



Applicants:
Sainsbury's Supermarket

Application No:
09/0119/FULWNN

Date Registered:
07/10/2009

Expiry Date:
06/01/2010

Ward:
St. James

Northampton Area Planning Committee Paper

Report by Director of Planning Services

Date of Committee Meeting: 14th June 2011

Agenda Item: 4

Description: Erection of an extension to the existing Sainsbury's food store, including reconfiguration of car park (including car park deck), reconfigured vehicular access, new pedestrian ramp access, new goods on line loading area, and associated works at Sainsbury Superstore

Address: 20 Gambrel Road, Northampton, NN5 5DG

1. Recommendation

1.1 That the application be **APPROVED**, but that the issuing of the planning permission be delegated to the Director of Planning Services subject to the following:

- Resolution of Section 106 discussions with applicant and completion of a satisfactory Section 106 Legal Agreement to secure necessary highway improvements, town centre enhancement contribution, Travel Plan, commitment to the Construction Futures Initiative and a commitment to use reasonable endeavours to maintain the existing Sainsbury's store within Northampton Town Centre;
- the referral of the application to the Secretary of State under the provisions of The Town and Country Planning (Consultation) Direction 2009 to consider if he wishes to call the matter in for his determination.
- subject to the conditions attached to the officer's report

And, for the following reason:

The proposed superstore extension would respond to an identified need for further retail floorspace within Northampton and bring significant qualitative improvements to the existing store which serves a large catchment population to the west of the town. It is considered that there are no sequentially preferable sites that are available, viable or suitable for the proposed use and the implementation of the scheme would not result in any significant adverse impact upon the town centre or district/ local centres within the area.

There are no other constraints to development that cannot be adequately mitigated through the use of conditions or obligations under s.106 of the Town and Country Planning Act. Consequently, it is considered that the proposal is compliant with the advice contained within PPS 4: Planning for Sustainable Economic Growth; PPS1: Delivering Sustainable Development; PPG13: Transport; PPS23 Planning and Pollution Control; PPG24: Planning and Noise; the saved policies of the Northampton Local Plan; and Policies 22, MKSM Sub-Regional Strategy Northamptonshire 2 and MKSM Sub Regional Strategy Northamptonshire 3, contained within RSS8.

2. Executive Summary

- 2.1 The application to extend the Sainsbury's store at Sixfields was submitted to WNDC in 2009 and has since been revised on two occasions, reducing the amount of retail floorspace proposed and altering the design and configuration of the external car parking areas, including revisions to the scale of the car park deck.
- 2.2 In bringing this application forward to committee, officers have considered the implications of the development in relation to site specific matters but are also mindful of a number of other retail proposals that are currently being considered, either by WNDC, NBC or the Secretary of State at appeal.
- 2.3 The other relevant applications are listed below:
- **09/0117/S73WNN (Variation of Condition)** Application for a Variation of Condition in relation to the Nene Valley Retail Park to enable the sale of convenience goods and the operation of a superstore. Status: Appeal against non-determination submitted to Secretary of State
 - **N/2010/0944 (Certificate of Lawfulness).** Certificate of lawfulness application submitted to NBC in relation to the Nene Valley Retail Park. The application contends that the sale of food goods is lawful at the Retail Park. Status: NBC

refused the application and an appeal has now been submitted to the Secretary of State.

- **N/2011/0248 (Certificate of Lawfulness).** A Certificate of Lawfulness application for open A1 consent was submitted to NBC in relation to Units 3a and 3b of the Nene Valley Retail Park. Status: NBC have granted a Certificate of Lawfulness and therefore, the units have the benefit of an unrestricted A1 Retail consent.
- **N/2011/0225: (Certificate of Lawfulness).** A Certificate of Lawfulness application was also submitted to NBC in relation to Matalan and Hobbycraft stores off Weedon Road in Sixfields. Status: NBC have granted a Certificate of Lawfulness and the units therefore have the benefit of an unrestricted A1 Retail consent.
- **N/2011/0323 (Planning Application).** NBC are considering a planning application by Tesco for an extension to their store at Mereway. Status: NBC officers are in discussion with Tesco regarding the scheme and the matter has yet to be placed before NBC's Planning Committee
- **10/0165/FULWNN (Planning application).** In 2010 an application was submitted to WNDP for the conversion of the former Royal Mail sorting office at Barrack Road to form a new superstore. Following discussions in the lead up to this committee, the application has now been withdrawn.

2.4 As members will note from the attached reports, there is significant concern relating to the impact of out of centre retail development within the town and its potential impact upon the existing retail hierarchy. The West Northamptonshire Retail Study, prepared by Roger Tym and Partners on behalf of the West Northamptonshire Joint Planning Unit as part of the evidence base for the Joint Core Strategy, has highlighted a need for further retail development within the town but the level of retail development presently put forward is significantly greater than the identified need. WNDP commissioned AECOM to produce a Cumulative Impact Assessment to examine the retail impacts of various levels of retail growth, based upon the determination of the current applications. Based upon this analysis, it is considered appropriate to proceed with the determination of Sainsbury's application in line with the recommendation set out within this report.

3. Description of Site

- 3.1 The application site is the existing Sainsbury's superstore at Gambrel Road, Sixfields. The store is largely as conceived and permitted in the late 1980s on a 3.1 hectare plot on the north side of Weedon Road.
- 3.2 Customer access is via a tight T-junction with Gambrel Road with service access a short way further along the same road to the north. A Sainsbury's petrol filling station is located on the access road in the south corner of the site and the entire west, south and east boundaries are screened by mature trees, shrubs and hedges. The large free car park for 558 cars is positioned on the south side of the site and it is on this aspect of the store where the main entrance is located.
- 3.3 Sainsbury's Sixfields is a slightly dated 6,880 square metre gross internal area store, with a 7 and 9 metre high roof with a tower over the entrance on the south east corner. The current sales area of 3,559 square metres has 85% of its area devoted to convenience goods with only 534 square metres allowed to be non-food (comparison) sales due to a 15% comparison sales floorspace restriction in an original planning condition.
- 3.4 The surrounding area is dominated by commerce, leisure and the busy roads that pass through at this gateway to the town. To the west over Tollgate Way is a storage centre and Golby's, to the east Sixfields Retail Park, to the south the cinema, football ground and restaurants and to the north and northeast light industrial, storage, tyre fitters, etc.
- 3.5 Sixfields is not a recognised retail centre in terms of the Development Plan or emerging Joint Core Strategy.

4. Description of Proposal

- 4.1 The application for an extension to Sainsbury's at Sixfields was submitted to WNDC in October 2009 with the following documents and information:
- Plans
 - Planning and Retail Report
 - Transport Assessment and Travel Plan
 - Design and Access Statement

- Phase 1 Environmental Study
- Flood Risk Assessment
- Air Quality Assessment
- Energy Statement
- Statement of Community Involvement

- 4.2 The initial 2009 proposals were for an extension to the Gross Internal Area of the store from 6,880m² (existing) to 13,631m², including an increase to the overall retail sales area plus a mezzanine floor at first floor level incorporating a number of non-retail sales facilities such as customer restaurant, toilets, atrium and learning facility/ classrooms. The ground floor net retail sales area was proposed to increase from 3,559m² to 8,203m² (4,644m²). The proposed floorspace was split with 61% allocated to convenience goods and 39% comparison goods.
- 4.3 Following the submission of the application in 2009 on-going discussions and assessments have taken place, following concerns over the scale of extensions proposed and the potential impact upon town centre trade and turnover. Subsequently, design changes and further retail information were submitted in February 2010, and again in August 2010 and October 2010. This additional information, which included revised plans (and the final revisions of October, 2010) was accompanied by draft heads of terms for a s.106 agreement, and retail analysis including an investigation into potentially sequentially preferable sites.
- 4.4 The result of this on-going discussion is that the retail floorspace proposed has been substantially reduced. The overall extension to the GIA would now take the store from 6,880m² to 11,878m². The increase in net sales area proposed has been reduced from 4,644m² to 2,489m². The overall net sales area, as now proposed, is 6,048m² with a split between convenience/ comparison goods of 75% (4,536m²) to 25% (1,512m²) across the store. The first floor mezzanine would have a floorspace of 1,132m² and would include a restaurant, WC's, atrium/ travelators, and an explore learning concession. There would be no Sainsbury's sales space at first floor level.
- 4.5 The expansion proposals would mean that the store is substantially rebuilt and refurbished with extensions southwards and eastwards towards Gambrel Road and into the car park, which in turn, incorporates a new elevated parking deck.

- 4.6 The main store rises to include a first floor atrium at the south-facing frontage, meeting the first floor car park deck and resulting in two entrances to the store, a lower and upper access with escalators connecting the two floors.
- 4.7 The store would increase in height from largely 7 metres (9 metres at its highest) to 10 metres (12 metres at its highest) to accommodate the new floor. The height of the building proposed would allow space to create a larger first floor area in the future, however this would require a separate planning permission.
- 4.8 It is proposed to modernise and improve the service access from Gambrel Road at the same point as the current access point with a mini-roundabout and a home delivery loading area is added to the northern elevation of the building.
- 4.9 A new access arrangement on Gambrel Road is proposed along with widened and improved 'in and out' lanes towards the parking areas. Car parking overall would reduce from 558 spaces at present to 514spaces in the proposed decked arrangement. The petrol filling station is proposed to be refurbished and the pedestrian route improved with ramps alongside steps from the Weedon Road subway.

5. Policy Considerations

5.1 **WNDC Purpose:**

Under S136(1) of the Local Government Planning and Land Act 1980, WNDC as an Urban Development Corporation has a statutory "objective" to deliver the regeneration of the area. The Secretary of State has determined that WNDC should have development control powers for certain types of development in order to carry out its objective.

5.2 **National Policy:**

The following Planning Policy Statements / Notes should be taken into consideration in the determination of this application.

PPS1: Delivering Sustainable Development

PPS1: Delivering Sustainable Development: Planning and Climate Change

PPS4: Planning for Sustainable Economic Growth

PPS5: Planning and the Historic Environment

PPS9: Biodiversity and Geological Conservation

PPG13: Transport
PPS22: Renewable Energy
PPS23: Planning and Pollution Control
PPG24: Planning and Noise
PPS25: Development and Flood Risk

5.3 **Development Plan:**

Northampton Local Plan (1997):

The following 'saved' policies are relevant to the application:

B14 – Development for Non Business Use in Business Areas
E17 – Nature Conservation
E19 – Implementing Development
E20 – New Development (Design)
T12 – Development Requiring Servicing

East Midlands Regional Plan 2009:

Policies 1, 2, 3, 22, 35, 36, 45, 46, 48.

Milton Keynes South Midlands SRS:

Policy MKSM SRS Northamptonshire 2: Northampton Implementation Area
Policy MKSM SRS Northamptonshire 3: Northampton Central Area

West Northamptonshire Joint Core Strategy (Pre-Submission Draft)

Policy N1 – Regeneration of Northampton
Policy N2 – Northampton Central Area
Policy S1 – Distribution of Development
Policy S2 – Hierarchy of Centres
Policy S9 – Distribution of Retail Development
Policy S10 – Sustainable Development Principles
Policy S11 – Renewable Energy
Policy C1 – Changing behaviour and achieving modal shift
Policy C2 – New Developments
Policy BN5 – Historic Environment
Policy INF2 – Contributions to Infrastructure Requirements

Northampton Central Area Action Plan (Pre-Submission Draft)

- Policy 1: Strategic Objectives
- Policy 12: Town Centre Boundary
- Policy 13: Definition of Primary Shopping Area
- Policy 14: Improving the Retail Offer
- Policy 15: Meeting Retail Capacity

Evidence Base: West Northamptonshire Retail Study (Roger Tym and Partners 2011).

5.4 Other Relevant Guidance

WNDC Planning Principles (February 2009): Set out in this document are WNDC's three corporate objectives: 1. To deliver development and infrastructure that enables regeneration and growth in Northampton, Daventry and Towcester; 2. To ensure that new development is supported by appropriate jobs, infrastructure and town centre regeneration; 3. To ensure that new development meets the Government's design quality and environmental standards and is integrated into existing communities.

WNDC Planning Obligations Strategy (December 2008) – Set out in this document is WNDC's approach to planning obligations.

6. Consultation Responses (as summarised by case officer)

6.1 Consultation with statutory bodies has been undertaken and the following responses received.

6.2 Northampton Borough Council Planning:

6.3 A report regarding the revised scheme was placed before NBC's Planning Committee on 11th January 2011. Members agreed with the recommendation within the officer report and resolved that:

Although there are no objections to the principle of the expansion of the store given its substantially reduced floorspace as now proposed in the revised scheme and the proposals generally accord with the tests set out in PPS4 Planning for Sustainable Economic Development, the Council raises a HOLDING OBJECTION unless and until:

WNDC are fully satisfied that such an oversized structure is not unsustainable, that adverse trade diversion from other centres does not occur resulting in significantly adverse impact on town centre vitality and viability and town centre investment and that the overall bulk of the design and car park decking is acceptable in this location

WNDC should ensure that sales floorspace is restricted to the levels proposed in the submission and that the comparison goods offer does not exceed 25% of net sales floorspace. Comparison goods shall be defined as that set out in APPENDIX A of PPS4. Failure to secure this through planning conditions or s.106 agreement would result in a strong objection from Northampton Borough Council.

WNDC should emphasise to Sainsbury's the importance of their presence in the Grosvenor Centre and seek methods to maintain their presence in the town.

6.4 NCC Access Development Officer

Northamptonshire County Council Rights of Way Service made the following comments to make with regards to the above planning application:

It does not affect a Public Right of Way at this time. There are no Public Rights of Way recorded on the Definitive Map (2005).

There are steps on drawing no. P02 rev B linking to a cycle track and this is not really acceptable for accessibility and cyclists. Would there be any possibility of forming a slope on the site (see attached map)?

Need to confirm the provision for covered and secure cycle parking, for both customers and staff, for the development and that it is located as close to the entrance as possible. Providing enough convenient and secure cycle parking at people's homes and other locations for both residents and visitors is critical to increasing the use of cycles and achieving the 20% modal shift target published in the Local Transport Plan 2006/7 -2010/11. Please refer to the SPG on Parking for the recommended standard level of cycle parking provision for businesses. There is a need to confirm what staff changing facilities are provided to encourage staff to cycle to work.

6.5 NCC Sustainable Transport (Highways):

Following a review of the TA and Travel Plan, NCC have made the following points;

- On the surrounding highway network, only Tollgate Way and its junction with Westgate Road are shown to experience existing capacity problems. The development would exacerbate this. NCC has plans to widen Tollgate Way

between Weedon Road and Bants Lane to include the signalisation of Tollgate Way/ Westgate Road. The applicant would be expected to contribute to this.

- Local cycleways and footpaths will need to be upgraded in line with Travel Plan targets.
- A bus subsidy is required to upgrade the number 22 to an evening and Sunday service.
- Overall contributions are sought of:
 - £250,000 towards Tollgate Way improvements
 - £75,000 towards cycle and footpath improvements
 - Contribution to bus subsidy
 - Relocation of cycle stands closer to the store
 - Travel Plan secured by way of legal agreement

6.6 NCC Archaeology

The application is within a worked out opencast ironstone area and as such the potential for archaeological survival is negligible. Therefore no further comments to make regarding the application.

6.7 Anglian Water:

Assets Affected

“Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the applicant will need to ask for the assets to be diverted under Section 185 of the Water Industry Act 1991, or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.”

Water Service

Water Resource Zone

There is sufficient water resource capacity to supply this development. However, in line with national and regional government policy Anglian Water would wish to see measures taken by the developer to ensure that buildings are constructed to high water efficiency standards.

Water Supply Network

The development can be supplied from the network system that at present has adequate capacity.

Wastewater Service

The foul flows from the development can be accommodated within the foul sewerage network system that at present has adequate capacity.

Surface Water System

Providing the surface water flows are restricted so as not to increase the existing rate of discharge they can be accommodated with the public surface water network system which at present has sufficient capacity.

Wastewater Treatment

The foul drainage from this development will be treated at Great Billing Sewage Treatment Works that at present has available capacity for these flows.

6.8 **Environment Agency**

No objection subject to the placing of the following condition.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason:

To ensure that any unforeseen contamination encountered during groundwork's is appropriately addressed.

They have reviewed the Phase I Desk Study and Phase II Geo-Environmental Investigation (July 2009). The extension to the east of the existing Sainsbury's store is noted to be constructed in the area of the former petrol filling station. Should significant contamination be identified, the Environment Agency should be contacted in order to provide assistance on controlled waters issues.

Waste from the development must be re-used, re-cycled or otherwise disposed of in accordance with waste management legislation and in particular the Duty of Care.

6.9 Highways Agency:

In their initial response dated 21st October 2009 the HA issued a TR110 directing that planning permission was not granted until such time as the HA were satisfied with the highway impacts of the scheme. Specifically, the HA requested further information relating to vehicle movements to and from the site, clarification over the methodology used in the applicant's Transport assessment, including an assessment of the cumulative impact of this and other developments including Milton Ham, Pineham, Swan Valley and Edgar Mobbs Way.

Following this, the applicants submitted further information in relation to the Travel Plan and Transport Assessment and the HA have now removed the TR110 and confirmed that they are satisfied with the development subject to conditions limiting the floorspace of the unit and the gross retail floor area.

6.10 Central Networks

Do not have any objections, but note the following:

1. they have equipment on and surrounding the Sainsbury site. Any diversions/alterations required to this equipment to facilitate the proposals will be rechargeable to the applicant.
2. the proposals will not materially affect the flood risk to their substation on the site (known as 44D2473 Sainsburys Weedon Rd).
3. the applicant should contact Central Networks to discuss the remedial work required to mitigate the effect of the proposals on substation 44D2473. They consider this is necessary since they can see from the plans that building work is proposed immediately next to the substation.

6.11 Northants Police

Observations regarding the existing arrangements include the following:

- The site has been a hotspot for ATM crime, including the notorious 'Lebanese loop' technique. This is not surprising given the current location of the ATMs, being as they are, tucked away around a corner and well away from the shop entrance.

- A late evening visit reveals that the car park lighting is poor and patchy, becoming quite gloomy in the outer reaches of the area. The current system appears to be low pressure sodium, which is becoming outmoded.
- The height restrictors would seem to indicate problems with unauthorised encampments on the site.
- They note and welcome the relocation of the ATMs.
- Both decks of the car park should be lit to comply with BS 5489-1:2003, and certification produced for verification. The facility should be designed to maximise sightlines, and as light as possible. They note the intention to apply white paint to the ceiling of the lower deck. This should be extended to any vertical surfaces, to maximise light reflection. It is recommended that the car park should be entered for the ACPO/SBD 'Park Mark', safer parking scheme. This should be attainable without much difficulty in this case, and would be a positive selling point for the site.
- CCTV should be monitored, with a response from security staff to 'live' incidents, or the option to call police.
- The car park should be closed, using a physical barrier, out of hours, to discourage its use as a skateboard park or gathering place.

7. Notifications and Responses

- 7.1 Neighbour notification letters were sent out to households in the surrounding area, site notices were posted and a press notice issued. In general, the responses are either from interested residents or from competing retailers.
- 7.2 Three responses were received from residents from the surrounding area, 2 supporting the scheme and one giving observations.
- 7.3 In support, the local residents made the following points:
- Sainsbury's need to keep up with the offer provided by Tesco's.
 - Improvements will not impact on the local area.
- 7.4 In terms of observations from local residents the following comments were made –
- mini roundabout at the junction of Gambrel Road and the Store's entrance/exit needs clarification as to its construction.
 - a circle of white paint will not reduce speed along Gambrel Rd,

- Kerbed centre to the roundabout would prevent vehicles driving over it.
- Could the bus stop be relocated to a position adjacent to the Petrol Filling Station and a layby created for the bus to pull into.

7.5 Drivers Jonas (acting on behalf of Legal and General) in their letter of 30 November 2009 objected on the following basis –

- Objection to the principle of further out of centre retail development.
- Objection to the applicant's reliance on an historic, and superseded, NBC strategy for Sixfields.
- Objection on the basis that the applicants under estimate the impact on Northampton Town Centre.

7.6 Followed up with correspondence on the 18 February 2010 that added two additional areas of objection that stated

- the impact of the proposal upon investment has not been fully justified, and
- the impact on allocated sites outside the town centre has not been assessed.

7.7 On 29 March 2010 they still objected to the proposals on the basis that there is no policy support for further out of centre development and that there are no current proposals to allocate Sixfields as a centre within the emerging planning framework for Northampton. The letter also questions the methodology used within the latest retail statement and suggests that the applicants have under-estimated the impact of the proposed development on Northampton Town Centre. Specifically, the letter concludes that Indigo have underestimated the turnover from the extended store and the trade draw from Northampton Town Centre.

The letter confirms L&G's commitment to the Grosvenor redevelopment and identifies this as a sequentially preferable site. L&G maintain that investor confidence in large scale town centre redevelopment will be undermined by out of town retail development.

The letter concludes that the proposal would be contrary to the impact tests set out within Policy EC16.1 of PPS4 and should therefore be refused in line with Policy EC17.

7.8 Responses were received to the proposals from the House of Fraser in both February and March 2010.

Impact on planned investment - Due to the priority afforded to the Grosvenor Centre in planning policy and the commitment to bring the scheme forward they urge WNDC to give significant weight to the impact of the proposal upon this planned investment.

Vitality and Viability of Northampton Town Centre - Due to the nature of goods sold from the store there is a potential detriment of long term vitality and viability.

Scale - increasing the size of the Sainsburys store by the floorspace proposed will create a store which would be more appropriate for a district centre thereby unbalancing the existing town centre hierarchy.

They re-iterated their concerns when re-consulted on the application in March 2010.

8. Site History

8.1 The relevant site history is as follows:

- 86/0646 - Outline application for shop and car park. Approved.
- 87/0973 - Erection of supermarket, car park and petrol filling station. Approved.
- 98/0682 - Store extension and car park revisions. No decision issued.
- There have been numerous applications relating to advertisement consent and minor alterations to plant etc over the lifetime of the store.

9. Considerations

9.1 Based upon an assessment of local and national planning policy, site specific issues and local concerns arising through the consultation process, the key issues for consideration in this case are considered to be those of; retail impact, with particular reference to local and national planning policy; design and sustainability and; traffic and transportation matters. There are not considered to be any significant environmental impacts resulting from the scheme and due to the location of the site no impacts upon residential amenity would arise.

Retail Issues

9.2 A fundamental area of assessment in terms of the principle of development is the acceptability of the proposed retail development within a national, regional and local policy context. Given the complex and specialised nature of retail planning, WNDC has

retained AECOM to provide expert advice on this scheme and other proposed developments. With reference to this application, there was extensive dialogue between WNDG and the applicant prior to submission and AECOM were involved throughout this process.

Retail Planning Policy Context

- 9.3 The local planning policy context in relation to retail development has evolved and fluctuated during evolution of the scheme at the pre-application stage and since submission of the application in October 2010. In particular, the position regarding the abolition of Regional Spatial Strategies vis-à-vis the *Cala Homes* case has resulted in some uncertainty regarding the weight to be attached to the East Midlands Regional Plan (RSS8). At the time of writing, RSS8 still forms part of the Development Plan but the Government has made clear its intention to revoke this through legislation in the Localism Bill. In the most recent decision of the Court regarding the challenges submitted by *Cala Homes*, issued on 27 May 2011, the appeal by *Cala Homes* seeking a ruling that the Secretary of State's intention to abolish RSSs could never be a material consideration was dismissed. Therefore, as was the case immediately before this latest appeal by *Cala Homes*, the Secretary of State's intention can be a material consideration, and the weight to be attached must be a balance based upon the circumstances of the individual case.
- 9.4 In any event, with regard to local retail provision, it is considered that the contents of RSS8 are consistent with the aims of national policy in the form of PPS4. In this sense, there is no inconsistency between RSS8 and the thrust of national policy and it is considered that appropriate weight can therefore be given to the relevant policies of the Regional Plan insofar as retail planning is concerned. The relevant policies are considered to be Policy 22, Policy MKSM SRS Northamptonshire 2 (Northampton Implementation Area) and Policy MKSM SRS Northamptonshire 3 (Northampton Central Area). Both of these policies are of a general nature and, in terms of guidance on the technical aspects of assessing retail proposals, are much less specific than PPS4 and its associated technical guide which set out a detailed methodology.
- 9.5 With regard to local context, the 'saved' policies of the Northampton Local Plan (1993-2006) continue to form part of the Development Plan and will continue to do so until the West Northamptonshire Joint Core Strategy (WNJCS) is adopted. The majority of

policies relating to new retail provision were not saved and, due to its age, the Local Plan has largely been superseded in this regard by PPS4. Saved Policies R5 and R9 do relate to retail development within the Town Centre (R5) and District and Local Centres (R9) and clear reference is made to the Local Plan proposals map in defining the relevant Town Centre boundary. Appendix 15 of the Local Plan provides a schedule of 66 recognised shopping centres but does not distinguish between any of these in terms of scale or hierarchy. Whilst the saved policies are not directly applicable to new superstores and store extensions of the scale considered here, the content of the Local Plan in the form of the proposals map is still relevant to decision making in terms of the adopted definition of the Town Centre and identification of other centres within the Town.

- 9.6 The West Northamptonshire Joint Planning Unit have progressed the WNJCS and a consultation exercise was undertaken on the pre-submission document in February/ March 2011. The WNJPU are currently considering representations received as a result of this process and have stated that a report regarding the responses received will be taken to the Joint Planning Committee later in 2011. Therefore, at the current time, the weight to be attached to the policies within the Pre-Submission WNJCS is considered to be limited. The document does set out emerging thinking in relation to retail development but has not been subject to examination through Public Inquiry.
- 9.7 Similarly, Northampton Borough Council have progressed the Northampton Central Area Action Plan to a pre-submission draft and carried out a consultation exercise in 2010. The CAAP includes a revised Town Centre boundary defining the Central Area and highlighting primary and secondary shopping frontages. Whilst this does not form part of the adopted policy framework, NBC took a report to Cabinet in February 2010 recommending that the boundary within the CAAP is used to confirm NBC's policy position in relation to the determination of planning applications submitted to NBC and WNDC. The cabinet accepted this recommendation. Therefore, from NBC's perspective, the Town Centre boundary is that represented within the pre-submission version of the CAAP.

Retail Impact Considerations – PPS4 and AECOM reports

- 9.8 In view of the comments made above, it is considered that the most up to date and relevant policy framework for assessing the scheme is set out within PPS4 - *Planning for Sustainable Economic Growth*. WNDC's retail consultants (AECOM) have examined the Retail Assessment submitted with the application, in addition to updated information and assessments submitted at various stages, in association with amended plans being submitted. For completeness, the reports from AECOM are attached at Appendix 1 and 2. Members may note that the stage 2 report from AECOM regarding the application refers to floorspace figures that are greater than those currently proposed. Following the completion of the AECOM report dated June 2010, further meetings were held between officers from WNDC, NBC and the applicants, leading to a further set of revisions, resulting in a further reduction in floorspace and an agreement to limit comparison goods sales to 25% of the net sales area of the store (revised scheme submitted August 2010). Given the conclusions of AECOM's June 2010 report it was not considered necessary for them to undertake a further specific assessment of the retail impact of the current proposal. In other words, the June 2010 report and the outcome of subsequent discussions was considered to be an adequate basis to draw conclusions on the revised scheme submitted in August 2010.
- 9.9 In addition, WNDC also commissioned AECOM to undertake a cumulative impact assessment taking account of the various retail schemes that are currently being considered. This was essential to enable an understanding of the wider impacts of retail development within the town in a situation where there is a limited capacity for further development and a substantial amount of new floorspace being proposed. The AECOM cumulative report is attached at Appendix 3.
- 9.10 WNDC officers are satisfied that the analysis provided by AECOM should form the basis for decision making on the schemes before members on this agenda and, consequently, would urge members to understand and take account of these findings. The comments set out below are essentially a summary of the AECOM work and should be read in conjunction with the main body of the reports.
- 9.11 A thorough assessment of the impact of development proposals is explicit within PPS4. Policy EC17.1 sets out this approach clearly and identifies two 'gateway' tests (a and b) that must be met before wider considerations about the merits of the scheme can be

weighed in the judgement of the proposal. EC17.1(a) states that developments should be refused where *the applicant has not demonstrated compliance with the sequential approach (Policy EC15)*. EC17.1(b) requires that developments are refused where; *'there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments'*.

- 9.12 In effect, EC17 requires applicants to demonstrate that there are no sequentially preferable sites to accommodate the development proposed and that the scheme would not result in significant adverse impacts. Only if these factors are demonstrated favourably can other matters such as local job creation or regeneration of derelict sites be weighed as a factor in support of the scheme.

Sequential Assessment in relation to the application

- 9.13 It is accepted by all parties that the site is 'Out of Centre' for retail purposes, under the definition of PPS4 - *a location which is not in or on the edge of a centre but not necessarily outside the urban area*. Edge of centre is defined as *'a location that is well connected to and within easy walking distance (up to 300metres) of the primary shopping frontage'*. The Primary Shopping Area is defined as the *'area where retail development is concentrated (generally comprising the primary and those secondary frontages which are contiguous and closely related to the primary shopping frontage)'*.
- 9.14 Throughout discussions on the application, the applicants have been asked to provide further analysis regarding potential alternative sites, including an examination of whether elements of the store could be disaggregated and provided on smaller sites elsewhere. Additional analysis of alternative sites was subsequently provided as part of the applicant's revised submission in August 2010.
- 9.15 In considering alternative, sequentially preferable sites, PPS4 identifies that Local Planning Authorities need to examine whether they are available, viable and suitable for the proposed use. Further advice on this matter is provided within the Companion Guide to PPS4.
- 9.16 At the pre-application stage, potential sequentially preferable sites were discussed with the applicants and NBC. A number of potential sites were identified, particularly

those mentioned within the pre-submission Central Area Action Plan. An assessment of these sites was subsequently carried out and submitted with the application in 2009. The sites identified in the CAAP are :

- (a) the Grosvenor Centre, which has the potential to include a new store as part of wider redevelopment proposals;
- (b) land north of Abington Street bound by Lower Mounts, Abington Street and Wellington Street; and
- (c) land between Horsemarket and College Street (currently occupied by the Park Inn).

9.17 The applicant concluded that none of these sites are either suitable, or available within a reasonable timescale for a main foodstore development. In addition, the agents stressed that Sainsbury's already operate a store within the Grosvenor Centre and consequently, that it is commercially unrealistic to expect a single operator to develop and operate two competing stores within the town centre. Upon examination of the evidence put forward by Indigo, on behalf of Sainsbury's, and the submissions made in relation to other retail applications currently being considered, WNDC officers accept the conclusions that the town centre sites identified within the Pre-Submission CAAP are not available to accommodate the proposals put forward in relation to Sainsbury's Sixfields store. It is not accepted that the Town Centre is unsuitable for large scale food retailing but the sites identified would require significant long term planning and investment, including substantial highway works to make them attractive and suitable as large format stores. The redeveloped Grosvenor Centre may be capable of accommodating an increased food retail offer but any development of this site is likely to be brought forward over the medium to long term and should not be recognised as an available site for the purposes of determining present applications.

9.18 Similarly, the site identified within the CAAP to the north of Abington Street is a complex arrangement of buildings and street layouts covering multiple land ownerships. Redevelopment of this site for a large scale foodstore would require land assembly, most likely involving CPO procedures, and substantial demolition and redevelopment. There is no prospect of this site becoming available within the short to medium term and the long term viability of the redevelopment is questionable.

- 9.19 Land between Horsemarket and College Street is largely within the ownership of Northampton Borough Council. The CAAP envisages a redevelopment with a mix of retail and commercial space overlooking St. Katherine's Gardens. The CAAP does identify the possibility of a new supermarket on the site but recognises that this is a long term strategy, predicted to come forward towards the end of the plan period between 2021 and 2026. Again, it is considered that this site should not be considered available for the purposes of determining current applications.
- 9.20 As a result of discussions during the evolution of the Sainsbury's proposals, other sites outside the town centre have been put forward, namely:
- a. the St James' Road Bus Depot
 - b. the Barrack Road Post Office site, where an application has been submitted for a new store on the site.
 - c. the Chronicle and Echo site

Consequently, in August 2010, Indigo submitted further details with regard to sequential analysis of the Barrack Road site and the St. James' Road Bus Depot, on the edge of the district/ local centre at St. James.

The St James' Road Bus Depot Site

- 9.21 The First Direct bus depot site is located on St. James' Road and is considered to be edge of centre in relation to the definition of the district/ local centre identified in the Northampton Local Plan. The Local Plan does not set a hierarchy of centres for the town and does not differentiate between local and district centres. It is therefore unclear what status the St. James' centre has in terms of planning policy. Indigo conclude that the site is neither suitable nor available for the proposed development. In terms of suitability, Sainsbury's architects have examined the site and estimate that it would only be able to accommodate a store of approximately 1,800m² based on a suggested layout. Their conclusion is that the site can not therefore accommodate the level of development required at their Sixfields store. In addition, they contend that a store of the equivalent size to the extension proposed would be unsuitable and out of scale with the nature of the centre which is largely a linear parade of stores serving a secondary/ top up function. Technical matters are also examined, including the fact

that the site is located partly within Flood Zone 2 as defined by the Environment Agency and the likely traffic issues adjacent to a busy junction. Finally, Indigo note that the site is presently in use and that no evidence has been put forward that the bus operator is seeking to relocate to other premises.

- 9.22 From the evidence before officers, it is difficult to conclude that the bus depot site is available, or that there is any evidence it will become available in the short to medium term. First Direct are still operating fully from the unit and no discussions appear to have taken place regarding a relocation. In this context, officers conclude that the site is unavailable and the points raised by Sainsbury's in this regard are accepted. In terms of the sequential test required by PPS4, it is considered that the Bus Depot site should be discounted for this reason alone. Officers do share some of the concerns raised by Indigo regarding the suitability of the site to accommodate a large foodstore in terms of its scale in relation to the existing centre and the technical issues, particularly the matter of flood risk.

The Barrack Road site

- 9.23 In terms of Barrack Road, Indigo conclude that the scheme is out of centre and that it is not sequentially preferable to Sixfields. The submitted analysis acknowledges that the site is closer to the town centre but suggests that the likelihood for creating linked trips is minimal given the distance from the Primary Shopping Area and the nature of the route from the site to the Town Centre. Furthermore, Indigo conclude that the site is not suitable for a large scale foodstore due to the likely retail impact and trade draw from the Town Centre and from Kingsthorpe District Centre to the north. Indigo note the potential regeneration benefits of the scheme but conclude that these should only be taken into consideration where no significant adverse impacts are expected.
- 9.24 As referenced at paragraph 2.3 above, the application relating to the former sorting office at Barrack Road has now been withdrawn. Therefore, there is no proposal on the table to develop the site at the time of writing. In any event, officers consider that the site is out of centre, and is unlikely to foster linked trips to the town centre due to the distance involved and the relatively unattractive, traffic dominated route between the central area and the site. In this sense, the site is not considered to be sequentially preferable.

The Chronicle and Echo site

- 9.25 No specific information has been put forward by Indigo in relation to the Chronicle and Echo site which is now being marketed in its entirety, including the offices which front onto Upper Mounts. WNDC officers have had detailed discussions with the owners of the site regarding potential future uses and have examined the constraints in detail, including meetings with the highway authority. The character of the site is effectively split between the rear and the front parcels. The rear section is closely surrounded by two storey residential properties and development of any significant scale in this location would lead to problems of residential amenity. The front of the site is of a more commercial nature and any development would need to reflect the municipal scale and character of the surrounding area.
- 9.26 During discussions NCC Highway officers raised concerns regarding the access arrangements from Earl Street. It is considered that any development generating substantial amounts of traffic from that access would be difficult to achieve. Alternative access points are limited due to the nature of surrounding development. In the opinion of WNDC officers, the optimum way to redevelop the site would be based on a residential scheme to the rear and mixed commercial use to the front. Buildings of any scale or generating significant levels of activity to the rear are likely to impact upon adjacent residential amenity. The front of the site has the potential to accommodate a number of uses and it is considered that some small scale top up shopping may be achievable but this would be at such a level to accommodate primarily non-vehicular traffic not requiring substantial on site parking. In the view of officers, the redevelopment of the entire site for a single occupier food retail use is unlikely to be acceptable on grounds of highway safety and amenity. The scale of retailing that may be achievable on the Chronicle and Echo site is limited and would not serve a smaller foodstore operating on a convenience only basis. For the purposes of this application, it is considered that the Chronicle and Echo site is unsuitable for the development proposed.

Other relevant proposals – Nene Valley Retail Park, and Mereway

- 9.27 In terms of the sequential approach, similar comments can be made in relation to the other applications and proposals that are currently submitted for consideration, including the Nene Valley Retail Park (09/0117/FULWNN) and Tesco Mereway (NBC Ref: N/2010/0653). An appeal has been lodged against non determination of the Nene Valley Retail Park application and the Inquiry is expected to take place in September/October 2011. Therefore, WNDC no longer has the authority to determine the application. However, a report will be placed before members at the July meeting to determine what WNDC's decision would have been had it been able to determine the application.
- 9.28 Neither the Nene Valley Retail Park, or the Tesco Mereway proposals would foster links to the town centre and each would compete with other out of centre proposals. This does provide a difficult situation in terms of application of the sequential approach. In effect, the decision makers (WNDC and NBC) are faced with a situation of clear need for more retail accommodation, concern relating to impact on the town centre and a lack of clearly deliverable, sequentially preferable, sites.
- 9.29 Tesco have made representations to NBC to the effect that Mereway is a district centre, as identified in the Northampton Local Plan. The inference being that this site is therefore sequentially preferable to other proposals on the table. Whilst WNDC is not the plan making authority, it is clear that the saved policies of the Local Plan do not set a hierarchy of centres within the town, as required by PPS4 and that the emerging strategy is not yet at a stage where significant material weight can be attached to it. In any event, the existing store at Mereway is already one of the largest stores within the town serving a wide catchment. Regardless of Mereway's status as a local or district centre, the decision maker (NBC) will need to assess whether the scale of development proposed is appropriate in that location as required by Policy EC16.1 (e). In effect, even if Tesco's position were accepted, it should not follow automatically that all of the retail need within the town should be directed towards Mereway, or that it should take precedence over other sites on the basis of the sequential approach outlined in PPS4.
- 9.30 In the absence of an up to date retail strategy for the town and the lack of deliverable sites within the Town Centre, it is considered that the appropriate mechanism to

determine the current applications is through an understanding of the current retail need and an assessment of the impact (individual and cumulative) of the various applications currently being considered. In effect, the application of the sequential test under Policy EC15 does not, in itself, provide a clear direction over which schemes should be preferred moving forward. As a consequence, WNDG took the measure of appointing AECOM to provide a cumulative impact assessment of the current proposals under Policy EC 17.1(b).

- 9.31 The aim of this study was to analyse the retail impact of the various competing proposals and draw conclusions regarding which scheme/ schemes would provide the most appropriate balance of provision across the town, without harming the vitality and viability of existing centres.

Retail Impact

- 9.32 Policy EC17.1(b) of PPS4 clearly states that applications for main town centre uses, not in an existing centre and not in accordance with an up to date development plan should be refused where; *'there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments'*
- 9.33 As noted above, AECOM have undertaken an individual assessment of the application and a cumulative assessment of the retail schemes currently being proposed. These documents are appended to this report and the full technical content will not be repeated in its entirety here.
- 9.34 Policy EC10.2 of PPS4 includes five criteria in relation to economic development proposals:
- a. whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change
 - b. the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured

- c. whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions
- d. the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives
- e. the impact on local employment .

9.35 EC16.1 identifies a further six impact tests in relation to out of centre proposals:

- a. the impact of the proposal on existing, committed and planned public and ~~a~~ private investment in a centre or centres in the catchment area of the proposal
- b. the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer
- c. the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan
- d. in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy
- e. if located in or on the edge of a town centre, whether the proposal is of an e. appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
- f. any locally important impacts on centres under policy EC3.1.e

9.36 With regard to Policy EC10.2, it is considered that the proposal would not give rise to any significant adverse effects. The extension would not increase the carbon footprint of the store above its existing level; the site is well served by public transport and there are no significant highway issues; the design is considered to be acceptable and would be an improvement on the somewhat dated exterior of the existing store; there would be no significant impact upon regeneration in the area and; whilst there would be some benefits in terms of local employment generation some of this is expected to be drawn from other stores.

- 9.37 In relation to Policy EC16.1 the primary consideration in relation to this site is whether any significant impact on designated centres are expected under 16.1 (a, b, and d). There are no allocated sites under criteria (c), criteria (e) is not applicable and there are no locally identified impacts for consideration within the adopted and emerging local policy framework.
- 9.38 In summary, the principal argument put forward by Sainsbury's is that the extensions to the store will serve a defined need in the catchments to the west of the Town and that there is more than sufficient retail need to accommodate the proposal. Indigo therefore conclude that the impact in terms of 16.1 (a and b) would be neutral and that there would be a 'slightly adverse, if not neutral' impact on Town Centre trade under 16.1 (d). Based upon the assessments of the application undertaken by AECOM, and Planning Prospects on behalf of Northampton Borough Council, it is considered that the individual impact of the extension, as amended, would not have any significant adverse impacts upon those areas identified within Policy EC16.1 of PPS4. The reductions in the footprint of the extension from that originally proposed are significant and the condition restricting the sale of comparison goods to 25% of the overall net sales area would be sufficient to ensure that the proposal would not draw significant amounts of trade from the established centres and to limit the store to a scale that is proportionate to the needs of its catchment on the western side of Northampton.

Cumulative Impact of the application and schemes currently being promoted

- 9.39 Viewed in isolation, it is therefore considered that the proposed extension would meet the retail impact tests identified in PPS4 and that no sequentially preferable sites are available, suitable or viable that could accommodate the proposal.
- 9.40 As noted above, a key concern for officers in determining the current applications was to understand the potential cumulative impact of various schemes being promoted, which comprised:
- Tesco, Mereway (proposed store extension)
 - Sainsbury's Sixfields (proposed store extension)
 - Barrack Road Sorting Office (application for a new superstore, now withdrawn)
 - Nene Valley Retail Park (variation of condition application to allow the principle of a new foodstore on the site)

- Waitrose (pre-application discussions had taken place regarding a proposed store at Newport Pagnell Road. This scenario was therefore included in the Cumulative Assessment but no application has subsequently been submitted).

9.41 Whilst the individual impact of the Sainsbury's proposals is acceptable, the scope for further retail development within the town, as expressed in terms of required floorspace, is clearly less than the number of proposals being considered. In order to reach a conclusion about any one of the schemes, it is necessary to understand the implications of that decision in the round in order to determine the most appropriate course of action and the optimum approach to meeting retail need whilst protecting the established retail centres. WNDC officers considered that none of the schemes proposed adequately assessed the cumulative impact of their proposals in addition to the other developments and consequently, AECOM were appointed to undertake a cumulative impact assessment on behalf of WNDC.

9.42 The starting point for the cumulative impact work is the West Northamptonshire Retail Study Update (WNRSU, Roger Tym and Partners, 2011) which was completed as part of the background evidence base for the emerging Core Strategy. The WNRSU provides an assessment of the broad retail needs of the area, in qualitative and quantitative terms, based on projected population, spending forecasts and an analysis of the trading patterns of existing stores.

9.43 In terms of headline figures, the WNRSU indicates:

- (a) an immediate need for additional convenience floorspace of 4,435m² rising to 5,536m² by 2016.
- (b) comparison need at 2016 is significantly greater, indicated 19,600m².

At face value, the study therefore provides a broad indication of retail need within Northampton, expressed in terms of floorspace requirements. By comparison, the additional convenience floorspace proposed in the Sainsbury's application is 1,511m² and the additional comparison sales area amounts to 978m².

9.44 As part of the brief for the Cumulative Impact Study, AECOM were asked to examine the assumptions made in the WNRSU to ensure that the retail capacity forecasts were a sound basis for decision making. In completing the work, AECOM discovered that incorrect figures had been used in relation to the floorspace and 'benchmark' sales densities for some of the existing large foodstores in the town. In addition, the

WNRSU did not take account of new store commitments and store extensions which have recently been approved and/or constructed. For example, Aldi at Wellingborough Road, the Tesco Metro at Abington Street and the extension to the Netto (ASDA) store at Far Cotton. The latter was understandable given the broad scope of the WNRSU and the evolving picture of retail applications throughout the time over which the study was compiled.

- 9.45 Subsequently, AECOM have corrected the assumptions made in the WNRSU and added in committed floorspace. The effect of this is to significantly reduce the headline need for further retail floorspace in the town. AECOM concluded that the capacity for further convenience retail space at a base year of 2010 was 1,715m². Clearly, this figure is much reduced from that projected in the WNRSU. Consequently, AECOM concluded that there is insufficient capacity to support another large foodstore in Northampton at the current time.
- 9.46 The Cumulative Impact Study further concludes that the optimum way of meeting the immediate need for further retail floorspace should be through store extensions, as opposed to new superstores. In relation to the two proposed store extensions (Sainsbury's, Sixfields and Tesco, Mereway), AECOM concluded that, for convenience goods, the impact of approving both proposals would be less than that of either of the new superstores tested in the Cumulative Study. In terms of comparison goods neither of the store extensions would, on their own, have a significant adverse impact upon in centre trade and turnover but, if both were approved, the impact is anticipated to be significant. AECOM recommended that only one of the store extensions is approved on this basis.
- 9.47 Furthermore, AECOM concluded that the Sainsbury's proposal should be the preferred option of the two store extensions on the basis of consumer choice and competition. Tesco have two substantial stores at Mereway (net sales area 5,733m²) and a Tesco Extra at Weston Favell (net sales area 7,295m²). The net sales area of the current Sainsbury's store is 3,559m² - less than a third of that occupied by Tesco. In addition, the comparison goods element of the Sainsbury's store is significantly less than that of Tesco Mereway and could be controlled by condition limiting the sales to 25% of the net sales area for the store.

- 9.48 Aside from the quantitative analysis, officers acknowledge the qualitative arguments made by Indigo in support of their application. The layout of the Sixfield's store has remained largely unaltered since construction and by modern standards, the internal space and arrangement is somewhat dated. Since the store was erected a substantial amount of residential development has been completed within its immediate catchment, for example at Upton, St. Crispin's and on the former British Timken site. It is considered reasonable for the store to be updated and modernised to provide an improved offer for the surrounding catchment population, effectively bringing the standard of the store on a par with competitors such as Tesco at Mereway.
- 9.49 Therefore, officers are satisfied that the proposed extension meets the retail impact tests set out within Policy EC17 (and consequently EC10.2 and EC16.1) of PPS4 on an individual level and on analysis of the cumulative impact. In line with recommendation from AECOM it is considered that an extension to the store is the best way of meeting the immediate retail need within the town, without prejudicing the opportunity to develop in centre sites in the medium term.
- 9.50 Members will note from the above comments that WNDC is not the determining authority for all of the proposed retail developments within the town. The cumulative impact of these proposals also needs to be taken into account.

Cumulative Impact - Comments on Other Proposals

- 9.51 The s.73 (variation of condition) application in relation to the Nene Valley Retail Park is now the subject of an appeal against non determination. Consequently, the decision in relation to this scheme is now in the hands of the Secretary of State. Northampton Borough Council have also recently determined/ are in the process of determining a number of retail related proposals.
- 9.52 These include:
- a. a full planning application for an extension to the store at Tesco Mereway;
 - b. applications for certificates of lawful use in relation to the Nene Valley Retail Park;
and
 - c. the Matalan and Hobbycraft site off Weedon Road in Sixfields.

In simple terms, the certificates of lawful use have been submitted by the owners of the relevant sites at b and c above in order to establish the legality of selling convenience goods from the existing retail stores.

9.53 Further comments on the above proposals are set out below.

Nene Valley Retail Park – Certificate of Lawfulness Applications and Planning Application 09/0117/S73WNN

9.54 Two appeals have been submitted to the Secretary of State in relation to the Nene Valley Retail Park and a Certificate of Lawfulness has recently been issued by NBC. The details are outlined below:

- **WNDC Ref: 09/0117/S73WNN (Variation of Condition):** Condition 6 of the original approval for the retail park (86/0994) places a restriction preventing the sale of food from the retail park. In 2009, Land Securities submitted an application to WNDC to vary condition 6 to allow the sale of food from the site. In submitting the application, they put forward an alternative condition that would limit the gross internal area of any superstore to 7,000m², with the net sales area for convenience goods not to exceed 3,413m². In effect, the scheme therefore proposes an amendment to the original condition 6 to a form that would enable a superstore to operate at the site. An appeal has now been submitted and will be determined by the Secretary of State.
- **NBC Ref N/2010/0944 (Certificate of Lawfulness):** In summary, condition 6 of application 86/0994 (the original approval for the site) placed restrictions on the quantum of floorspace at the site and also prevented the sale of food from the retail park. An application to amend Condition 6, in order to extend the floorspace of the park, was submitted to and approved by NBC in 2001 (N/2001/1386). No conditions preventing the sale of food were attached to that approval. In short, the argument put forward by the applicant is that the 2001 consent has effectively replaced condition 6 of the original consent, no conditions were attached preventing the sale of food, and consequently, it is lawful to sell food from the premises.
- If allowed, the appeal would therefore result in an unrestricted A1 retail consent for the Nene Valley Retail Park. The restriction governing the amount of retail

floorspace across the park would remain but there would be no restriction relating to the type of goods sold or the split between convenience and comparison retail.

- NBC contend that the 2001 consent merely replaced the part of condition 6 insofar as it relates to the control over floorspace at the park and that the part of condition 6 preventing the sale of food remains intact. Therefore, their position is that it would be unlawful to sell food from the premises. An appeal has been lodged against NBC's refusal and this will be conjoined with the Nene Valley s.73 appeal. The outcome of this case is therefore not known at the present time.
- **NBC Ref: N/2011/0248 (Certificate of Lawfulness):** This application relates to Units 3a and 3b of the Nene Valley Retail Park and to a planning application relating to units in the north-west corner of the development. Essentially, the Certificate of Lawfulness application contends that this application effectively created a new planning unit with a free standing consent, absent of any controls over the sale of convenience retail goods. On this basis, convenience goods could be sold from the premises. Based upon legal advice, NBC have accepted this position and granted a Certificate of Lawfulness for an open A1 consent. Therefore, convenience goods could be sold lawfully from units 3a and 3b of the Nene Valley Retail Park. The gross floorspace of these stores is 3,530m².

Therefore, in relation to the Nene Valley Retail Park, two matters are before the Secretary of State at appeal and the decision on these applications will not be known until late 2011 or early 2012.

9.55 The more recent application for a Certificate of Lawfulness has been approved by NBC and established that it would be lawful to sell convenience goods within Units 3a and 3b. The other units within the park have the ability to sell an unrestricted range of comparison goods. In effect, this position does open up the possibility that a supermarket operator could trade from the site selling a mix of convenience and comparison goods. At present, it would only be lawful to sell convenience goods in units 3a and 3b.

9.56 AECOM's cumulative impact study did not specifically assess the scenario raised by the Certificate of Lawfulness at units 3a and 3b because this decision was issued after the completion of the work. However, the convenience floorspace within Units 3a and 3b is similar to that proposed within the s.73 (variation of condition) application referred

to above. AECOM concluded in that scenario that the impact of a new superstore would be harmful to the town centre and that the floorspace created is greater than the current need within the town. Therefore, as above, if the superstore was to come forward trading convenience goods within Units 3a and 3b and associated comparison goods elsewhere in the building, there would be significant adverse cumulative impacts. If the Secretary of State were to grant permission for either the s.73 application or the alternative Certificate of Lawfulness relating to the entire park, it follows that the impact on the town centre would also be significantly adverse.

9.57 The key question is what weight to give to these consents and whether caution should be exercised in determining planning applications for retail development on the basis of what may happen at the Nene Valley Retail park in the light of the proposals outlined above. Officers have considered this matter and sought legal advice. A number of points are relevant. Firstly, a certificate of lawfulness simply establishes that it would be lawful to sell food in the unit in question, it does not imply that it would be practical to sell goods from those units, or that the owners have any firm proposals to implement the use. All of the units in question are presently occupied by tenants selling a range of non food goods and agreement would be required to remove the existing tenancies. No named food retailers have been put forward in relation to any of the sites and, consequently, there is no indication that the proposals are anything other than speculative. The position is similar in relation to the proposed s.73 application. The proposal would simply establish the principle of a foodstore on the site.

9.58 Within their retail statement in relation to the s.73 application Savills note that; 'Whilst the proposal to use existing floorspace for the sale of food would not require any building operations to implement and could therefore commence trading in a relatively short period it has been anticipated that the proposal would not achieve a stable pattern of trading until 2016 in light of the likelihood that a comprehensive redevelopment will be required'. This is consistent with comments received from Savills at the pre-application stage noting that the variation of condition application was intended as a first stage in a process leading to further applications for redevelopment.

- 9.59 The present appearance of the Nene Valley Retail Park is reflective of an out of centre bulky goods estate. It is unlikely that a food retailer would relocate to the site without substantial redevelopment and enhancement to the buildings and external environment.
- 9.60 In view of the above, it is not considered that there are any firm and implementable proposals to sell convenience goods from the Nene Valley Retail Park. In this situation, it is not considered to be necessary or reasonable to delay a decision on the applications on this agenda. There is an element of uncertainty in relation to these sites and there is a possibility that the proposals could develop into more advanced commitments at some point in the future.
- 9.61 However, officers recommend that the most appropriate course of action is to base a decision on firm proposals in the form of the detailed applications that have been submitted to WNDC and NBC for determination.
- Matalan/ Hobbycraft, Weedon Road*
- 9.62 In addition, an application for a certificate of lawfulness has also been submitted in relation to the Matalan and Hobbycraft site, off Weedon Road at Sixfields. Although in separate usage, the two units are contained under one roof within the same building. The gross floorspace is approximately 5,000m². The planning history and position regarding this application is simpler than the Nene Valley site and NBC have accepted that the sale of convenience goods would be lawful.
- 9.63 The decision was issued after the completion of the Cumulative Impact Study was completed by AECOM and this site was not included within that assessment. However, the impact of a new superstore is likely to be significant and have adverse impacts in view of the conclusions reached within the Cumulative Study.
- 9.64 In terms of practicality, it is considered that the constraints of the site and the limited car parking offer would make it unsuitable in its present form for a large superstore. As with the Nene Valley Retail Park, the site has existing tenants and no retail operator has been named in connection with the site. Substantial redevelopment would be necessary in order to make it attractive as a superstore. In this situation, it is not considered that the Matalan/ Hobbycraft site should be counted as a committed development.

9.65 AECOM have also made a general point in relation to the potential future development of those sites where Certificates of Lawfulness have been granted. In their professional view, the best course of action to take a decision on the firm proposals for development that are currently submitted for determination. A decision to approve the Sainsbury's extension would take up the majority of the retail need in the town and make it less likely that the alternative sites would come forward.

Tesco Mereway

9.66 The application for an extension to Tesco's Mereway store has been transferred from WNDC to NBC due to an amendment to the application which took the proposed floorspace below the 2,500m² threshold for which WNDC is the planning authority. The application is unlikely to be determined in advance of WNDC's June committee and officers understand that NBC and the applicants are in discussion regarding the scheme and the layout of the site. In that scenario, should members resolve to approve the Sainsbury's application, as is recommended, the scheme would effectively become committed retail floorspace and NBC would be obliged to consider the cumulative impact of this in making any recommendation/ decision on the Mereway proposals.

9.67 Clearly, it will be a matter for NBC to weigh the impact of that scheme, taking account of the evidence put forward, including the AECOM cumulative assessment which recommends that only one of the proposed superstore extensions should be permitted. Tesco have made representations to NBC and WNDC in this regard, noting the impact of their new Abington Street store within the town centre, and amending the cumulative study to reflect this position. In simple terms, their position is that the town centre is better placed to withstand the impact of the Mereway proposals due to the presence of the Abington Street store. This is considered to be a finely balanced matter and NBC will need to undertake careful assessment of the potential cumulative impact in reaching any decision. However, in relation to the applications before WNDC, the recommendation as set out is considered to be appropriate and it is not necessary to defer judgement on the application to await the outcome of the Tesco Mereway proposal. On the basis of AECOM's cumulative assessment, an extension to the Sainsbury's store is considered to be the most appropriate scheme of the two store extensions currently proposed.

Highway Matters

- 9.68 The Highway Authority, NCC, have raised no objection to the principle of the development, subject to securing contributions towards improvements on the surrounding highway network in order to mitigate the impact of additional traffic generated by the scheme. In summary, the following has been requested to be secured through either condition or s.106 agreement as appropriate:
- £250,000 towards Tollgate Way improvements
 - £75,000 towards cycle and footpath improvements
 - Contribution to bus subsidy to upgrade the number 22 bus to an evening and Sunday service and to re-route the service to stop outside the store
 - Relocation of cycle stands closer to the store
 - Travel Plan secured by way of legal agreement
- 9.69 The applicants have agreed to the majority of the requests and these would be secured through a section 106 agreement, a detailed draft of which has been finalised. The exception is NCC's request for a public transport bus subsidy in relation to the number 22 bus. NCC requested that this was re-routed to stop outside the store and upgraded to an evening and Sunday service. The cost for this was expected to be £50,000 per annum over 5 years. However, following the initial comments from NCC it was discovered that the number 5 service already runs (Monday to Saturday) regularly past the store, stopping at the entrance, with the last bus departing at 8.00pm. Evening and Sunday services operate at stops along Weedon Road.
- 9.70 In the context of the proposed development - an extension to an existing store - and the existing public transport serving the area, the request of NCC for bus subsidy is not considered to be necessary or reasonable.
- 9.71 Aside from the public transport subsidy, the measures contained within the draft s.106 agreement are considered to be acceptable and necessary in order to mitigate the effects of the development.

Design and Visual Amenity

- 9.72 The existing store is located within the north west corner of the site and is relatively well screened on its frontage by virtue of established landscaping along Weedon Road and Gambrel Road. The blank rear facades to the Tollgate Way and Westgate Road frontages are probably the most visible parts of the building from directly outside the

confines of the site. There is little design merit in the existing store which is essentially a single storey retail shed, surrounded by busy highways and other large scale commercial buildings.

- 9.73 The principle changes would see two storey extensions wrapped around the south and east elevations of the building taking the building line closer to Weedon Road and Gambrel Road. The design is reflective of modern retail developments with flat roof profile, non metal cladding to the walls and substantial amounts of glazing to bring light into the first and ground floor level. Although not exceptional, the external appearance of the extension is considered to be acceptable, given the location of the store and the nature of surrounding area.
- 9.74 The most noticeable change would be the introduction of a decked car park covering the majority of the existing parking area. Through negotiation, the extent of this decked area has been reduced to limit the visual impact from the Weedon Road frontage. The existing landscaping around the perimeter of the site will provide an effective screen to the new decked car park and will ensure that the visual impact is limited. On balance, subject to appropriate conditions regarding external materials, the appearance of the extended structure is considered to be acceptable.

Sustainability

- 9.75 NBC have raised the issue of sustainability within their consultation response, noting concerns about the double height structure and requesting that WNDC satisfies itself about the sustainable credentials of the extended space. The existing store was erected at a time when sustainable construction was low on the agenda and consequently is of relatively low specification. The applicant's position is that the extended structure will result in "no detriment" over and above the existing building in terms of its carbon footprint, emissions and energy use. In effect, although the gross internal area of the building would more than double the size of the existing structure, the introduction of improved ventilation, thermal efficiency, better lighting etc would result in the overall impact being no greater than the existing structure.
- 9.76 WNDC applies rigorous standards to new construction and, in terms of new buildings, would expect applicants to demonstrate a standard of at least BREAMM "Very Good". The application of that standard is difficult in this case where the extensions are being retro-fitted onto a relatively poorly performing existing structure. Based on the

information provided by the applicant, officers are satisfied that the approach taken in this case is acceptable and is appropriate, given the context of the site. The extension will provide a modern and enlarged building that will not have any greater impact than the current store.

s.106 Discussions

- 9.77 Discussions have taken place around the potential s.106 contributions associated with the development and a draft s.106 has been drawn up based around WNDC's Planning Obligations Strategy. Based upon the POS, a financial contribution of £547,626 is put forward. The contribution under the standard charge could be used towards specific agreed heads of terms including the contributions to offsite highway matters referred to above. In addition to highway matters, the remainder of the s.106 contribution (£217,500) would be directed towards town centre enhancements and public realm improvements, as mitigation for the impact of out of town retail development. The s.106 would also secure a commitment to WNDC's Construction Futures initiative which requires the developer to provide on-site training for apprentices in the construction industry, linked to training programs delivered by local education bodies.
- 9.78 Aside from financial contributions, the s.106 also places an obligation on Sainsbury's Plc to use reasonable endeavours to maintain their store within the Grosvenor Centre, selling food and convenience goods, for the next 5 years.
- 9.79 The level of contribution is considered to be acceptable and the draft s.106 will ensure that the contributions received are allocated to schemes that are required in direct mitigation of the proposals.

Other Matters

- 9.80 There are no other matters that are considered to be of significant material weight in the determination of this application. Consultation responses from statutory bodies have highlighted a need for conditions relating to a number of matters, including those relating to crime and disorder, drainage, highway matters, contamination, noise, refuse storage and lighting.

10. Conclusion

- 10.1 The application for the extension to Sainsbury's store was submitted back in 2009 and has been the subject of extensive discussion and negotiation since that time, leading to revisions substantially reducing the footprint of the extension proposed. On the basis of the amended scheme, officers are satisfied that the retail impact would be acceptable and that the proposals meet the impact tests outlined in PPS4. Therefore, it is considered that the extension to the store is acceptable in terms of national and local planning policy. A number of other planning applications/ appeals and Certificate of Lawfulness applications are also being considered and/or have been approved. The decision to recommend approval for this scheme is taken in the light of an understanding of each of these developments and following the Cumulative Impact Study undertaken by AECOM on behalf of WNDC.
- 10.2 There are no other significant constraints to bringing forward the proposed development. Highway mitigation is required in terms of local roads, footpaths and cycleways and this can be secured through an appropriate section 106 agreement. On design grounds, the extension, and particularly the deck car park, would have an impact in the surrounding area and would significantly alter the appearance of the store. However, in the context of the existing building and the character of the surrounding area, the design is satisfactory. Conditions relating to materials and landscaping should be imposed to ensure that the finished appearance of the scheme is acceptable.
- 10.3 In view of the above, it is recommended that the scheme is approved in line with the recommendation set out.

11. 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 by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule 1 of this permission.

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

- (3) The retail superstore, as hereby permitted to be extended, shall not exceed 11,878m² gross internal area. The net retail sales area of the store, as extended, shall not exceed 6,048m² (for this purpose, the net retail sales area is defined by the Competition Commission in Appendix A of the PPS4 practice guidance 'Planning for Town Centres', published by the Department for Communities and Local Government in December 2009).

Not more than 25% of the net retail sales area in the store, as extended, shall be used for the sale of comparison goods (as defined in Appendix A of the PPS4 practice guidance 'Planning for Town Centres', published by the Department for Communities and Local Government in December 2009).

The store, as hereby permitted, shall not be subdivided into more than one independent retail unit.

Reason: To ensure that the size of the store is controlled and that the scale of comparison goods is restricted to acceptable levels in the interests of protecting the vitality and viability of Northampton Town Centre and District Centres.

- (4) Full details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction work on site, implemented concurrently with the development and retained thereafter. The scheme shall demonstrate how any external lighting complies with the requirements of the International Commission of Illumination CIE Report 150 (Guide on the Limitation of the effects of Obtrusive Light from Outdoor Installations, Tables 2.1 to 2.6) will be achieved.

Reason: To secure a satisfactory standard of development in the interests of crime prevention and for the avoidance of light pollution.

- (5) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of hard and soft landscaping for the site. The scheme shall include indications of all existing trees and hedgerows on the land and details of any to be retained.

Reason: In the interests of amenity and to secure a satisfactory standard of development.

- (6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following occupation of the development, whichever is the sooner, and which shall be maintained for a period of five years. Such maintenance to include the replacement in the current or nearest

planting season whichever is the sooner of shrubs that die, are removed or become seriously damaged or diseased with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure a satisfactory development.

- (7) The food store hereby approved shall be open only between the hours of 0700 and 2300 from Mondays to Fridays and 0700 and 2200 on Saturdays and 1000 and 1600 on Sundays or Bank Holidays.

Reason: To ensure compliance with the details of the application, in the interests of amenity.

- (8) The development hereby approved shall not be brought into use until the internal and off-site highway works have been completed in accordance with the details shown on the approved plans numbered 2009-008 P03 Rev. F and P04 Rev. E Full details of the design specification for the highway works, including finished surface materials, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any work relating to the internal layout or external access arrangements.

Reason: To ensure a satisfactory standard of development in the interests of highway safety.

- (9) The deck car park hereby approved shall be completed, in accordance with drawing numbers 2009-008 P03 Rev. F and P04 Rev E, and available for use prior to the extended areas of the store opening for business. Thereafter, the car parking areas indicated on the approved plans shall remain

Reason: To ensure that the store is served by adequate levels of car parking in the interests of good highway planning.

- (10) Prior to the commencement of development details of measures intended to minimise the energy consumption of the extended store outlined in the Renewable Energy and Energy Efficiency Report, dated 12 January 2011, shall be submitted to and agreed in writing by the LPA. Unless otherwise agreed in writing, the agreed measures shall be implemented and in operation upon completion of the works and prior to re-opening of the extended store.

Reason: To ensure that the development is carried out to a satisfactory standard, in the interests of sustainable development, in accordance with the principles of PPS1.

- (11) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the applicant and/or developer has submitted, and obtained written approval from the Local Planning Authority for a remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that any unforeseen contamination identified during redevelopment is appropriately dealt with.

- (12) Prior to the commencement of development samples of all proposed external facing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with approved details.

Reason : To ensure that the building is in accordance with surrounding properties and delivers sufficiently high quality design.

- (13) The ATM (Cash) machines within the store shall be located in the position shown on the approved layout plan numbered 2009-008 p03 Rev. F, unless consent to any variation is given in writing by the Local Planning Authority.

Reason : To ensure that the ATM machines are located in a visible and prominent position in the interests of crime prevention.

- (14) Prior to the extended store opening for business, a scheme for the provision of cycle parking stands within the development shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be maintained in accordance with the approved details.

Reason : To encourage sustainable forms of transport, in the interests of sustainable development, in accordance with the aims of PPS1.

- (15) Prior to the commencement of work on the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority which specifies the sources of noise on the site, whether from fixed plant or equipment or noise generated from within the buildings and makes provision for its control. The agreed scheme shall be implemented prior to occupation and maintained thereafter..

Reason: In the interests of preventing noise pollution, in accordance with PPG24

(16) Prior to the occupation of the development, a scheme shall be submitted to and agreed in writing by the Local Planning Authority which identifies:

- The provisions to be made for handling of goods and materials being delivered to the store and measures for the control of vehicle noise, including reversing sirens.

Thereafter, the delivery operations at the store shall be implemented in accordance with the approved details

Reason: In the interests of preventing noise pollution, in accordance with PPG24

(17) Details of the provision for the storage of refuse and materials for recycling shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of work on the scheme. Thereafter, the storage areas shall be maintained in accordance with the details so approved.

Reason: In the interests of amenity.

SITE PLAN

