

Dear Sir/Madam,

**SPECIAL PLANNING COMMITTEE**

Notice is hereby given that a Special meeting of the **Planning Committee** will be held in the Council Chamber, Kelham Hall, Newark on Wednesday, 20 April 2016 at **4.00 pm**.

Yours faithfully,



A.W. Muter  
Chief Executive

**AGENDA**

- |                                                        | Page Nos. |
|--------------------------------------------------------|-----------|
| 1. Apologies                                           |           |
| 2. Declarations of Interest by Members and Officers    |           |
| 3. Declaration of any Intentions to Record the Meeting |           |

**PART 1 - ITEMS FOR DECISION**

- |                                                                                        |        |
|----------------------------------------------------------------------------------------|--------|
| 4. Land at the Junction of Kelham Road and Great North Road, Newark<br>(14/01598/FULM) | 3 - 88 |
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**PART 2 – ITEMS FOR INFORMATION**

None

**PART 3 - STATISTICAL AND PERFORMANCE REVIEW ITEMS**

None

#### **PART 4 - EXEMPT AND CONFIDENTIAL ITEMS**

The following items contain exempt information, as defined by the Local Government Act, 1972, Section 100A(4) and Schedule 12A, and the public may be excluded from the meeting during discussion of these items.

None

#### **NOTES:-**

A Briefing Meeting will be held in Room F19 at 3.00 pm on the day of the meeting between the Business Manager - Development, the Chairman and Vice-Chairman of the Committee to consider late representations received after the Agenda was published.

<b>Application No:</b>	<b>14/01598/FULM</b>	
<b>Proposal:</b>	<b>Planning Permission for the demolition of existing buildings and for the erection of a Class A1 retail foodstore and petrol filling station along with associated parking, servicing, landscaping, public realm, access works and other associated works.</b>	
<b>Location:</b>	<b>Land at the junction of Kelham Road and Great North Road, Newark On Trent, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Mr Oliver King - Mulberry Prop Dev, NCC And Sainsbury's</b>	
<b>Registered:</b>	<b>8<sup>th</sup> September 2014</b>	<b>Target Date: 8<sup>th</sup> December 2014</b> <b>Agreed Ext. of Time: 20<sup>th</sup> April 2016</b>

### The Site

The application relates to a 2.65 Ha site (including highway land) located within Newark Urban Area. The site is bound to the south by Kelham Road and to the east by Great North Road (B6326). Great North Road connects to the A46 roundabout to the north of the site. Residential properties located on Sandhills Park are located immediately to the west of the site. The Cattle Market and lorry park are located to the east of the site on the opposite side of Great North Road. Open countryside comprising farmland mixed with industrial type uses including the Sugar Factory are located to the North.

The site is allocated for B1, B2 and B8 employment purposes (Policy NUA/E/4) in the Allocations and Development Management DPD, adopted in July 2013. The site most recently provided a base for Nottinghamshire County Council as their highways depot site. The site contains a number of former warehouse and office buildings and has been vacant since March 2012. It has two existing vehicular access points (currently unused).

Grade II Causeway Arches and culvert are located on highway land to the east of the site.

The Old Trent Dyke is located adjacent to the west boundary of the site. The site is located in Flood Zone 2 and partly in Flood Zone 2.

A number of mature trees are located along the south and east boundaries of the site.

### Relevant Planning History

92/50677/FULD Erection of timber boundary fence – permission 13.01.1993

93/51078/FULD Two storey extension to rear of offices – permission 18.08.1993

01900459 New offices and car park – permission 16.05.1990

### The Proposal

Full planning permission is sought for the demolition of the former highways depot buildings and the erection of a Class A1 retail foodstore and petrol filling station (PFS) along with associated parking, servicing, landscaping, public realm, access works and other associated works. In summary, the proposal includes the following:

Element	Floor area/quantum
Class A1 retail store	4979m <sup>2</sup> gross (2884m <sup>2</sup> net) inc. restaurant
Petrol filling station (PFS)	6 pump PFS (kiosk 91m <sup>2</sup> )
Customer parking	263 parking spaces (inclusive of 16 disabled and 12 p/t spaces)
Associated works	Includes biomass boiler (42m <sup>2</sup> ), sprinkler tank and cage marshalling

The proposed store would be of a modern design with various glazing and feature elements including use of timber and stonework materials. Extensive use of glazing and the introduction of natural light through rooflights and high level glazing is also proposed.

The rear of the foodstore would face towards Kelham Road to the south of the site and include a servicing area and biomass boiler. The main frontage of the foodstore would face towards the north with car parking in front and the PFS located within the northern tip of the site. Main customer vehicular access to the site would be provided by a new signalised junction from Great North Road (which already has an existing point of access currently fenced off). Works to the junction including additional lanes are proposed. Servicing access to the foodstore would be provided from Kelham Road through modification to the other existing point of access to the site. This access would be gates and include acoustic fencing along the south boundary. A new pedestrian link would be introduced from the south east corner of the site.

A Flood Risk Assessment, Site Specific Risk Assessment for the Petrol Filling Station Storage Tank, Planning and Regeneration Statement including Heritage Analysis, Design and Access Statement, Ecological Assessment, Renewable Energy Statement, Site Waste Management Plan, Additionality and Regeneration Statement, Noise Statement, Engagement Statement, Air Quality Assessment, Limited Site Investigation Report, Retail Statement, Visual Assessment Analysis, Archaeological Desk-Based Assessment, Service Management Plan, Transport Assessment, Travel Plan, Landscape Design Statement and Tree Survey have been submitted with the application.

### Departure/Public Advertisement Procedure

Occupiers of 134 neighbouring properties have been individually notified by letter (and subsequently notified and amended plans/additional information received throughout the application process). Consultation letter were issued on the following dates:

- 12.09.2014 on validation of the planning application;
- 05.08.2015 on receipt of additional/revised flooding, highways and retail information;
- 04.11.2015 on receipt of revised plans to include revised landscape and highway alterations (including removal of mini roundabout from Kelham Rd junction) and additional retail information.

A site notice was displayed at the entrance of the site on 26.09.14 and an advert was placed in the local press on 18.09.14.

## Planning Policy Framework

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 6 – Infrastructure for Growth  
Spatial Policy 7 - Sustainable Transport  
Core Policy 6 – Shaping our Employment Profile  
Core Policy 9 -Sustainable Design  
Core Policy 8 – Retail Hierarchy  
Core Policy 10 – Climate Change  
Core Policy 11 – Rural Accessibility  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 14 – Historic Environment  
NAP1 – Newark Urban Area

#### **Newark and Sherwood Publication Allocations & Development Management DPD (Adopted July 2013)**

Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM3 - Developer Contributions  
Policy DM4 - Renewable and Low Carbon Energy Generation  
Policy DM5 – Design  
Policy DM7 - Biodiversity and Green Infrastructure  
Policy DM9 - Protecting and Enhancing the Historic Environment  
Policy DM11 – Retail and Town Centre Uses  
Policy DM12 - Presumption in Favour of Sustainable Development  
NUA/E/4 - Newark Urban Area – Employment Site 4  
NUA/TC/1 - Newark Town Centre

### **Other Material Planning Considerations**

*National Planning Policy Framework 2012*

*National Planning Practice Guidance PPG (March 2014)*

### **Consultations**

#### **Newark Town Council –**

*Comments received 07.04.2016:*

Newark Town Council considered this planning application at a special meeting of its Planning & Regeneration Committee held on Wednesday 2<sup>nd</sup> March 2016.

It decided, unanimously, to object to the application on the following grounds:

(1) Retail Impact – the application doesn't satisfy most of the National Planning Policy Framework (NPPF) indicators which are concerned with ensuring the vitality of town centres. Newark currently has a relatively vibrant town centre retail offer with a significant number of independent stores as well as a good range of national retailers. These are supported by a town centre Market which remains viable and ensures that Newark's status as a 'Market Town' remains valid. Over recent years the level of Market trading has seen a decline, particularly following the opening of the ASDA store on Lombard Street, it is feared that another new supermarket so close to the town centre would further harm the viability of the Market and potentially prejudice its status as a 'Market Town'.

Whilst the application seeks to provide justification for another supermarket, it has failed to provide strong and believable evidence that it will not further adversely impact on the current town centre retail economy and therefore cannot satisfy compliance with the NPPF indicators that govern such applications.

(2) This site falls outside of the designated Primary & Secondary Shopping Frontages as set out under Planning Policy DM11. As such it is classed as an out-of-centre location, Policy DM11 specifically deals with proposals that may impact on Newark Town Centre, the following factors will be taken into account in considering such applications:

- (a) The function of the town centre as a market town and the viability of the market;
- (b) The effect of development on independent retailers having regard to their role within the town centre; and
- (c) The impact of development on the town centre in catering for tourism.

The Town Council believes that this development is not in accordance with this policy and puts forward the following arguments in support of this view:

(i) The Counsel's Opinion that the developer has obtained and submitted in support of the application argues that it would be appropriate for the Council to take into account a package of measures & initiatives to mitigate the adverse impact that a new supermarket would have on the existing town centre and the viability of the retail sector within it, if it considered that the level of impact would result in a refusal of the application. Such a package including the appointment of a Town Centre Manager, town centre marketing, shopfront grants, support for and promotion of the market and skills training, would be funded through a Section 106 Agreement. However such a scenario would require proof of both the adverse impact and the package aimed at mitigation was appropriate and would address those impacts.

The Town Council would argue that this opinion and, by its inclusion as a document within the application, the view of Sainsbury's demonstrates that there will be an expected adverse impact on the town centre retail economy resulting from another supermarket positioned so close to the town centre. This opinion implies that the impact will be so serious and therefore the possible S106 agreement so significant that it can be taken into account as a factor which would enable the District Council to approve it if otherwise refusal was to be the decision, thus confirming that this supermarket will have a significant adverse impact on the town centre retail economy.

- (ii) This view is further supported by other documents which have been submitted as part of the application. One paper contains the result of a study undertaken in Berwick upon Tweed as to the impact of a new supermarket had on the town centre. This shows an under estimate of displacement of food and convenience spend and that 'linked trips' were a nonsense despite a hopper bus being provided. There had been a clear impact on other town centre supermarkets/ convenience stores with a 52% overall reduction in trade. There had been a clear adverse viability/vitality impact on town centre with overestimates of linked pedestrian visits to the town centre and false assumptions of the impact of numbers of people driving into the town when it was easier not to.
  - (iii) Further the study undertaken by AMT and England & Lyle, submitted as part of the application, shows that local shopping patterns can change rapidly following the opening of a new supermarket. Examples of significant reduced turnover include Amesbury, Callington & Hornsea, these towns have experienced a significantly reduced role for the town centres with it being limited to top up shopping only. In Berwick the decline in town centre convenience trade is 52% in Forfar it is 60%. The Town Council is concerned that an additional new supermarket out of town will have a similar adverse impact on the town centre retail economy.
  - (iv) The above study also examines 'Linked Trips' between new out of town supermarkets and the associated town centre. This evidence points to the fact that such trips are more likely where the distance between the supermarket and the town centre is walkable, the studies in Amesbury, Berwick, Callington & Hornsea show only a modest proportion of between 20% & 30% of supermarket shoppers making linked shopping trips into the town centre. Worryingly however some of these trips are combined trips by car, such an outcome in Newark would add further to the traffic congestion that occurs so frequently. The report concludes that without good pedestrian linkages new stores will tend to function as isolated destinations in their own right. The Town Council is of the view that the location of this store is too far out of the town centre for any significant pedestrian 'Linked Trips' to be experienced.
  - (v) Sainsbury's have asserted that the Morrisons & Aldi supermarkets are currently over trading, thus demonstrating that there is capacity within the town for another supermarket.  
This assertion is not accepted by the Town Council; perhaps Morrisons should be asked the question if it considers itself to be in a position of over trading! This opinion also ignores the ASDA & Waitrose stores which are located within the identified Town Centre primary & secondary Shopping Frontages. The Town Council believes that Newark is already adequately provided for in terms of supermarkets, with four in and adjacent to the town centre. The town doesn't have the capacity to support a further addition which will harm the current retail balance and cannot therefore be justified.
- (3) The Town Council views the highway comments from Highways England and Nottinghamshire County Council with disbelief.

It would appear that as Highways England were not raising any objections in relation to the impact that the development would have on the 'Strategic Road Network'; as the Traffic

Impact assessment did not classify the impacts as being 'severe', the County Council were not in a position to object purely on the ground of the impact on the 'Local Road Network'. It is clear that Newark already suffers from severe traffic congestion at peak times and is susceptible to very small traffic incidents which create major hold ups and delays throughout the town. It seemed almost perverse therefore that Highways England are prepared to accept that an additional level of traffic volumes, however small, could be accommodated without any further detrimental impact on traffic congestion, particularly at such a sensitive point in the Strategic Road Network. There appears to be a disparity between the low levels of forecast additional vehicle movements at peak times and the assumptions made about the supermarket attracting new brand customers from neighbouring areas; how could the shop be commercially viable with these small number of additional traffic movements, notwithstanding the fact that at peak times the adjacent junction with the A46 and the Great North Road come to complete gridlock so frequently. The Town Council is of the view that the traffic impact of the supermarket on a road network that clearly isn't fit for purpose at present will have a catastrophic impact on the town and will lead to even more traffic congestion and misery for its residents.

The vehicular access is from Great North Road with new traffic lights controlling egress & ingress; this is one of the main arterial routes in and out of the town which is frequently very busy at the moment. In addition the application includes a new Pelican Pedestrian crossing on Great North Road near to the junction with Kelham Road. These new and additional traffic controls taken together with the existing factors that impact on traffic on this road, which include the level crossing, entrance to the cattle market and the new District Council offices will cause additional traffic congestion along a relatively short stretch of road approximately 200 metres from the Cattle Market Roundabout to the level crossing. The application and the traffic impact assessments also fail to address the issue of how these new and existing traffic controls will be co-ordinated to ensure that traffic can continue to flow on that stretch of road without creating a complete traffic jam, particularly at busy times of the day.

Whilst the two statutory bodies appear have not registered any objections the Town Council believes that local knowledge and understanding of the current traffic issues should be taken into account and the supermarket, in this sensitive traffic location, is not acceptable from a highway perspective.

- (4) The Town Council also point out that the Police have no objection to the development as long as they would not be asked to deal with any traffic related issues and/or offences that may occur in the future. The Fire Authority and the Ambulance Service are not statutory consultees and therefore, have not been consulted. The Town Council feel that they should be consulted as the development will add to traffic congestion and potentially make attendance at emergency incidents more difficult and longer. This is particularly pertinent to the Ambulance Service as they are already not achieving national targets for the timeliness in attending emergency calls and the adjacent with the A46 and the A607 is the only route from Newark to Kings Mill hospital at Sutton In Ashfield; further congestion and delays at this junction could result patients taking longer to be delivered to hospital for emergency care with associated adverse impact on their lives and health outcomes.

The views of these other two emergency organisations should be sought before the application is formally considered by the District Council.

- (5) The Town Council feels that the development doesn't include sufficient and appropriate landscaping. There is very little landscaping in the car park; this appears to be a deliberate design so that number of parking spaces are not reduced. The car park at Waitrose has been designed to include sympathetic landscaping and this should be included within the Sainsbury application.

Concern is also expressed about the lack of landscaping along the North West boundary with the A46 to ensure that the illumination of the site at night is not a distraction for motorists using that stretch of road. Improved landscaping is also required on the West boundary to mitigate the views of the development for the local residents who overlook the site.

- (6) The Town Council believes that the illumination of the site at night will significantly detract from the views of Newark Castle and the Parish Church and destroy the 'Heritage View' as people enter the town from the adjacent junction with the A46.

This is in contradiction of planning policy which seeks to preserve the current 'Heritage' views of Newark castle and the church.

- (7) The Town Council feels that any S106 proposals which might arise in some way to mitigate the retail impact will be cosmetic and incapable of remediating because the retail impact on the town centre would be so significant as this supermarket, unlike others, is an 'edge of town' not 'in town' development. Further that should permission be granted, that a full re-assessment of the retail evidence provided in support of the application, and identified impacts, be used to derive appropriate conditions and S106 payments.

*Additional comments received 04.09.2015:*

Further commentary on the town centre and Market impact set out below:

(i) From 2008/09 until Asda opened late 2011 the annual Market Rent income was around £335,000

(ii) From Nov 2011, notwithstanding significant promotion and resource commitment to Newark Market the average annual income has dropped some 9.3% from £335,000 to £304,000. The most significant change within the town centre over that period was the opening the ASDA superstore, drop in market income, it is argued, is largely a result in the reduced attractiveness of the Market from a stallholders perspective as footfall reduced as people were attracted towards ASDA and other supermarkets in and adjoining the town centre.

(iii) The decrease in income is caused by a decrease in stall occupancy, the market trader community quickly responds to any diminished footfall by non-attendance. Many market traders over the past few years as a result of on line, out of town and supermarket competition have struggled and ceased trading. Newark market has continued to perform reasonably well against these issues and has continued to offer an excellent diverse range of goods. It has a good reputation with traders and customers but another supermarket will in my considered opinion be the final straw and will have a significant further negative impact on the number of people

shopping in the town centre and make the Market, together with many other town centre retailers, less financially viable and create a downward trend which will be very difficult, if not impossible to reverse.

(iv) Once the critical mass of a market traders is lost, as has happened at Mansfield and Grantham, decline will quickly set in and a viscous circle ensures that there is a diminished market producing diminished footfall etc. etc.

(v) Importantly, for the sustainability of Newark as an excellent market town centre with good independent offer, the market is key, and without it we know that a visitor experience would be lost and footfall in the town centre would diminish and shops would close and a down spiral would be likely.

(vi) The congestion issue on a Friday is also relevant and the increased trains through Castle Station have added to grid lock around Newark, a result of which discourages people from visiting Newark on a Friday. The siting of a new superstore directly next to this traffic bottleneck will further exacerbate the traffic problems in Newark and will further reduce the attractiveness of the town centre as a place to visit and shop.

(vii) Newark Market continues to offer quality goods and fruit and vegetables in a sustainable, low carbon footprint, low packaging manner. It provides a heart to the market town. It would be extremely foolhardy to prevent additional risks to its existence.

(viii) Experience also shows that the opening of supermarkets has a direct impact on certain market traders. Accompanying the above loss of overall income over the same period the market has seen a decline in the number of stalls selling:

- a. Clothes
- b. Underwear
- c. Bread (Bakers)
- d. Meat (Butchers)
- e. Pastries

This further impacts on the overall market experience and the reduction in the range of goods on offer reduces the attractiveness of the market as a whole.

*Comments received 03.10.2014:*

Raised concerns about the application on the following factors:

(i) Traffic Impact – this was the major issue of concern. It was felt that Newark already suffers from significant traffic problems, particularly on a Friday evening, and that a new supermarket located so close to a major and bust roundabout will only exacerbate the current problems. In addition the recent announcement of increased train service between Newark & Lincoln will add to the congestion on Great North Road as the barriers will be down more frequently than at present.

(ii) Retail Impact on the town centre - the Local Plan doesn't identify any need for an additional supermarket of this size. The development will have an adverse impact on the retail economy within the town centre and an 'out of town' development on this scale so close to the town centre will be detrimental to the town.

(iii) Environmental Impact - it was felt that the development would not be in accord with local Planning Policy which seeks to protect the visual view of Newark Castle.

### **South Muskham/Little Carlton Parish Council –**

*Comments received 24.11.2015 and 22.09.2015:*

It was unanimously AGREED to object to this application on the basis of the consequent, and inevitable, increased disruption to road traffic, particularly bearing in mind other planned development in the area, such as the forthcoming re-location of the District Council offices, the increase to the East Midland train service and, not least, the current and ongoing, chaotic problems in that area relating to the A46 and A1.

*Comments received 22.09.2014:*

Whilst generally in favour of such a facility, the Parish Council would expect careful consideration be given to highways issues to avoid any potential traffic flow problems such as those associated with the ASDA development in the Town.

**Farndon Parish Council** – object to the proposal as traffic at Farndon roundabout would increase making it harder to join traffic at the roundabout and leave the village.

### **Coddington Parish Council –**

*Comments received 17.10.2014:*

We have not been able to ascertain from the web site what the amendments are. However, Coddington Parish Council wishes to emphasise its objections to the plans - no amendments will make this proposal any more acceptable. Newark does not need this development:

- Traffic already causes huge problems in this area, tailing back into the town, clogging up the roundabout, the A46 and A617
- A Sainsbury store would have an adverse visual impact on the main historic entry route into the town.
- There are adequate town centre supermarkets.
- This would be more competition for struggling town centre shops and the market.
- The site is too far out of the town centre to be of benefit to small town-centre businesses.
- A supermarket should be located away from the town e.g. to cater for the large housing developments at Fernwood, not bring even more cars into Newark.

*Comments received 17.10.2014:*

Oppose the application. This Council has already expressed serious concerns in previous consultations about the inadequacy of Newark's infrastructure to cope with the current volume of traffic, both in and around the town.

The A46/Great North Road Roundabout is already over-congested, particularly at peak times when there are long traffic queues in all directions, and the roundabout is often blocked. A traffic lights controlled junction so close to the roundabout would mean traffic backing up and inevitably cause more chaos and accidents.

The approach to the Town Centre carries the additional problem of a level crossing bringing traffic to a standstill at frequent times throughout the day, and it is understood that there are plans to increase the number of trains on this line. This, combined with the lorry park and cattle market on

the opposite side of the road would mean even worse traffic jams.

This is already one of the worst congested areas of the town, and is not a suitable site for a large retail store and service station attracting hundreds of extra cars every day. The plans do not provide any solution to the current situation, and would add further to Newark's traffic-flow problems.

Newark is already well-served for supermarkets, but if another is needed, it would be better placed in the Balderton / Fernwood area, or adjacent to the Southern Link Road to take traffic away from Newark Town Centre, and to reflect the vision of the Adopted Core Strategy. In turn this might release the land in the Great North Road area for desperately needed road improvements, including a raised A46 flyover for east/west through traffic.

**Hawton Parish Council** – support the proposal.

**Winthorpe Parish Council** –

*Comments received 27.11.2015:*

Support the proposal.

*Comments received 17.10.2014:*

This Parish Council objects to this application because of its concern regarding the potential traffic problems this may generate at an already very busy junction, if these can be overcome then this Parish Council would withdraw its objection.

**Averham, Kelham and Staythorpe Parish Council** - The proposed site is already a congested all the roads in the area of the Grate North Road near the roundabout are gridlocked. The PC are of the opinion that this development will create more problems with traffic within the Newark area.

**Barnby in the Willows Parish Council** – opposes the planning application for a Class A1 retail store and petrol station on the Great North Road / Kelham Road area of Newark. This side of Newark has an adequate choice of supermarkets, and at this distance from town, the proposed site would do nothing to encourage shoppers to use the town's other facilities. Newark already has major traffic flow problems through the town caused by the level crossing which brings traffic to a frequent standstill, and recently made worse by additional traffic accessing the new Asda store. Until such time as the southern relief road is constructed, another supermarket in this position would inevitably draw traffic through the town from Balderton, Fernwood and villages to the south and east of Newark.

Even with a southern relief road, the proposed site is too close to the A46 roundabout which is already the scene of long tail backs on a regular basis, often completely blocking the roundabout particularly at peak times, and affecting the A616 and A617 approach roads. A traffic lights controlled junction to the entrance of the store at such a short distance from the roundabout would cause even more traffic chaos.

Barnby Parish Council recommends that this application is refused, and instead, sites to the south of Newark (Balderton/Fernwood area) which are earmarked for housing developments be considered for any future major retail development.

## Environment Agency -

*Comments received 26.10.2015:*

We have received confirmation from NSDC that the Emergency Planner is satisfied that an evacuation plan can be secured as a way of condition and that the users will be safe managed from the hazards from flooding. We recommend you consult the LLFA and IDB to confirm that the surface water is being sustainably managed. There are extreme flood depths within the access and egress routes and within the Petrol Filling Station area if the defenses are overtopped or breached. Also, flood depths. We recommend that NSDC confirm they are satisfied with this risk prior to determining the application.

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the Flood Risk Assessment, Flood Risk Addendum, Floodplain Compensation Plan, and the Petrol Filling Station Storage Tank Site Specific Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission. Recommended conditions are:

a. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Flood Risk Addendum, Floodplain Compensation Plan, Petrol Filling Station Storage Tank Site Specific Risk Assessment and drawing no. C131201/210 the following mitigation measures detailed within the FRA:

1. Finished floor level of the store is set no lower than 12.35 m above Ordnance Datum (AOD).
2. Limiting the surface water run-off to 50% of what is currently generated by the existing development to reduce the rate of runoff from the site.
3. Identification and provision of safe routes into and out of the site to an appropriate safe haven.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To keep the development safe from flooding, to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure safe access and egress from and to the site.

b. The development hereby permitted shall not be commenced until such time as a scheme to ensure floodplain compensation has been provided in 200mm banding for the loss of floodplain storage has been submitted to, and approved in writing by, the local planning authority.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent an increase in flood risk to third parties and to reduce the risk of ground and surface water pollution the following additional conditions will also be required.

c. The development hereby permitted shall not be commenced until such time as a scheme to install the underground tanks has been submitted to, and approved in writing by, the local planning authority.

The scheme shall include the full structural details of the installation, including details of: excavation, the tanks, tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may subsequently be agreed, in writing, by the local planning authority.

Reason: In order to protect controlled waters. The submitted Petrol Filling Station Site Specific Risk Assessment (Pinnacle, 17 November 2014) shows that appropriate mitigation measures can be installed to protect controlled waters and overcome our objection with regard to storage tanks located below groundwater. However, the detailed design of the mitigation measures proposed will be required to be submitted for approval.

d. Prior to each phase of development approved by this planning permission no development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect controlled waters. A limited intrusive site investigation has identified elevated levels of contamination. A full assessment is required to identify any other potential sources of contamination, to investigate them, to risk assess elevated levels and remediate as required. This is required to ensure that the adjacent watercourse and nearby groundwater abstractions are protected from contamination.

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

Reason: To protect controlled waters. No site investigation can fully characterise a site. The above condition is required to ensure that any previously unidentified contamination is dealt with appropriately.

f. The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To protect controlled waters. Proposals include a petrol filling station, a large car park and lorry yard, interceptors are required to ensure any discharges do not contain oil or petrol.

g. The development hereby permitted shall not be commenced until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To reduce the risk of surface water pollution.

*Comments received 14.08.2015:*

The development is located within an area at risk of flooding from the River Trent. There is an Environment Agency flood defence that protects this area, however in the event of overtopping and breach the FRA has shown that the development is located within a high consequence area. The addendum to the FRA has produced hydraulic modelling, which has demonstrated that during a 1% annual exceedance probability event plus an allowance for climate change the site would be inundated up to 12mAOD and 12.04mAOD during a breach scenario. The store has been set above this level and floodplain compensation has been provided for its loss of flood storage. However, there is no safe means of access and egress in and out of the site during these events.

The vehicular routes, the emergency service access position and the pedestrian routes all lead to land levels of 11.5mAOD, therefore flood levels would be in excess of 500mm and not be safe to travel through (in accordance with FD2320). The current proposal is for an evacuation plan to be produced prior to occupation as part of a condition. As an evacuation plan has not been produced, we recommend that you and your emergency planner consider whether an evacuation plan is likely to be able to manage the safety of the users of the site for the lifetime of the development.

Please note that the Environment Agency does not comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

Please confirm your position to the Environment Agency your position and we will then be able to provide recommendations to manage flood risk to and from the site.

*Comments received 16.07.2015:*

In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission and recommend refusal on this basis for the following reasons:

The addendum of the FRA has considered the risk of flooding from the River Trent. The FRA has confirmed that during a 1% Annual Exceedance Probability (AEP) event plus an allowance for climate change would flood the site up to 1m. If the defences were breached during such an event, then flooding would rise to 1.04m. This has a direct impact on the safe means of access and egress from the site and should be considered in detail as part of the flood risk assessment.

We also recommend that consideration be given to the impact of loss of floodplain storage due to raising the plot, unless undercroft parking is proposed. This is of particular concern given the relatively confined floodplain behind the defence and the location of residential property nearby.

We also have concerns that the petrol filling area will be at a level of 11.45mAOD and thus be at significant risk of flooding. We recommend that consideration be given to the pollution impacts of flood water inundating this area. The flood depths at the petrol filling station pose a danger for most and thus put the general public at risk.

Our original objections raised concerns about the risk of flooding from the nearby watercourses and also recommend reducing the rates of runoff to the equivalent Greenfield runoff rates. This has not been discussed in the addendum.

You can overcome our objection by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

*Comments received 08.12.2014:*

My Groundwater and Contaminated Land colleagues have reviewed the Site Specific Risk Assessment for the petrol filling station storage tank submitted 26.11.15 and would be content to condition the issues of previous concern but with the issues of flood risk still outstanding I would prefer not to provide further comments at this stage.

*Comments received 29.10.2014:*

We OBJECT to this application as submitted because the proposed development would pose an unacceptable risk of pollution of groundwater. We recommend that planning permission should be refused on this basis.

Reason: The limited site investigation (Delta Simons, 7 February 2014) shows that the proposed underground storage tanks associated with the petrol filling station will be partly submerged in groundwater. Our Groundwater Protection: Principles and Practice (GP3) document outlines our objection to such developments. The risk posed to groundwater, adjacent surface water and nearby groundwater abstractions is not acceptable. Any leak from such storage would contravene the Water Framework Directive, which states that the direct entry of hazardous substance to groundwater must be prevented.

In addition and in the absence of an acceptable Flood Risk Assessment (FRA) we OBJECT to the grant of planning permission and recommend refusal on this basis for the following reasons:

Reason: The FRA submitted with this application does not comply with the requirements set out in paragraph 9 the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted FRA fails to:

1. Take the impacts of climate change into account. The FRA has not considered the risk of overtopping of the River Trent flood defences from the 1% flood with an allowance for climate change and provide appropriate mitigation.

2. Fully assess the risk of flooding from local sources. We would recommend a hydraulic assessment of the nearby watercourses and existing drainage system given the proximity of ordinary watercourses adjacent to the site and historic flood events in the areas.
3. Consider the residual risk of breach of the flood defences. The site could be at risk if the earth embankment were to fail or a failure of flood risk infrastructure such as penstocks and flap valves on the Old Trent Dyke.
4. Fully assess reducing the rate of runoff to the equivalent greenfield runoff rates. Due to the local flood risk in the Kelham Road area, we would look at every opportunity to reduce flood risk where possible. We note a proposed 50% reduction, however we support further reductions to mimic greenfield runoff rates in this area.

**Severn Trent Water** - No objection subject to a condition relating to the submission and approval of drainage plans for the disposal of surface water and foul sewage.

**Trent Valley Internal Drainage Board –**

*Comments received 26.11.2015:*

The Board wish to see further cross section and plan drawings to indicate the position of the Board maintained culvert along Kelham Road in relation to the service yard wall and any other structures within the service yard.

Where the service yard wall and any other structures within the service yard are located within 9 metres of the edge of the culvert details regarding the proposed foundations should be provided to demonstrate that no loadings will be placed on the culvert and ensure that any future excavations of the culvert will not undermine the proposed structures.

*Comments received 26.09.2015:*

I refer to the above planning application and wish to inform you that the Board has no objection to the proposals subject to the applicant satisfying the requirements detailed below.

The site is located within the Board's district and is served by the Board maintained Old Trent Dyke, a culverted watercourse which is located along Kelham Road.

The Board recommends that any planning approval granted is subject to a surface water drainage planning condition. The condition should prevent any development approved by the permission being commenced until your Authority, in consultation with the Board and Lead Local Flood Authority, has approved a scheme for the provision of sustainable surface water drainage. Any such scheme should be implemented to the reasonable satisfaction of your Authority before the development is brought into use.

When applying to discharge such a planning condition the applicant should ensure that surface water run off rates show a significant reduction in flows for all return periods.

Any proposal which involves work in, over, under or within 9 metres of a Board maintained watercourse/culvert will require the prior written Byelaw consent of the Board. Applicants should note that the Board's Byelaw consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's Byelaw consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse/culvert or the Board's

machinery access to the watercourse/culvert which is required for annual maintenance, periodic improvement and emergency works.

### **Network Rail –**

Comments received 14.11.2014:

In respect of the above planning application our observations relate to the implications of the development on Newark Castle Level Crossing. The main access route to the new store from the town will be over this crossing. As the applicant's TA notes (3.16), this crossing (currently a full barrier controlled by the signaller from the adjacent box) is to be replaced in November 2015 with a new crossing, associated with the re-signalling of the route. The crossing will become a CCTV controlled full barrier crossing, monitored from the East Midlands control centre at Derby. However the new crossing will have similar barrier down times to the current crossing, with barriers being lowered around 2 to 3 minutes before the approach of a train. As such the current queuing pattern is a suitable basis for assessing the impact of the new store, although it is our experience that with an increase in traffic the barrier closure sequence is initiated slightly earlier because securing an appropriate gap in passing traffic becomes more difficult as the numbers of vehicles increases. With the new development in place the barrier down time is likely to increase slightly by a few seconds at peak periods to ensure the safe passage of trains.

In 4.23 of the TA mention is made of the possibility of linking the site access traffic signals to the rail wig wag signals. It should be borne in mind that the design work for the replacement crossing is well in development, and if this is a serious option the developer ought to discuss their proposals with us sooner rather than later so the implications of their suggestion can be fully understood.

Further additional improvements to crossing operation over and above our upgrade could include dot matrix signs activated by the gate closure and traffic violation cameras should traffic levels increase significantly, though this is only likely to emerge over time and presumably could be worked into any putative travel plan addressing the impact of the Store on the wider area through detailed monitoring. One further improvement (in terms of helping our ability to maintain and repair the crossing in times of breakdown, as this is hampered by the close proximity of the □box) would be the re-location of the Castle signal box to a new railside location. Although there is no requirement to move the box for the upgraded crossing it may be something the applicant could consider in relation to providing improved level crossing operation as well as considerable community benefit for a historic structure.

### **Heritage England –**

*Comments received 01.09.2015:*

As previously advised in respect of this scheme we refer you to the advice of the County Archaeological Officer Ms Ursilla Spence, there is a clear opportunity for the authority in line with NPPF paragraph 128/9 & 141 to align the archaeological requirements and research objectives on this scheme and the current application on the opposite side of the Great North Road for new District Council Offices [15/01569], in respect of the understanding of both the prehistoric and nationally important Civil War period landscape and remains. Further we highlight the importance of the advice of the District Conservation Officer in particular in relation to planting and retention of trees and the form, scale and massing of signage.

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

*Comments received 16.09.2014:*

We do not wish to comment in detail, but offer the following general observations. We refer you to the advice of the County Archaeologist in respect of archaeological impacts. We recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again.

### **Highways England –**

*Comments received 26.10.2015:*

The LinSig model produced in support of the proposed development site access has been provided to AECOM for review in conjunction with TPA's revised Transport Assessment (TA) of September 2015.

The revised TA reports on the sensitivity case assessment based on gross floor area, with site trip attraction values as proposed by Highways England and NCoC adopted.

### Growth

As 2024 assessment has been conducted based on 2014 surveyed flows, TPA has used TEMPRO to determine appropriate growth, with a proposed growth factor of 1.1747 for the PM peak hour. This growth is confirmed from review of the traffic flows as provided in Figures 3.5, 5.5 and 5.11, and checks in TEMPRO show this to be acceptable.

### Traffic Flows

Highways England's main concern is the traffic demand on the southbound link towards the site access junction from the A46 Cattle Market roundabout. Based on the development trips as proposed by Highways England and NCoC, the site produces an increase in 54 vehicles on this critical link in the worst case 2024 Friday PM peak hour scenario. TRADS data has been used to check the suitability of traffic flows on the A46 impacting on the Cattle Market roundabout, and these are shown to be reasonable, and accordingly adopted in the Linsig model.

With values of 402 arriving trips & 443 departing in the Friday PM peak hour, the modelling shows a Degree of Saturation (DoS) of 72.9% and Mean Max Queue (MMQ) of 10.2 PCUs resulting in a queue length of 59m on the southbound approach from the A46 Cattle Market roundabout – within the link length of 80m from the stop line of the site access junction to the roundabout circulatory.

### LinSig Junction Operation

A green time of 23 seconds allocated to vehicles leaving the proposed site allows for an MMQ of just 8.1 PCUs, and the operation of the northbound approach to the junction is shown to perform very similarly to the southbound approach, with a MMQ of 10.8 PCUs, and DoS of 76.2%. The northbound approach comes from the direction of Newark, with Great North Road not interacting with any further junctions until its connection with Kelham Road, approximately 160m from the proposed stop line. It is understood therefore that slightly increased queue lengths on the

northbound approach from Newark will not have any material impact on any other nearby junctions, nor contribute to congestion issues with traffic leaving Newark.

Based on the above, it would be sensible to consider increasing the green time for traffic on the southbound approach due to its close proximity to the A46 roundabout, in order to ensure queueing back towards the A46 does not reach an unsafe level and affect the operation on the strategic road network.

### Conclusions

Upon review of the revised TA of September 2015 and supporting LinSig model, we are content that the risk associated with the new development access is minimal as any queueing back to the SRN can be managed appropriately. As previously stated, we would therefore anticipate remaining closely involved in the finalisation of the access junction to limit the impact on the SRN.

It is considered that a slight increase in queues on the northbound and site exit approaches will not have any significant impact on congestion in the area. It is considered however that due to its close proximity to the A46 roundabout, it would be sensible to provide greater green time for traffic on the southbound approach in order to reduce safety concerns and ensure the continued effective operation of the strategic road network.

During the finalisation of site access design, it should be ensured that the capacity of the B6326 Great North Road southbound link from the A46 Cattle Market roundabout is not reduced further than that provided in the current proposal, shown in drawing 1210-48 PL07.

### *Comments received 22.08.2015:*

We have reviewed the Technical Note dated July 2015 and provide the following comments;

AECOM have reviewed the Technical Note (TN) prepared by TPA dated July 2015 in support of the proposed food store development at land west of Great North Road, Newark-on-Trent, directly south of the A46 Cattle Market roundabout, subject of application 14/01598/FULM.

Newark and Sherwood District Council indicated that land to the southwest of Northgate Retail Park has the potential to be more accessible for sustainable transport users than the application site. In response TPA provided the TN to compare the level of accessibility between the proposed site on Great North Road and the alternative retail site at Northgate Retail Park on foot, by bicycle, by bus and by train.

The TN states that as part of the sequential approach to site selection the site's planning consultant (ATP) assessed alternative locations.

It is concluded in the TN that the site at Northgate has a very similar level of accessibility to the proposed development site. It is stated that the Northgate site has a marginal but immaterial advantage in terms of bus services, however the proposed development site is better connected with regards to the pedestrian route and train services.

Overall the TN concludes that it is not credible to reach a conclusion such that the Northgate site is more accessible than the proposal site. TPA consider that the proposed site has an overall advantage in accessibility by sustainable modes.

The only observation we would raise at this stage is that the comparison of the site accessibility to links with the town centre is not the right measure. Linkage to population centres and residential clusters would be more appropriate. However, it is for the LPA and LHA to take a view on this based on their appreciation of local issues.

In terms of the status of the existing formal application, 14/01598/FULM, A-One+ were consulted on the proposal in September 2014 and raised no concerns other than the potential impacts of the site access signal controlled junction, situated approximately 75m south of the A46 roundabout. AECOM reviewed this application in July 2015 and the No Objections formal response and supporting AECOM Technical Note 4 remain unchanged.

*Comments received 16.07.2015:*

#### Technical Note 4

##### 1. Introduction

This Technical Note provides details of the current position with regard to planning application, reference 14/01598/FULM, for the proposed retail development adjacent to the A46 Cattle Market roundabout, at land west of the B6326 Great North Road, Newark-on-Trent.

The proposed development comprises:

- 4,979 m2 A1;
- Petrol Filling Station (PFS) of 12 filling bays;
- 263 space car park.

##### 2. Background

Transport Planning Associates (TPA) provided a Transport Assessment in support of the application in September 2014, and carried out LINSIG assessment of the proposed site access, and VISSIM modelling of the adjacent A46 Cattle Market roundabout. AECOM advised that the application be subject to a holding direction on the grounds of insufficient evidence supporting the view that queues generated by the proposed site access will not impact on the A46.

TPA provided further information on potential queue generation consisting of VISSIM assessment of the proposed site access and the A46 Cattle Market roundabout. TPA had not considered the request by AECOM to sensitivity test the site generation levels, which amounted to an extra 100 vehicles at the site in the PM peak.

<b>Trip generation (16:45-17:45)</b>	<b>TPA</b>	<b>AECOM &amp; NCoC</b>
Friday PM peak hour arrivals (veh)	364	381
Friday PM peak hour departures (veh)	401	441
<b>Total two-way trips (veh)</b>	<b>745</b>	<b>842</b>

Table 1: Comparison of development trip generation

It is considered that 10% of the trips are likely to be new trips on the network with the remaining trips being pass-by or diverted, which results in a generation of around 80 trips. Based on this it is not considered that impacts at the A46 Cattle Market are the critical issue.

In terms of the critical link for the SRN it is the southbound approach to the proposed site access junction, the level of additional traffic anticipated on this link as a result of the sensitivity test

would be 6 vehicles. This is considered further below in terms of the impact of this additional demand on the southbound link.

### 3. Traffic Modelling

#### LINSIG

Based on the TPA development flows, the LINSIG model prepared by TPA has been reviewed to determine potential queue lengths at the site access on the southbound approach.

The model shows a maximum queue length on the southbound approach to the site access of 8 PCUs, over a single lane. With the proposed new access stop-line approximately 70m from the A46 circulatory, the LINSIG queue of 8 PCUs (which equates to approximately 46m) is considered to be manageable on this link.

Based on the additional flow on this approach of 6 vehicles it is considered that there may be some extension of queue length on this approach. However, it is also considered that further optimisation of the LINSIG could be undertaken to reduce queues on this approach and remove any potential unsafe interaction. Furthermore capacity of the southbound link could possibly be increased to allow for two lanes on the southbound approach with a merge after the junction, or even continuing to the Kelham Road roundabout.

#### VISSIM

The VISSIM model provided has been visually reviewed and it is clear that there are issues with the lane usage in the model. It appears that the northbound approach is currently allocating traffic into a single lane as opposed to using the two lanes effectively. It is considered that based on the flaws associated with the link structure of the model the results cannot be relied upon therefore the LINSIG assessment has been used to determine a position with regard to the site and its potential interaction with the A46 roundabout.

### 4. Conclusions and Recommendations

No SRN works to the A46 junction have been raised as being required due to the limited level of new trips anticipated: the key link to consider is the southbound link to the new site access junction. Based on the LINSIG the junction operates reasonably by 2024 and there is the potential for further optimisation if required. We would therefore recommend that Highways England raise no objection to the proposals as the risk to the SRN has been assessed and is considered minimal. AECOM is content that the risk associated with the proposed development access is low as queueing back to the SRN can be managed appropriately. As a suitable site access is yet to be agreed by the LHA, we would anticipate remaining closely involved in the finalisation of the design proposals to limit the impact on the SRN.

*Comments received 01.07.2015:*

Removal of holding direction subject to conditions:

HIGHWAYS ENGLAND (“we”) has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Where the design of SRN works have not yet been agreed, our response will be subject to the developer or scheme promoter developing a design that is acceptable to us, and meets required Road Safety Audit (RSA) and Non-Motorised User Audit (NMU) procedures.

Reason: To ensure that the A46 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 and in the interests of road safety, efficiency, sustainability, and amenity in accordance with the National Planning Policy Framework (NPPF).

*Comments received 02.06.2015:*

Following the submission of additional information to Newark and Sherwood District Council with regards to the proposed Sainsbury's foodstore off Great North Road, Newark, we have now reviewed this information and consider that we are still not in a position to determine the full impact of the proposed development on the strategic road network.

The additional information provided of relevance includes;

- 1) An amended site plan;
- 2) Journey time and queue length results for both A46/Cattle Market junction and site access junction.

Although journey time and queue length data has been provided, there is no evidence to support this data, and no modelling output files have been provided. This includes the VISSIM modelling that is being undertaken by TPA. Highways England are in agreement with regards to the trip generation, distribution and assignment of development trips (from Gravity model), however are still awaiting full details of the assessment of development impact either in isolation or in the form of a revised Transport Assessment (TA).

Therefore, Highways England are not currently in a position to remove the holding recommendation and this will remain in place until sufficient information has been provided.

*Comments received 01.04.2015:*

The applicant submitted the application in September 2014, and prior to this, pre-application discussions were held with the applicant for a short period of time. Insufficient information has been provided in support of the planning application, reference 14/01598/FULM, to ensure that the A46 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from vehicles entering and exiting the application site, in the interests of road safety. At the present time, the applicant has not provided any information on the potential impact of the proposed development on the SRN. Parameters have been agreed with regards to trip generation and distribution, however no modelling work has been undertaken to determine the impact on the SRN, and therefore at this time Highways England cannot make an informed decision on the application. As such, a holding order preventing granting of the planning application for 3 months directed.

*Comments received 01.01.2015:*

Insufficient information has been provided in support of the planning application, reference 14/01598/FULM, to ensure that the A46 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from vehicles entering and exiting the application site, in the interests of road safety. As such, a holding direction preventing granting of the planning application for 3 months directed.

*Comments received 01.10.2014:*

Insufficient information has been provided in support of the planning application, reference 14/01598/FULM, to ensure that the A46 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from vehicles entering and exiting the application site, in the interests of road safety. As such, a holding direction preventing granting of the planning application for 3 months directed.

### **Nottinghamshire County Council (Highways Authority) –**

*Comments received 22.09.2015:*

Over the past 12 months discussions have taken place with the applicant's highway consultant to refine the traffic modelling and other information contained within the latest Transport Assessment.

The proposals include a new traffic signal controlled access arrangement, local road / lane widening and a new signal controlled pedestrian crossing. Various junction arrangements have been discussed for the Great North Road/Kelham Road junction, but it is concluded that this should remain as a priority 'T' junction on the basis of safety and capacity. A revised and fully updated proposed site plan should be submitted to take account of the above\*\*

The following comments contain a summary of issues discussed.

#### **1. Car parking**

The proposal suggests that 263 car parking spaces will be provided. This is considered to be low; 74% of the *maximum* provision described in the 6C's design guide. The retailer/developer is content that this will provide sufficient capacity and it would not be in their interests to have a car park that deters customer use. Notwithstanding this, Great North Road is unlikely to suffer from on-street parking should overflow occur, due to the volume of traffic. However, parking restrictions could be introduced as part of the development if necessary. Parking on the adjacent Kelham Road already occurs but is controlled by resident parking permits.

#### **2. Trip Generation**

Trip generation figures have been debated at length and two sets of figures have been tested in model runs; those acceptable to the developer's consultant and those higher figures that are acceptable to the Highway Authority and used for sensitivity testing. In addition, trips to/from the site have been identified in terms of 'transferred trips' from other stores, 'pass-by trips', and 'new trips'. Bearing in mind that the Weekday PM Peak is being tested on an already-congested network, it is recognised that the level of new primary trips is likely to be small and has been

accepted at the level of 10%. This equates therefore to around 40 trips in the peak hour (a low figure).

### **3. A46 & Highways England**

'Highways England' (HE) are responsible for the A46 and the roundabout immediately adjacent to the site. They have taken a stance that raises no objection subject to "the developer or scheme promoter developing a design that is acceptable to them, and meets required Road Safety Audit (RSA) and Non-Motorised User Audit (NMU) procedures" HE's consultant, Aecom, concluded that no works were required to the A46 junction due to the low level of new trips and that any "queuing back to the SRN can be managed appropriately". In Dec 2014 the Govt. announced the Road Investment Strategy which included the A46 at Newark, with potential work taking place in the 2020-2025 period. Since the current congestion is primarily caused by this junction's lack of capacity, this places the County Council as Highway Authority in a difficult position since the Council has no direct control over the A46 junction capacity. Some delays/queue length will be added to the roundabout approach from Kelham on the A617, but this, too, can be argued as an A46 capacity issue.

### **4. Level Crossing Closures**

During the period of this application being 'live' the frequency of level crossing closures has increased. This has some effect on delays but the comparison to be made is between a base 'do-nothing' situation and a 'with-development' situation. This has been included in the assessment and the conclusion is that the 'with-development' impact is not classed as 'severe'. According to National Planning Policy Framework (March 2012), development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

### **5. Safety Audit**

An initial safety audit highlighted concerns over the possibility of shunt accidents as traffic leaves the A46 roundabout and encounters traffic queuing at the new signalised junction. However it is argued that this type of event occurs under current conditions and due to lane improvements will be made no worse by the development. The latest submissions show a queue length of 59 m within a link length of 80m. Practical Reserve Capacity is at 18.1 % i.e. the proposed signalised junction works within capacity.

### **6. Pedestrian crossing**

A new pelican crossing will be added to Great North Road immediately adjacent to the pedestrian route to the store doorway to suit pedestrian desire lines.

### **7. Journey times / Delays**

Journey times between the level crossing and the A46 will increase due to the development, but this is to be wholly expected given the introduction of a new pelican crossing and signalised junction. As an example:

2016 Fri PM peak – journey times increase from 73s. to 104.6s. An increase of 31.6s (43%).

### **Conclusion:**

Whilst uncomfortable with the delay/congestion occurring on Great North Road, an objection would be difficult to justify given the following factors:

- a. The level of *new* trips on the network will be very low, around 40 trips in the peak hour. The majority of trips will be 'pass-by' or 'transferred trips'.
- b. The main cause of congestion is the lack of capacity at the A46 junction. Without Highways England support a refusal would be difficult to sustain. If and when the roundabout is improved the development and Great North Road would operate more freely.
- c. According to National Planning Policy Framework (March 2012), development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The *impact* on the *Highway Authority network* is not considered to be severe.

Consequently, I would recommend approval subject to the following conditions:

No part of the development shall commence unless and until a lorry routing arrangement for construction traffic has been first submitted to, and approved in writing by, the local planning authority, and thereafter adhered to until the development is brought into full use.

Reason: To ensure extraneous traffic is kept out of Newark town centre to the benefit of other road users.

No part of the development shall be brought into use unless or until works on Great North Road including a new traffic signal junction and signal controlled pedestrian crossing have been provided at as shown for indicative purposes only on drawing no. **(see note \*\* above)** to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

No part of the development shall commence unless and until a construction phasing programme for the site has been first been submitted to and approved in writing by the local planning authority and thereafter adhered to unless otherwise agreed in writing by the LPA.

Reason: To ensure that highway works on Great North Road only take place in tandem with the store construction and ensure that a 'dummy' junction is not constructed causing unnecessary delays to traffic.

No part of the development hereby permitted shall be brought into use until the existing site accesses that have been made redundant as a consequence of this consent are permanently closed and the access crossing reinstated as verge/footway as appropriate in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of pedestrian safety.

No part of the development hereby permitted shall be brought into use until the parking/turning/servicing areas are provided in accordance with the approved plan. The parking/turning/servicing areas shall not be used for any purpose other than parking/turning/loading and unloading of vehicles.

Reason: To reduce the possibility of on-street parking occurring as a result of the development to the detriment other road users.

No part of the development shall be brought into use until the off-site traffic management works comprising of local waiting restrictions are provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce the possibility of on-street parking occurring as a result of the development to the detriment other road users.

Details of measures to prevent the deposit of debris upon the adjacent public highway shall be submitted and approved in writing by the LPA prior to any works commencing on site. The approved measures shall be implemented prior to any other works commencing on site.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones, mud, etc.).

No part of the development hereby permitted shall be brought into use until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the local planning authority and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the local planning authority.

Reason: To promote sustainable travel.

No part of the development hereby permitted shall be brought into use unless or until enhancements to two bus stops on Great North Road (one northbound; one southbound) have been made to the satisfaction of the Local Planning Authority and shall include new shelters, bus stop poles, lighting, raised kerbs and real-time display pole.

Reason: To promote sustainable travel.

*Notes to applicant:*

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact [david.albans@nottsc.gov.uk](mailto:david.albans@nottsc.gov.uk) for details.

The proposals require a Traffic Regulation Order before the development is brought into use to provide safe mitigating works. The developer should note that the Order can be made on behalf of the developer by Nottinghamshire County Council at the expense of the developer. This is a separate legal process and the Applicant should contact [david.albans@nottsc.gov.uk](mailto:david.albans@nottsc.gov.uk) to progress this matter.

Works to enhance bus stops should be discussed and agreed with Transport & Travel Services, Nottinghamshire County Council, County Hall, West Bridgford, Nottingham NG2 7QP. Email [ptdc@nottsc.gov.uk](mailto:ptdc@nottsc.gov.uk) , Tel. 0115 977 4520 or 0115 977 2979.

*Comments received 14.10.2014:*

Comments on submitted Travel Plan received.

*Comments received 22.09.2014:*

A review of the submitted Transport Assessment has taken place. Certain elements of it have not been given careful attention in instances where these elements have been based on incorrect data or assumptions that are not agreed. Such elements will be pointed out later in these comments.

Repeated statements refer to discussions and/or agreements made with Nottinghamshire County Council Highways at a pre-submission stage. I am unaware of any such discussion/agreement and is plainly false. This is unprofessional and unacceptable.

Accident data should be re-analysed to distinguish whether or not there has been any heightened occurrence of accidents occurring at night (which might point towards the need for improved lighting) or accidents occurring in wet road conditions (which might point towards the need for carriageway surfacing improvements).

It would also be useful to examine the cluster of accidents at the Great North Road/ Castle Gate roundabout to see if there are any common factors that may prompt remedial action in light of the additional traffic movements generated by the proposal.

In order to assist pedestrians and cyclists to cross Great North Road it is proposed to provide a single uncontrolled crossing point (para. 4.6). This is considered inadequate provision and potentially unsafe (subject to a safety audit). A controlled facility is expected.

Para. 4.22 proposes the introduction of landscaped islands in the middle of Great North Road. These are unacceptable for 3 reasons:

- a) They are a potential hazard
- b) They add a maintenance burden on the Highway Authority
- c) They are at risk of being used as uncontrolled crossing points for pedestrians.

The proposal suggests that 235 car parking spaces will be provided. This is 66% of the maximum provision described in the 6C's design guide. No justification is given for this number and it is considered too low since there will be a significant risk of on-street parking occurring as a consequence, to the detriment of highway safety and local residents' amenity. Further to this point, it may be appropriate to consider the introduction of waiting restrictions on Kelham Road to fully protect service vehicle access and enhance road safety at a point where pedestrians will be crossing the road.

Assessment years should be for 2024 and not 2019. Therefore Tempro traffic growth and other figures will need revision including all Linsig and Vissim modelling.

The most serious issue arising from the Transport Assessment submission refers to the traffic generation. It appears that traffic generation estimates have been derived solely from the predetermined car parking provision (which, as stated earlier, is considered to be too low). This appears to be the opposite way of approaching a Transport Assessment – the car parking provision

should be determined by the traffic generation; not the other way round. I consider that the trip rates should reflect the size of the store. The trip generation derived from the size of the store are around double that derived from the car parking provision. It would appear that a method to derive a low trip generation has been deliberately chosen by TPA to offer an assessment that minimises the potential effect of the proposed scheme. This is unacceptable and the Transport Assessment therefore requires major revision.

Even if the trip generation approach by TPA were to be accepted, issues like the assumption that 80% of trips to the petrol filling station will be linked to a visit to the store (para. 6.24) could be validated by counts taken at an existing Sainsbury's store.

Table 11 has incorrect figures which unfortunately have also been carried forward to flow diagrams, transferred trips tables and presumably the Linsig and Vissim models too, making them all invalid. It has been assumed that new: pass-by: transferred trips are in the ratio of 10%:40%;60%. The figures in the table for AM peak departures and the Saturday peak arrivals & departures do not reflect these ratios.

As a consequence of the incorrect data being applied, I have not asked colleagues to check the Linsig and Vissim modelling since clearly this will be abortive work.

I reserve the right to add to or amend these comments in view of future submissions or information that comes to light.

As it stands, unless major revision to the Transport Assessment is received I would have to recommend refusal on the grounds that inadequate information has been supplied to satisfy highway safety and capacity concerns.

**Nottinghamshire County Council (Archaeology)** – I have read the archaeological desk based assessment with interest, and generally concur with its results and recommendations. The desk based assessment notes that there is some potential for archaeological remains to exist within the site, as I would expect. However, it makes reference to the degree of made ground identified by the geotechnical investigations, and notes that there is a clear qualitative difference between deposits in the North and in the South, with those in the North regarded as likely to have more potential for association with archaeological deposits. However, most geotechnical reports tend to note inclusions such as concrete and brick, but will not necessarily record discrete deposits – recording all made ground as a single unit, so that where there are sequences of deposits they may all be dated to the period of the most recent recorded inclusion. We know that the land on the western side of the River was built up rapidly in the early 19<sup>th</sup> Century, to allow the expansion of the town and in particular to provide new opportunities for industrial development with good rail and river access, and some of these deposits have an industrial archaeological interest. We also know that this rapid build-up of ground levels buried the Southern extent of Smeaton's Arches more or less completely, and new accesses into the site need to take into account the possibility of coming across these highly significant design structures. So there may be more complexity to the issue of the made ground than the assessment possibly allows for. With these slight caveats in mind, I am content with the recommendations of the desk based assessment. Accordingly, I recommend that if planning permission is to be granted this should be conditional upon two things. Firstly, upon the applicants submitting for your approval and prior to development commencing details of a scheme for archaeological investigation of the site and secondly, upon the subsequent implementation of that scheme to your satisfaction. A condition such as the following may be appropriate; -

“No development shall take place within the application site until details of a scheme for archaeological mitigation has been submitted to and approved in writing by the LPA.”

“Thereafter the scheme shall be implemented in full accordance with the approved details.”

This scheme should be drawn up and implemented by a professional archaeologist or archaeological organisation. I will be happy to advise on the nature and extent of such a scheme, or to provide further advice or comment as required.

**Nottinghamshire County Council (Lead Local Flood Risk Authority)** – Acceptable subject to conditions.

- 1 The following comments are based on the source-path-receptor methodology to manage the flood risk from the proposed development to 3<sup>rd</sup> party properties both adjacent and at distance from the proposed sites.
- 2 The LLFA consider that the proposed redevelopment is acceptable subject to implementing the drainage strategy, pollution risk controls and flood risk mitigation measures as detailed in the letter from the Environment Agency to NSDC dated 26<sup>th</sup> October 2015.

**Nottinghamshire County Council (Policy)** –

*Comments received 19.11.15:*

Landscape and Visual Impact

In 2012 this team prepared a brief site appraisal to inform future development; the conclusions are reproduced below:

- *Existing mature tree planting on the eastern boundary to be retained as a buffer zone and screening for future development, and to be adequately protected during the disposal and development process*
- *Mature tree planting along the southern boundary and in the south-east corner to be surveyed and recommended actions taken to extend longevity; trees to be adequately protected during development. Proposals to include replacement planting in this area.*
- *Screening to be included on the western boundary.*
- *Design proposals to be of appropriate quality and scale for the Gateway Location. Consideration could be given to the upgrading of the highway trees on the road verge to promote avenue planting, characteristic of other gateway routes into Newark.*

Subsequently Amanda Blicq responded to the planning consultation in relation to the above development in November 2014 and amended proposals for Southern Boundary in February 2015. Although consulted on 2 further submissions of amended information, no further consultation responses were returned as the amendments did not result in a need to change previous comments.

The amendments now submitted pertinent to landscape and visual impact aspects of the development appear to be relatively minor. The amendments referenced in Amanda Blicq's February comments have been uploaded and represented in proposed Service Yard wall details 6970\_P110. The Landscape Statement has been amended to reference the revisions to the Landscape Masterplan.

My comments in relation to the newly amended information are as follows

### Western Boundary

Widening and strengthening of planting on the western boundary which is to be welcomed to help mitigate adverse impact on residential properties in Sandhills Park. The landscape statements states:

*'The planted western boundary has been widened as part of a review of layout and the boundary is reinforced with native hedgerow planting and intermittent native trees to filter views from rear gardens and properties facing towards the site from Sandhills Park'.*

The density of tree planting could be significantly strengthened to increase the mitigation of adverse views over elevated car park and petrol station from these properties. Also the use of fastigate native trees on this boundary should be reviewed, as this form would reduce their potential effectiveness as visual filters.

To the north of the residential property, there remain open views from the northwest for users of the relief road east bound. There is no proposed mitigation of this view across a grassed field to elevated development platform occupied by petrol station and car parking, this should be considered. Whilst the existing view is relatively open, the impact of this at night when both car park and petrol station will presumably be illuminated will be even greater.

### Eastern Boundary

I have no comment to make in relation to the eastern boundary itself, further to that already submitted previously. I would comment however that the applicant has proposed no tree planting within the site car park. This could substantially enhance the appearance of the expanse of hard surfaced car park. Indeed the avenue style of planting could be continued to create a framework within the site. This has been achieved to good effect on the nearby Waitrose car park, which occupies a similar size of plot.

### Southern Boundary

This was the subject of significant previous concern. However as referenced in Amanda Blicq's e-mail of February this year, revisions to layout and proposed detailing and planting have gone some way to address these concerns. This is less than could have been achieved through a revision to layout which would have enabled a substantial increase the distance between the properties on Kelham Road and the southern elevation of the supermarket.

### Conclusion

As previously stated, it is recognised that the applicant has accommodated NCC's concerns regarding the streetscape along the western boundary, and appropriate mitigation has either

been achieved or is achievable with further discussion. The applicant has further achieved some mitigation of visual impact on residential properties to south and west of the site.

I consider that some relatively minor amendments to proposals could be achieved which would build on the revisions already achieved to make the proposal significantly more acceptable namely:

- Revisions to treatment of western boundary to increase filtering of views from residential properties and relief road
- Introduction of tree planting within the site

*Comments received 25.02.15:*

#### Landscape and Visual Impact

I had a meeting last week with the consultants for the new Sainsbury's – they are proposing a much more acceptable screen along the southern boundary (I've scanned in what they showed me in case you haven't seen it). There will still be adverse visual impact for residents opposite when they look out of their first floor windows, but the affected houses are few in number. There is still some detailing to be agreed, and planting species etc. which could be conditioned. The north-eastern corner of the building will also be better screened – again the planting plan to be agreed.

*Comments received 16.12.14:*

#### Landscape and Visual Impact

In 2012 this team prepared a brief site appraisal to inform future development; the conclusions are reproduced below:

- *Existing mature tree planting on the eastern boundary to be retained as a buffer zone and screening for future development, and to be adequately protected during the disposal and development process*
- *Mature tree planting along the southern boundary and in the south-east corner to be surveyed and recommended actions taken to extend longevity; trees to be adequately protected during development. Proposals to include replacement planting in this area.*
- *Screening to be included on the western boundary.*
- *Design proposals to be of appropriate quality and scale for the Gateway Location. Consideration could be given to the upgrading of the highway trees on the road verge to promote avenue planting, characteristic of other gateway routes into Newark.*

Whilst the tree survey does identify a number of existing trees on the eastern boundary to be in poor condition, this is not the case along the southern boundary. A Landscape Design Statement has been submitted as part of the application but I cannot find a Landscape and Visual Impact Assessment or Appraisal.

#### *Eastern Boundary*

The revised site plan (Dwg. 6980\_P101A) shows a slightly amended parking layout on the eastern boundary which increases the width of the planting between the road and the car park over a

substantial length. This is to be welcomed, as is the reversion of the planting proposals to site the hedgeline at the back of the footway, rather than along the edge of the car park. This creates a visually uniform edge to the site and should be easily maintainable. Additional and taller shrub mixes have also been introduced into the beds on this boundary, also viewed positively by this team.

The tree species for the 'avenue planting' has been amended, suggesting *Quercus rubra*. It is suggested that if approval is granted, the final planting plan is conditioned and final tree selection agreed in consultation with NCC's arboricultural team, as the trees will overhang the highway. Dwg. 6980\_P103 shows the eastern elevation; other buildings sited along this road are located further from the carriageway and are seen through views filtered through vegetation. This building is a large shed construction and is located approx. 10 metres from the carriageway. Given the prominence of this route into the town and to the historic core, the building is considered too large and too visible in the south-eastern corner of the site. It is recommended that additional screening be introduced in this section of the site.

### *Southern Boundary*

Concern was raised in earlier comments regarding the openness of the southern boundary once the trees are removed. This boundary is particularly prominent for road users travelling north on Great North Road, who have diagonal views across the widened verge at the junction with Kelham Road, as well as for residents in the properties facing the site. The buildings comprising the former highway depot were small one or two storey red brick buildings with pitched roofs, scattered around the lower half of the site and were generally screened by the existing boundary vegetation.

The Landscape statement provided states that:

*"to the south of the site, careful design of the store and service yard has retained trees to the boundary to ensure filtered views across the site are retained, responding to the visual sensitivity of residents to the south of the Kelham Road corridor"*

NCC disagrees that this has been achieved - a large proportion of the trees providing screening on this boundary are to be removed and not replaced; a new entrance is to be opened up on this boundary, to the east of the former vehicular access.

The development proposal is a very large industrial construction, spanning almost the entire width of the site at its widest point. Although the building frontage and side facing Great North Road have some interest and detailing, on the southern boundary the elevation takes the form of an industrial shed, partially screened from the road with 4 metre high fencing (measured using level data on drawing). The site plan and elevations show a service yard separated from the road only by a 3 metre wide planting bed and fencing (shown 5 metres high at the gate).

There has been discussion regarding the use of evergreen hedge species on this boundary rather than the pear originally proposed. However, this is minimal mitigation for what an LVIA, (for the residents of Kelham Road), would identify as a **substantial adverse** visual impact (i.e. high sensitivity, high adverse magnitude of change). The elevation drawing does not even show the planting as proposed and the schedule notes that the frame will only be 2.5 metres high. It is

difficult to see how a stilted hedge can be adequately maintained to entirely screen either the fencing or the building behind (which is 7 metres high). A line of replacement trees would be appropriate but would require more space.

As previously noted in correspondence with the applicant's landscape architects, NCC is unable to ascertain what site constraint has informed the positioning of the building so close to the southern boundary. If the building and service yard were to be shifted 4-5 metres to the north, the resultant buffer and screening opportunities would be far greater, with overall benefit to the streetscape and residents.

## Conclusion

It is recognised that the applicant has accommodated NCC's concerns regarding the streetscape along the western boundary, and appropriate mitigation has either been achieved or is achievable with further discussion.

There is still however considerable concern regarding the impact of the development on the streetscape and residents on the southern boundary, which is considered significant, and impossible to mitigate without amendments to the building design or position.

Consequently Nottinghamshire County Council's Landscape team object to the proposal in its current form.

*Comments received 25.09.2014:*

## Introduction

Nottinghamshire County Council (NCC) has been asked for strategic planning observations on the above planning application and this letter compiles responses from Departments involved in providing comments and observations on such matters. The following comments were agreed with the Chairman of Environment and Sustainability Committee.

## Travel and Transport

### *Bus Service Support*

This area is at a point where out of town bus services to and from Newark converge. The main services are Service 28 to Mansfield, Service 37 to Retford and Service 32 to New Ollerton. A summary of all services passing the site is provided in the Travel Plan. All of these offer only an hourly frequency at best. The developers do not indicate that additional service capacity is required; however this development may be better served by its integration with the current Newark town network.

We would expect the developer to liaise directly with Transport and Travel Services to determine the appropriate public transport access to the site and what contribution towards bus service support is expected. Further to this we would expect a contingency fund to be made available to mitigate the impact on existing bus services should construction works interfere with these.

### *Current Bus Stop Infrastructure*

NS0088 Beastmarket Hill - Bus stop pole

NS0087 Beastmarket Hill – Bus Stop pole

The current stops for all services are within 150 metres of the store entrance point. The pedestrian route to and from the stops involves one or two road crossings including crossing an approach arm to the roundabout with Kelham Road where no specific pedestrian priority exists.

#### *Possible Bus Stop Infrastructure*

There are significant difficulties with implementing any bus stop upgrades at the above 2 stops. NS0088 has already been moved closer to the potential Sainsbury's development, as part of an exercise conducted by Network Rail to ensure traffic queueing behind buses did not wait on a level crossing. As a result the stop was repositioned with the assistance of Network Rail and Highways to a location closer to Kelham Road.

#### *Possible Bus Stop Infrastructure Enhancements to Existing Stops*

The possible bus stop improvements to the existing bus stop infrastructure could be as follows:

NS0088 Beastmarket Hill – Bus Shelter with Solar Lighting, Real Time Pole with Associated Display, Raised Kerb & Enforceable Clearway

Please Note: *The visibility splays from Kelham Road could be compromised if any shelter structure was installed and therefore a safety assessment would need to be made during development, in order to ensure that any new shelter would not unduly affect the visibility splays of the adjacent property / junctions.*

NS0087 Beastmarket Hill – Bus Shelter with Solar Lighting, Real Time Pole with Associated Display, Raised Kerb & Enforceable Clearway

Please Note: *In order to make any improvements to this stop location involving a shelter installation, the shared footway / cycleway would need to be redesigned or the cycleway element removed from this section of footway.*

#### *Provision of Additional Bus Stops*

The pedestrian access to/from the proposed development to the existing bus stops is not considered as safe for staff and shoppers. The potential exists to introduce an additional bus stop on Great North Road adjacent to the development where the designated landscaped area adjacent to the store could be developed as a bus layby facility. This, together with a pelican crossing facility could connect the store to a new bus stop on the opposite side of Great North Road.

Additional stops, albeit relatively close to the existing stops at Beastmarket Hill (position constrained by the location of the level crossing), will serve to boost footfall to the store as well as giving bus users the necessary facilities to access the store safely. The provision of new bus stops should be considered as a priority over any enhancements to existing stops.

The current costs are approximately as follows:

- Bus Shelter - £2,500
- Solar Lighting in Bus Shelter - £1,500 - £2,000
- Additional Hard Stand for a Bus Shelter - £1,500 - £2,000
- Raised Kerb - £1,500
- Real Time Displays and Associated Electrical Connections - £6,000
- Bus Stop Clearways - £500 -£700

Full details of the costs and work involved can be confirmed through developer contact with Transport & Travel Services.

The Travel Plan suggests that they would fund a Travel Co-ordinator post will be appointed one month prior to the store becoming operational. The Council would wish to establish early contact with the post-holder to ensure passenger transport is promoted as set out in the Travel Plan.

### Landscape and Visual Impact

The Landscape and Reclamation team carried out a feasibility study/landscape character assessment prior to disposal of the highway depot site; the key development issues identified were:

- to ensure continued screening of the site from the Great North Road (by retaining the existing vegetation/trees) and also to encourage high quality streetscape/planting along the eastern boundary, commensurate with the gateway location

- to retain the mature vegetation on the southern boundary of the site to provide screening for the residential property opposite and for traffic travelling northwards on the Great North Road Eastern Boundary

The arboricultural information clearly demonstrates that a large proportion of the tree cover on the eastern boundary is of poor quality, directly in the path of the new footway and/or would be difficult to retain as isolated specimens, which NCC accepts. However, a replacement screen could be provided.

The proposals show the boundary to the supermarket car park will be screened by a line of Norway Maple trees, a hornbeam hedge and ground cover planting in a strip less than 5m wide; the ground cover species proposed (Shrub mix 1) are particularly unimaginative and two out of the five species proposed are unsuitable for planting in shady condition i.e. beneath trees (*Hebe rakaenis* and *Genista Lydia*). The common ivy proposed will also, in time, climb up the tree trunks. Road salt also needs to be taken into account when selecting species.

The planting plan proposed will not provide the screening function envisaged, and an opportunity has been lost to develop a more stately avenue with longer lived trees and even native species – e.g. oak. None of the tree species specified are characteristic of the Trent Washlands area and the birch, lime and rowan, should also be replaced with more characteristic species, especially where they are planted in association with Shrub Mix 2 which appears to be a nod towards a native mix (although *Viburnum lantana* and *Euonymus europaeus* are not characteristic of this area).

To summarise, the County Council considers the screening function will be less than it might be with a wider planting strip/different plant species and densities; the species are inappropriate and overall the site will not contribute to the Newark 'gateway' aspired to. The County Council's

arboricultural officer has also in the past expressed concern over the suitability of *Acer platanoides* for street planting.

### *Southern Boundary*

The trees on the southern boundary are generally in good condition and it is disappointing that the development could not have been designed to retain more of them, especially as removing the outer trees in a stand often makes those retained more vulnerable.

The County Council are particularly concerned at the loss of trees and screening on the western edge of this boundary; the houses opposite the development will have views directly into the service yard. The landscaped strip between the yard and the back of the footway appears to be no more than 3 metres wide. Although it is proposed to plant espaliered fruit trees, to provide screening at height (presumably), it is suggested that evergreen species might be better e.g. *Prunus laurocerasus*, *Photinia x Red Robin* to provide stilted screening capable of providing effective screening at heights of 3 -4 metres.

Overall the County Council opposes this development – the site layout leaves insufficient space for screening/buffer zones on the key south and eastern boundaries, and even given the constraints set by the layout, the poor planting design proposed is not acceptable for a site of this prominence.

### Ecology

#### *The site and surveys*

An Ecological Assessment of the site has been carried out (BDM, September 2014), following appropriate methodologies. This has confirmed that:

- No designated nature conservation sites would be directly affected by the proposals; one Local Wildlife Site (Great North Road Grasslands LWS 2/778) abuts part of the site on its northern side, but mitigation is proposed to minimise potential indirect impacts on this site (see below).
- The majority of the site is considered to have low/negligible ecological value, comprising predominantly of hard standing. However, limited areas of higher nature conservation value exist around the boundaries of the site (hedgerows and mature/semi-mature trees); loss of these features will require mitigation (see below).
- With the exception of bats, no evidence of, and very limited potential for, protected species was found at the site; nevertheless, a number of precautionary steps are recommended by way of mitigation (see below).
- With regards to bats:
  - Some potential for roosting bats was identified in four of the buildings on the site; however, no bats were recorded from these buildings during dusk emergence surveys.
  - Several of the trees were also considered to have some potential to support roosting bats; however, no evidence of use of suitable roosting features was found in any of the trees, and only three were considered to provide 'moderate' opportunities for roosting bats.
  - Surveys also confirmed the presence of foraging bats at the site, with three species recorded.

## *Mitigation*

The Ecological Assessment makes a number of recommendations in relation to mitigation, which should be secured through planning conditions:

- To minimise impacts on Great North Road Grasslands LWS 2/778, it is recommended that Hears fencing covered with dust sheets is installed along the boundary between the LWS and the site, to prevent encroachment during works and to reduce impacts from dust.
- Measures should be put in place to protect retained trees and other vegetation during construction.
- In the event that the buildings identified as B2, B5, B7 and B8 in the Ecological Assessment have not been demolished by August 2015, then updated bat surveys must be undertaken.
- If any of the trees identified as T1 to T26 in the Ecological Assessment require removal or significant arboriculture works, then they should first be inspected by an ecologist, with emergence surveys undertaken where required; any mitigation measures proposed should then be adhered to.
- To minimise impacts on foraging and commuting bats, a detailed lighting scheme, incorporating the recommendations made in section 6.5.5 of the Ecological Assessment, should be produced and implemented.
- Vegetation clearance should take place outside the bird nesting season (which runs from March to August inclusive), unless otherwise approved.
- The Schedule 9 plant Himalayan cotoneaster has been recorded on site; a methodology for the eradication of this plant should be produced.

## *Enhancement*

Site landscaping has the potential to deliver ecological enhancements, as well as contributing to mitigation, and the Ecological Assessment recommends the use of wildlife-friendly planting within the landscaping, to include native species. A Landscape Masterplan has been submitted, along with a Landscape Design Statement. In section 6 of the latter, details of planting mixes are provided. Whilst this refers to biodiversity, the following matters are raised:

- It is requested that field maple is utilised instead of Norway maple; the former is native, whilst the latter is not. As a minimum, it is requested that the two Norway maple planted next to the filling station area on the northern part of the site are replaced with field maple, as this area abuts the rural fringe.
- It is also requested that 'Shrub mix 1' is replaced with 'Shrub mix 2' adjacent to the PPS kiosk, for the same reason.
- A hedgerow is proposed up the western boundary of the site; currently this is proposed to be 100% hornbeam. Hornbeam is not native to this part of the country, and the lack of species diversity will further reduce the ecological value of this hedge. It is therefore requested that a mixed native hedgerow is planted in this location, to be dominated by hawthorn (c.60%). This will help mitigate for the loss of an existing native hedgerow on the southern boundary of the site.
- It is requested that 'Shrub mix 2' is used instead of 'Shrub mix 1' on the western boundary, adjacent the motor cycle parking area.
- Ideally, the majority of the existing southern boundary hedge would be retained and expanded at its western end, rather than being replaced by an ornamental hedge. Alternatively, the section next to the service yard could be native, with the section further east ornamental.

- It is requested that wayfaring tree is not used in the 'Shrub mix 2', and that guelder-rose is used instead. It is also recommended that hawthorn is added into the mix, in place of broom, which is not characteristic of this part of the county.

To provide enhancement for bats and birds, boxes should be installed on retained trees around the site boundary; the submission of details should be secured through a condition, with reference to Appendices 3 and 4 of the Ecological Assessment.

### Overall Conclusions

It should be noted that all comments contained above could be subject to change, as a result of on-going negotiations between Nottinghamshire County Council, the Local Authority and the applicants.

The County Council does not object to the proposed development from a Travel and Transport perspective, however, does raise a number of issues in relation to the provision of adequate bus services as set out in detail above.

The County Council do not object to the proposed development from a Minerals or Waste perspective.

The County Council opposes this development from a landscape perspective as the site layout leaves insufficient space for screening/buffer zones on the key south and eastern boundaries, and even given the constraints set by the layout, the poor planting design proposed is not acceptable for a site of this prominence.

In terms of ecology, the County Council considers that a number of issues need to be addressed and additional information is required and would be happy to review any additional information that is submitted in support of the planning application.

**Natural England** – Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. We have not assessed this application and associated documents for impacts on protected species. This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

### **Nottinghamshire Wildlife Trust –**

*Comments received 14.12.2015:*

#### Buildings

We are generally satisfied with the up-to-date surveys of the buildings to determine the current roost potential. We note that no evidence of roosting bats was found and that full access within all the buildings was possible during the December 2015 survey.

We are therefore in agreement with the recommendations in Section 5.2. of the Updated Bat Survey (December, 2015) for a sensitive demolition of the buildings (labelled as B2 and B6 in the

Updated Bat Survey) to be undertaken under the supervision of a licenced Ecologist. We advise for this to be secured within a **condition** and included within a working method. At present, it is not indicated when in the year would be an ideal time to undertake the demolition (e.g. during the winter if there is no hibernation potential, or during the “active period” to prevent harm to any hibernating and therefore torpid/vulnerable bats) and we would advise that this information is made available at the earliest convenience.

### Trees

Trees labelled as T14 and T16 in the Updated Bat Survey were identified to be of moderate bat roost potential. Section 5.5. recommends dusk/dawn surveys or a tree climbing inspection immediately prior to felling of the trees, due to the short term and intermittent nature of tree roosts. Whilst we are partially in agreement with this, our interpretation of Paragraph 99 of Government (ODPM) Circular 06/2005 (as outlined in our previous response dated 19/11/2015) is that these further surveys should be completed prior to determining the application. We suggest this in order to follow best practice, as the additional surveys would allow further indication of presence/absence of roosting bats (and therefore the extent of impact) and a tree climbing survey is likely to provide clarification of the roost potential of the trees (e.g. further investigation into the extent of roost features and any evidence such as droppings or staining) which is still ambiguous from the current results.

However, given that the tree is adjacent the B6326 (a major road), and was identified to be moderate potential as a precaution due to the age of the tree and dense ivy cover, we would advise that if you are minded to grant permission for the application without a tree climbing and/or activity survey completed prior to determination, then these surveys **must be secured within a condition**.

Therefore, our advice for best practice is the following hierarchy. Firstly we would advise the applicant to seek avoidance of removal of trees T14 and T16 (in order to follow the mitigation hierarchy of avoidance prior to mitigation, as outlined in the NPPF and BS42020:2013, Section 5.2.). If unavoidable, then the further tree surveys should be completed prior to determining the application, as this will allow clearer detail for the LPA when determining all material considerations (in accordance with Paragraph 99 of Government (ODPM) Circular 06/2005). If to complete the additional surveys of the trees prior to determining the application is considered to be inappropriate and it is considered that the recommendations in the Updated Bat Survey are justified, then we advise for the further surveys to be secured in a condition. Note that if bats are found, Natural England will need to be consulted/an EPS licence obtained and suitable mitigation provided (which may require variation of conditions, if, for example, this will require alterations to the agreed landscaping).

### Bat Boxes

It was recommended in Section 6 of the Ecological Assessment Report (2014) for **bat and bird boxes to be installed**. The loss of building B2 and of the onsite trees means potential roost features (for bats) and nesting opportunities (for birds) could be lost. We again wish to highlight this, as the inclusion of boxes would follow the requirements of the NPPF, in which developments should not result in net loss of biodiversity (para 118).

## Previous Comments

Our previous comments also advised information on creation and management of the soft landscaping, and a plan(s) of the proposed lighting scheme. We again would advise this information to be provided **before determining the application** (so that any ecological matters can be fully resolved if alterations to the layout plans are required), however, if you consider this information to be irrelevant at this stage, then this again must be secured within a **condition**.

*Comments received 19.11.2015:*

We note since our previous response(s) revised plans have been submitted as well as an Addendum Landscape Design Statement (Bradley Murphy Design Ltd, October 2015). We wish to provide the following comments with regards to these documents:

### Landscaping

We welcome the widening of the western boundary, as described in the Landscape Design Statement. We also welcome the planting of native trees and hedgerows along this boundary, and the native scrub mix on the northern boundary.

At present, there does not appear to be information on the proposed creation of, and long term management of, these features. Section 6.12 of the Ecological Assessment Report (Mulberry Property Development, September 2014) details management which is likely to benefit biodiversity.

We would advise once the native hedgerow has become established (at a minimum height of 2m) this should be cut once every two to three years in an A shaped structure. The hedge should be cut outside of the bird breeding season (March to August inclusive) and ideally should only be cut in January or February, in order to allow wildlife to utilize the winter berry crop.

The planting of more established, rather than very young, whips would reduce the lag time of the hedgerows/trees becoming of greater biodiversity value. We would advise that the specimens planted are of a local provenance (or as close as possible).

### Enhancements

We still wish encourage the applicant to include further ecological enhancements within the scheme. These are included in Section 6 of the Ecological Assessment Report (September 2014) and include the installation of bat and bird boxes. The NPPF requires developments not to result in a net-loss to biodiversity and encourages the inclusion of enhancements so as to result in a net-gain.

### Surveys

We wish to remind you of the following included in NCC Planning Policy's comments:

- *In the event that the buildings identified as B2, B5, B7 and B8 in the Ecological Assessment have not been demolished by August 2015, then **updated bat surveys must be undertaken**.*
- *If any of the trees identified as T1 to T26 in the Ecological Assessment require removal or significant arboriculture works, then they should first be inspected by an ecologist, with*

*emergence surveys undertaken where required; any mitigation measures proposed should then be adhered to.*

The original bat survey undertaken in 2014 may now be considered out of date and it does not appear that updated surveys have been submitted.

Further to this, it appears that trees labelled as T15, T20 and T21 identified to have bat roost potential in the Ecological Assessment Report (Appendix 2, Plan 3) will be removed in accordance with the plan in Section 6 (page 8) of the Addendum Landscape Design Statement.

We wish to remind you that the presence and extent of impact to protected species needs to be established before determining an application. Paragraph 99 of Government (ODPM) Circular 06/2005 (which accompanied PPS9, but remains in force), states that:

*'It is essential that the **presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted**, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.'*

Therefore in order to follow these policies, we'd advise the LPA to request up to date surveys to be undertaken, so that the LPA are fully informed regarding protected species when determining the application. This would also allow any mitigation required to be incorporated into the development design at the earliest opportunity.

### Lighting

It appears that a lighting design is yet to be submitted, but we would wish to see such a design include the recommendations of Section 6.5.5. of the Ecological Assessment Report (September 2014).

#### *Comments received 10.12.2014:*

We have reviewed the new documents (specifically the revised proposed site plan, revised landscape master plan and revised planting plan). We have no further comments at this time, but would refer you back to our previous response (letter dated the 2nd October 2014). Just to re-iterate one point, we would prefer to see a greater proportion of native species of local provenance being incorporated into the scheme. As it stands, the planting scheme details the use of a large number of ornamental / non-native varieties.

#### *Comments received 02.10.2014:*

We welcome that a Phase 1 survey and Protected species survey was undertaken. We are satisfied with the surveys methodology and strongly support the survey reports recommendations. However, we would like to comment on the following points made by the report.

The Great North Road Local Wildlife Site (LWS) is immediately adjacent the north-western boundary of the proposed development site. We strongly advise that the recommendations stated in section 3.2.3. of the protected species report are followed as a condition in order to prevent impacts to the adjacent LWS during construction works.

Further to this, we advise that the recommendations within Section 6 of the report are also followed as conditions. These include:

- Retention of hedgerows and trees where possible. To be replaced by native species if removed.
- Detailed inspection of trees by a licensed Ecologist prior to felling/works in order to determine the risk of roosting bats.
- Lighting to be directed away from trees and adjacent boundary habitats.
- Clearance of vegetation to be between September – February inclusive to avoid disturbance of nesting birds.

We welcome the ecological enhancement measures and habitat management recommendations within Section 6 of the protected species report. We would advise that these measures are implemented, including the planting of native species, the installation of bat, bird and invertebrate boxes, and the retention of deadwood and logpiles on site.

**NATS** – no safeguarding objection.

**Policy Architectural Liaison Officer** – The surrounding area of the cattle market/long stay car park opposite, do suffer from anti-social behavior in regards to noisy and high speed vehicles using the large car parking area for these purposes, I would strongly recommend that the proposed car park to the new store is design to ensure that this car park cannot be used for similar purposes, especially when the store is closed, I would recommend that each area is zoned, by the use of planting or similar to prevent vehicles travelling around at speed in large areas of the car park, the use of cctv and lighting is also required, and consideration to be able to close off the car park with barriers or similar should be made especially for the times when the store is closed.

I am also enclosing comments from the Police Traffic & Roads Casualty Reduction Manager, as below:

Although Nottinghamshire Police have no objections to the development, please note the following comments,

The Cattle market roundabout (as it is known locally) where the A46, A617 and Great North Road meet has a poor safety record and is currently under investigation by the highway authority, Highways England because of the number of injury collisions occurring there. Nothing from this new development should impact of the flow of traffic around this roundabout such as queuing traffic backing up onto it from the development site.

Generally, Newark is suffering from increased and congested traffic and this is attracting complaints from residents and businesses which Robert Jenrick MP is investigating. All efforts should be made to ensure that this development does not add to these problems.

Finally, Nottinghamshire Police will be unable to support any traffic management plan for this development that relies on Police enforcement to make it work. This would include any banned manoeuvres such as 'No right or left turns', 'No entry' or any 'Prohibition of driving' traffic regulation orders.

**East Midlands Ambulance Service** – no comments received.

**Fire Brigade Headquarters** – no comments received.

**NSDC (Emergency Planning) –**

*Comments received 29.09.2015:*

During any future flooding event at this location, although the food store is likely to remain situated above the flood zone, both ingress and egress routes for customers/staff and emergency services are likely to be impeded. During such events, the development must not place any undue pressure upon the emergency services. In order to mitigate this pressure, the Emergency Planning Department, Newark & Sherwood District Council requests a reference to the flood risk assessment that includes a flood evacuation plan with the requirement that the development signs up to the Environment Agency Flood Alert System and produces a robust system of management to monitor any future flooding events. This should incorporate a process of monitoring EA Flood Alert messages and responding appropriately and in a timely manner in order to warn customers, staff, suppliers and delivery services of the need to close the store if deemed necessary. A store evacuation plan should also consider both pre-flooding and flooded scenarios.

*Comments received 16.09.2014:*

Please note the key aspects of the Nottingham and Nottinghamshire LRF National Planning Policy Framework (NPPF) Emergency Planning Guidance for developments in flood risk areas.

- 1) It must not increase the burden on emergency services
- 2) It must have access and egress routes to safely exist during flooding conditions
- 3) It is advised that Emergency Plans are put in place

I note from your flood risk assessment that you 'do not deem it appropriate to develop a Flood Evacuation Plan to address public safety issues'. I would recommend that you consider a Business continuity plan, it is not just flood that could affect your development, and your resilience plans will also be need to consider your staff as well as the general public.

**NSDC Markets and Car Parking –**

1. The Charter Market was devolved to the Town Council in April 2015 but its management is the same as was before as I my team continue to manage it on behalf of the Town Council through the use of a Service Level Agreement.
2. The income and viability of certain product stalls where there is now increased supermarket offer, i.e.: fruit and veg, small clothes Inc. socks and underwear, cheese and meat etc. has dropped significantly sine Asda opened. i.e.: the number of visiting traders and the incomes of the traders who have continued.
3. The Newark market income **budget target** for 2014/2015 was **£315,000**. The actual **out turn** was **£309,386**. This represents an increase on the previous two years and was largely due to increased specialist markets- not general weekly markets.
4. The stall rents have changed little in the past 5 years rising since 2008 only 10% (£2 ) for casual stalls- £20-£22 for general markets with licensed stalls staying at £20 and only 50p (£14.50-£15.00) for antique and collectors markets.

**NSDC Conservation –**

*Comments received 15.12.2015:*

The Causeway culvert 135M north west of level crossing (near to the Kelham Road junction) is Grade II listed. The description states: "Causeway culvert. 1770. South west side rebuilt during road widening in 1922. Designed by John Smeaton. Brick with stone coping. 3 semicircular arches with retaining parapet wall with curved ends and square piers with flat caps. Part of a causeway carrying the Great North Road across the flood plain of the Trent."

The spatial data for the further listing to the north is, according to Historic England, on the roundabout. This contradicts our own Uniform mapping. Since the description for this states that it is a single archway culvert, and that it is 420m north of the crossing, I believe that our own mapping is correct (I have also been out to inspect, and there is a culvert with a single arch on the east side of the road as shown on our uniform mapping). I will write to Historic England for clarification, but I believe that their spatial data is in the wrong location (please note however that historic mapping suggests that there was a culvert in the location of the modern roundabout, so clarification is needed from HE in any case).

This notwithstanding, I have visited both structures. I can only see structures on the east side of the road (I am assuming that the culvert beneath the roadway includes brick vaulted ceilings similar to those elsewhere along the historic causeway). The listings imply that the west side counterparts were rebuilt during road widening in the 1920s. The arches were listed in the 1970s. In theory, there should be a corresponding culvert structure on or near the proposal site at both the Kelham Road junction side and at the north end towards the roundabout (the same arrangement can be found on the rest of the former causeway to the north of the roundabout). I understand from your discussions with the applicant that they cannot find a corresponding structure. This leaves several issues. Is the list entry accurate (there are no 1990s photos in the Green Backs)? Have the structures been removed without consent? Are they hidden in the site or underneath the modern road?

Whilst historic mapping cannot be treated as absolute, the late 19<sup>th</sup> century maps give some clues. I believe that the culvert close to Kelham Road went directly across the road and then southwards and then along Kelham Road (see extracts attached). The one closer to the roundabout also went straight across but probably terminates before the verge. This leads me to believe that the parapets were probably demolished as part of highway works in the 20<sup>th</sup> century (the 1965 map attached certainly suggests that there was no corresponding east side structure at that point). If this is true, the list entries might need revising. The brick vaulted channels may still be underneath the road however, so any works to widen the road should take this into account (including any relevant consents).

Given the significance of Smeaton's Arches in the context of the historic roadway (the Great North Road), the applicant should have considered the impact on these structures via a Heritage Impact Assessment. Furthermore, consideration should be given to essential repairs and renovations where appropriate.

I am nevertheless satisfied that the development proposal is unlikely to be harmful to the significance of the visible parts of the causeway arches (e.g. the structures on the east side of the road). However, I am less certain about the whole of the structure since we do not yet know its extent (although given that the west side fabric is 1920s, one would assume that the parapet fabric/retaining arches at the very least might be of lesser interest when compared to the 18<sup>th</sup> century fabric).

Given time constraints, if planning permission were to be granted, I believe that a condition should be used to require a desk based assessment of the structures and a methodology for their

repair/renovation (this may even necessitate a 106 agreement). I accept that road works can be engineered so as to avoid conflict with the significance of the culverts, but note that the brick arch vaulted channels underneath the road are an important element of the listings even though they are not visible, and any engineering works would need to ensure that these elements were protected.

*Comments received 10.06.2015:*

I have looked at the additional information and revised site plan submitted 7th May 2015 and have the following comments. While I am pleased to see a visual assessment carried out, it does not really present me with any meaningful information to assuage my concerns about the potential impact of the high level banner on the roof of the petrol station or totem signage to the north and north east of the site. With regards to the petrol station their visual assessment has said 'Some elements of infrastructure associated with the Petrol Filling Station may be glimpsed beyond the vegetated northern boundary' (Photographic viewpoint 10). The exact impact upon the tree lined avenue (presumed to be historic, commemorated with by the plaque), is still not entirely clear to me, but it does seem that some of the trees in this avenue on the development side of the road are to be replaced? I can see that the quality of the avenue breaks down here and the trees are choked in ivy so I will defer to tree specialists on the acceptability of removing these trees and the appropriateness of what is being proposed in their place. Again, I would reiterate that my earlier concerns also related to the quality of the green landscaping, especially for the junction at Kelham Rd, and I again defer to the tree/landscape team at County for advice.

*Comments received 17.10.2014:*

The application site is a large block of land forming part of the gateway into Newark. It sits between the A46 roundabout and the old Kelham Road. The character of this area is farmland mixed with industrial type uses and modern housing developments. The site itself is the former Notts County Council depot and has a mixture of buildings on the site including a large warehouse. Adjacent is the cattle market, lorry park and modern housing developments.

I do not consider the land itself to have any obvious heritage value (although I have made no archaeological assessment) in itself. I can see that there is a plaque noting the planting of trees for the visit of Edward VII in 1909, however having done historic map research it is not clear what trees this plaque refers to. Certainly the site has no apparent civic function so as to merit tree planting and the maps do not show any trees on the site until 1970. I wonder if the plaque perhaps refers to an avenue of trees along Great North Road, lining the roadside immediately to the east of this site? I think it would be helpful to approach the Civic Society to see if they can cast more light on this issue.

Development on this site has the potential to affect the setting of Newark Conservation Area and two important listed buildings being St Mary Magdalene (Grade I) and Newark Castle (Grade I and a SAM and Registered Park and Garden). St Mary Magdalene has a very tall spire which is local landmark for many miles. Good views are offered of the spire in approaches from the north west. On the outskirts of Newark this wider approach is marred by the Sugar Beet Factory but once this is behind you the Church is the most obvious landmark. The current warehouse on the former depot site rises above the tree line formed by vegetation on this site and intrudes into views of the church slightly. It is therefore important that views from the A46 roundabout and along Great North Road preserve the setting of the church, avoiding any obviously tall structure.

I am happy with the height of the proposed scheme, which sits lower than the warehouse and mostly below the tree height. I appreciate the volume of the structure is much greater and roofscape will inevitably be seen, but colour will be important here and the key point is to ensure the spire still remains as the main vertical landmark, which I believe it will.

To the north of the site is the petrol station. I have no concerns about its overall height but am concerned about high level 'Sainsbury's' banner above the roof, which if illuminated may act as a beacon, seen alongside and competing with the church, which I believe is floodlight by night. If this banner could be lowered and/or not illuminated this would mitigate my concerns. For the same reasons, I have concerns about the two totem signs at northern part of the site. Photo montages would actually be very helpful to address these specific concerns if the applicant was minded to pursue these advertisements.

Travelling along the Great North Road into Newark the former depot site has a neutral impact by virtue of a substantial green boundary, allowing no distraction or intrusion into the sequential views as they open up of the Castle and conservation area around it. I think it would be important to keep a substantial green boundary along the east side of the site. This section of road includes the avenue of trees currently lining the road (and not within the depot site). However, the avenue is now within the red-line of the application site and I am unable to work out from the plans whether this avenue is being lost or not as I note that the road seems to be widened to accept a filter lane. Plan BMD.14.001.DR002 seems to show the shadow of trees along this section of road, possibly indicating they are to be felled. I could really do with clarifying this with you. The roadside avenue is an important landscape entrance feature, funnelling views towards the castle. The chamfered corner at the south east part of the site will help keep the structure away from the opening vistas as one progresses south into town.

In terms of considering the setting of these assets from their views offered outwards I have no concern. Views from the castle towards this site take in the foreground roofscapes of various warehouses, and this riverside location has historically supported industrial uses and industrial buildings. Given the distance away and height of this proposal I think the impact from the Castle looking out will be very slight. Equally, the church has few views out but the spire no doubt provides panoramic views over many miles. It is accepted that views from the spire will take in an extensive setting of mixed quality. Again, the low lying nature of this development will have very little impact on outward views. The weakest part of the design is I think the south elevation, as seen when leaving the town on the Great North Road. At present as one leaves the town one is aware of pleasant transition from town to countryside by the greenery provided around the depot site, marking a clear edge to the town. If I am reading the plans right, the new development here seems to be screened by a high acoustic fence, which would not form a very attractive view in this direction, although I appreciate it would be partially screened by the trees of the triangular green in front. I think more attempt either needs to be made to green up this elevation or present an attractive entrance feature at this chamfered corner and deliberately make this part of the design.

**NSDC Environmental Health Officer (noise/lighting)** - I have read the detailed noise report. On the basis of its findings and provided the proposed conditions at section 8 were attached to any approval given, I expect noise levels to be acceptable. In respect of external lighting, I could not see a specific document on this so would ask for a condition that full details be provided and approved by the LPA, be attached to any consent given.

**NSDC Environmental Health Officer (contaminated land/air quality) –**

*Comments received 09.11.2015:*

Regarding the attached consultation, our previous comments in relation to contaminated land, biomass boiler and dust control still apply.

The Air Quality Assessment states that the traffic impact of the development on the local air quality is negligible. However the developer may wish to consider the incorporation of electric vehicle charging points at a proportion of car parking spaces. We would propose a minimum of two spaces with charging points initially, with the installation of infrastructure (cabling etc.) to extend this in the future, to up to five spaces (or more). Newark and Sherwood does not have an air quality management area (AQMA) but several districts within Nottinghamshire do. Use of the proposed supermarket will not be limited solely to residents of Newark & Sherwood and the incorporation of electric vehicle charging points would allow some contribution towards the management/reduction of air pollution in the region.

*Comments received 10.08.2015:*

No further observations in relation to this latest consultation. My previous comments (dated 22<sup>nd</sup> Sep 2014) in relation to the limited site investigation report, carried out by Delta Simons (dated 7<sup>th</sup> Feb 2014) still apply.

*Comments received 09.10.2014:*

Confirmation that outstanding issues in relation to contaminated land and dust can be dealt with by planning condition.

*Comments received 09.10.2014:*

I have now had the opportunity to read the submitted Biomass Boiler Information form, and generally it answers most of our questions. I am in agreement with your suggestion regarding a condition in relation to maintenance of the boiler to ensure correct and efficient operation to minimise emissions.

One point that I would like clarification on is Section 4, part O of the form which states that the stack height will be 10205mm above the finished floor level of the biomass unit. However there is no justification for why this height has been chosen. We require evidence to demonstrate that predicted emission concentrations associated with the calculated stack height do not have a significant impact on the air quality objectives for NO<sub>2</sub> and PM<sub>10</sub>. Please supply the calculations and the method chosen for the assessment. Predicted concentrations in the air quality traffic assessment should also be taken into consideration.

*Comments received 08.10.2014:*

An Air Quality Assessment report has been submitted by Transport Planning Associates in support of the above application.

The report fails to take into consideration the potential impact that the proposed biomass burner could have on residential receptors that are situated nearby on Kelham Road. I would expect the report to be amended and resubmitted with this taken into account.

Furthermore, no mention is made of any potential for dust generation during the construction phase of the proposed development.

Prior to the commencement of development, details of best practicable measures to be employed for the suppression of dust on site during the period of construction shall be submitted to and approved by the local planning authority in writing. The agreed measures shall be employed throughout the period of construction.

*Comments received 22.09.2014:*

I have now had the opportunity to review the Limited Site Investigation Summary Report (Ref 13-0632.03) submitted by Delta-Simons Environmental Consultants Limited in support of the above planning application and can provide the following comments:

This document provides good preliminary information and suggests the use of a remedial capping layer. However I am not in a position to comment on possible remedial options at this stage as more investigation is required. Some areas of the site have not been sampled at all and some have revealed elevated levels of contamination, whilst other areas, such as the tentatively identified underground fuel storage tank and partially oil filled interceptor, clearly require additional investigation as discussed in the report.

Furthermore I do not consider that gas monitoring on two occasions is sufficient to have characterised the gas regime at the site, additional monitoring is required.

I would expect the submission of a full site investigation report to include desktop study, conceptual site model etc. I would recommend that our full phased contamination condition should be attached to the planning consent.

*Comments received 22.09.2014:*

A biomass boiler is proposed as part of the above application, please can you request that the applicant completes the attached form giving full details of the proposed boiler. I shall await submission of the air quality screening report as discussed in the design and access statement prior to commenting further on air quality for this application.

**Tree Officer** – A large number of trees need to be felled and in particular the planting along the eastern boundary does make a good job of mitigating their loss, there will be a loss of character in the short term, due to the felling of mature trees and the replacements will take some time to establish, but removal and replacement is the best long term approach. The lack of tree planting within the car park is a missed opportunity though and additional trees here would help break up quite a large space.

The hedgerow mix on the western boundary given time should form a reasonable screen and has an appropriate mix of native species, but the inclusion of additional standard trees would help give it some initial height which would benefit the adjacent properties in the short to medium term. Species selection here is generally good, but needs to be considered carefully, I would not encourage any more Oak trees as they have the potential to outgrow their location.

In terms of the southern boundary, you have received detailed design advice from NCC and this isn't anything further I would want to add.

**NSDC Waste, Litter and Recycling Officer** – no objection. The waste management proposals are in line with current legislation and adequate for the property once completed.

**NSDC Access Officer** – It is recommended that the developer be advised to give consideration to inclusive access and facilities for all, with particular reference to disabled people. As well as minimum Building Regulations standards described in Approved Documents M and K, BS8300:2009 ‘Design of buildings and their approaches to meet the needs of disabled people – Code of practice’ contains further useful information in this regard.

Access to, into and around the proposals along with the provision of accessible features and facilities, should be carefully considered together with access from the boundary of the site and from car parking where carefully laid out provision for disabled motorists should be available. BS8300:2009 give further information in this regard including proportion of spaces, layout and design. Designated setting-down, picking-up points are also an important provision. Safe segregated ‘traffic free’ pedestrian routes should be considered from the boundary of the site and from car parking to the proposal with dropped kerbs and appropriate tactile warnings, as applicable. Routes should be carefully designed so as to be smooth, level, non-slip, and barrier free and of sufficient width.

It is important to restrict the number of barriers, restrictions or other hazards that disabled people encounter on the approach to and from the proposals. Uneven surfaces and gaps between paving materials cause problems for wheelchair users, people with impaired vision and people who are, generally, unsteady on their feet. Street furniture such as any cycle racks, litter bins, bollards, signposts etc. whether free-standing or projecting from the building are hazardous if not carefully designed and positioned clear of pedestrian routes. For people with impaired vision, this is particularly important to reduce the risk of colliding with items located along the access route.

A separate enquiry should be made regarding Building Regulation requirements and it is further recommended that the developer be mindful of the provisions of the Equality Act.

**59 representations from local residents/ interested parties** have been received.

45 representations out of the total number received raise concern/object to the development for the following reasons including:

Principle/Retail impacts:

- Too many supermarkets already in area;
- Destroy historic market;
- The proposal is not in accordance with the up to date development plan. There are no overriding material considerations which justify the use of the site for non-B class uses;
- Adverse impact on vitality and viability of the town centre;
- A major out of centre retail development would draw trade from the existing town centre convenience stores;
- Unconvinced of need for another large supermarket in such close proximity to Asda, Waitrose and Morrisons while the east side of Newark is only served by smaller stores. The south side, to be developed under the Growth Bid, is served by even fewer sizable stores;
- A superstore within the growth point area would have much less impact on the town centre;
- The Northgate site is sequentially preferable to the application site, available, identified for retail use in the Local Plan and are actively seeking retail operators;
- Retail development at the Northgate site would serve to better connect the town centre and the existing Northgate Retail Park, further promoting linked trips between existing shopping destinations within the town. The Northgate site forms a visible part of sequence of shopping destinations leading to the town centre from the north. It is much more likely

to promote linked trips with the town centre than the application site at Great North Road which would act as a standalone destination that is physically separated from the town centre by the River Trent and a railway line.

- The Maltings Retail site (Northgate) is still available (letter dated 14.12.2015) and benefits from retail planning consent for 6,753m<sup>2</sup> of retail (application no. 13/00997/OUTM) which is 1,800m<sup>2</sup> greater than the floorspace requires by the Sainsbury's store. There are no 'heritage issues' and no public sewer or drain running across the site;
- The Northgate site is 1.65 ha in size, just 0.05 ha less than the arbitrary 1.7 ha threshold applied by the applicants as their minimum site size required. Only very limited flexibility would be required to provide the retail floorspace, car parking and service areas proposed by the application scheme;
- There is plenty of land on the Fernwood Industrial Estate;
- Loss of identity and individuality as a Town;
- market-stall holders and town centre retailers are struggling;
- This is not a sustainable site or development;
- the site being on the northern periphery of the town isn't particularly accessible from the main built up area (to the south) of Newark by other modes of transport due to physical obstructions between the site and the town centre including a river crossing and level crossing;
- more encouragement should be given to promote smaller specialist businesses in the heart of the town;
- support the independent retail assessor appointed by the Council. The store would have an adverse impact upon Newark Town Centre, the site is out-of-centre and the proposal would significantly compromise the ability of the Growth Point areas to attract retail development investment of the appropriate scale;
- the application site is too distant from the Town Centre to generate linked trips;
- sale of comparison goods as well as convenience goods at the proposed store in addition to increased on line shopping and other competing town centres would put great strain on retail offer within the town;
- Existing edge of centre sites have already put pressure on retail outlets in the town centre;
- The proposal would not just adversely impact upon the retail function of the Town Centre but also on its function as a visitor/tourist centre;
- Waitrose plays an important role in supporting the town in terms of facilitating linked trips (29% of Waitrose customers link that trip to a retail trip in the town centre). The proposed circa 5,000sqm gross Sainsbury's supermarket is to be located less than 350m from the existing Waitrose, and would have a major detrimental impact on the turnover of their store, which may in turn harm the vitality and viability of Newark town centre;
- there is clearly no quantitative need for the proposed foodstore;
- there is no evidence to suggest Newark would materially benefit from the provision of the proposed Sainsbury's in terms of enhancement of consumer choice;
- the degree of overtrading is vastly over estimated by the applicant;
- there is very limited potential for linked trips from the new Sainsbury's store.

#### Trees and Ecology:

- Existing trees should stay to block the view of the new buildings;
- Historical trees are to be removed and should be retained;
- Impact on protected species and birds;
- New trees should not be planted along the border with Sandhills park as this will reduce light into garden.

#### Residential Amenity:

- Excessive noise from noisy heating and plant equipment, HGVs and lorries close to

- residential area;
- Waste close to houses;
- Light pollution;
- Location of delivery access is not acceptable in a residential road (Kelham Rd);
- The noise assessment for the proposal would seem flawed as test were carried out in light winds on a spring day. Constant noise from the A46 is different from noise caused by reversing warning systems, delivery crates, tailgate lowering, lorry airbrakes, refrigeration units etc. which are more intrusive and damaging;
- Bins would be located too close to residents posing a health hazard;
- Quality of life for residents under threat;
- Increased pollution emissions;
- delivery vehicles unloading at all hours of night rubbish and vermin;
- potential damage to resident's vehicles close to service yard.

#### Visual Amenity:

- Ugliest side of building would project into residential area;
- The Kelham Rd residents would need to be screened from the development since the bland corporate-style landscaping would completely alter the character of the quiet residential road;
- This development would blight most attractive entrance in its approach to the riverside and castle;
- Views of heritage features should not be affected;
- Sainsbury's signage should not be illuminated.

#### Highways:

- Traffic congestion on Great North Road and around the A46/A617 roundabout;
- This roundabout has a poor safety record;
- Delays on this roundabout would adversely affect the attractiveness of the town for tourist/visitors;
- On Fridays in particular the area becomes grid locked;
- There is more and more traffic travelling into and past Newark via the ring road and causing serious delays at this end of town and contributing factors such as trains and the A1 cannot be changed.
- Would there be improvements at the Kelham Road/Great North Road junction?
- The introduction of a 3rd lane along the Great North Road will not solve the traffic trying to access the cattle mkt roundabout, particularly when the level crossing barriers are down;
- Lorries would block Kelham Rd for residents;
- Service yard access would create a safety hazard;
- Proposed increases to the railway barrier down time will make existing traffic problems worse;
- There are very bad delays whenever there is a major event on the Showground or the A1 is blocked which impacts on local business;
- The new Council building will add to existing traffic chaos;
- Loss of residents parking;
- The proposed pelican crossing will worsen the traffic problems.

#### Flooding:

- Increased flood risk.

14 representations out of the total number received support the development for the following reasons including:

- Job creation;
- This is a main route into Newark by visitors and would enhance the approach into Newark

- considerably;
- Newark can accommodate another supermarket;
- Use of a derelict site which has been neglected long term;
- Good for supermarket competition;
- Petrol from a supermarket chain would give Newark the opportunity for cheaper fuel;
- Counter balance the potential future loss of the British Sugar Factory;
- Boost to council taxes;
- improved traffic flow thanks to additional lanes and signals will be of great benefit;
- Sainsbury's would be a great asset to the town and bring in people from far and wide;
- Gives local people more choice.

A website link to a petition containing 149 signatures objecting to the planning application has also been received.

### **Comments of Business Manager - Development**

#### **Principle of Development**

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The proposal site is located in Newark Urban Area which is the Sub-Regional Centre for the District, as defined under Spatial Policy 1 of the Core Strategy (adopted 2011). Newark Urban Area functions as a focus for housing and employment growth in Newark and Sherwood and the main location for investment for new services. The site is located outside of Newark Town Centre which is identified by Core Policy 8 'Retail Hierarchy' as the principal focus for new and enhanced retail activity.

The application site is identified through the Allocations & Development Management DPD as site NUA/E4 and is promoted for employment use. This policy states:

*Land at the former Nottinghamshire County Council Highways Depot on Great North Road has been allocated on the Policies Map for employment development. The site is 2.07 ha in size and B1/B2/B8 is appropriate in this location. In addition to the general policy requirements in the Core Strategy and the Development Management Policies in Chapter 7, with particular reference to Policy DM2 Allocated Sites, and Policy DM3 Developer Contributions and Planning Obligations, development on this site will be subject to the following:*

- *Appropriate design which addresses the site's gateway location and manages the transition into Newark Urban Area including retention and enhancement of existing boundary planting on the Great North Road/Kelham Road boundary*
- *The preparation of a Site Specific Flood Risk Assessment by the applicant forming part of any planning application; and*
- *Pre-determination archaeological evaluation submitted as part of any planning application and post-determination mitigation measures secured by condition on any planning consent are likely to be required.*

- *Proposals for non B1/B2/B8 uses should demonstrate that they meet the requirements of Core Policy 6.*

Consequently, the acceptability principle of development on this site is dependent on an assessment of two principle issues which include the loss of an allocated employment site for retail purposes and the acceptability of this out-of-centre site for retail development. Furthermore, the acceptability of development needs to be assessed against all as all other relevant considerations including site specific constraints and relevant aspects of national policy and the District's development plan. This assessment is set out below.

### Loss of Employment Land

The site allocation policy NUA/E/4 'Newark Urban Area – Employment Site 4' sets out a clear preference for a B1/B2/B8 use in this location though does allow for a non-employment use where the requirements of Core Policy 6 'Shaping our Employment Profile' (CP6) are met.

CP6 states that the economy of the District will be strengthened and broadened to provide a diverse range of employment opportunities through a number of measures including:

*'The retention and safeguarding of employment land and sites that can meet the needs of modern businesses, to ensure their continued use for employment purposes. Land and premises in the existing industrial estates and employment areas, and those areas allocated for employment development, will normally be safeguarded and continue to be developed for business purposes. Where proposals are submitted for economic development uses (as described in PPS4), wider than the B Use Classes, regard will be had to the following:*

- *The extent to which the proposals are responding to local needs for such development*
- *The lack of suitable, alternative sites being available to meet the demand that exists*
- *The need to safeguard the integrity of neighbouring uses, including their continued use for employment purposes*
- *The need to protect and enhance the vitality and viability of town centres*
- *The potential impact on the strategic role and function of the remaining employment land, in meeting the future needs of the District*

CP6 further states that *'where the release of sites to non-employment purposes is proposed, any significant benefits to the local area that would result, should be taken into account to inform decision making'*.

An assessment against CP6 has been submitted with the application. I agree that the site does not form part of a wider employment allocation or area and so would not endanger the continued employment use on neighbouring land. I would partially disagree with the applicant assertion that a traditional employment use could have potential amenity issues on neighbouring residential properties and that the proposed retail use would sit more comfortably. In my opinion, the site is of a sufficient size to accommodate a design, layout and distribution of uses that could take account of such impacts, and redevelopment of the site for employment purposes is likely to require planning permission and relevant measures to mitigate the impact on neighbours could be

controlled by planning condition. Albeit I note that the established employment use of the land and buildings is currently unrestricted.

In addition, a Planning and Regeneration Statement and the Additionality and Regeneration Report that the proposal would generate 200 new jobs and significantly improve the appearance and economic performance of a key gateway location. In respect of job generation it is set out that the numbers would exceed that which could be anticipated through the preferred employment use. I would also agree with the applicant that in the case where a permanent employment use is unlikely to be viable then this would result in the site remaining vacant and delivering no new jobs or investment, a clearly undesirable outcome.

The most up-to-date employment land position (as at 1st April 2015) for the District is set out below:

	Newark Area (ha)	Rest of the District (ha)
<b>Completions &amp; commitments</b>		
Completions as at 1 <sup>st</sup> April 2015	45.35	22.27
Commitments as at 1 <sup>st</sup> April 2015	55.51	15.73
<b>Total</b>	<b>100.86</b>	<b>38.00</b>
<b>Available employment land anticipated to come forward within the plan period (2006 – 2026)</b>		
Employment land in designated employment areas	31.48	9.74
Land around Fernwood	10.00	-
Employment land allocations not subject to extant consent	28.89	29.84
<b>Total</b>	<b>70.37</b>	<b>39.58</b>
<b>Employment land losses and delivery on sites anticipated to come forward beyond the plan period</b>		
Employment land losses (01.04.2010 - 31.03.2014)	2.07	0.86
Proposed loss of NUA/E/4	2.62	-
Element of Land South of Newark outline permission anticipated to come forward outside of plan period	12.00	-
Land around Fernwood	5.00	-
<b>Total</b>	<b>21.69</b>	<b>0.86</b>
<b>Anticipated employment land delivery within plan period</b>		
<b>Total</b>	<b>149.54</b>	<b>76.98</b>
Plan requirement	150 – 157	61 – 63

These figures suggest that the loss of the employment allocation to the Sainsbury's proposal could result in a marginal shortfall against employment land requirements for the sub-area. However there is a substantial amount of employment land (17ha) which although being allocated and, in the case of Land South of Newark, carrying extant outline consent is anticipated to come forward beyond the current plan period. Given the marginal nature of the shortfall it would only require a small amount of such land to be delivered early in order for this potential gap in provision to be corrected for. I am aware that funding has been secured to enable the delivery of the infrastructure necessary to unlock development at Land South of Newark, with works on phase 1 of the Newark Southern Link Road (SLR) having now commenced. Accordingly I am sympathetic to the argument that the conditions for early delivery of at least some of the 12ha of employment land outside of the plan period may be in place. Combined with the small level of the shortfall this leads me to conclude that the impact of losing NUA/E/4 to a non-employment use is unlikely to undermine the meeting of quantitative employment land requirements in the Newark Area.

In addition I would also draw attention to the employment land picture emerging as part of the Plan Review. Firstly it is proposed that a new plan period be introduced extending from 2013-2033, and that flowing from the Employment Land Feasibility Study the likelihood is that we will need to plan for lower employment land targets (62.6 ha to 74 ha for B1c/B2 and B8 development and 91,192 sqm to 113,040 sqm for B1a/b). The Plan Review is in its early stages and clearly these figures and their supporting evidence are yet to be tested through the Development Plan process. However a direction of travel is indicated and they provide an additional degree of comfort that the loss of NUA/E/4 to a non-employment use is unlikely to be harmful in quantitative terms.

I am also mindful that national policy advises that the long term protection of sites allocated for employment uses where there is no reasonable prospect of a site being used for that purpose should be avoided. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support local communities.

Whilst clearly we are not at the stage where it could be reasonably said that protection of the site constitutes 'long-term' the Council has been proactive and commissioned commercial advice over both the short and long-term prospects of delivering the site in line with the site allocation requirements. This advice (prepared by Savills in February 2015) concluded that 'there is a substantial amount of employment land available in Newark that could cater for B2 and B8 requirements'. It further stated that an office led development for the site is not presently viable. With regards to the medium to long-term prospects of the site the assessment suggests that rental values would need to increase by £6 per sq ft for it to become so. This is concluded as highly unlikely to occur within the plan period.

As such, there is no certainty over the long-term delivery of the site in a way that is fully in line with its site allocation policy and consideration of alternative uses according to their relative merits needs to be explored. In this specific case any such merits would need to be balanced against the degree of retail impact arising from the proposal.

#### Retail – Impact on Newark Town Centre

Throughout the processing of the application the District Council has been in receipt of retail planning advice from Martin Tonks Town Planning (MTTP) who has sought to provide an assessment of the case presented by Aylward Town Planning (ATP) on behalf of the applicants. Over the life of the application the applicants have made some substantial amendments in response to this assessment, and in seeking to justify the proposal from a retail planning perspective. Nonetheless MTTP have maintained a consistent line that the application has failed to satisfy the sequential test and will result in a significant adverse impact on the vitality and viability of Newark Town Centre.

Given the numerous iterations to the case presented by ATP, the volume of information submitted and the level of difference between the final positions of MTTP and ATP it was considered

appropriate to commission Carter Jonas (CJ) to undertake a comprehensive final appraisal of all retail matters relevant to the proposal. The findings of the CJ appraisal is summarised below.

### ***Policy Background***

At paragraph 24 of the NPPF, which is concerned with the sequential approach to development management it states:

*“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.”*

Paragraph 24 of the NPPF also requires applications for main town centre uses to consider sequentially preferable sites in terms of their availability and suitability.

At paragraph 26 of the NPPF, concerned with the assessment of retail impact, it states:

*“When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup>). This should include assessment of:*

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to 5 years from the time the application is made...*

*For major schemes where the full impact will not be realised in 5 years, the impact should also be assessed up to 10 years from the time the application is made.”*

Paragraph 27 of the NPPF provides a summary analysis in terms of the decision that would ordinarily be reached, save for the weight to be applied to other material considerations as is required by s38(6) of the Act. Paragraph 27 states:

*“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.”*

The NPPG’s guidelines on ensuring the vitality and viability of town centre underlines the Government’s expectations that local authorities adopt a positive approach to planning for new development, including meeting the need for main town centre uses in full. It confirms the use of the sequential and impact tests as the two tests which need to be addressed by proposals which are not within an existing centre and not in accordance with an up-to-date development plan.

The sequential test will identify if proposals cannot be accommodated within the town centre first, prior to considering the most sequentially preferable edge of or out of centre. The proposal is then subject to the impact test. The NPPG reflects previous expectations that applicants should demonstrate flexibility, in terms of the format and layout of the proposal in their application of the test. The NPPG confirms that where there are no sequentially preferable sites, the sequential test is passed.

The impact test is imposed to ensure that the impact of proposed development over time on existing town centres is not significantly adverse. The NPPG expressly recognises that retail uses tend to compete with their most comparable competitive facilities. The impact test is only applicable to proposals which exceed 2,500m<sup>2</sup> as set out in the NPPF.

Core Policy 8 carries the expectation that retail proposals will be consistent in scale with the size and function of the centre. The policy also provides a sequential approach to development by seeking to direct development to location within or on the edge of centres. Proposals located outside of centres need to demonstrate their suitability through a sequential approach and provide a robust assessment of impact on nearby centres. NAP 1 'Newark Urban Area' supplements this approach by promoting Newark Town Centre as the focus for retail development.

*Policy DM11 'Retail and Town Centre Uses'* follows the high level approach of *CP8* and details that retail development in all out-of-centre locations will be strictly controlled and requiring justification through a sequential test and robust assessment of impact on nearby centres and the following:

- The impact on the range and quality of the comparison and convenience retail offer; and
- The impact of the proposal on allocated sites outside town centres being developed in accordance with the Development Plan.

Assessments should take account of current and future expenditure capacity and the appropriateness of their scale. In respect of Newark Town Centre the policy also includes specific criteria which proposals will need to address. This includes:

- The function of the town centre as a market town and the viability of the market;
- The effect on independent retailers having regard to their role in the town centre; and
- The impact of development on the town centre in catering for tourism.

### ***Retail Sequential Test***

As part of applying the sequential test it is necessary to define 'an area of search' within which to conduct the test. In this case, as noted by CJ, all parties are content that this should only consider sites in the Newark Urban Area. ATP have assessed three sites: Potterdyke, Northgate Retail Park (the extension site which benefits from extant outline consent) and the Land South of Newark strategic urban extension.

The Potterdyke site is clearly not available for the proposed foodstore as Asda is now trading from the site with the car park and bus station also operational. This leaves Northgate and Land South of Newark for more detailed assessment.

As already detailed, a key principle of applying the test is the demonstration of flexibility over issues such as format and scale. In doing so account must be taken account of the applicant's business model, and it is also no longer a requirement to consider the scope to 'disaggregate' specific parts of a retail development onto separate, sequentially preferable, sites. ATP have identified the following trading requirements based on its 'extensive experience':

- Scale of store which can be delivered (circa 2,900 sqm net sales);
- Opportunity for a petrol filling station;
- Prominent location that will serve the northern part of Newark;
- Store that serves existing residents and those using Sainsbury's stores further afield;
- Requisite facilities in terms of parking and servicing; and
- Store at grade.

CJ note that some flexibility has been demonstrated by ATP in excluding the requirement for a PFS on-site which would lower the site threshold to 1.7ha, with the applicant indicating that this equates to a 15% 'tolerance'. Therefore any sites unable to accommodate a store within the 15% margin, with associated car parking and servicing, are considered to be unsuitable and cannot be considered sequentially preferable.

In the view of CJ, notwithstanding a 15% tolerance, the applicant has not demonstrated sufficient flexibility in their approach. Based on their experience, case law and the case already presented by MTTP and other parties, CJ are of the opinion that greater flexibility could have been demonstrated to other elements of the proposed store without necessarily compromising Sainsbury's business model and the stores overall viability.

For example, in terms of the scale of the proposed store (i.e. 4,979 sqm gross / 2,900 sqm net), CJ believe that there is scope to reduce the total sales area further, or at the very least provide for some space at mezzanine level, thereby reducing the overall footprint of the store. In terms of the need for a store 'at grade', CJ are aware of many stores operated by Sainsbury's and others that are not at grade (including the Newark Asda store). This further demonstrates a lack of flexibility on the part of the applicant.

Turning firstly to the Northgate site which benefits from extant outline consent for retail use. Having reviewed the various submissions and evidence CJ conclude that the site is available. Weight is also placed on the submissions by Now Planning on behalf of the site owner Newark Property Developments Ltd (NPD), who state that the site is being actively marketed for retail use, including for a superstore as proposed by the applicant here. Whilst ATP maintain that the applicants (including Sainsbury's) have no interest in the site, the fact remains that it is potentially available at this time for new retail development. In the view of CJ, it is not reasonable to discount a potential alternative site on the self-imposed requirements or preferences of a single operator, in this case Sainsbury's.

As to whether the Northgate site can be considered sequentially preferable, whilst accepting that Northgate is closer than the application site ATP consider that 'the differential is very limited'. The NPPF is however clear in setting out that in considering edge-of-centre or out-of-centre sites preference should be given to accessible sites which are well connected to the town centre. This is a matter of judgement and the PPG is silent on how to differentiate between different sites.

However the previous PPS4 Practice Guidance did state that local topography will affect pedestrians perception of easy walking distances, and that a site will not be well connected to a centre where it is physically separated from it by a barrier, such as a major road, railway line or river, and there is no existing or proposed pedestrian route which provides safe and convenient access to the centre. The degree of 'functional linkage' between edge and out-of-centre sites and the Primary Shopping Area is also an important consideration, as people are more likely to link their trips where each have strong, complementary attractions. It is acknowledged that the former practice guidance has been cancelled, and so whilst no weight is to be placed on the document itself it does nonetheless identify sensible principles against which to consider this issue.

CJ estimate the Northgate site to be closer to the town centre by circa 80m. Furthermore it is considered that there are more potential 'barriers' to movement on the route that runs from the application site (including a level crossing and river) that will impact on the 'pedestrian experience', and in CJs view significantly reduce the potential for functional linkages with the town centre, compared with the Northgate site. CJ therefore conclude that the Northgate site is better connected to the town centre.

ATP also identified a range of site-specific constraints which in their opinion contributed to Northgate being unable to be considered sequentially preferable. This included the site at 1.65ha falling below the 1.7ha threshold, the proximity to heritage assets meaning that there would be a 'need for sensitive design which would not necessarily facilitate a new foodstore particularly wherein it would need to be effectively shoehorned onto a small site', proximity to the River Trent and the fact that a sewer bisects the site. ATP concludes that these impediments are 'myriad and complex' and there is no evidence 'that they could reasonably be overcome'.

In response CJ set out that the fact that the Northgate site falls just below ATP's rather arbitrary site 'threshold' of 1.7ha is not a major impediment to the development of the site for a larger format foodstore, assuming some flexibility in terms of the store size and configuration. Furthermore the extant permission for the site is noted which allows for 6,754sqm (gross) of new retail floorspace, of which 4,959sqm would be at ground floor level (albeit provided in three blocks as planned); whereas the proposed foodstore has a total gross area of 4,979 sqm. The fact that the Northgate site has permission for Class A1 retail floorspace, and is located in close proximity to the existing Northgate Retail Park and Aldi on Northgate, does not indicate insurmountable design, heritage or flood risk issues as barriers to development in this case.

Comments provided by Now Planning on behalf of the Northgate site owner have clarified that in respect of the route of the sewer this runs beneath Unit B of the approved retail scheme. They also go on to conclude that the existence of the sewer 'would not be an unusual or insurmountable constraint given that it is entirely possible to reinforce or divert a sewer with the relevant water authority's consent' and that there is no reason 'why such consent would be withheld'. On this basis the presence of the sewer would not, appear to me, to be a constraint so significant that it cannot be overcome.

In terms of Land South of Newark, it must firstly be noted that that the site is clearly further from the town centre than either the application site or Northgate. The issue therefore is not one of distance/route to the town centre, rather it is a more policy focused question around the spatial

distribution of growth and thus any new retail offer should also co-locate. That is true also of the Fernwood Strategic allocation which also include for a local centre.

Land South itself the site has been allocated through the Development Plan (including provision for 2 local centres) and subsequently gained outline consent. This includes provision for up to 3,150 dwellings, up to 50ha of employment land, two local centres including retail and commercial floorspace, 60 bed care home, two primary schools, multi-use community buildings, including space for a medical centre and crèche etc. Following allocation the initial outline consent allowed for a 1,800 sqm gross for a small supermarket (with a further 800 sqm for other A1 retail uses) in the 'Eastern Centre' and a maximum 100 sqm gross floorspace for a convenience store (with a further 300 sqm for other A1 retail uses) at the 'Western Centre'. Subsequently through the revised outline consent the maximum size of any supermarket within the 'Eastern Centre' has been increased to 1,800 sqm gross sales area.

With regards to availability ATP have accepted that the site could be available and viable within the medium term, though given the necessary enabling infrastructure works and delivery of the planned housing they are of the opinion that this would take at least the full extent of the plan-period. Accordingly they conclude that 'the site does not represent an appropriate opportunity in the short to medium term for a foodstore of the type sought by the applicant'. In response CJ believe the site to be available but as to whether a foodstore will be built out in 2, 5 or 10 years will be largely dependent on: 1) the delivery of the necessary highways and infrastructure works; and 2) whether a foodstore operator is willing to develop out a foodstore in advance of the new housing being provided in part or full over the plan period.

CJ also highlight that the consented larger foodstore would be located in the 'Eastern Centre', positioned on Bowbridge Lane to the south of the existing built-up-area. The necessary connecting link road to London Road (B6326) would be built as part of the first phase of development currently on site. In CJs opinion, and that of MTTP, a foodstore would be built out and trading in advance of a critical mass of new housing being delivered; but only where the foodstore can serve an existing catchment that will underpin its trading viability over the short term.

Turning now to whether the site is suitable to accommodate the proposed foodstore the position set out by ATP is as follows. The applicant has consistently provided the 'strong view' that the site is unsuitable as it will be unable (for an extended period) to deliver a foodstore that meets a pressing need in an appropriate sustainable location. The analysis provided by CJ (see later parts of my comments) however demonstrates that the survey evidence provided by the applicant does not point to a 'significant leakage' from Newark to outlying stores, or the 'chronic overtrading' of existing stores. Indeed in the view of CJ a foodstore of 1,800 sqm (gross sales area) as planned within the Land South of Newark strategic urban extension, although smaller than the application proposal, would have the necessary critical mass and main/top-up food offer to draw existing residents living to the south of Newark Town Centre, and thereby help to reduce 'overtrading' in existing stores. Whilst, as suggested by MTTP, there may also be potential to increase the stores sales area further – subject to the securing of planning consent. CJ also note the advice from MTTP that, should there be sufficient capacity for a third superstore in the town, the Land South of Newark strategic urban extension represents a preferable location given its existing policy designation and the spatial distribution of large foodstore provision to the north of the town.

Whilst considering that the consented foodstore at Land South of Newark could be available and suitable to accommodate the application proposal, CJ identify that there are uncertainties relating to the site which the LPA would be in a better position to come to a sequential conclusion over. The LPA is therefore of the view that the consented store is located in a Centre, and so from that point of view the site would clearly be sequentially preferable to the out-of-centre application site. However the status of this centre is one which will meet 'local needs retailing' and a superstore would clearly exceed this. The Development Plan is also clear in setting out that proposals for retail uses within the centres defined in the Retail Hierarchy should be consistent in scale with the size and function of the centre. I am sympathetic to the argument that there is a mismatch between the spatial distribution of existing foodstore provision and the location of future growth – the co-location argument. However considering Land South of Newark as a sequential alternative would not be consistent with either the straight definition of the retail sequential test within the NPPF and NPPG, nor in accordance with the Development Plan as it presently stands. In my opinion the most appropriate way to resolve any issues around future convenience floorspace capacity (should this exist) and the spatial distribution of existing provision and planned growth is through Plan Review process rather than via this application. Clearly, as the Council's Plan Review process continues closer to examination and ultimately adoption this issue will become clearer.

This leaves the Northgate site as a potential sequential alternative to the application site. CJ conclude that none of the site specific issues raised by ATP over the Northgate site would represent 'insurmountable barriers' to development. The site is considered to be available and the permitted (Class A1) retail floorspace for the site demonstrates that it can accommodate a full offer foodstore, assuming some flexibility in terms of format and scale. Finally the site is also viewed as closer and better connected to the town centre than the application site, and has a greater potential to generate linked trips.

### ***Retail Impact Test***

#### *Catchment Area*

Turning now to matters relating to the impact test as required by national policy and the Development Plan. The definition of a robust and realistic 'catchment area' is crucial to the assessment of the capacity for, and impact of new retail floorspace on existing centres and stores. Where a catchment is drawn too widely and does not take into account the effects of competing centres/stores and local geography/transport, it will inevitably increase the quantum of expenditure available to support the capacity for new retail floorspace and potentially dilute the proposal's impact across a larger number of centres/stores. CJ concur with MTTP that the catchment area provided by ATP is excessive and too widely drawn for the proposed store. However given that ATP's quantitative retail impact assessment is informed by a robust and up-to-date survey this allows for a more detailed analysis and interrogation of their approach and key assumptions. It is also noted that some of the outlying postcode areas initially included have subsequently been withdrawn.

#### *Existing Turnover Levels*

The analysis of ATP's 'benchmark' and 'survey-derived' turnovers for existing stores and convenience goods floorspace in Newark is important as the turnovers provide the baseline for

the retail capacity and impact assessments. The benchmark turnover assumptions of existing stores provided by the applicant are broadly accepted in the CJ work. Through the comparison between the revised survey-derived convenience turnovers and benchmarks it is indicated that, in respect of the Town Centre, the Marks & Spencer's is trading at 43% of its expected benchmark and the other remaining convenience floorspace at 69% of its predicted benchmark. Indeed the Town Centres total turnover is some 41% below benchmark levels. The edge-of-centre Morrison's and Aldi stores are estimated to be significantly above benchmarks (53% and 164% respectively) based on survey derived market shares. This contrasts with the edge-of-centre Asda and Waitrose stores which are estimated to be trading below benchmark turnovers (13% and 20% respectively). Elsewhere the Sainsbury's Local (Balderton) is trading 15% above benchmark and the Tesco at Ollerton at its estimated benchmark. The position presented by the ATP has changed over the course of the application, with the data provided in December 2014 showing significantly more subdued trading levels when compared with the original assessment of September 2014. Notably the CJ work highlights that the applicants table does not show the convenience goods turnover of Newark Town Centre which as already established is trading significantly below its predicted benchmark level.

#### *Turnover and Trade Draw of the Proposed Store*

The applicant has suggested that the proposed store will trade below the Sainsbury's benchmark level with figures that vary from 85-90% of the company average. The basis of this judgement is however questioned with CJ clarifying that the correct approach is to assess capacity and impact based on company averages. The allowance for some growth in comparison goods turnover as suggested by ATP is accepted as broadly in line with year-on-year growth rates provided by Experian.

In terms of trade draw ATP indicate that the store would deliver a very similar scale of food offer as that provided by the Morrison's and Asda stores. Therefore to interrogate this CJ refer back to ATPs 2014 survey evidence, in order to determine a reasonable and robust trade draw profile for the proposed store. The applicant states that survey evidence confirms that the existing Morrison's and Asda stores draw the majority of their trade from Zones 1,2,3,5 and southern parts of Zone 6 of the Study Area. The make-up of these Zones is broadly as follows.

- Zone 1 - includes Newark, its southern hinterlands, Balderton and Coddington;
- Zone 2 - consists of Southwell, its south and southwestern hinterland, Lowdham and Calverton;
- Zone 3 - comprises an area which includes Farnsfield, Bilsthorpe, Rainworth and a small part of Mansfield;
- Zone 5 - which is most of the northern centre of the District and so includes places such as Caunton, Norwell and Sutton-on-Trent as well as extending as far north as to include Tuxford;
- Southern parts of Zone 6 – located to the north east of Newark and incorporating Collingham.

ATP suggests that this also represents a reasonable proxy for the proposed development. The applicant has then moved on to try and establish the trade draw of existing town centre and main

food stores across these key zones, the wider study area (made up of 11 Zones) and 'inflow' from sources outside of the study area. Critically CJ are not convinced by ATPs judgements (which are not informed by survey evidence) that the main existing foodstores (Morrison's, Aldi, Asda and Waitrose) draw between 5-10% of their total turnover from outside of the Study Area. It is noted that the existing Retail & Town Centre Study (2010) makes no allowance for convenience goods trade draw from beyond the wider study area in its quantitative assessment. The implications of assuming a wider trade draw is to increase the turnover of existing centres and stores, and thereby reduce the forecast impacts.

In respect of the proposed store ATP have reduced the suggested trade draw from beyond the catchment area (i.e. the zones listed above) from 25% to 15% over the course of the application. The information provided in July 2015 assumed that 89.5% of trade would be drawn from the defined catchment area (with Zone 1 itself providing broadly half of the stores trade) which would indicate a 11.5% trade draw from outside the catchment. This is at variance with the original 25% and 15% figures and also does not correspond with figures used elsewhere in the assessment provided by the applicant.

Concurring with the analysis provided by MTTP, CJ highlight that Asda and Morrison's draw a higher proportion of their trade from Zone 1 (Newark) and a significantly smaller proportion of their trade draw from Zones 3 and 6, when compared with the trade draw profile suggested for the proposed store.

Ultimately CJ go on to reach the same conclusion as MTTP, which is that the applicant has understated the proposed stores trade draw from Zone 1, and overstated the draw from Zone 3. Furthermore CJ are not convinced that the proposal will draw as much as 5% of its turnover from 'elsewhere' (i.e. outside of Zones 1-11 of the Study Area), in addition to 7.5% from the rest of the Study Area (i.e. sources outside of the zones which constitute the suggested catchment area). Given the extent of the wider Study Area (Zones 1-11) defined for the 2010 Retail & Town Centre Study, CJ consider it highly unlikely that the proposal will draw **any** trade from beyond this zone. Indeed it is notable that the 2010 Retail & Town Centre Study made no allowance for convenience trade draw from beyond the study area. On this basis the same will apply to the wider trade draw assumed by ATP for Morrison's, Asda and Waitrose from 'elsewhere'. CJ therefore anticipate that the trade draw from Zone could be even higher than has been assumed by ATP and so the impact on Newark's existing stores greater.

#### *Qualitative & Quantitative Need*

Demonstration of quantitative and qualitative need for new retail floorspace is not a specific NPPF policy test, nonetheless it can be material to the assessment of proposals. For instance the lack of forecast expenditure capacity within a catchment area will generally mean that proposals for new retail floorspace will have to draw a higher proportion of their turnover from existing centres and stores.

Turning firstly to the issue of qualitative need, ATP have consistently presented a qualitative argument for the proposal principally based around the enhancement of consumer choice and the opportunity to redress existing and systemic overtrading of existing stores. The applicant has maintained that the absence of a Sainsbury (and Tesco) store is "stark, and given the existing

trading characteristics of the key stores it points very clearly to a lack of consumer choice and an overriding qualitative need". However in the experience of CJ many centres of a similar size to Newark do not have representation from all 'top four' grocers. The absence of a larger Sainsbury's (or indeed Tesco) superstore does not therefore, by itself, point to a pressing qualitative need for the proposed store. The appraisal also comes to the view that there is no compelling evidence to suggest that Newark's urban and catchment population do not currently have access to a good choice of stores to meet their main and top-up food shopping needs.

The interpretation of the survey evidence provided by CJ shows that Newark's existing food stores are achieving a strong retention (89.4%) of shopping trips and expenditure in the 'core' Newark catchment zone (i.e. Zone 1). Furthermore in the three postcode sectors which cover Newark's urban area (NG24 1, NG24 3 and NG24 4) the retention is even higher at 91% and 96.2% (see Appendix 2 of the CJ report). The survey evidence does not therefore indicate that Newark's shoppers are having to travel unsustainable distances to meet their food shopping needs, or that there is a significant 'leakage' of available local spend which points to a lack of consumer choice as ATP have claimed.

In addition given its geographic location, the proposed foodstore will not serve the northern side of Newark any better than the existing Waitrose, Morrison's and Aldi foodstores which are located off key access routes leading to and from the 'northern catchment zone'.

CJ are furthermore not convinced in the argument provided by ATP that the main foodstores are 'overtrading' to the point where this represents a clear qualitative/quantitative need for the proposed store. As MTPP had also identified, ATP's original quantitative case was weakened by an error in their retail assessment which resulted in a significant reduction in the survey-derived turnovers of the main stores. The updated information provided by ATP (July 2015) shows that both Asda and Waitrose are trading below their company averages, and the town centre stores (including Marks & Spencer) are trading significantly below benchmarks.

Whilst Morrison's and Aldi are shown to be trading above company averages, CJ are of the view that the permissions for a foodstore as part of the Northgate consent and that at Land South of will further 'dampen' the turnover levels of Newark's stores. It should be noted that this would also be in combination with the long term impact of internet shopping on the way in which households choose to shop for their main food purchases.

Indeed CJ argue that just because a store is trading above company average this does not necessarily mean that there is a clear and present latent need for additional new retail floorspace to help address conditions of overtrading. It follows that a 'company average' is an average for all stores trading across the UK; ranging from smaller convenience stores to larger format superstores, and stores in different geographic locations and population densities (i.e. urban versus rural). As a result some stores will naturally trade above or below the company average as a matter of course, but this does not mean that they are unviable and or overly congested, resulting in residual expenditure being available to support new retail floorspace that could have a significant adverse impact on stores in town and edge-of-centre locations.

In terms of quantitative need the 2010 Retail & Town Centre Study identified no real convenience capacity until 2019 even allowing for Newark's 'growth point' status. This Study informed both the

production of the Core Strategy (CS) and subsequent Allocations & Development Management (A&DM) Development Plan Documents, and was subject to testing as part of the Examinations for the respective documents. The Inspector's Report issued following the Examination of the A&DM DPD states, at Para. 38 and 39, that there is an over provision of retail floorspace as a result of implemented permissions and commitments. With the Inspector going onto conclude that "as things currently stand an over-provision of retail is predicted. The convenience oversupply relates to existing permissions". As detailed in the A&DM DPD sufficient land was allocated to meet requirements, taking account of existing completions and commitments. On this basis CJ conclude that there would appear to be no demonstrable quantitative need for the proposed foodstore based on the Authority's own evidence as accepted at Examination in Public. I would also draw your attention to the fact that the most up-to-date retail monitoring data continues to support this position. ATP have provided their own capacity assessment though this still relies on the 'overtrading' of existing stores and the 'leakage' of expenditure to support their position. Accordingly in the view of CJ limited weight should be placed on the capacity exercise undertaken by the applicant.

#### *Newark Town Centre Health Check*

The undertaking of health checks in accordance with the Planning Practice Guidance (PPGs) key performance indicators (KPIs) are integral to the informed assessment of the potential impact of new retail floorspace in edge and out-of-centre locations on town centres. In response to MTTPs advice ATP did eventually provide a full health check assessment which covered all ten KPIs. Through this exercise the applicant has concluded that "there is some evidence of improvement in the health and vitality of the centre over recent years, and very limited evidence of any decline. Given this and the low vacancy levels, there can be no credible suggestion that the centre is unhealthy or exhibiting signs of vulnerability". CJ point out that the most recent Experian Goad report (June 2015) does show an increase in vacancy levels across the town centre. MTTP had previously identified that the Town Centre performed poorly in terms of the 'diversity' of its offer with the balance of used being overwhelmingly slanted towards comparison retail (a 93/7 split). CJ come to the view that the town centre appears to be performing well in some of its KPIs, but that the increase in vacancy levels and the apparent lack of diversity in its convenience/retail offer does point to a weakness in its overall offer, and a potential vulnerability to impact from the proposed out-of-centre foodstore (addressed in greater detail as part of the impact assessment).

#### *Quantitative Impact Assessment*

CJ advise that although the assessment of trade draw and retail impact is a matter of judgement, it should always be informed by robust evidence and information on shopping patterns. The PPG provides a guiding principle in stating that impact should be assessed on a 'like-for-like' basis and that retail uses tend to compete with their most comparable retail facilities.

Turning firstly to the 'solus' impact (i.e. the impact of the proposal alone), ATP forecast that the proposed Sainsbury's would have a -19.5% impact on Asda, which would result in it trading at some £7.5m (25%) below its company average. ATP maintain that due to falling outside of the Primary Shopping Area (PSA) the Asda store has no express policy protection. Regardless of whether Asda is protected by policy or not, CJ conclude that the store clearly functions as an important anchor store for the town centre as a whole, generating linked trips and expenditure to

the benefit of other shops, services and businesses. Its important role in supporting the town centre is therefore a key material consideration in the assessment and determination of the impact of the proposal.

CJ also note the impacts on Morrison's (-13.8%) which is within circa 10m of the PSA, Waitrose (-10%) and Aldi (-9.9%) are relatively high, although only Waitrose is forecast as trading below its company average. With regards to Newark Town Centre ATP forecast that 3.5% of £0.86m of the proposed store's convenience turnover will be diverted from the town's food and convenience stores. This reduction in its convenience goods turnover to £9.13m in 2019 means that the Town is forecast to trade at some 57% of its benchmark (£16.11m). ATP also assume that 19.5% (£4.8m) of the proposed stores turnover will be drawn from stores outside of the widely defined catchment – principally the Tesco in Ollerton (4% or circa £1m of its total turnover), Sainsbury's at Tritton Road, Lincoln (3.25% or £0.8m), Sainsbury's in Nottingham (2% or £0.49m) and a further 3% (£0.75m) from other Sainsbury's stores (including in Mansfield and Grantham). There is a further assumption that 7.25% (£1.78m) of the stores proposed turnover will be diverted from unspecified stores outside of the defined catchment.

CJ agree with the assessment provided by MTTP that ATP have overstated the level of trade draw to the proposed store from outside the defined catchment (i.e. 19.5% of its turnover, equivalent to £4.8m), and underestimated the likely trade diversion from the town centre (3.5%, equivalent to £0.86m). Based on the evidence relating to current food shopping patterns and the trading characteristics of Newark's existing foodstores, CJ conclude that the trade diversion and impact of the proposed store will be focused even more on the existing foodstores in Newark's 'core' Zone 1 and, it follows, on the town centre.

On this basis assuming an increase in the trade draw to the proposed store from the town centre to a minimum 5% (circa £1.23m), this would raise the impact on its convenience goods turnover to -12.3%. CJ consider this to be a more realistic impact on the town centre's convenience turnover.

Turning now to the 'cumulative' convenience impact. In reviewing the case presented by ATP, CJ come to the view that the applicant has overstated the potential trade draw of the commitments from beyond the defined study area, and underestimated the potential turnover of the proposed Lidl store and non-food floorspace at Northgate. Notwithstanding this ATPs cumulative impact forecast show an increase to the impact on the town centre from -8.6% to -12.1%. This is equivalent to a total trade diversion of £1.21m and would result in the town centre trading at 54% of its predicted convenience goods benchmark. Taking account of their more realistic -12.3% solus impact CJ forecast an increased cumulative impact on the town centre's convenience goods turnover of at least -16%. This is equivalent to a trade diversion of £1.58m and would result in the town centre trading at circa 52% of its benchmark level.

Furthermore CJ consider it reasonable and robust to assume that the retail commitments will draw a higher proportion of their turnover from the 'core' Newark zone (Zone 1), and that this will effectively increase the trade draw and impact on the town centre to well over 20%.

In terms of the comparison impact of the proposal ATP forecast that the 865 sqm net of comparison goods sales will generate a non-food turnover of £9.4m in 2019 (based on 2012 prices). CJ advise that it is generally accepted for the purposes of retail impact assessments that

the comparison goods sales in larger format superstores generally function as an 'adjunct' to their principal role as food shopping destinations, and the main impact will be with 'like-on-like' stores with a similar comparison goods offer. Notwithstanding this, the larger format stores do sell a wide range of branded and price competitive comparison goods. As with the convenience element CJ arrive at the view that ATP have overstated the potential trade draw from stores outside the defined catchment, and under-estimated the likely trade diversion from the town centre. Though having said this increasing the trade draw to a more robust 10% (0.94m) would only increase the impact to circa 0.6%. Combined with the cumulative impact of development at Northgate, NSK and the strategic urban extensions the cumulative impact on the town centre will be greater than that forecast by ATP, but at around 3% (circa £5m) this cannot be considered significant adverse in quantitative terms.

CJ then proceed to assess the total convenience and comparisons goods impact which they consider to be higher than that which ATP have forecast. From a solus point of view it is considered that the proposed store would have an impact of -1.5% on the town centre's total estimated turnover. When considered cumulatively alongside commitments this rises to a trade diversion of circa £6.6m, equivalent to an impact of -3.8% on the town centres total retail turnover.

#### *Indirect Impacts*

Indirect impacts of the proposal would include the diversion of linked trips and expenditure from existing edge and out-of-centre foodstores which are closer and more accessible to the Primary Shopping Area (PSA) than the application site. CJ concur with MTTP and third party comments made on the application that the location of the proposed store is too remote from the town centre to generate strong functional linkages and thereby compensate for the loss of linked trips and footfall generated by stores closer to the PSA; principally Asda and Morrison's (which are within 50/60 metres of the PSA). It should be noted that the 2010 Retail & Town Centre Study identified that Morrison's and its car park (circa 600 spaces) generate significant footfall across the Town Centre. Furthermore, following the opening of Asda and its car park (Circa 400 spaces) on the edge of the PSA, this has further strengthened pedestrian footfall on the other side of town.

The applicant has suggested that in their view the level of linked trips for Morrison's are 'extremely optimistic' and that the proportion is likely to be significantly lower. CJ however note that the survey information and other evidence does point to the fact that Morrison's and other stores located closer to the town centre are generating significant linked trips, and so disagree with ATP on this point.

Having taken account of indirect impacts ATP suggests that the convenience goods impact of the proposal rises from -12.1% to -17.7% (£1.83m), and an increase in the comparison goods impact to -2.6% (£4.25m) from -1.53%. The applicant then makes the assumption that 15% of the proposed stores total turnover will be translated into linked trip expenditure to the town centre (equivalent to £5.1m) and this effectively balances out some of the forecast loss in linked trip expenditure. This equates to a fall in the total cumulative impact from -8.9% to -6%.

Following this ATP have also provided a second 'linked trips impact scenario' in which they effectively reduce the survey-derived linked trips for existing stores (20% assumed for the edge-of-

centre Morrison's and Asda and 15% of the out-of-centre stores) which results in a reduced cumulative impact of -6.3%. The propensity for linked trip expenditure from the proposed store is then reduced from 15% to 7.5%. This results in a sum total impact of -4.8% (inclusive of cumulative impacts for convenience and comparison goods, and netting). The applicant considers this to be a more realistic approach and it means that the indirect effects are less substantive.

CJ highlight that the applicant's assessment of the likely balance between the loss of linked trip expenditure from the town centre, and any benefits arising from the proposed Sainsbury's store are subject to a myriad of assumptions and judgements. Notwithstanding that CJ expect the loss of linked trip expenditure from the Town Centre to significantly outweigh any benefits arising from the proposed store. Based on CJs judgements with regard to trade diversion and impact they predict that the overall impact on the Town's convenience goods turnover will increase to **well over -20%**. Indeed, ATPs own more cautious forecasts show a cumulative impact on the town centre's food and convenience stores of -17.7%.

#### *Impact on vitality, viability and investment*

It should be noted that whether the significance of this overall impact on the towns convenience goods turnover can be considered 'acceptable', 'adverse', or 'significant adverse' is dependent on the individual circumstances of the locality and type of centre. In this respect regard needs to be had to national planning policy, the provisions of the Development Plan and any other material considerations. I would however highlight that the PPG does nonetheless advise that in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.

#### *Investment*

The assessment of the impact of the proposed store on investment hinges on the extent to which it is likely to undermine planned development or investments based on the effects of current/forecast turnovers, operator demand and investor confidence.

CJ underline that the viability and delivery of the (1,800 sqm) foodstore which is to anchor the eastern centre of the Land South of Newark strategic urban extension is dependent on its ability to attract a major foodstore operator. It should be noted that the site allocation supports the principal of retail provision to meet local needs, on the basis that it will support the development of a sustainable community, and that the store now benefits from extant outline planning consent. CJ note that the location of the proposed store on the edge of the existing urban area means that it could be possible for the store to open and trade viably in advance of the majority of the planned new housing being developed out.

CJ agree with the line taken by MTTP that this store will be competing for the same market opportunity as the proposed Sainsbury's, as the scale of sales area means that it will function as an important main and top-up food shopping destination for a wider catchment. Whilst it is understood that Sainsbury's would not want to locate in the Land South strategic urban extension, CJ believe that permitting the application would have a significant adverse impact on the potential to secure a viable foodstore operator to help deliver the policy compliant investment at Land South of Newark. In turn this would have a significant adverse impact on the delivery of a

sustainable and viable centre to serve both the existing and new residential population to the south of Newark.

#### *Impact on Consumer Choice and Competition*

CJ are in broad agreement with MTTP that given the size of the town, its population and the lack of demonstrable quantitative/qualitative need, the town's existing provision does not point to a demonstrable lack of choice and competition. In the judgement of CJ there are no signs of 'chronic overtrading' (as submitted by the applicant) across the town centre as a whole that points to a clear and present need for an additional new larger format superstore. Indeed, the permissions for foodstores as part of the Northgate expansion and Land South of Newark strategic urban extension will help meet the need identified in the 2010 Retail & Town Centre Study and Development Plan in full.

Pointing to the strong retention level of stores in Newark's 'core' catchment (Zone 1) does not point to an underlying dissatisfaction with the town's existing retail provision resulting in a 'exodus' of shoppers to more distant stores. The survey evidence does therefore not point to any significant leakage to outlying Sainsbury's foodstores. Furthermore, the choice of food shopping via the internet does not mean that the absence of a Sainsbury (or Tesco) superstore in Newark represents a significant qualitative gap or lack of choice/competition; particularly when the existing and planned foodstore provision within Newark is considered along with the town centre and market.

In any event CJ, in line with MTTP, emphasise that the enhanced choice and competition arising from an out-of-centre proposal has to be balanced against the adverse effects on the choice and quality of the convenience offer in the town centre. Again in agreement with MTTP CJ state that if the convenience goods offer in Newark decreases any further then the diversity is diminished and this is a key indicator of vitality and viability. A change in diversity such as this can have an impact upon choice and competition and thereby overall vitality and viability. This is considered below in the overall context and thus judgement as to the impact of this proposal on the vitality and viability of Newark Town Centre.

#### *Vitality and Viability of Newark Town Centre*

Based on the review of all submissions and evidence, including the 2014 household survey submitted by the applicant and health check indicators CJ conclude;

- The town centre stores are underperforming when compared with their predicted benchmark turnovers;
- Marks & Spencer's is identified in the applicants own quantitative assessment to be performing significantly below its anticipated company average turnover. In light of the company's decision to close a number of town centre stores over recent years, there has to be a concern that the Newark store could be vulnerable to closure;
- The proposed Sainsbury's store is located substantially further from the town centre's PSA than Asda and Morrison's, and indeed Aldi. Although located directly on the edge of the PSA in planning terms, both Asda and Morrison's perform important roles as anchor foodstores. The diversion of convenience and comparison goods expenditure from these

- stores, and the inevitable reduction in linked trips, expenditure and footfall to other shops, businesses and services across the town centre will be significant in the view of CJ; and
- The reduction in linked trips and footfall across the town centre will also impact on the town's important market which comprises a number of stalls selling a wide range of goods that can also be sourced from foodstores. The submission made by Newark Town Council is noted, particularly in the respect that, in their view, the proposal will lead to a further decline in footfall in the town centre and subsequent market income, and that the cumulative impact will 'further reduce the diversity of the market and town generally'.

On this basis CJ concur with the opinion provided by MTTP that the forecast impacts on the town centre convenience goods turnover of over 20% will result in reduced diversity in the town centre and a consequently significant adverse impact on the centre's overall vitality and viability.

#### *Proposed Mitigation Package*

The Applicant has submitted a proposed mitigation package which seeks to reduce the overall impact of the proposal. It will be necessary therefore to consider whether the package would address the forecast impacts, i.e. the significant adverse impact on committed and planned public and private investment and the significant adverse impact on the convenience goods turnover of the Town Centre, and if so to what effect. Critical questions include whether the package can be secured and what is the residual impact on the town centre be taking account of the package.

Cumulatively the applicant estimates the overall value of the proposed package to be £597,009 which would be spent prior to the store opening and then across its first four years of trade. The package aims to mitigate impacts on; the diversity of the town centre, convenience store closures and reoccupation by non-food retailers, Newark market, independent traders and reduced footfall in the town centre through:

- The promotion of, and a gradually reducing stall subsidy towards, 'periodic' farmer's markets in the town centre (£45,000), contributions towards the Signage Strategy in order to promote 'wayfinding' between the proposed development and other attractions within and around the town centre' (£86,500) and promotional and business advisory support for Newark market stallholders with a gradually reducing stall subsidy also included (£85,000);
- Preparation and implementation of a 'Shop Local' campaign to raise awareness of local produce, offers and local businesses operating in the town centre (£85,000), and a 'Business Improvement Contribution' which would provide advice and grant funding for shop-front enhancements to assist struggling business to attract customers (£70,000);
- Provision of a full time salary for a Town Centre Manager to coordinate town centre projects including those identified in the package (£125,509); and
- The inclusion of a 'Special Project Contribution to provide the Town Centre Manager with funding to operate additional projects or to supplement individual measures included in the package (£75,000).

It is also noted that the proposed package includes a £25,000 contribution towards jobseeker training to maximize local employment in the store.

The proposed mitigation measures appear to be designed to encourage people to visit the town centre. Whilst this may have some effect there is no measure as to what effect and I am therefore concerned that the suggested measures would not be sufficient to address the significant adverse impacts identified. None of the measures would directly address the significant adverse impact on committed and planned public and private investment. All of the measures are short-term in nature. Due to the barriers to the town centre identified, it is not considered that improved signage to the town centre would have a marked impact upon encouraging people to visit the town centre.

As such, the fact would remain that the foodstore would continue to take trade from the centre and given this loss of trade (particularly convenience trade) it is not clear how the concerns upon diversity and linked trips would be resolved. There is no evidence as to any beneficial effects of the mitigation measures and any effects are unquantifiable likely extent of their effect has not been quantified by the applicant and it is questionable as to whether they can be meaningfully quantified in any event.

### ***Retail Summary***

The appraisal carried out by CJ has concluded that the proposal has failed to satisfy both the sequential and impact tests and should be refused on these grounds, in line with the provisions of national planning policy and the Development Plan. Having reviewed the CJ work I am content that it provides a robust appraisal of the retail matters relevant to the proposal, and that the conclusions reached over the sequential and impact tests are appropriate. Notably I would draw your attention to the fact that the Authority has now received retail planning advice from two independent sources, both of which have reached the same overall conclusions regarding the sequential and impact tests. Even when taking into account a mitigated impact (through the imposition of a legal agreement to secure the proposed mitigation package set out above), it is considered that the development would result in a significant adverse impact on town centre vitality and viability and on investment in a centre in the catchment area of the proposal.

### **Impact on Visual Amenity Including Heritage and Landscape Impacts**

The site allocation policy NUA/E/4 'Newark Urban Area – Employment Site 4' states that development on the site will be required to have an '*Appropriate design which addresses the site's gateway location and manages the transition into Newark Urban Area including retention and enhancement of existing boundary planting on the Great North Road/Kelham Road boundary*'.

Whilst an employment use is not proposed (in terms of a B1, B2, and B8 definition), it is still considered important that the design of the proposed foodstore and PFS appropriately address the site's gateway location and ensure the proposal does not result in any adverse heritage or landscape impacts. Whilst the site is currently vacant and contains a number of unsightly unused buildings, the site is equally currently well screened particularly from the east by the existing trees and landscaping. Views of a vacant blue coloured warehouse building located within the site are achievable from the north.

### ***Heritage Impact***

The site is located on a key gateway location on approach into the historic town prior to entering the Conservation Area. There are a number of listed buildings in the locale, notably including the

Grade II listed Castle Station. The Edwardian tree lined avenue along Great North Road, which was paid for by public subscription in the early 20th century, is an important feature of the town entrance, and views of the Castle (Grade I, Scheduled Monument) and St Mary Magdalene (Grade I) are positive. The relationship of the Great North Road as a historic thoroughfare into Newark with surrounding heritage assets, including the 18th century Smeaton's Arches and culverts (Grade II) and various Civil War earthworks, is an important aspect of the town's setting and significance.

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Policy CP14 of the Core Strategy requires continued preservation and enhancement of heritage assets. The principal act also requires that special regard is given to the preservation of heritage assets. Local planning authorities need to have special regard to the desirability of preserving the heritage significance of a listed building including that derived from its setting and to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas.

Heritage England as statutory consultee do not object to the planning application and have stated that the application should be determined in accordance with national and local policy guidance, and on the basis of the LPA's specialist conservation advice.

The site itself contains no obvious heritage value albeit the historic mapping shows the positing of the Causeway culverts on the boundary of the application site. The Conservation Officer has visited the Causeway culverts which can only be seen structures on the east side of Great North Road (assuming that the culvert beneath the roadway includes brick vaulted ceilings similar to those elsewhere along the historic causeway). The listings imply that the west side counterparts were rebuilt during road widening in the 1920s. In theory, there should be a corresponding culvert structure on or near the proposal site at both the Kelham Road junction side and at the north end towards the roundabout however, the Agent has confirmed that they cannot find a corresponding structure. The Conservation Officer considers it likely that the parapets were probably demolished as part of highway works in the 20<sup>th</sup> century. The brick vaulted channels may still be underneath the road however, so any works to widen the road should take this into account (including any relevant consents). Overall, the Conservation Officer is satisfied that the development proposal is unlikely to be harmful to the significance of the visible parts of the causeway arches (e.g. the structures on the east side of the road). However, I am less certain about the whole of the structure since we do not yet know its extent (although given that the west side fabric is 1920s, one would assume that the parapet fabric/retaining arches at the very least might be of lesser interest when compared to the 18<sup>th</sup> century fabric).

The submitted Planning Statement includes a Heritage Analysis. This does not cover the impact upon the Smeaton's Arches and culverts. As such, if planning permission were to be granted, a condition would be required to ensure that a desk based assessment of the structures and a methodology for their repair/renovation to ensure that any engineering works ensure that any underground elements of the listings are protected.

The submitted Heritage Analysis does considers that views to the South edge of the site from the Conservation Area would be screened through the retention of existing trees on the southern side of Kelham Road. Great North Road. Glimpsed and distant views would be of the rear of the store which would itself have boundary fencing softened by landscaping and public realm areas. The Conservation Officer and I concur with this analysis and do not consider that any adverse impact upon views from heritage assets or the Conservation Area would result from the proposal. Views from the castle and church towards this site take in the foreground roofscapes of various

warehouses, and this riverside location has historically supported industrial uses and industrial buildings. Given the distance away and the low lying nature of this development, it would have very little impact on outward views. The southern boundary of the site is further considered in the Landscape Impact section below.

It is also necessary to consider the impact of views of the site towards heritage assets and the Conservation Area. In particular, views of the spire of St Mary Magdalene are visible in approach from the north west. The current warehouse on the former depot site rises above the tree line formed by vegetation on this site and intrudes into views of the church slightly. It is therefore important that views from the A46 roundabout and along Great North Road preserve the setting of the church, avoiding any obviously tall structure.

The Conservation Officer raised no objection to the height of the proposed scheme, which sits lower than the warehouse and mostly below the tree height. Whilst the volume of the foodstore would be much greater and roofscape would inevitably be seen, it is considered that the spire would still remain as the main vertical landmark.

Whilst the Conservation Officer raised no concern in relation to the overall height of the PFS, they are concerned about the potential impact of any future advertisements. However, they defer to the tree/landscape team at County for their advice. It is also acknowledged that any future signage would need to be assessed through an advertisement consent application when the amenity impacts of any signage would need to be fully considered.

Travelling along the Great North Road into Newark the former depot site has a neutral impact by virtue of a substantial green boundary, allowing no distraction or intrusion into the sequential views as they open up of the Castle and conservation area around it. There is a plaque noting the planting of trees for the visit of Edward VII in 1909 located within the south east corner of the site. However, the Conservation Officer is unclear which trees this plaque refers to given that historic maps do not show any trees on the site until 1970. It is however likely that the plaque refers to the avenue of trees along Great North Road, lining the roadside immediately to the east of this site.

It would be important to keep a substantial green boundary along the east side of the site. The east boundary of the site is further considered in the Landscape Impact section below.

Overall, subject to conditions relating to materials and details, the proposal is not considered to be harmful to the setting of the Conservation Area located to the south of the site and would cause no harm to any listed buildings in accordance with the aims of the NPPF, CP14 of the Core Strategy and Policies DM5 and DM9 of the DPD.

### *Landscape Impact Including Trees*

CP9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. It also states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

A Tree Impacts Survey (including full tree survey and Arboricultural Implications Assessment) has been submitted with the application which confirms that 24 trees are proposed for removal along with a group of self set sycamore seedlings. In general these tend to be low quality class 'C' trees

and those considered to be unsuitable for retention class 'U'. However, around 12 moderate quality class 'B' trees are also shown for removal.

The Tree Officer raises no objection to the proposed tree removal and replacement planting scheme proposed. Whilst there would be a loss of character in the short term, due to the felling of mature trees and the replacements will take some time to establish, it is considered that removal and replacement is the best long term approach.

The trees along the north east boundary of the site are proposed for removal as a consequence of the proposed site access works. The Survey states that *'although there are several trees in good condition, their overall landscape value is not such that they should dictate an otherwise sound layout because they are relatively easy to replace within a tree replacement programme'*. Trees along the east boundary of the site are identified as a broadly linear group containing mainly Sycamore and Silver Birch. A large proportion of these trees are in very poor condition with several dead. Again their removal and replacement is proposed. The south east corner of the site contains a number of trees in variable condition and some of these trees are proposed for removal to enable the provision of the service yard area. The Survey indicates that this is possible without any loss to the overall group value. Approximately 8 trees closed to the highway are proposed for retention around this corner. Three trees are proposed for removal along the west boundary of the site.

A proposed replacement planting scheme has been submitted with the application. It is proposed to plant the northern boundary of the site with Limes and the north east boundary with Norway Maples as partial replacement for those trees lost along the north eastern boundary and from the access in to the site. The maples would also provide a new line of trees to replace those currently considered to be dead and/or of poor condition to mirror those to the east of Great North Road. These trees would be under planted with a new native hedgerow and shrub planting. The County Landscape Team consider that the open views from the northwest for users of the relief road east bound would remain and that whilst the existing view is relatively open, the impact of this at night when both car park and petrol station will presumably be illuminated will be even greater.

The retained trees along the south boundary adjacent to the Kelham Road/Great North boundary would be under planted with native shrubs and both deciduous and evergreen species. Fruit trees are proposed against the southern side of the acoustic fence, under planted with shrub hedging and mixed groundcover. Following negotiation with the County Landscape Team, revisions to the proposed layout, detailing and planting have gone some way to address concerns originally raised. This is less than could have been achieved through a revision to layout which would have enabled a substantial increase the distance between the properties on Kelham Road and the southern elevation of the supermarket.

The Ash tree lost along the western boundary would be replaced with a mixed group of native Lime and Birch along with a proportion of new native hedgerow and line of fastigate native trees to provide partial filtering of views from residents on Sandhills Park. The area of planting has been widening and strengthened during the application process to help mitigate impact on residential properties in Sandhills Park. The County landscape scheme advise that the density of tree planting could be strengthened still further to increase the mitigation of adverse views over elevated car park and petrol station from these properties. Also the use of fastigate native trees on this boundary should be reviewed, as this form would reduce their potential effectiveness as visual filters. The Applicant has confirmed that they would have no objection to these suggestions and welcome planning conditions to this effect.

The lack of tree planting within the car park is identified by the County Landscape Team as a missed opportunity though and additional trees here would help break up a large space. However, the Applicant has confirmed (in a letter dated 07.12.2015) that they '*would have to resist this proposal as it would fundamentally conflict with the requirements and objectives of two statutory consultees. The two conflicts arising here are in terms of surface water attenuation and car parking provision*'. Mitigation to reduce surface water flows in consultation with the Environment Agency includes underground attenuation and the Applicant contends that the introduction of trees within the main body of the car park would impede the agreed design and impact upon the capacity and integrity of the proposed attenuation to be achieved. In addition, any reduction in car parking provision is unlikely to be acceptable from a highway point of view.

Overall, it is recognised that the applicant has accommodated the County Landscape Team's concerns and appropriate mitigation has either been achieved or is achievable through planning conditions. Whilst the introduction of tree planting within the site car park and a greater gap between the properties on Kelham Road and the southern elevation of the supermarket would be desirable from a visual amenity perspective, it is not considered that the inability/unwillingness of the Applicant to introduce these elements are fatal to the scheme overall and does not justify refusal of the application on these grounds alone.

On balance, the design of the proposal is considered to appropriately address the site's Gateway Location and would not result in any adverse impact upon visual amenity. Whilst significant tree loss is proposed is not considered that an adverse landscape impact would result subject to conditions requiring a detailed landscape scheme and replacement tree planting in accordance with with the aims of Core Policy 9, 12 and Policy DM5 of the DPD

#### Impact on Highway Safety and Parking

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The main access to the site would utilise an existing site access located off the west side of Great North Road (B6326) in close proximity (approximately 80m) to the junction with the A46/A617/A616 or 'Cattle Market roundabout'. A service yard access would also utilize an existing site access to the south of the site off Kelham Road.

A Transport Assessment (TA) has been submitted with the application and was subsequently revised in September 2015 to address concerns originally raised by Highways England and the Local Highways Authority (NCC). This confirms that a traffic survey of the local highway network including junctions and the railway level crossing on Great North Road was undertaken in March 2014. The survey identified that the busiest periods broadly accord with traditional morning and evening peak periods. As would be expected for a key route linking the wider A-road network to Newark-on-Trent, several junctions were found to be at or near to capacity. Some congestion on Great North Road was observed during peak periods especially during times when the railway level crossing was closed to vehicles. An analysis of the accident record for the local highway network found that there were no identifiable issues.

A total of 263 car parking spaces would be provided incorporating user specific bays for blue badge holders and parents with children. Facilities for bicycles and motorcycles are also proposed. Car parking duration of stay will be limited to ensure the car park is available to customers whilst at the same time allowing trips to be made to the town centre.

The proposal incorporates several modifications or improvements to the local highway network including:

- A new traffic signal controlled access junction from Great North Road;
- Additional traffic lanes on Great North Road providing access to the site;
- Additional lanes leading to the A46 Cattle Market Roundabout to improve capacity;
- A new pedestrian footway along the western side of Great North Road;
- A new pedestrian (pelican) crossing on Great North Road providing direct access to the foodstore entrance;
- New pedestrian crossing of Kelham Road;
- Access from Kelham Road to be moved away from narrower point of the road to provide access for service vehicles; and
- Ability to link the railway level crossing signals to the proposed site access junction to improve recover of the highway network following closures.

The submitted TA concludes that *'the capacity analysis of the proposed traffic signal controlled site access junction concluded that it can be expected to operate well within capacity during peak periods. A wider assessment of the local highway network, including the use of Microsimulation techniques for robust sensitivity testing, has determined that minor increases in journey times might be expected for some routes, due to the proposed additional transport infrastructure. Other routes such as movements from the railway level crossing to the A46 Castle Market Roundabout were found to forecast a reduced journey time. On the basis of the findings of this Transport Assessment, it is concluded that the proposed development is in accordance with national and local transport related policies and can be accommodated without causing severe impacts to traffic conditions on the local highway network'*.

Highways England's main concern is the traffic demand on the southbound link towards the site access junction from the A46 Cattle Market roundabout and they originally objected to the application on this basis. However, upon review of the revised TA of September 2015 and supporting LinSig model, they are content that the risk associated with the new development access is minimal as any queueing back to the strategic road network can be managed appropriately. This is subject to *"the developer or scheme promoter developing a design that is acceptable to them, and meets required Road Safety Audit (RSA) and Non-Motorised User Audit (NMU) procedures"*. It is considered however that due to its close proximity to the A46 roundabout, it would be sensible to provide greater green time for traffic on the southbound approach in order to reduce safety concerns and ensure the continued effective operation of the strategic road network. Highways England anticipate remaining closely involved in the finalisation of the access junction to limit the impact on the SRN.

The Local Highways Authority (NCC) have also been involved in extensive discussions with the Application during the course of the application to refine the traffic modelling and other information contained within the latest Transport Assessment. In summary, they consider:

- the 263 proposed car parking spaces to be lower than the maximum standards identified in the 6C's design guide. However, on-street parking in the vicinity is difficult and the applicant content that this would provide sufficient capacity and it would not be in their interests to have a car park that deters customer use.
- the level of new primary trips is likely to be small and has been accepted at the level of 10% (equating to around 40 trips in the peak hour). The majority of trips will be 'pass-by' or 'transferred trips'. The main cause of congestion is the lack of capacity at the A46 junction. In Dec 2014 the Govt. announced the Road Investment Strategy which included

the A46 at Newark, with potential work taking place in the 2020-2025 period. Without Highways England support however, a refusal would be difficult to sustain. If and when the roundabout is improved the development and Great North Road would operate more freely.

- Journey times between the level crossing and the A46 will increase due to the development, but this is to be wholly expected given the introduction of a new pelican crossing and signalised junction. As an example, during Friday PM peak – journey times would increase from 73s. to 104.6s. An increase of 31.6s (43%).
- It is not considered that the possibility of shunt accidents as traffic leave the A46 roundabout would be made worse by the proposed lane improvement.
- According to National Planning Policy Framework (March 2012), development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The *impact* on the *Highway Authority network* is not considered to be severe.

Overall, the Local Highways Authority (NCC) raise no objection subject conditions relating to lorry routing, the new traffic signal junction and signal controlled pedestrian crossing on Great North Road being provided before the development is brought into use, the submission and approval of a construction phasing programme, the closure of existing site accesses, the provision of parking/turning/servicing areas, the provision of off-site traffic management works comprising of local waiting restrictions, measures to prevent the deposit of debris upon the adjacent public highway and the submission and approval of measures to enhance two existing bus stops on Great North Road.

A Framework Travel Plan has been submitted with the application which identifies a range of measures aimed at reducing reliance of single occupancy car trips for future employees. The submission and implementation of a Travel Plan is also recommended by condition.

Overall, it is not therefore considered that the proposed development would result in any parking or traffic problems subject to conditions in accordance with the requirements of Spatial policy 7 and Policy DM5 of the DPD.

#### Impact on Flood Risk and Drainage

The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Core Policy 10 (which is in line with the NPPF) states that through its approach to development, the Local Development Framework will seek to, amongst other criteria; locate development in order to avoid both present and future flood risk.

The site is located within Flood Zone 2 and partially within Flood Zone 3 and is therefore a site at risk of flooding (medium to high probability). The north easterly flowing River Trent follows two courses in this area, one 300 m south-east of the site and the other about 2km to the north-west. The site and surrounding area are protected by flood defences (soft earth embankments).

A Flood Risk Assessment has been submitted with the application. This confirms that the site generally drains into the Old Trent Dyke. The upstream extent or head of this watercourse is located in the northern area of the site. It has a very flat gradient but flows south to discharge into the Trent Valley Internal Drainage Board watercourse at an open channel confluence just off the site's south west corner, just west of the Kelham Road access.

In this instance, the local planning authorities must apply the Sequential Test for specific development proposals and, if needed, the Exception Test for specific development proposals, to steer development to areas with the lowest probability of flooding.

#### *The Flood Risk Sequential Test*

As defined in the NPPF the purpose of the Sequential Test is to ensure that a sequential approach is followed steering development to areas with the lowest probability of flooding. As a starting point the intention should be to steer development to Flood Zone 1, where there are no reasonably available sites in Flood Zone 1, local planning authorities should take into account the flood vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test as required. Only where there are no reasonably available sites in Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

The NPPF states that 'for individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test'. However, the NPPG further expands on this and states that where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed (Para 33). As such, this implies that the sequential test is required despite the proposed development being a 'less vulnerable use' which is the same as the employment allocation.

A Flood Risk Sequential Assessment has been submitted with the application (dated 21.12.2015). This covers the Newark Urban Area which is considered to be the relevant catchment area for the type of development proposed. It agreed that there is a degree of overlap between the sequential test required in flood risk terms and retail terms. Albeit for completeness, the Applicant has submitted a much more extensive list of sites considered which include 59 sites drawn from SHLAA sites and other sites known to be for sale. On the basis that the applicant requires a core site requirement minimum of 1.6 Hectares, this list was reduced to 17 sites which have been reviewed in more detail. This includes an assessment of alternative sites against three main criteria (site size, flood zone status and distance from the town centre). The submitted assessment concludes that there is no site which is preferable or indeed equitable across all three criteria.

However, I would not wholly agree with the approach which has been taken in the application of the test. It is accepted that, in considering potential alternative sites, the flood risk sequential test needs to reflect the sequential approach for retail development and I would therefore refer you back to 'Retail Sequential Test' section set out above, and the conclusions drawn over the lack of flexibility shown by the applicant, and the sequential superiority of the Northgate site.

The Applicant considers the Northgate site and the application site to be equivalent in flood risk terms. However, in relation to the Northgate site, a very small portion of the western section of the site is located within Flood Zone 3, approximately one quarter of the site is located in Flood Zone 1 and the remainder of the site is located in Flood Zone 2. Whereas approximately one third of the application site is located within Flood Zone 3 and the remainder within Zone 2 with no parts of the site within Flood Zone 1. It would therefore appear that the Northgate site is sequentially preferable to the application site from a flood risk perspective.

Given the position we have adopted in respect of the sequential test in retail terms there are no functional requirements which justify the discounting of the Northgate site from a sequential flood risk point of view. Accordingly it would come down to a straight flood risk comparison between the two sites, and in my view Northgate outperforms the application site in this regard. I am therefore only able to conclude that there is a reasonably available site appropriate for the proposed development in an area with a lower probability of flooding than the application site. The proposal would therefore fail to satisfy the flood risk sequential test as required through national policy and the Development Plan.

### *Impact on Flood Risk*

Notwithstanding the issues highlighted above relating to the flood risk sequential test, it is also necessary for the submitted flood risk assessment to demonstrate that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The development is located within an area at risk of flooding from the River Trent. There is an Environment Agency flood defense that protects this area, however in the event of overtopping and breach the FRA has shown that the development is located within a high consequence area.

Following discussions with the EA, the Applicant submitted a Flood Risk Addendum as well as a specific flood risk assessment in relation to the PFS. The addendum to the FRA has produced hydraulic modelling, which has demonstrated that during a 1% annual exceedance probability event plus an allowance for climate change the site would be inundated up to 12mAOD and 12.04mAOD during a breach scenario. The store has been set above this level and floodplain compensation has been provided for its loss of flood storage. However, there is no safe means of access and egress in and out of the site during these events.

Therefore, the following mitigation measures are proposed:

- The Finished Floor Level (FFL) of the store should be set at 12.35m AOD. This will provide 300mm freeboard above the modelled 1 in 100+CC beach scenario flood and ensure the store is not flooded under this event.
- External levels should, as far as is practicable, be engineered to provide post-development level-for-level equivalent flood storage across the site when compared to the existing site. This is to prevent the displacement of flood volumes from the site onto 3rd party land.
- The achievable finished floor level of the Petrol Filling Station is constrained by the existing levels of Great North Road adjacent. The FFL of the kiosk should either also be set at 12.35m AOD, or if this is not viable the Kiosk should be constructed as a flood resilient building to a level compatible with the 1 in 100 year +CC event.
- The external PFS area should be constructed at a level not lower than 11.45m AOD to ensure flood depths do not exceed 600mm. This is to prevent vehicles becoming buoyant and colliding with fuel pump equipment. All fuel supply equipment should be capable of accommodating a 600mm depth of flooding without any fuel leakage.
- A flood evacuation plan should be developed for the store and PFS to confirm courses of action on issue of a flood warning from the EA. The plan could accommodate the nearby residential area, with the store providing an emergency safe refuge if required.

The vehicular routes, the emergency service access position and the pedestrian routes all lead to land levels of 11.5mAOD, therefore flood levels would be in excess of 500mm and not be safe to travel through (in accordance with FD2320). The current proposal is for an evacuation plan to be

produced prior to occupation as part of a condition. As an evacuation plan has not been produced, however, the Emergency Planner (NSDC) is satisfied that an evacuation plan can be secured by way of condition and that the users would be safe managed from the hazards from flooding.

The Environment Agency raise no objection subject to the measures as detailed in the Flood Risk Assessment, Flood Risk Addendum, Floodplain Compensation Plan, and the Petrol Filling Station Storage Tank Site Specific Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission (these conditions are set out in full in the Consultation section above).

The Lead Local Flood Authority (NCC) raise no objection to the application subject to conditions recommended by the Environment Agency.

The applicant has been in detailed discussion with Trent Valley Internal Drainage Board (IDB) given the proximity of the culvert running east-west on Kelham Road and the open channel which runs adjacent to the site's western boundary. The applicant has confirmed their intention to comply with the requirements of the IDB (under separate legislation and Byelaws).

Overall, subject to conditions recommended by the Environment Agency and a condition relating to the submission and approval of a flood risk evacuation plan, the application is considered to be acceptable from a flood risk perspective in accordance with the requirements of the NPPF and Core Policy 10.

#### Impact on Contaminated Land

NPPF paragraph 121 states that planning decisions should ensure that the proposed site is suitable for its new use taking account of ground conditions, including pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation. Policy DM10 of the DPD also states that where a site is highly likely to have been contaminated by a previous use, investigation of this and proposals for any necessary mitigation should form part of the proposal for re-development

A Limited Site Investigation Report has been submitted with the application. Potential contamination sources identified include an above ground fuel storage tank, a suspected below ground fuel storage tank and an electricity substation, all located in the south-east area of the Site. An above ground tank was present in the north of the Site, to the south of the warehouse, alongside a suspected interceptor.

The Environmental Health Officer raises no objection to the proposed development subject to a condition requiring a full contaminated land survey including remediation scheme. This would ensure the site is suitable for its new use in accordance with the requirements of the NPPF and Policy DM10 of the DPD.

#### Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.

An Ecological Appraisal has been submitted with the application. This confirms that the majority of the site is considered to have low/negligible ecological value. Albeit existing trees and hedgerows are identified as having raised ecological value.

An updated bat survey was also submitted in December 2015. None of the buildings present within the site have been found to support roosting bats. Nottinghamshire Wildlife Trust raise no objection to the application subject to planning conditions which secure:

- Further surveys prior to demolition of any building or removal of stated tree;
- Provision of bird and bat boxes;
- Details of lighting scheme; and
- Details of soft landscaping.

Overall and subject to conditions, I consider the proposed development to comply with the aims of Core Policy 12 and Policy DM5 of the DPD.

### Impact on Residential Amenity

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The closest residential properties are to the south along Kelham Road and to the west in Sandhills Park.

A Noise Survey has been submitted with the application and confirms that a survey was undertaken on Wednesday 30th April and Thursday 1st May 2014 at two measurement locations representative of the noise climate at the properties in Kelham Road and Sandhills Park. This states that the precise details of the mechanical services and refrigeration equipment (type and noise signature) are not known at this stage; however the proposed site plan drawing indicates that the plant is to be located on roof above the back of house area at the rear of the store. In addition there is a biomass unit located at ground level within the service yard. The closest residential properties to the proposed plant area are approximately 50 metres away in Kelham Road to the south. It is likely that the PFS would also have a small amount of fixed plant associated with its use and would be located approximately 50 metres away from the nearest dwelling is Sandhills Park. It is recommended that a planning condition be imposed to ensure that details of any proposed plant or machinery including their noise levels are submitted to and approved in writing by the Local Planning Authority, albeit it is considered that appropriate noise levels to ensure no adverse impact upon neighbours is achievable.

In relation to noise from deliveries, properties along Kelham Road would be approximately 35 metres from a delivery vehicle manoeuvring upon arrival and departure from the service yard area. The Noise Survey states that *'predicted noise levels from daytime delivery activity comply with the WHO guideline noise values and are well below the existing ambient noise climate. On this basis noise from daytime activities should not give rise to significant adverse impacts'*. Likewise, it states that *'predicted noise levels from deliveries using the service yard at night do not exceed the WHO night time guideline noise values; as such it is considered there is no technical noise justification to seek to restrict delivery hours'*.

In relation to noise from car parking activity, Nos 30 and 39 Sandhills Park are approximately 12 metres from the closest spaces on the western edge of the car park. The Noise Survey states that *'predicted daytime and night time ambient car park activity noise levels comply with the WHO daytime and night time guideline noise values'*. However, car door slam events have the potential to exceed these guidelines. As such, the Survey recommends that *'if 24 hour trading is required by the operator then it is recommended that customers are prevented from parking in the closest spaces to the western site boundary (within 30 metres); this may be secured by the imposition of a car park management plan'*.

The Environmental Health Officer raises no objection to the findings and recommendations set out in the Noise Survey and expects noise levels to be acceptable.

It is recommended that a condition requiring the submission and approval of a lighting scheme be required by planning condition.

It is also recommended that details of the proposed biomass boiler be required by condition to ensure that the stack height does not have a significant impact on the air quality.

Having carefully assessed the scheme I am satisfied that the proposal would not result in any significant or unacceptable detrimental impacts upon the amenity of the occupiers of the nearest dwellings in accordance with the Policy DM5 of the DPD.

### Impact on Archaeology

Core Policy 14 of the Core Strategy requires the continued preservation and enhancement of the District's heritage assets including archaeological sites. Policy DM9 of the DPD states that where proposals are likely to affect sites of significant archaeological potential, the applicant is required to submit an appropriate desk based assessment.

The site allocation policy NUA/E/4 'Newark Urban Area – Employment Site 4' states that development on site will be subject to '*pre-determination archaeological evaluation submitted as part of any planning application and post-determination mitigation measures secured by condition on any planning consent are likely to be required*'.

An Archaeological Desk-Based Assessment has been submitted with the application. This concludes that '*there is some potential that the site would have been located upon the route of an earlier medieval road linking Newark and Kelham that may have been used during the Civil War. As a result of the likely depth of any preserved remains, it would seem that the proposed development would be unlikely to impact upon any such remains that could thus be retained intact for future generations to discover. Nonetheless, for robustness, the desk-based assessment (DBA) recommends that a written scheme of investigation be submitted to and approved in writing post-determination that would confirm the scope of a watching brief in areas of the site where there could be some potential to uncover remains*'.

The County Archaeologist concurs generally with the results and recommendations of the Desk-Based assessment. Whilst she considers the archaeology issues associated with the site to be more complex than set out in this statement, she is still content with its recommendations which require conditions requiring the submission and approval of a detailed scheme of archaeological mitigations and its subsequent implementation.

I note Historic England's comments regarding an opportunity for the authority to align the archaeological requirements and research objectives on this scheme and the application for new District Council Offices (15/01569/FULM), in respect of the understanding of both the prehistoric and nationally important Civil War period landscape and remains. However, with different applicants and application timescales, this is unlikely to be possible.

Subject to conditions, it is not considered that the proposed development would adversely impact upon archaeological remains in accordance with Core Policy 14, Policy DM9 and Policy NUA/E/4.

## Other Matters

### *Benefits of the Proposed Development*

The Additionality and Regeneration Report submitted with the application. This was further added to in a letter submitted by the Agent dated 05.01.2016.

The Report highlights the fact that that the site could be re used for employment purposes with no requirement to mitigate nuisance or deliver benefits. However, I attach limited weight to this given that it is likely that any potential occupier is likely to require redevelopment of the site which would require planning permission and measures to mitigate nuisance could be secured should this be the case. An alternative employment use of the site would also deliver some economic benefits.

The 'Loss of Employment Land' section above has concluded that there is no certainty that a long term employment occupier can be secured. I do therefore attach weigh to the fact that whilst the proposed development is for a non-employment use, it would bring back into use a site which has been vacant since 2012 and would deliver investment and economic benefits promptly.

The benefits set out in the submitted Report are summarised below:

- 99 net additional FTE1 jobs to be created for people in the local area (200 in total).
- £4.25m net additional local effect (ongoing), comprised of:
  - £3.13m increase in localised wage income;
  - £0.69m reduced public burden due to reduction in JSA claimants;
  - £0.43m additional local effect from business rates created;
- 109 FTE 1 year net additional construction jobs ; and
- £3.82 million net additional local effect from FTE 1 year construction jobs.

Clearly, these benefits would amount to a significant benefit to the local economy.

The Report states that no further intervention would mean a failure to deliver these benefits which are valued at £3.8 million per annum during construction and £4.3 million per annum on an ongoing basis. The letter further states that Sainsbury's have a clear intent to deliver inward investment on this site and that they are currently not aware of any other foodstore schemes in the area (including Nottinghamshire, Lincolnshire and Derbyshire) where there is live interest from any of the established "top four" operators for their larger format stores currently.

The letter further states that *'Sainsbury's provides a range of employment opportunities from the shop floor through to senior management and progression pathways are in place. Sainsbury's is also one of the few retailers which is committed to paying its staff at least the "living wage"'*.

The letter also highlights the proposed highway works to Great North Road and Kelham Road which would provide operational improvements and road widening on a key route to the town centre.

I also note that the proposed development would be liable for a charge under the Community Infrastructure Levy albeit I would attach limited weight to this given that this is a requirement of the development rather than a benefit.

The Applicant states that the proposed Sainsbury's would generate some linked trips with the town centre whilst acknowledging that the these may be limited as a consequence of distance,

independent retail advice received further states that the location of the proposed store is too remote from the town centre to generate strong functional linkages and would not therefore compensate for the loss of linked trips and footfall closer to the town centre. I therefore attach very little weight to the potential for linked trips as a benefit.

The renewable energy credentials of the proposed development are also noted. The Renewable Energy Statement states that approximately 37% of the total anticipated energy usage would be from on-site renewable or low-carbon energy sources. This would be through the provision of a biomass boiler and air source heat pumps. The inclusion of roof lights in the proposed building would also reduce the need for artificial lighting.

Regard has also been given to the proposed retail mitigation package (explained in detail in the '*Proposed Mitigation Package*' section above).

### Conclusion and Planning Balance

Paragraph 14 of the NPPF provides a clear presumption in favour of sustainable development. For decision taking, this means approving development proposal that accord with the development plan without delay unless material considerations indicate otherwise.

The proposal site is located in an out of centre location albeit located in Newark Urban Area which is the Sub-Regional Centre for the District, as defined under Spatial Policy 1 of the Core Strategy (adopted 2011). Newark Urban Area functions as a focus for housing and employment growth in Newark and Sherwood and the main location for investment for new services. The application site is identified through the Allocations & Development Management DPD as site NUA/E4 and is promoted for employment use (B1, B2 and B8).

The application is not considered to result in any unacceptable impacts upon highway safety, archaeology including any heritage assets, trees, ecology, residential amenity or visual amenity, subject to conditions.

In relation to the loss of employment land, it is considered that the District Council is likely to be planning for lower employment land targets in the Plan Review (extending from 2013-2033). Whilst the Plan Review is in its early stages and revised targets are yet to be tested through the Development Plan process, the loss of NUA/E/4 to a non-employment use is unlikely to be harmful in quantitative terms. Commercial advice (prepared by Savills in February 2015) also concluded that there is a substantial amount of employment land available in Newark that could cater for B2 and B8 requirements and that an office led development for the site is not presently viable. As such, the loss of employment land is considered acceptable in principle subject to consideration of alternative uses according to their relative merits.

In terms of retail impacts associated with the proposed development (based on the independent retail advice prepared by Carter Jonas February 2016), the Northgate site is considered available and could potentially accommodate the application proposal assuming reasonable flexibility is applied in terms of scale and format of the proposal. The impact on the vitality and viability of Newark Town Centre and the impact on existing, committed and planned public and private investment, local consumer choice and trade is also considered to be a 'significant adverse impact'. The proposed store would have an impact on the town centre's convenience goods turnover of well over 20%. The proposal therefore fails to satisfy the sequential test and impact test contrary to the NPPF and Policy DM11 of the DPD.

In relation to flood risk, alternative sites at less risk of flooding are available and could potentially accommodate the application proposal assuming reasonable flexibility is applied in terms of the scale and format of the proposal.

It is important to balance the harm identified against the benefits of the proposal and any other material considerations. The proposal would deliver a number of benefits to the local economy including job creation and will bring a currently derelict site back into use (as set out in detail in the 'Benefits of the Proposed Development' section above. However, the NPPF is clear in that it states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused. Even with the mitigation package offered by the Applicant to compensate for the adverse retail impact identified, it is not considered that this outweighs the harm identified in this case.

Overall, the proposal would be contrary to the development plan and guidance in the NPPF and it is not considered that there are any other material consideration which outweigh the harm identified. As such, it is recommended that the application be refused.

## **RECOMMENDATION**

### **That planning permission is refused for the following reasons:**

1. The NPPF and NPPG state that where an application fails to satisfy the sequential test it should be refused. In the opinion of the LPA alternative sites are available and could potentially accommodate the application proposal providing reasonable flexibility is applied in terms of the scale and format of the proposal. In the opinion of the LPA the applicant has not applied appropriate flexibility in this case, failing to demonstrate compliance with the sequential test. As such, the application fails to satisfy the sequential test contrary to Paragraphs 24 and 27 of the NPPF, Paragraph: 010 Reference ID: 2b-010-20140306 of the NPPG, Core Policy 8 of the Core Strategy (Adopted March 2011) and Policy DM11 of the Newark and Sherwood Allocations and Development Management Development Plan Document (Adopted July 2013). There are no other material planning considerations that would outweigh harm by reason of sequential inappropriateness.
2. The NPPF states that where an application is likely to have significant adverse impact on town centre vitality and viability and on investment in a centre or centres in the catchment area of the proposal, it should be refused.

Throughout the lifetime of the application the LPA has sought independent retail advice from 2 no. sources in order to fully and robustly assess the range of impacts of the proposed development and the extent to which any mitigation can address any identified concerns. Regard has been had to all material matters outlined in the NPPG and NPPF.

It is the opinion of the LPA, including with proposed mitigation, the development will have a significant adverse impact on the vitality and viability of Newark Town Centre and upon investment in nearby centres. As such, the application fails to satisfy the impact assessment contrary to Paragraphs 26 and 27 of the NPPF, advice in the NPPG, Core Policy 8 'Retail Hierarchy' of the Newark and Sherwood District Council Core Strategy (Adopted March 2011) and Policy DM11 of the Newark and Sherwood Allocations and Development Management Development Plan Document (Adopted July 2013). Whilst the proposed benefits of the scheme are both noted and material it is not considered that these are of

sufficient weight to outweigh the harm by reasons of significant adverse harm on Newark town centre.

3. The NPPF and NPPG state that new development should be steered to areas with the lowest probability of flooding through the application of the sequential test. The application site is located within Flood Zone 2 and 3. Alternative sites at lesser risk of flooding are available and could potentially accommodate the application proposal assuming reasonable flexibility is applied in terms of the scale and format of the proposal. As such, the application fails the sequential test contrary to Paragraphs 100 – 101 of the NPPF, advice contained within the NPPG, and Core Policy 10 of the Newark and Sherwood Core Strategy. There are no other material planning considerations that would outweigh harm by reason of sequential inappropriateness.

### Informatives

1. You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)
2. The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

### Background Papers

Application case file.

For further information, please contact Helen Marriott on extension 5793

**K Cole**  
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