony's Way and introducing multiple traffic signal-controlled junctions, there is no requirement to undertake a base case assessment." No Baseline test has been provided in order to quantify any claimed benefit.

Highway Assessment

Since the first review of the submitted TA, the Council has been clear that it is necessary for the applicant to provide the appropriate 'Base' and 'Base+Development' tests in order to determine the operational highway implications of the proposed development. This was not provided in the TA and this remains the position.

It has also been highlighted to the Applicant's consultants that within the assessment work which has been provided there was a lack of validity to the modelling of the Vanguard Way Roundabout.

For these reasons, it remains the case that insufficient information has been submitted to demonstrate that the traffic implications of the development would not be detrimental to the capacity, functioning and safety of the public highway, particularly in respect of the existing severe operating conditions at the Anthony's Way junction with the A289.

Previously Agreed Mitigation

For both the 2016 and 2018 applications, the applicant has agreed to provide the full 'Sainsbury's' improvement scheme for the Anthony's Way alignment, including signalisation of the junction with Terance Butler Avenue. This was stated to be 'proportional' with the lower level of development trips compared to the 2010 application, and MC agreed with this approach. This, however, does not address the off-site highway implications elsewhere and particularly at the Anthony's Way roundabout with the A289.

Summary

Based on the information provided to date, TTHC consider that the application fails to properly assess the development's impact on the local highway network or the proportionate level of contribution towards off-site highway improvements.

Proposed area-wide highways improvements and their status

The central argument put by the developers and their consultants is that the improvements to Medway City Estate, the A289 and other sustainable transport improvements mean that off-site improvements including the slip road from Anthony's Way are already committed and therefore the development in question should not need to provide such improvements. The following text explores the process and certainty of such improvements

A. Medway City Estate Connectivity Improvement Measures LGF scheme

The Medway City Estate (MCE) connectivity improvement measures scheme was awarded £2million of Local Growth Fund (LGF) funding by the South East Local Enterprise Partnership (SELEP) in March 2015, to deliver traffic and modal shift improvements, targeted at reducing congestion experienced by visitors and employees using the estate, through implementation of Phase 1 and Phase 2 proposed in the original Business Case. The MCE scheme was designed to be an integrated package of infrastructure developments specifically aimed at addressing the existing barriers to movement to and from and within MCE.

Phase 1 of the Project involved the installation of manually controlled traffic signals on the westbound entrance to Medway Tunnel to regularise flows through the Medway Tunnel and enable easier exit from MCE, provision of a web based CCTV system allowing staff on MCE to see the extent of congestion and make informed judgements as to when to depart work, and an extension of existing exit lanes on Anthony's Way on to the A289 / Anthony's Way roundabout to facilitate easier traffic movements out of the MCE. Phase 1 transportation interventions were successfully completed by October 2017.

Phase 2 of the Project originally included the delivery of infrastructure for a river taxi to support better links with Chatham town centre. Consultation however, revealed that the proposal for a river taxi did not hold support within the MCE community. In response to user demands, Phase 2 of the Project will need to provide direct journey time improvements for users entering/exiting the estate. The proposal for Phase 2 is therefore likely to consist of the implementation of a dedicated slip road from Anthony's Way on the MCE onto Berwick Way.

Currently, the MCE Project has only received a funding award from SELEP for Phase 1 and the originally proposed Phase 2 river taxi, which is now not viable. In order for the funding allocation to be awarded for the revised Phase 2, in line with SELEP processes, the Project requires a full Business Case detailing the change of scope for Phase 2 to be submitted, to be assessed by an Independent Technical Evaluator (ITE) and then approved by SELEP Accountability Board. An update report has been submitted to the 7th June SELEP Accountability Board. If the report is approved and the funding allocation retained in June, the revised Business Case for Phase 2 of the Project is likely to be submitted in July for a decision at the 13th September 2019 SELEP Accountability Board. If Phase 2 of the Project is approved in September, works will commence and Phase 2 of the Project will be delivered by 31st March 2021. If the Project is not approved in June and September, the funding will be re-allocated to a prioritised pipeline of projects across the SELEP area, via SELEP's LGF3b process.

B. A289 Four Elms Roundabout to Medway Tunnel Journey Time and Network Improvements LGF scheme

The A289 LGF scheme involves improvements to three roundabouts; Four Elms, Sans Pareil and Anthonys Way roundabouts, on the A289 corridor between Four Elms roundabout and the Medway Tunnel. The scheme enlarges each roundabout to

provide additional carriageway space with increased number of entry lanes and some free flow slips, where able to be accommodated. This scheme will release highway capacity on a much needed part of the strategic highway network which is currently a barrier to growth. The expected benefits of this scheme include; improved journey times through reduced congestion, improved journey time reliability, additional housing, increasing commercial land use and rental values, and improved air quality.

The LGF A289 scheme was allocated funding by central Government in July 2014, after an expression of interest was submitted. An outline Business Case was approved in 2017, but in order for the project to be finally awarded the full funding, a full Business Case must be produced, reviewed and assessed by an ITE, and the SELEP Accountability Board would need to decide to award the funding to the project. The full Business Case is likely to be submitted in September 2020 for a decision at November 2020 SELEP Accountability Board. If the Project is approved, the current programme aims for completion by 31st March 2022, as an extension to the project has been requested. If the Project is not approved, the funding will be re-allocated to a prioritised pipeline of projects across the SELEP area, via SELEP's LGF3b process.

C. Medway Council's Housing Infrastructure Fund bid

Medway Council's HIF bid proposes a suite of highways improvements which include additional improvements to Four Elms Roundabout, a relief road and wider improvements on the Hoo Peninsula. This bid is not committed and the proposed works are not funded as yet. A decision is expected in the next few months

Conclusion

In conclusion, while there are proposals for the provision of highways improvement that may mitigate existing highways congestion adjoining the site, those proposals are not in a position to implemented and therefore little weight should be attributed to them in the planning balance.

Design

The site is one of the last undeveloped plots on Medway City Estate. It consists largely of marsh land and includes the distinctive Whitewall Creek- a small inlet that reaches almost up to the main roads of Anthony's Way and the approach road to the Medway Tunnel. The site is in a highly prominent position adjacent to the approach road and overlooking the estuary and the covered slips of Chatham Dockyard.

The proposal is for a small retail park to replace the permission for a far larger scheme for a Sainsbury's superstore plus a park and ride facility. The reduced footprint of the current proposal, plus greatly reduced car parking as compared to the Sainsbury's scheme, means that White Wall Creek will be preserved along with a fair proportion of the immediate marshy ground. This scheme is therefore far more sensitive to its estuarine setting than the Sainsbury's scheme.

The layout consists of a row of fairly uniform retail 'sheds' at right angles to Anthony's Way and the river, and facing out towards the tunnel approach road. Parking and

associated landscaping are to be on a forecourt in front. In this respect the design and layout of the retail park is conventional.

The design responds to its context by having a fairly muted colour palette of grey and blue, with some red used for emphasis on the drive thru unit.

Interpretation boards, similar to the pressed metal boards used at Chatham Historic Dockyard, will be placed to overlook the estuary and towards the Dockyard. These will provide a further connection to the area's past.

Overall, the scheme will be smart and well designed. Distinctiveness is given by materials and detailing that allude to the area's industrial past. It is considerably more sensitive to its estuarine and landscape setting than the larger supermarket scheme that was given permission a few years ago.

Amenity

Given the nature of the surrounding uses, which are primarily industrial and commercial, the proposed development raises no issues in terms of the receipt of light, privacy or outlook. Therefore it is not considered that there would be any conflict with the provisions set out under Local Plan Policy BNE2.

Noise/Dust – Construction phase

In terms of noise and dust impacts on amenity, during the construction phase of the development, the Council's Environmental Protection team have advised that this can be suitably controlled from an amenity perspective by the imposition of a planning condition requiring the submission to and written approval of a Construction Environmental Management Plan (CEMP), which includes amongst other matters details of: noise and vibration controls, including screening/mitigation and hours of construction working; dust control measures, including wheel cleaning/chassis cleaning facilities; site illumination including any cowls to be fitted to ensure that light spillage on sensitive areas is avoided, etc.

As such matters could be reasonably controlled by the imposition of a planning condition no objection are raised in terms of noise and dust arising from this development in terms of amenity impacts.

Lighting

With regard to lighting, this proposal includes a scheme of lighting. The Council's Environmental Protection Officers have considered lighting from a residential amenity perspective. However, as there are no residential properties located within close proximity of the site they have raised no concerns in regard to lighting impacts on residential amenity. The implications of the proposed lighting on visual amenity have been addressed above. However, in terms of its impact on ecology and biodiversity, this is considered under the heading Ecology and Biodiversity below.

Air Quality

In terms of air quality the Council's Environmental Protection Section have commented that the proposed retail use is likely to attract significant additional vehicle trips to the area. Some of these are likely to pass through the central Medway Air Quality Management Area which is close to the site. It is noted that there are likely to be increases in peak vehicle trips, however it is not clear what the predicted additional total daily trips associated with the development are.

Although an Air Quality Assessment is not in terms of the impact on the Council's Air Quality Management Areas, it is considered appropriate that air quality mitigation is secured in regard to off-setting the vehicle emissions associated with the development in line with the requirements of the 2016 Medway Air Quality Planning Guidance. It is noted that there is a commitment to providing 3 electric vehicle charging points in the car park; however, the Medway guidance would require the development to provide charging points at the following rate for commercial/retail/industrial development as standard mitigation:

"10% of parking spaces to be provided with Electric Vehicle charge points which may be phased with 5% initial provision and the remainder at an agreed trigger level. (* this shall be the best technology available at the time of planning approval)"*

In addition to the standard mitigation above, an air quality emissions mitigation assessment and statement should be produced which assesses the likely local emissions from the development, and determines the appropriate level of mitigation required to help reduce the potential effect on health and the environment. It is considered that this matter can be appropriately dealt with post determination and as such, should planning consent be forthcoming a condition will be recommended seeking to secure:

- *the submission of an air quality mitigation assessment and statement for approval, that outlines air quality mitigation equivalent to, or greater than, the calculated damage costs as calculated using the 2016 Medway Air Quality Planning Guidance;*
- *Standard air quality mitigation consisting of electric vehicle charging points (as per the above rate). This is in addition to mitigation outlined in the mitigation assessment and statement;*
- *If the above is not achievable, or there is an underspend, then a contribution should be made to wider air quality mitigation measures, as outlined in Medway Council's air quality action plan, through a Section 106 agreement;*
- *Mitigation in accordance with the IAQM guidance on the assessment of dust from demolition, via either a specific dust management plan or a wider construction environmental management plan."*

Land contamination

In term of land contamination, the Environment Agency was consulted and their responses are set out above in the representations section of this report. In summary they have advised that they consider that planning permission could be granted for the proposed development, as submitted, subject to the imposition of appropriate Planning Conditions and/or informatives, as appropriate. In terms of the Council's Environmental Protection Section they have noted the EA's comments relating to the extant planning permission for the site and the fact that the Environment Agency's previous concerns have been incorporated into the approved remediation strategy, which is also applicable to this proposed development. Bearing this in mind, and taking into account the numerous previous investigative works carried out and the previous and extant planning permissions applicable to the site, and to avoid repetition, it is considered that conditions, which incorporate the detailed work required prior to commencement of development contained within the Geoenvironmental Assessment Report, as submitted with the application, would be acceptable from a land contamination perspective.

Floodrisk and drainage

The applicants have submitted a Flood Risk Assessment (FRA), together with a Surface Water Strategy and a Sustainable Drainage System Assessment.

Having assessed the development against the EA's floodplain mapping for Planning, the majority of the development lies within flood zones 1 with small areas of the site around the north and eastern boundaries are located in Flood Zone 2. In terms of the Environment Agency's Flood Data Mapping related to risk of flooding from rivers and seas once again the majority of the site is located in an area which is considered to be a very low risk of flooding, being the chance of flooding being less than 1 in 1000 or a 0.1% risk, whilst the parts of the site to the northern and eastern boundaries are identified as 'Low flood risk'. Low flood risk is defined as lying between 1 in 1000 (0.1%) risk and a 1 in 100 (1%) risk.

The Frameworks - Technical Guidance indicates that where possible new development should be directed to locations within Flood Zone 1 and that elsewhere development at any particular location should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test, if required.

In terms of the Sequential Test related to Zones 1 and 2, the Technical Guidance to The Framework contains a vulnerability classification for different land uses and summarises the vulnerability classification of appropriate land uses for each Flood Zone. In this instance the vulnerability classification specified in the Technical Guidance to The Framework identified "*Buildings used for shops, financial, professional and services...*" as 'Less Vulnerable'. When assessing these findings against the 'Vulnerability and Flood Zone Compatibility' table within the Technical Guidance to The Framework it confirms the site is acceptable in terms of flood risk.

Irrespective of the above, the applicants have advised that in accordance with good practice the proposed buildings are located within the Flood Zone 1 and in terms of the Flood Zone 2 classifications on the northern and eastern boundaries of the site will only contain the extremities of the proposed car parking area. Furthermore the applicants have confirmed that the site levels within the site will not be being altered to any great extent such that it would affect the flood zone designations

Accordingly, this development is considered to conform to the sequential and exceptions test as set out in the frameworks Technical Guidance. No objections have been raised by the Environment Agency and the proposed development is considered to be acceptable in terms of paragraphs 99 - 103 of the Framework and policy CF13 of the Development Plan.

Site Drainage and Sustainable Urban Drainage.

In terms of site drainage, the Lead Local Flood Authority has confirmed that they have no objection to the principle of the scheme proposed. However, they point out that any new outfall will require Flood Defence Consent from the Environment Agency under the Water Resources Act 1991 and associated byelaws. The outfall should be set above the Mean Low Water Spring (MLWS) level and should include a flap to prevent ingress during higher tides into the system and suitable toe protection where required.

The LLFA goes on to advise that the system should be designed to accommodate a tide locked situation, and refer to a joint probability analysis where relevant. Some attenuation / treatment should be provided for the "first flush" rainfall event.

Bearing in mind the above the LLFA has recommended that a suitably worded condition be imposed, securing the details of the above being submitted to and approved in writing by the Local Planning Authority, should consent be forthcoming.

Ecology and Biodiversity

The Local Planning Authority has sought advice from its Consultant Ecologists in regard to the proposed development and they have advised that the applicant and their ecologists have a good understanding of the ecological constraints associated with this site.

In terms of reptiles, the Council's Consultant Ecologists advise that having reviewed the reptile mitigation strategy, they are generally satisfied the proposed mitigation and receptor site is appropriate to retain the reptile population. Should planning permission be granted they advise that the mitigation strategy must be implemented as a condition of planning permission prior to any works commencing on site. The Council's Consultant Ecologists have however identified a number of minor points within the mitigation strategy which need to be amended, but advise that they are satisfied that the mitigation strategy does not need to be updated and resubmitted for comments prior to determination of the planning application. Therefore, subject to the imposition of an appropriately worded condition, this proposal is considered to be acceptable in terms of its impact on reptiles.

With regard to breeding birds, the information submitted with the application details that the grassland and scrub was going to be cut during the winter months to prevent birds nesting within the site. The Council's Consultant Ecologists advise that if this did not occur an ecologist must survey the site prior to the reptile mitigation strategy commencing. If any nesting birds are recorded no vegetation clearance can commence within that immediate area (approx. 5-10 metre buffer) until all the young have fledged.

In terms of hibernacula, it is noted that a hibernacula is proposed to be located along the northern boundary of the receptor site. Some works are proposed in relation to the roads within that area and (MC/16/0300) although the exact scheme has not been finalised it would be appropriate to relocate the hibernacula further south within the site. This will ensure that the hibernacula will not be negatively impacted by adjacent works and this can be suitably controlled by Planning Condition.

The mitigation strategy has made recommendations for long term management and monitoring of the receptor site and this should also be secured by planning condition should planning permission be forthcoming

Whitehall Creek is adjacent to the proposed development site and we are pleased that the proposed development has been designed to include a clear boundary between the proposed development and the Creek. Native shrubs/trees will be planted along the boundary of the development to create a screen. Such a screen must be designed in consultation with their ecologists to ensure that the planting is beneficial to the creek and the birds using the creek and mudflats and this being the case, should planning permission be forthcoming a condition will be required to ensure the details of the screen are first submitted to and agreed in writing by the Local Planning Authority before any development commences on site.

It is noted that Breeding and Wintering Bird surveys were carried out in 2002 and 2010 and it confirmed that UK Priority Species and RSPB red and Amber listed birds of conservation concern were present within the creek and mudflat area. Whilst no updated survey was carried out in 2015/16 no significant changes to the Creek or immediate area have occurred since the surveys were carried out and the Council's Consultant Ecologists have agreed with the conclusions that the survey results are still valid. The phase 1 survey has made a number of recommendations to protect the creek and associated species during the construction and operational phase of the development and the Council's Consultant Ecologists recommend that these be secured by planning condition in terms of being incorporated into a Construction Management Plan. The Construction Management Plan should also include details of the timings of the proposed works which will create large vibrations/noise (such as piling) should be carried out outside the most sensitive time of year for breeding/wintering birds. Should planning consent be forthcoming such a condition is recommended.

In term of the proposed lighting, from an ecology/biodiversity perspective, the Council's Consultant Ecologists have advised that they accept that there is a high level of artificial lighting within the surrounding area. However, they consider that there is a need to ensure that the proposed development does not result in an increase in lighting within the Creek and adjacent habitats. Whilst a lighting plan has been

submitted with the planning application, it does not provide any context to the immediate surrounding area so should planning permission be forthcoming a planning condition must be imposed requiring an updated lighting plan, which include a map of the surrounding area, which includes lighting that is outside of the development site (i.e. is not limited to the proposed development site) is submitted to and approved in writing by the Local Planning Authority.

In terms of a management and monitoring plan the Council's Consultant Ecologists consider that should planning permission be granted a site wide management and monitoring plan is produced. Such a plan must incorporate the receptor site area and the habitat between the proposed development site and the Creek. Should planning consent be forthcoming a condition seeking to secure an ecological management and monitoring plan is recommended.

Impact on the historic environment

The concerns of Historic England relate to the impact of the proposal upon the views and interpretation of the historically Chatham Dock Yard which should be addressed in order for the application to meet the requirements of paragraphs 190, 194 and 196 of the NPPF and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. In this case these impacts are considered to be low level having not resulted in an formal objection and have already been taken into account when granting permission for the previous Sainsbury's scheme. It is considered that conditions regarding the provision of interpretation boards and controlling external lighting would sufficiently minimise the negative impact and the proposal is considered acceptable given such mitigation.

Conclusions and Reasons for Refusal

It is accepted that the proposal represents substantial benefits in terms of economic, environmental and social aspects, including job creation, investment and improvement in access to services.

It is accepted that it is not viable nor now a requirement (in terms of emerging Local Plan) to provide the park and ride proposal on the site (Medway Local Plan Policy T17).

Proposed highways improvements to the wider area are not at a committed stage and limited weight should be given to them in the consideration of this planning application.

It is considered that the proposal is acceptable in retail terms but on the basis of the lack of detail provided on highways matters, despite extensive discussions, in the context of a local highways network already under significant strain, it is considered that planning permission should have been refused on that basis.

In conclusion it is considered that the development is contrary to the Medway Local Plan, particularly, policy T1 and other material considerations do not outweigh this.

The application would normally have been determined under delegated powers but is being referred to Planning Committee due to its significance and the Committee's involvement in previous applications.

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://publicaccess1.medway.gov.uk/online-applications/>