

## DEVELOPMENT MANAGEMENT COMMITTEE REPORT – 18 July 2018

<b>Application Number</b>	3/17/1537/FUL
<b>Proposal</b>	Demolition of existing buildings and erection of a foodstore, with associated car parking, servicing, landscaping and associated works.
<b>Location</b>	Consumers Association Gascoyne Way Hertford SG14 1LH
<b>Parish</b>	Hertford
<b>Ward</b>	Hertford - Castle

<b>Date of Registration of Application</b>	14 July 2017
<b>Target Determination Date</b>	To be determined
<b>Reason for Committee Report</b>	Major application
<b>Case Officer</b>	Femi Nwanze

### **RECOMMENDATION**

That planning permission be **GRANTED** subject to a legal agreement and the conditions set out at the end of this report.

#### **1.0 Summary of Proposal and Main Issues**

- 1.1 This is a full planning application seeking planning permission for the comprehensive redevelopment of the Which? site at Gascoyne Way, Hertford.
- 1.2 The application seeks full planning permission for the change of use of the site from employment (Use class B1) to retail (Use class A1); the erection of a new food store providing 1,735 sq metres of retail floorspace (gross) together with the provision of car parking for 127 No vehicles. The proposed store will have a net sales area of

1,254 with 80% of this area (1,003 sq. metres) devoted to the sale of convenience goods.

- 1.3 Aldi is not a traditional supermarket offer and as such it cannot be strictly compared to other supermarkets. This is due to the limited range of goods that it sells, which does not include specialist butchers, delicatessen, fishmonger, chemists or cigarettes. It sells a limited range of wines and spirits and a limited range of non-food items (which is generally restricted to 15 – 20% of the trading floor space). This means that it is highly likely that Aldi shoppers will have to also visit other shops to complete their shopping.
- 1.4 Due to this bespoke model, Aldi stores are considered to be a weekly food shop destination or limited assortment discounter. Whilst Hertford has a number of supermarkets, it does not have a limited assortment discounter supermarket. The nearest supermarkets of this type/ form are Lidl and Aldi, Welwyn Garden City and Aldi at Hoddesdon. From Hertford, round trips to these supermarkets would be 7.6 miles and 8 miles respectively.
- 1.5 The main issues for members to consider in relation to this application are:
  - Whether the principle of the proposed development is acceptable within a designated employment area.
  - Whether the development has an acceptable impact on the continued vitality of Hertford town centre.
  - Whether the proposed development will provide a satisfactory level of car and cycle parking and has an acceptable impact on the local highway network. Whether the site has satisfactory arrangements for pedestrian and bus access.
  - Whether the proposed development will provide an appropriate layout, scale and appearance (including landscaping) and has satisfactorily addressed flood risks.
  - Whether the development would have an acceptable impact on neighbouring amenity
  - Whether overall this is a sustainable form of development.

## 2.0 **Site Description**

- 2.1 The application site comprises of 0.97 hectares of brownfield land which is currently occupied by Which? It is located on the southern side of Gascoyne Way; the A414 in Hertford. The site is accessible by vehicles from the A414 west bound. Pedestrian links are from the footway to the south side of Gascoyne Way to the adjacent Wareham's Lane area and via the adjacent pedestrian subway under the A414 to St Andrew Street and Hertford Town Centre.
- 2.2 The site is located within an area of archaeological significance and an air quality management area. The site lies adjacent to the Hertford Conservation Area which includes the watercourse and undeveloped land to the south of the site and Gascoyne Way and the land to the north of the site.
- 2.3 The site lies within Wareham's Lane Employment Area and currently comprises of a three storey clad office building with a two storey warehouse behind. The rear of the site is laid over to hardstanding and provides car parking space for the site; there is a small area of hardstanding at the front of the site which also provides car parking. Despite the sites' designation there are a number of residential properties located on the north western boundary of the site; with a number of commercial and light industrial uses beyond that.
- 2.4 A brook runs along the southern boundary of the site. The site falls within Flood Zone 3 and as such is frequently susceptible to episodes of flooding.

## 3.0 **Planning History**

Application Number	Proposal	Decision	Date
3/81/0044	Two storey temporary building for use as office and showroom and diversion of service road	Granted	11/10/79

3/00/1330/FP	Three storey extension, internal modifications, chiller enclosure and office block cladding.	Granted	02/10/00
3/11/2219/AD	1 no. internally illuminated totem/monolith sign and 2no. externally illuminated fascia signs.	Granted	05/03/12
3/12/1039/AD	Externally illuminated fascia sign.	Granted	29/08/12

#### 4.0 **Main Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the pre-submission East Herts District Plan 2016 (DP), together with the Main Modifications, the adopted East Herts Local Plan 2007 (LP). There is no Neighbourhood Plan relevant to this site.

<b>Main Issue</b>	<b>NPPF</b>	<b>LP policy</b>	<b>DP policy</b>
Whether the principle of the proposed development is acceptable within a designated employment area.	Section 1	EDE1 HE8	DPS1 ED1 HERT6 RTC1
Whether the proposed development will have an acceptable impact on the continued vitality of Hertford town centre.	Section 2	STC1 STC6 STC7	RTC1 HERT7

Whether the proposed development will provide a satisfactory level of car and cycle parking and have an acceptable impact on the local highway network. Whether the site has satisfactory pedestrian and bus access	Section 4, 8	TR1 TR2 TR3 TR4 TR7 TR13 TR16	TRA1 TRA2 TRA3 CFLR9
Whether the proposed development will provide an appropriate layout (which addresses flood risk), scale and appearance (including landscaping) .	Section 7, 8, 10, 12	ENV1 ENV2 ENV3 ENV4 ENV11 ENV18 ENV19 ENV20 ENV21 ENV23 ENV29 BH1 BH2 BH3 BH6	DES2 DES3 DES4 DES5 HA2 HA3 HA4 HA7 WAT1 WAT3 WAT5 EQ1
Whether the development would have an acceptable impact on neighbouring amenity	Section 7	ENV1 ENV27	DES3 DES4 EQ2 EQ3 EQ4

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

## 5.0 **Summary of Consultee Responses**

5.1 EHDC Planning Policy: the application site forms part of a designated Employment Area under Policies EDE1 and HE8 of the saved Policies version of the adopted East Herts Local Plan 2007 and

the relevant policies of the emerging District Plan. These policies identify B1, B2 and B8 uses as suitable for such locations. The proposal would be clearly contrary to these policies.

- 5.2 The Council has undertaken several studies informing decisions with regard to the continued identification of sites for employment use in the District Plan. These identified a long term need for increased employment provision in the district and that, in Hertford and Ware, further loss of employment land should be prevented. Whilst the proposed development will generate employment, this is considered to be less than a future employment use which could generate jobs comparable with the current on site density (understood to be 170 jobs). In addition, given the visible location on the strategic road network, the site is likely to be viewed as attractive for employment uses.
- 5.3 The policy response advises in relation to the need for sequential testing, highways and air quality impacts and the impact in relation to the potential for future investment in the town centre. The advice concludes with an objection to the scheme.
- 5.4 HCC Highway Authority: has no objection subject to conditions. It also seeks contributions through a s106 agreement toward a Travel Plan (a scheme to encourage and promote green travel measures) and towards implementing improvements to pedestrian facilities, given that the development is likely to attract a high footfall.
- 5.5 The applicant has provided a Transport Assessment (TA), A Transport Assessment Addendum, a Framework Travel Plan and a Design and Access Statement (DAS) as part of the application.
- 5.6 Trip Generation:  
The existing trip generation has been based on surveys conducted at the current site. The results of the surveys are as follows:
- Existing weekday use: Arrivals 134, Departures 134
  - Existing Saturday use: Arrivals 35, Departures 34

The the trips above are considered to be primary and would be removed entirely the study area as a result of the proposals. The trip rates for the proposed development have been derived from suitable comparator sites in the TRICS database and it is anticipated that the proposed development will generate 46 arrival trips and 53 departure trips in the pm peak hour.

- 5.7 The impact of these trips has been considered using the HCC Paramics model to test the impact on junctions in the vicinity of the site. The results of the modelling showed minimal impact on all junctions within the vicinity of the site as follows:
- 5.8 The A414 Hertingfordbury Road/ Cross lane 3 – arm roundabout was predicted to experience the largest increase in queue length on A414 west bound approach, changing from 21.0 to 21.7.
- 5.9 The A414 Gascoyne Way/Castle Street/ Hale Road 4 – arm roundabout is predicted to experience a decrease in queue length on all 4 arms of the roundabout. The largest decrease will be on the A414 westbound arm which is expected to decrease in queue length from 10.8 to 9.6.
- 5.10 The largest increase in queue length is on the A414 Gascoyne Way/ London Road 4 – arm roundabout. This increase is on the east bound arm where queue lengths are expected to increase by five vehicles. All other arms of the roundabout are expected to experience a decrease in queue lengths.
- 5.11 Overall, according to the results of the modelling, the development will have a negligible impact on the surrounding highway network, with journey times expecting to increase by less than 20 seconds.
- 5.12 With regard to highway safety, the conclusion of the assessment of data is that there are no existing issues with the highway network that will be exacerbated by the proposed development.

- 5.13 With regard to access, the existing access arrangements would be retained, albeit the geometry of the junction would be improved to provide smoother entry radii, whilst maintaining a short crossing distance for pedestrians. Road Safety Audit assessment will be required. The applicant will also be required to show that refuse and servicing vehicles can safely manoeuvre safely through the site.
- 5.14 The Authority notes that parking spaces in excess of those required are to be provided, which could be considered not to adhere to sustainable transport policy. Parking accumulation assessments indicate that there would be maximum weekday occupation of 39 vehicles and Saturday occupation of 56 vehicles. This further suggests that the 127 spaces proposed are excessive. However, it notes that this matter is a decision for the local planning authority.
- 5.15 The location of bus and rail services, pedestrian and cycling provision is noted. It is considered that there is the potential for staff to travel to the site by cycle.
- 5.16 EHDC Landscape Officer: has assessed the proposals and has confirmed verbally no objection.
- 5.17 Lead Local Flood Authority: has no objection subject to conditions. It notes that the drainage strategy is based upon underground attenuation tanks and pumped discharge to a Main River by two surface water outfalls. We note surface water calculations have been provided and ensure that the drainage strategy caters for all rainfall events up to and including 1 in 100 plus 20% for climate change with 30l/s discharge to surface water sewer.
- 5.18 Environment Agency: Following a review of the applicants submitted Flood Risk Assessment the Agency objected on the basis of inadequate provision of a buffer zone to the river Lee and associated St Andrew's Stream. This would result in an adverse impact on wildlife. This objection could be overcome, it noted by relocating the development further from the watercourses and only implementing appropriate lighting and landscaping.

- 5.19 In relation to flood risk, the EA notes that the planning authority needs to ensure the adequacy of access and exit arrangements in the event of a flood.
- 5.20 On receipt of further information in relation to the buffer zone matter, the EA has now withdrawn any objection subject to a condition comments that it has no objections to the proposal subject to the imposition of a condition relating to the provision and management of the buffer zone.
- 5.21 EHDC Engineering advisor notes that the site is within flood zone 3, entirely within surface water inundation zones and that there have been records of flooding. The submitted flood risk assessment is noted but the use of attenuation tanks for surface water is not recommended as they do not provide biodiversity or amenity benefits. They can also represent a future maintenance difficulty. Given the high fluvial and surface water flood risk nature of the site it is considered that the measures do not meet the requirements that development proposals must not increase the flood risk of the site and do not provide environmental benefits. Above surface SUDs features are recommended including swales and bio-retention ponds, permeable surfacing materials and green roofs.
- 5.22 EHDC Environmental Health has no objections subject to the imposition of conditions relating to the provision of a Service Yard Management Plan, delivery times, restriction on noise from plant, machinery and equipment, Construction management plan, hours of construction works, and land contamination investigation.
- 5.23 EHDC Conservation and Urban Design Advisor : The application site at Gascoyne way is situated just beyond the boundary of the Hertford Conservation Area. The proposals are for the demolition of all existing buildings and the erection of a detached food store, with associated car parking and landscaping. The proposed site layout is acceptable, with the focus of the built form near the road, and the provision of parking to the rear of the site. The building of Gascoyne way has severed this site from the core of the historic town, and it is not considered that these proposals would harm the setting of the

Conservation Area or of any of the many nearby Listed Buildings. The proposed elevations are considered to be of a suitable contemporary appearance. It is considered that the proposals would have a neutral impact on the setting of the nearby important open space (the undeveloped 'green finger' to the south of the site) as identified in the Hertford Conservation Area Appraisal. The proposed signage is considered to be sufficient to identify the store and attract customers without being excessive.

5.24 At pre – application stage it was stated that the existing pedestrian underpass would undergo improvements as a result of the proposals. It is considered that the drab existing underpass is in dire need of improvements, and so suitable improvements should be secured within a S106 agreement. The pedestrian underpass is vital in encouraging customers to walk or cycle to the store wherever possible, and so the underpass itself and its approach from St Andrew Street should be enhanced to make it more welcoming and visually pleasing.

5.25 Highways England: has no objection.

5.26 HCC Historic Environment Unit: The development site is in Area of Archaeological Significance, as identified in the Local Plan. This includes the historic core of the town of Hertford, which has its origins in the late Anglo – Saxon period. The site is close to St Andrew's Church, a largely 19<sup>th</sup> century building that was built on the site of its medieval predecessor. Evidence of medieval occupation has been found near the church, and on St Andrew Street, and also some evidence of Roman occupation. Cartographic sources indicate the development site has been occupied by buildings, with associated plots, since the early 1600s. Although the site is likely to have suffered disturbance from previous construction and demolition activities, it may retain the potential to contain archaeological remains of mediaeval and post mediaeval date in particular.

The position of the proposed development is such that it should be regarded as likely to have an impact on heritage assets of

archaeological interest and as such it is recommended that appropriately worded conditions are applied to address this.

(Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)

## **6.0 Town/Parish Council Representations**

6.1 Hertford Town Council – content to leave the highway modelling issues to Hertfordshire County Council, but considered concerns previously raised. If the application were to be approved Members requested consideration of the following:

- That a longer period of free parking in the store's car park is required, increasing from 1.5 hours to 2 hours, to support linked trips to the town centre.
- assurance that the full programme of enhancements to the adjacent underpass is completed before the store is opened.

## **7.0 Other Representations**

7.1 Hertford Civic Society: - regrets that Aldi is unable or unwilling to trade from a site in the centre of town; however welcomes the prospect of an additional supermarket in Hertford. In addition 5 concerns/ suggested improvements are highlighted relating to the proposals:-

- That the transport Assessment paints a false picture of the accessibility of the site by bus and fails to make any proposals for improvement. The reality is that bus accessibility to the site is very poor.
- That Residents on the north side of West Street have been irritated by light emissions from the Which? building. The emissions from the store and proposed car park could be more. It is suggested that the materials used in the elevations facing the Meads should be light absorbent and any glass in that elevation non reflective.
- With regard to traffic, that the length of time that vehicles may park should be increased, to allow customers time to

walk into the town centre if they wish. Conditions should be framed in such a way that the permitted length of stay can be adjusted in future, if queuing problems should arise.

- With regard to timing of deliveries, that should be strictly controlled in order to reduce noise nuisance in the early morning and late at night.
- requirement to have details of the works proposed to the underpass before planning permission is granted, need to ensure that timings of deliveries is strictly controlled to eliminate late night/early morning noise :- nuisance.

## 7.2 West Street Association ( WSA):

There is a traffic order \_ access only – on West St which has not been properly enforced for several years. WSA fear that if Aldi is approved more cars than ever will use West St as a convenient rat run, particularly those from the west. HCC have recently consulted about solutions to this problem and have agreed to implement a 20 mph limit. This will most likely not stop the through traffic but a S106 order may help to provide a solution to this problem.

- 7.3 We are concerned that lighting, especially 24 hour security lighting, will have a detrimental effect on both residents and wildlife. Car and delivery movements may also be intrusive and so suitable and effective screening needs to be installed and properly maintained. The movement of delivery vehicles needs to be limited to the day time and prohibit during certain night time hours.

## 8.0 **Summary of Other Representations**

- 8.1 4 responses have been received objecting to the proposals on the following grounds:
- Poor access – the store is only accessible by car. Access by foot or by bus would be difficult and unpleasant. The information in the Transport Assessment is misleading and the proposal would result in the decline of the town centre as people without a car will not be able to reach the site.

- Traffic is bad enough in the road leading past the site and up to the roundabout. Unless there was a major expansion of the road network / construction of a bypass, Hertford cannot cope with an increase in road traffic at this location.
- Concern expressed that the existing exit from the site is difficult to negotiate with traffic travelling often travelling above the speed limit on Gascoyne Way.
- Need to make sure that it doesn't add additional traffic through West Street. It is a family area with a very narrow road. The road is private and should not be used as a means to get to Aldi. People should also be discouraged from parking on West Street to use the store as it is a residential area.
- The additional pressures caused by increased traffic at this point I believe will inevitably mean greater hold ups and hazards to pedestrians and cycle way and other road users. Also the constant stopping and starting of more vehicles will cause greater noise and pollution.
- The impact of additional east bound traffic on the conservation area of West St – ignoring the Access Only restriction – and further loss of residential amenity.
- Bio- diversity – the scheme adversely affects the Green Finger in particular the St Andrews Brook corridor for wildlife.
- Landscaping – the southern boundary is of an inadequate width of a mix of formal, ornamental and naturalistic planting – there is a risk of inadequate long term landscape maintenance.
- Lighting – 24 security lighting is harmful to wildlife and residential amenity; lights from car movements will add to this intrusion.
- Noise – is likely from night time delivery vehicles
- The litter most likely will also be made worse.

8.2 14 responses have been received supporting the proposals on the following grounds:

- The arrival of a budget supermarket with parking will therefore be of great benefit to the town. The competition will no doubt result in a downward pressure on prices and increase the total range of goods on offer.
- Need to travel to another town to use Aldi

- Good access for north Hertford - without the vehicle access issues of Sainsbury's and Tesco.
- Additional competition will be good
- Aldi provides the opportunity to reduced spend costs which is important
- Unlike the Sainsbury's store which was approved several years ago (and which continues to cause congestion in Hertford town centre), there are distinct advantages in that the proposed Aldi site is on an arterial road, which will ensure easy access/ egress to customers.
- The store is not in an environmentally sensitive area and given the closure of Waitrose in Hertford, there will be no net gain or loss to the number of supermarkets in the town.
- It will provide additional and increased employment opportunities than is currently the case at Which.
- As a county town, Hertford is somewhat lacking in shopping amenities and Aldi offers an enhanced choice of both food and non food choices to the residents of the town. Pleased to see the proposed investment in improving the nearby subway and that the supermarket is prepared to invest in the infrastructure of the town.
- Good use of commercial space once Which moves out.
- The amount of homes being built has increased massively and with Waitrose now closed there is a need to have another retail outlet of this kind in the town.
- So long as the access by pedestrians is well lit and safe, the site should be a good one.
- They will be an asset to Hertford by bringing employment to the area as well as a choice of affordable produce.
- It will bring in much needed visitors into Hertford, especially as there are so many shops closing in Hertford.
- There is a distinct lack of presence of this important category of retail in Hertford and Ware, yet Welwyn Garden City, Stevenage, Hatfield, Hoddesdon and Harlow all enjoy such vendors on their doorsteps. The reason they enjoy such success is because people genuinely want to and enjoy using them and this cannot be ignored.

- Will bring work into the town with Waitrose now closed and easy access off the A414.
- It is just what the town needs and should be granted with all possible speed. Tasteful development, plenty of parking.
- With the departure of Waitrose and the unclear future shape of Bircherley Green, the town needs to maintain its appeal as a shopping destination

## **9.0 Consideration of Issues**

*Whether the principle of development is acceptable within a designated employment area.*

- 9.1 The application site is currently occupied by Which? and is being utilised as an office (Class B1) and a warehouse (Class B8). The buildings on site comprise a modern tile clad 3 storey office building and a two storey warehouse building to the south (rear). The buildings have been designed to meet the specific needs of Which? who have been on this site since the 1980's.
- 9.2 The application site is situated within a designated employment area (Wareham's Lane) as defined in the East Herts Local Plan 2007. This designation is proposed to be unaltered in the emerging East Herts District Plan. The range of uses protected includes B8 (storage and distribution) as this site is considered to be well related to the primary transport network, as well as B1 (business) and B2 (general industrial) uses.
- 9.3 The proposal seeks to introduce a use that would fall within Class A1(retail). As such, in principle, the proposal would be contrary to the above mentioned policies.
- 9.4 As noted by the Planning Policy comments set out above, the Council has sought advice to support the continued designation of the employment sites in the emerging District Plan. In 2012 the Council commissioned DTZ as consultants to review the likely future patterns of employment growth in the District. In particular it was noted that, for the period up to 2031, there would be a need for an

additional 9,700 jobs within East Herts and that opportunities for employment growth in Hertford and Ware are likely to be more limited than for Bishop's Stortford. Furthermore it was also identified there is likely to be a need to rejuvenate and adapt existing employment estates and potentially identify new sites for B1 development.

- 9.5 On a more local basis, the Council commissioned a further employment study in 2016 for the Hertford and Ware area (The Hertford and Ware Employment Study: Wessex Economics, June 2016). This report highlighted that there is a limited supply of available space, due to the significant reduction of employment floorspace that has occurred in preceding years. As such it advises the Council to seek to prevent further loss of employment in the short to medium term.
- 9.6 The applicants have provided information to indicate that there has been, and currently remains, limited demand for B1 /B2 floorspace in this area. This is mainly due to the fact that Hertford is less accessible than other locations as it does not benefit from direct access to the motorway network. In addition evidence provided indicates that, with the exception of transactions at Foxholes Business Park, the general supply of office floorspace has been for unit sizes that range between 250 - 500 sqm and that there is already some 3 - 4 years of existing stock currently available in the local market.
- 9.7 The applicant also refers to the flood risk characteristics of the site making it unattractive for future employment uses. This is because the costs involved in providing an acceptable quality of buildings for future employment uses, requiring the redevelopment of the site at a raised height above flood events, make it financially unattractive. Other available sites do not have this impediment
- 9.8 With regard to the scale of development, the application site provides in excess of 1,000 sqm of floorspace. Compared to the average demand for office/ industrial floorspace in Hertford this is considered to be a significant size. The current building has been

adapted specifically for the current occupiers requirements and this, together with the flood risk location mean that the potential for an occupier to come forward to take on the whole of the building in its current form, is limited.

- 9.9 Notwithstanding the applicant's submissions, as outlined above, the site has not been the subject of a public marketing exercise, which is sought by the emerging District Plan policy to test its attractiveness to potential B1/B2 uses.
- 9.10 In the light of the above issues further advice has been sought from the authors of the Hertford and Ware Employment Study. Wessex Economics have informally endorsed the comments provided by the applicants and consider that, given the flooding issues at this site and the availability of B1/B2 sites/premises within the surrounding area, it is unlikely that a B1/B2 use could be made viable at this site at this time.
- 9.11 Paragraph 22 of the NPPF states that 'Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. It goes on to set out that: 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 the market signals and the relative need for different land uses to support sustainable communities. The applicant also notes that, in the NPPF, economic development is defined to include main town centre uses.
- 9.12 So there is a set of circumstances where there is a clear long term need for the provision of employment uses and land in the District if the 9,700 jobs required for the period up until 2031 are to be created. Furthermore, the Council has recently reviewed its employment floorspace need and no material modifications have been proposed to emerging District Plan policy ED1 through the plan examination process.

- 9.13 The specific shortcomings of this site are noted, its flood risk location, its current bespoke nature and the unlikelihood that it will be taken on by a new occupier in its current form. This has not been tested by a marketing exercise however.
- 9.14 The job creation prospects of the current proposals have been taken into account, the creation of 50 jobs. This is less than that which it is anticipated could be provided if a higher density employment use were to be implemented here.
- 9.15 Overall, it is considered that current evidence is probably not wholly conclusive with regard to the potential for employment reuse of the site and that, notwithstanding the shortcomings of the site in its current form and bearing in mind the advice given by the Councils own advisor. As a result, it is considered that the type of development now proposed (retail) must be assigned some negative weight when considered against the policies which seek to establish the use of the site in principle.

*Whether the development has an acceptable impact on the continued vitality of Hertford Town Centre.*

- 9.16 The application site is not situated within Hertford town centre. It is separated from the town centre by the A414. Pedestrian connection from the application site to town centre is via a pedestrian underpass.
- 9.17 The proposal relates to a use that would normally be appropriate in a town centre location. It is a main town centre use as identified in the NPPF. It is however acknowledged that there will be instances where it is not possible to locate an appropriately sized development site in the town centre and as such there will be occasions whereby town centre uses may be found outside of the town centre boundary. In the emerging District Plan that boundary is identified as being the other side of Gascoyne Way, to the north. In national planning policy terms; the NPPF seeks to direct town centre uses into the town centre. For retail developments outside of this location it sets a threshold of 2,500 sqm, above which a retail

impact assessment would be required in order to assess the impact of proposed development on the continued viability and vitality of the town centre.

- 9.18 The NPPF also encourages Local Planning Authorities to set their own local thresholds for retail impact assessments, where evidence suggests that it would be appropriate to do so in the interests of preserving the vitality of town centres.
- 9.19 The East Herts Local Plan 2007 has set a threshold of 2,500 sqm for these assessments for edge of centre locations. The emerging District Plan proposes a lower threshold of 1,000 sqm for Hertford. This threshold has been the subject of objection through the District Plan examination process however, no changes are proposed to it through the main modifications process.
- 9.20 The proposed quantum of gross floorspace, at 1,735 sqm, does not reach the floorspace threshold outlined in the NPPF or the current East Herts Local Plan. As such it does not trigger the requirement for a retail impact assessment when considered against those policy documents. If the threshold set out in the emerging District Plan is maintained, it will, of course, be in excess of this.
- 9.21 Notwithstanding the above, the applicants have, in any event, undertaken an assessment of the likely impact of the proposed development on Hertford town centre as well as an analysis as to which alternative sites and premises have been considered.
- 9.22 Retail consultants have been commissioned by the planning authority to advise it in relation to these matters.

*Assessment of alternative sites:*

- 9.23 Three town centre sites have been considered as an alternative to the application site. They are considered below:-

- 9.24 Bircherley Green Shopping Centre: Members will be familiar with this site, located in the core part of Hertford town centre. The site contains a multi storey car park which is situated above the current retail units. Waitrose has recently vacated the site; having had a 1,690 gross sqm unit (1,170 sqm net sales area). Waitrose vacated the site due to concerns about its limited size and the fact that it would not offer the potential for expansion that it required.
- 9.25 Whilst the site is therefore presently available, it should be noted that it is also the subject of planning permission for redevelopment for 13 new retail units, a hotel, residential units, together with the retention of the four storey multi storey car park. In the event that this development proceeds, this would mean that the site is no longer available in its current form.
- 9.26 Consideration has been given to merging two of the units in the proposed redevelopment of this site. Doing so would provide a gross floor area of 1,129 sqm which is 35% smaller than the quantum of floorspace proposed in this application and result in a sales area below 1,000 sqm. The Councils retail consultants indicate that this size of floorspace is 'beyond the level of flexibility which we consider is reasonable for the proposed development.'
- 9.27 In addition, with regard to the car parking at the Bircherley Green site, either as existing or subsequent to redevelopment, this would remain ranged over four storeys. Whilst it is not uncommon to have a retail unit at a different level to its associated car park, the Councils consultants have highlighted that normally only one change of level would be preferred. As a result, they consider that from a retail perspective, such an arrangement goes beyond reasonable flexibility.
- 9.28 Given the above, it is not considered that this site represents a reasonable alternative location.

- 9.29 Stationers/Post Office site, Maidenhead Street: This site is located at the western edge of the town centre in the pedestrianised zone. The Council's advisors set out that they do not consider that the applicants have made sufficient effort to conclude that the site is not available for redevelopment. It is noted also that the site has been the subject of recent investment. Notwithstanding this, the consultants concur with the applicant's views that this site, at 0.1 hectares (1,000 sqm) is too small to accommodate the proposed development. It can only accommodate a retail unit that is approximately 2/3rds of the size of the one that is the subject of this application.
- 9.30 Furthermore, the site has no adjacent provision of customer car park. It is therefore concluded that, even taking into account reasonable flexibility, this is not a suitable alternative site for this form of development.
- 9.31 The Marquee, Railway Street: This site is located at the eastern edge of the town centre. At the time the application was made, the site was identified as a potential alternative to the one that is the subject of this application, as it was a vacant unit. However it has been re-occupied and as such this location is no longer available. It has therefore been discounted as a viable alternative site.
- 9.32 No further potential alternative sites have been identified within or adjacent to the town centre boundary for the town.

*Impact on Town Centre Vitality and Viability*

- 9.33 As the proposed floorspace of this application does not exceed that outlined in the NPPF or the current Local Plan, it could be argued that there is no formal requirement for an assessment to be undertaken in relation to the impact of the proposed development on the vitality and viability of the Hertford town centre. However, as set out above and in acknowledging the emerging District Plan proposed threshold of 1,000 sqm, the applicants have sought to provide an analysis which considers:

- The impact of the proposal on existing, committed and planned public and private investment in the town centre;

- 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.

- 9.34 Paragraph 27 of the NPPF advises that where an application is likely to have a significant adverse impact on one or more of the above factors, it should be refused.
- 9.35 The assessment undertaken by the applicants has considered the existing level of convenience stores in Hertford town centre, existing convenience goods shopping patterns and the impact that the proposed development is likely to have on these shopping patterns. It also considers the potential contribution that the proposed development could have on linked trips into Hertford town centre. The applicants' assessment has been reviewed by the Councils advisors.
- 9.36 The two largest existing convenience shopping outlets that are likely to be affected by this development are Sainsburys and Tesco. Both of these supermarkets are located outside of the town centre boundary. As such, there is no a formal planning policy requirement to consider impact in relation to these stores. However as they are the two main supermarkets in this area and as they are in close proximity to the town centre, it is beneficial to consider the impact that the proposal may have on their continued existence and as such the assessment provided by the applicants is welcomed.
- 9.37 Both of these supermarkets have a net sales area significantly larger than the net 1,254sqm proposed (Sainsburys at 2,224sqm and Tesco at 2,323 sqm).
- 9.38 The applicants have advised, and the Councils consultants concur, that the Aldi store's main competition will be with the two aforementioned existing large supermarkets. In this regard they advise that Sainsbury, which is based at Hartham Lane and which is

currently overtrading by £7.9m compared to its store average, will lose £3.68m per annum. Tesco, located on Ware Road, which is also trading above its company average by approximately £9.0m will lose £4.88m per annum.

- 9.39 It has been identified that, as a result of this proposal, Aldi will gain 33% of its customer base from Sainsbury and 35% from Tesco. It is predicted that, as a result of the diversion of trade, Sainsburys will trade at its company average whilst Tesco will continue to trade above its company average.
- 9.40 Marks and Spencer foodhall is situated within the town centre, at Fore Street. Its sales area is markedly smaller, at 455sqm, and it has a significantly smaller share of the overall market as a result. The assessment provided shows that 3% of its trade will be diverted to Aldi as a result of this proposal; with other smaller convenience stores incurring a loss of 0.6%. The Councils advisors consider that this scale of trade loss from existing town centre stores is acceptable and will not impact on the future viability of these stores.
- 9.41 The future viability of the two larger supermarkets is important to the town centre due to the contribution that they both make to linked trips into the town centre. 22% of the customers in both of the stores link their shopping trips to other activity in the town centre. The proposed store also has the potential that it will create linked trips between it and the town centre.
- 9.42 Members will be aware of the differing characteristics of the sites. Sainsburys, at Hartham Lane, is connected by an at grade walkway between its car parking area and Hartham Common to Folly Island and Bull Plain in the town centre via Folly Bridge. The distance from the retail car park area to the core of the town centre is shorter than will be the case for the application site, if these proposals proceed. The route is generally attractive being a high quality waterside path and there are no significant barriers, such as a busy roadway, to be traversed.

- 9.43 Tesco, at Ware Road can be reached from the town centre via Fore Street or Railway Street. It has a similar separation distance from the core of the centre and requires pedestrians to cross Mill Road.
- 9.44 The proposed site now under consideration is separated from the town centre by Gascoyne Way. This is a very busy and major traffic route. In pedestrian terms Gascoyne severs the site from the town centre. Access can be gained via the pedestrian subway adjacent to the site. Whilst lit, there is little overlooking or surveillance of the underpass in its current form and it can reasonably be described as unattractive. The proposed retail unit entrance is at the other side of the building from the pedestrian underpass. In terms of distance, it is considered that the Aldi site is further from the core of the town than the other retail sites but, once through the underpass, the route is an attractive one along St Andrew Street.
- 9.45 The applicants have provided information to support their view that there will be a level of linked trips by referring to data relating to a similar store and underpass link into the town centre at Stevenage. In this example, the information provided indicates 21% of respondents in Stevenage indicated that they combined a trip to an Aldi store with other activities in the town centre, such as going to the bank or non-food shopping and that 45% walked compared to 51% that drove.
- 9.46 Although the Councils advisors have not been able to verify the accuracy of these figures; they consider that as they are broadly similar to the information obtained regarding linked trips from the Sainsburys and Tesco's stores in Hertford where 22% of customers make linked trips into the town centre. Whilst this is noted, if members are familiar with the Stevenage arrangements, they will know there are important differences between them and Hertford. In Stevenage, the pedestrian route is wider and, rather than descending below the adjacent road in a subway, the road is carried over an at grade pedestrian route. The Aldi store there has its entrance facing toward the pedestrian route. The main town centre area is then almost immediately adjacent beyond the road and the adjacent location comprises national multiple retailers.

- 9.47 Given this, and the characteristics of the pedestrian route at Hertford, it is considered that there must be some doubt that the percentage of linked trips will be quite as high as the locations which have been provided as comparable.
- 9.48 Additional trade (approximately 10%) is to be gained from Aldi stores that are currently located outside the area in Hoddeson or Welwyn Garden City. Survey result indicate that Hertford residents currently travel to these stores due to the current lack of retail supermarkets in Hertford that are similar in character to the one that is the subject of this application.
- 9.49 In terms of future investment into Hertford town centre, there is a need to consider whether the proposal will have a significant and adverse impact on current or future investment in this area.
- 9.50 The main development investment for Hertford town centre is the proposed redevelopment of the Bircherley Green Shopping Centre. This benefits from planning permission, dated 5 Jan 2018, for the provision of up to 4,694 sqm of retail floorspace, an 86 bed hotel, 70 residential units together with the refurbishment of up to 180 parking spaces, enhancement of the bus station and associated landscaping.
- 9.51 An indication of whether or not the development proposals are likely to impact planned investment in the town centre can be readily gained from the receipt of objections from competitors. In this regard, it should be noted that whilst the evidence provided by the applicants and verified by the Councils consultants indicate that this proposal will have minimal impact on the town centre, there have additionally, been no objections from competitors to this application.
- 9.52 The Bircherley Green Shopping Centre proposal has not reached construction stage yet, pre- commencement condition details are being submitted to the Local Planning Authority.

- 9.53 In conclusion on this matter, whilst the formal policy requirement for an assessment to be provided in relation to this proposal has not been ratified through the adoption of the District Plan, the applicants have nevertheless opted to provide one. This has been a helpful aide to the assessment of this application.
- 9.54 It has been evidenced that the proposal is likely to draw most of its trade from the two large existing edge of centre supermarkets in Hertford. As there is currently a limited alternatives for convenience shopping in the town centre (further to the closure of Waitrose) and due to the limited market share that Marks and Spencer has within the town centre, it is not considered that the proposal is likely to have a significant and unacceptable impact on the convenience shopping provision in this location.
- 9.55 Evidence has been provided that customers in the two existing edge of centre supermarket sites currently make linked trips into the town centre. The proposed supermarket will also be in an edge of centre location, it also will provide the opportunity for these linked trips, albeit with some likely limitations given the circumstances set out above.
- 9.56 The proposed retail unit will also draw shoppers back into the town who currently leave it to shop elsewhere.
- 9.57 Having regard to the test outlined in paragraph 27 of the NPPF and the advice provided by the Councils consultants on this application, it is considered that there will be no significant adverse impact on Hertford town centre as a result of this development proposal. It will have the potential to provide greater choice and convenience for a number of shoppers. Overall, in relation to this matter, it is considered that positive weight can be assigned to the proposals.

Whether the proposed development will provide a satisfactory level of car and cycle parking and have an acceptable impact on the local highway network. Whether the proposal will provide a satisfactory level of accessibility for pedestrians and to local bus services.

- 9.58 In accordance with paragraph 32 of the NPPF, this application has been submitted with a Transport Assessment. This has been reviewed by Hertfordshire County Council as the Highway Authority.
- 9.59 The application site is considered to be in a highly accessible location. It benefits from existing vehicular access onto Gascoyne Way, is approximately 1 km away from both Hertford Railways Stations, is 0.5km walking distance from Hertford Town Centre and approximately 200 metres away from bus stops on St Andrew Street (accessed via the pedestrian subway).
- 9.60 An analysis of the existing vehicular movement on this site on a weekday has been undertaken. This shows 134 car movements in terms of arrivals and 134 departures. These are likely to be primary trips i.e. to and from work.
- 9.61 In terms of assessing car movements for the proposed store, vehicle movements in suitable comparator sites and characteristics have been undertaken. Comparisons have been made with discount retail stores similar to the proposed user, at sites outside of London, in an edge of town centre location on a weekday for the peak PM period.
- 9.62 This analysis shows that trips generated by the development are 46 arrivals and 53 departures in the PM peak hour. The Highway Authority has indicated that this level of traffic movement is acceptable and according to the traffic modelling that has been undertaken it is anticipated that local journey times on the surrounding highway network will increase by less than 20 seconds. Accordingly it is considered that the proposed traffic movements associated with this development will not have a negative impact on the local highway network.
- 9.63 No major alterations are proposed to the existing access arrangements, however the applicant will be requested to improve the entrance point, whilst maintaining the pedestrian crossing at the site. Details have been requested by Highways and this will be the subject of an appropriately worded condition.

- 9.64 With regard to car parking provision, it is proposed that the number of car parking spaces will be 127. This exceeds the number that is normally required for a development of this nature (96 No); according to the standards applied for this form of development as outlined in the East Herts Local Plan (and the emerging parking standards). However, it should be noted that the applicants propose to enable users to park at the site for an extended period of up to 120 minutes. This will encourage linked pedestrian trips into the town centre. The site layout indicates that this level of car parking can be adequately accommodated. This level of over provision is not considered to be unduly harmful in transport sustainability terms. This also assists in addressing concerns that have been expressed by local residents with regard to the potential for parking to exceed provision and overspill into local roads.
- 9.65 It is proposed that disabled car parking will be provided. Whilst this is currently proposed to be 5 spaces, it should be noted that EHDC policy standards would normally require 6 spaces. Given that there is a current over provision of car parking spaces in general, it is considered that this disabled car parking provision can also be increased. This will be requested by condition.
- 9.66 It is essential to ensure that an adequate level of cycle provision is made at this site in the interests of promoting the potential for sustainable form of development at this site. Cycle access to the site can be obtained via Gascoyne Way shared cycle and pedestrian cycle path. This route does have its limitations and cycling is not permitted in the adjacent underpass, although bicycles can be 'walked through'.
- 9.67 Cycle parking provision has been proposed at 8 No spaces. However this level does not fully comply with the EHDC standards which require 1 short term space per 150 sqm of gross floorspace plus 1 long term space per 10 staff. To meet these standards, the development should be providing at least 16 spaces. As there is an over provision of car parking spaces at the site, it is considered that the cycle parking provision can also be increased. The applicants

have been made aware of these requirements and have agreed to reconsider the overall cycle provision. There will be a need to ensure that additional cycle spaces are positioned in close proximity to the store entrance so that their security is maintained. This will be requested by condition.

- 9.68 As set out above, pedestrian access to the site can be obtained from the footway alongside Gascoyne Way and via the pedestrian subway. The application proposes marginal road alignment amendments at the entrance to the site to provide ease of vehicular movement and to retain the pedestrian island.
- 9.69 Pedestrian access to the site is intended to be further enhanced, as part of these proposals by the implementation of improvements to the appearance of the underpass. The proposed works however will mainly be of a cosmetic nature; cleaning, painting, the potential introduction of artwork together improved lighting and potentially the introduction of CCTV monitoring (subject to further assessment of the feasibility and cost). Funding for these works, to be implemented by others, will be secured through a legal agreement.
- 9.70 The application site is situated approximately 200 metres from the nearest bus stops in St Andrew Street, again accessed via the pedestrian underpass. Buses from these stops serve locations in the town and beyond. There has to be some caution with regard to the attractiveness of accessing the site by public transport. Staff working at the site and living within the local area may find it acceptable. Those shopping at the site are less likely to find the journey from the site to the closest bus stops on foot, with heavy bags that attractive a prospect. The closest bus stops have no shelter provision.
- 9.71 Overall, it is considered that the accessibility of the site is generally good, with some shortcomings. The impact of the proposals in traffic terms will be largely neutral.

Whether the proposed development will provide an appropriate layout (which addresses flood risk), scale and appearance (including landscaping):

- 9.72 Paragraph 60 of the NPPF states that, "Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness."
- 9.73 Policy ENV1 (Design and Environmental Quality) in the Local Plan requires development to be of a high standard which provides compatibility with the surrounding area as well as effectively connecting with existing routes and spaces.
- 9.74 The application site is situated in a prominent location on Gascoyne Way and whilst it is not situated within the Hertford Conservation Area it is immediately adjacent to it. The proposed building will be visually prominent on Gascoyne Way. The overall design and appearance of the building is a contemporary one that features a combination of cladding with anthracite double glazed windows. This is a standard contemporary corporate appearance that is associated with Aldi supermarket buildings. Minimal signage is proposed; however it should be noted that a separate consent will be required for this.
- 9.75 The overall height of the proposed building is broadly similar to the existing Which? building. However, whereas the existing building has a range of heights from 5.9 metres rising to a maximum height of 9.5 metres, the proposed building will have a more consistent building height of 8.1 metres in height along the Gascoyne Way frontage. In order to address flooding issues at the site, it is proposed that the ground level at the site will be raised by approximately 265mm. Taking this into account, the proposed height of the building is never the less considered to be acceptable, ensuring that it is compatible with the heights of buildings within the vicinity of the site.

- 9.76 The proposed building will be positioned adjacent to the A414 in a north-west to south-east orientation. This is a marked difference to the current built form on the site which features a building that has a north-south orientation and as such has less visibility from Gascoyne Way. The siting of the building has been influenced by the need to have regard to the flooding issues relating to this site and to ensure that light spillage onto the A414 opposite and the domestic properties opposite is minimised. The building features a modern design which at roof level will feature solar panels. Its orientation will result in it having a much more prominent presence on Gascoyne Way.
- 9.77 Due to the orientation of the building, the front of the building will face the car park and the rear will face Gascoyne Way. Servicing of the building will take place from within the car parking area and as such will not be visible from Gascoyne Way. Views of the side elevation building will be obtained from traffic travelling east on Gascoyne Way whereas traffic travelling west will have views of the rear of the building from oblique angles, but largely concealed by the existing on site planting. At the Gascoyne Way boundary of the site, the proposed building line will be set back from the edge of the underpass by a distance which ranges between 0.5 – 2.0 metres.
- 9.78 In terms of landscaping, with the exception of 15 low category trees which are proposed to be removed from the frontage of the site to accommodate the positioning of the new building and a further 2 low category trees within the rear of the site, the majority of trees on the site are proposed to be retained. Remaining trees will be protected using accepted barriers/fencing and ground protection.
- 9.79 New trees are proposed to replace those that will be removed. These are proposed on the Gascoyne Way facing frontage, acting as a visual screen between the rear elevation of the building and the roadway. Five new trees are proposed to screen the rear elevation of the building. This planting will be supplemented with low level landscaping including ornamental shrub planting.

- 9.80 Additional trees and shrub planting will be provided at the north western part of the site within the car park. In an attempt to respond to flooding issues at this site, the proposed development seeks to reduce the amount of hardstanding at the rear of the site by introducing an enhanced level of soft landscaping. In this regard the proposal will result in a reduction of hardstanding within the 8m buffer zone referred to by the Environment Agency from 330sqm to 58sqm. This will assist in relation to enhancing biodiversity and address flooding impacts at the site.
- 9.81 As indicated above, the height of the ground floor of the building will be raised above that of the current buildings on the site to ensure that it is acceptable in relation to potential flooding impacts. This increase in height is considered to be marginal, at 265mm, and will not result in any unacceptable visual impact.
- 9.82 The Council's engineering advisor indicates that a more enhanced surface water drainage solution could be achieved. Attenuation tanks can result in greater maintenance liabilities in the future and do not provide the biodiversity benefits that open ground solutions provide.
- 9.83 The landscape proposals, which are to be provided in greater detail via condition, will also involve the erection of a retaining wall at the site, again to assist with flood protection. The Environment Agency is now content with these proposals, and has lifted its previous objections. At this stage no details have been provided regarding the lighting proposals for the site, however this will be the subject of a planning condition for future consideration. Other sustainability initiatives include roof level solar panels.
- 9.84 The impact of the proposals in relation to the Conservation Area and nearby listed buildings has been assessed. As the Conservation and Urban Design Officer notes, the site is largely segregated from this heritage environment. The impact in relation to the Conservation Area is considered to be no greater than that of the existing building, so, whilst adjacent, the character of the Conservation Area is preserved. Nearby listed buildings are more

distant, on St Andrew Street and West Street. None of them is considered to be impacted on by these proposals.

- 9.85 Overall the proposals are considered to operate well in relation to design and layout matters. There are biodiversity improvements as a result of the reduction of hard standing in the water course buffer zone. Further enhancement could be achieved by a softer surface water drainage system. Overall, neutral weight is assigned to these matters.

*Whether the development would have an acceptable impact on neighbouring amenity.*

- 9.86 The site is located within a defined employment area. There are a number of employment uses within the vicinity of the site. It is considered that these will not be adversely affected by this development due to their considerable distance from the site.
- 9.87 Adjacent to and on the opposite side of Gascoyne Way from the site there are a number residential properties which may be affected by this development. The main source of impact is likely to be noise, associated with additional vehicle movements at the site and possibly as a result of lighting. However, given the current intervening environment, largely created by the traffic activity and lighting to Gascoyne Way, this impact is considered to be minimal. There is likely to be an impact to the occupants of houses situated to the north eastern boundary of the site, as they are adjacent to the proposed car parking area. However the occupiers of these properties currently experience the activity associated with the office use.
- 9.88 The majority of vehicle movements for the proposed are likely to be in the day time and will in effect be limited by the operational hours of the development and the extended parking that will be afforded to customers to enable linked trips to be made to the town centre. Additionally, service delivery times to the site are also proposed to be restricted by condition.

- 9.89 With regard to lighting, the positioning of the proposed store has been orientated so that light spill does not affect residential amenity. The potential for light spill will be further reduced by the provision of enhanced soft landscaping around the site, including the provision of new trees.
- 9.90 With regard to the impact of the proposals on the amenity of nearby residential occupiers, it is considered that the proposals are acceptable and no detriment will be caused, subject to controlling conditions

## **10.0 Conclusion**

- 10.1 A key objective of the planning system is to bring forward development that is appropriate and in the right place. This is made clear in the National Planning Policy Framework (NPPF), which states that there should be a presumption in favour of sustainable development.
- 10.2 The proposal will result in the loss of an employment site within a designated employment area. It has been demonstrated that the site is liable to flooding, resulting in the current occupiers needing to relocate. Additionally it has been demonstrated that within the sub region, a building that is subject to flooding as this site is, is unlikely to be an economically viable prospect for redevelopment for employment B1, B2, B8 use. The proposed retail use will also provide employment; albeit at a lower level than the current use and within the A1 class (retail).
- 10.3 Balanced against this is the advice the Council has previously secured, generally indicating that it should retain land in employment use. No public marketing exercise has been undertaken in this case and there it is considered that this matter remains inconclusive and some negative weight should be assigned to the proposals as a result.

10.4 However the proposals will provide for further retail choice and convenience for local residents. Whilst there will be some impact on current convenience operators in the town, the impact on the wider range of retail uses in the town centre is considered to be marginal. The site may result in further trade being drawn into the town centre, but the potential for this is considered to be limited, given the locational circumstances of the site. Never the less, the additional choice and convenience and lack of impact in relation to vitality and viability is given positive weight.

10.5 In relation to other matters, the proposals are considered to impact acceptably and they are neutral in the balance. Overall, it is considered that the positive weight that can be given to the additional provision of choice and convenience for residents outweighs the harm that has been identified and the proposals can be allowed to proceed. It is considered that the proposals represent a sustainable form of development.

## **RECOMMENDATION**

That planning permission be **GRANTED** subject to the conditions set out below and the satisfactory conclusion of a legal agreement to secure the following:

### **Legal Agreement**

- Travel Plan - £6,000.00
- A financial contribution for the costs of making improvements to the pedestrian underpass at Gascoyne Way.

### **Conditions:**

1. Three year time limit.
2. Approved plans

3. Materials to be submitted

No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In order to provide an acceptable form of development that complies with the council's development management policies.

4. Hours of operation

The retail unit hereby permitted shall not be open to customers outside of the hours 08:00 to 20:00 on Mondays to Saturdays and 10:00 to 18:00 on Sundays.

REASON: In order to protect the amenity of the occupiers of surrounding properties.

5. Net Sales Floorspace

At least 1003 square metres of the net sales floorspace hereby approved shall only be used for the sale of convenience goods, toiletries and non – durable household goods.

REASON: In order to protect the viability and vitality of Hertford Town Centre.

6. No home delivery service shall be carried out from the development hereby approved without the prior written consent of the Local Planning Authority.

REASON: In order to protect the amenity of the occupiers of surrounding properties.

7. Modifications to be approved:-

Notwithstanding the details shown on the plans hereby approved; the following modifications shall be made to the development:-

- Increase in the number of cycle spaces
- Increase in the number of accessible parking bays

Details of shall be submitted to the Local Planning Authority in writing for their written approval; thereafter the approved details

shall be implemented in full and maintained as such in perpetuity, to the satisfaction of the Local Planning Authority.

REASON: In order to provide an acceptable form of development that complies with the council's development management policies.

8. Surface Water Drainage Scheme

No development shall take place until a detailed surface water drainage scheme for the site based on the approved drainage strategy and sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run – off generated up to an including 1 in 100 year+ climate change critical storm will not exceed the run – off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

- (i) Provide source control measures such as permeable paving, to ensure surface water run – off from the proposed car parking and roads can be treated in a sustainable manner and reduce the requirement for maintenance of underground features.
- (ii) Final design of the attenuation tank should incorporate silt traps and appropriate pollution prevention methods.
- (iii) Detailed engineered drawings of the proposed SuDS features including their size, volume, depth and any inlet and outlet features including any connecting pipe runs.
- (iv) Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON: To prevent the increased risk of flooding, both on and off site.

9. Surface Water Attenuation Maintenance and adoption Plan

The development hereby approved may not be occupied until details of a surface water attenuation maintenance and adoption plan have been submitted to and approved in writing by the Local Planning Authority. Thereafter the maintenance and adoption plan shall implemented and maintained in accordance with the approved

document in perpetuity unless alternative arrangement have been agreed in writing with the Local Planning Authority.

REASON : To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site.

10. Flooding Evacuation Plan

Details of a flooding evacuation plan to be submitted to and approved by the local planning authority.

REASON: In order to reduce the risk of flooding to the proposed development and future occupants.

11. Archaeology

No development shall take place within the proposed development site until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the planning authority and approved in writing. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to publication has been made. The development shall thereafter be carried out in accordance with the approved scheme.

REASON: To secure the protection of and proper provision of any archaeological remains in accordance with Policies BH2 and BH3 of the East Herts Local Plan Second Review 2007 and Para 141 of the NPPF.

12. Service Yard Management Plan

No development shall commence until a Service Yard Management Plan has been submitted to and approved in writing by the Local Planning Authority. Such a management plan shall identify measures to control noise emanating from the service yard. Delivery management shall be implemented in accordance with the approved plan at all times.

No goods deliveries shall be taken at or despatched from the site outside the hours of 0700 to 2100 hours Mondays to Saturdays; and 0900 to 1700 hours on Sundays or Bank Holidays.

REASON: To protect the amenity of residential properties within the vicinity of the site.

13. Noise from plant, machinery or equipment

Noise resulting from the use of the plant, machinery or equipment shall not exceed the existing background level when measured or calculated according to BS4142:2014.

REASON: To protect the amenity of residential properties within the vicinity of the site.

14. Hours of demolition/construction/site preparation

All site demolition, site preparation and construction works, shall take place between 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays and at no times on Sundays or Public Holidays without the written permission of the Local Planning Authority.

REASON: To safeguard the amenity of the occupants of neighbouring and surrounding occupiers.

15. Contamination

No development approved by this permission shall take place until a Phase 2 investigation report, as recommended by the previously submitted Brownfield Solutions Ltd report dated January 2017 ( Ref: PD/C3229/1290 Rev A), has been submitted to and approved in writing by the Local Planning Authority. Where found to be necessary by the phase 2 report a remediation strategy to deal with the risks associated with contamination of the site shall also be submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall include an options appraisal giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency action.

REASON: To protect human health and the environment.

16. Contamination (Validation report)

Prior to the occupation of the development hereby approved, it shall be demonstrated to the Local Planning Authority by means of a validation report, agreed in writing by the Local Planning Authority

that any works which form part of the Phase 3 Remediation Scheme have been implemented. Any such validation should include responses to any unexpected contamination discovered during works.

REASON: To protect human health and the environment.

17. Detailed Plans

Prior to the commencement of the development hereby permitted full details in the form of scaled plans and written specifications shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority to illustrate the following:

- i. Roads, footways, foul and on-site water drainage.
- ii. Existing and proposed access arrangements including visibility splays and gradients.
- iii. Parking provision in accordance with adopted standard.
- iv. Cycle parking provision in accordance with adopted standard.
- v. Servicing areas, loading areas and turning areas for all vehicles.

REASON: In the interests of maintaining highway efficiency and safety.

18. Construction Traffic Management Plan

Construction of the development hereby approved shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter, the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Traffic management requirements;
- c. Construction and storage compounds (including areas designated for car parking);
- d. Siting and details of wheel washing facilities;
- e. Cleaning of site entrances, site tracks and the adjacent public highway;
- f. Provision of sufficient on-site parking prior to commencement of construction activities;

g. Post construction restoration/reinstatement of the working areas and temporary access to the public highway.

REASON: In order to protect highway safety and the amenity of other users of the public highway and rights of way.

19. Swept Path Assessments:

Prior to commencement of any part of the development, revised swept path assessments are required to demonstrate that:

- A standard vehicle can safely access and manoeuvre within the site and depart in a forward gear.
  - A service vehicle can safely access the site and manoeuvre within to depart in a forward gear. The service vehicle used should be the largest service vehicle expected at the site.
  - A refuse vehicle can safely access the site and manoeuvre within to depart in a forward gear. The refuse vehicle used should be the largest refuse vehicle expected at the site.
  - An emergency vehicle, i.e. fire tender and ambulance, can safely access the site and manoeuvre within to depart in a forward gear; and
  - A standard vehicle can safely manoeuvre around parking areas.
- REASON: In order to protect highway safety and the amenity of other users of the site.

20. Servicing and Delivery Plan

Prior to the occupation of the use hereby permitted, a Servicing and Delivery Plan shall be submitted to and approved in writing by the Local Planning Authority. The Servicing and Delivery Plan shall incorporate the servicing arrangements for the use and adequate provision for the storage of delivery vehicles within the site.

Thereafter, the Servicing and Delivery Plan shall be implemented in full and maintained in accordance with the measures agreed.

REASON: In the interests of maintaining highway efficiency and safety and to ensure that the amenity of the occupants of surrounding buildings is adequately protected in accordance with Policy ENV24 of East Herts Local Plan Second Review 2007.

21. Car Parking Management Plan

Prior to the first use of the car park, a detailed car park management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall outline:-

- Signage proposals to manage car movement within and outside the site
- Proposals for short term car parking
- Proposals for town centre car parking including review mechanisms
- Measures to mitigate noise and light pollution
- Security Standards that achieve the British Parking Association's safer car park award.

Thereafter it shall be implemented and maintained in accordance with the measures agreed.

REASON: To ensure that the car park functions in accordance with its agreed purposes and does not harm the amenity of surrounding occupants or the local highway network.

22. Provision of refuse storage.

Prior to the occupation of the development hereby approved all refuse storage areas shall have been provided and made available for use and retained thereafter in perpetuity.

REASON: To ensure that adequate provision is made within the development for the storage of refuse.

23. Construction Management Plan

Prior to the commencement of the development, a detailed construction management plan shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:

- a) The construction programme and phasing plan
- b) Hours of operation, delivery and storage of materials
- c) Details of any highway works necessary to enable construction to take place

- d) Parking and loading arrangements
  - e) Details of hoardings
  - f) Details of how pedestrian and cyclist safety will be maintained
  - g) Management of traffic to reduce congestion
  - h) Control of dust and dirt on the public highway
  - i) Details of consultation and complaint management with local businesses and neighbours
  - j) Waste management proposals
  - k) Mechanisms to deal with environmental impacts such as noise, air quality, light and odour.
- REASON: In the interests of highway safety and the control of environmental impacts.

#### 24. Site Waste Management Plan (SWMP).

Prior to the commencement of the development, a detailed site waste management plan shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:

- Waste arising during both the site preparation, demolition and construction phases.
- Definition of the waste types
- An indication of its specific re – use on site or its removal from the site
- Information that would indicate where waste is being transported to; together with details of the waste carrier
- The total volumes of waste during enabling works and construction works should also be summarised.

REASON: In the interests of highway safety and the control of environmental impacts.

#### 25. Tree Protection

Apart from enabling works, no development shall commence respectively on any phase of the development hereby permitted until details of the specification and position of fencing and any other measures to be taken for the protection of any retained tree or hedging in each part from damage before or during the course of development have been submitted to and approved in writing by the

Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

REASON: In order to safeguard the amenity of any tree or hedge that is to be retained on the site.

26. Landscape Management Plan.

Before development commences, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority. The scheme shall include the following elements:

1. detail of the extent and type of new planting (native species only)
2. details of maintenance regimes
3. details of any new habitat created on site
4. details of treatment of site boundaries and/ or buffers around water bodies.

REASON: To ensure the provision of amenity afforded by the proper maintenance of existing and/or new landscape features, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

27. Tree replacement

If, within a period of five years from the date of the planting of any tree approved as part of the landscaping details approved, or any tree planted in replacement for it, that tree is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written approval to any variation.

REASON: To ensure the provision of amenity afforded by the proper maintenance of existing and/or new landscape features, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

28. Lighting Strategy

Details of a lighting strategy for the development site shall be submitted, setting out the general distribution and design guidelines for all installations in the development and its public realm areas. The Lighting Strategy shall also include information about potential light spill on to the surrounding area including watercourses and shall be submitted to and approved by the Local Planning Authority, in writing, before lighting is implemented. The development shall not be carried out otherwise than in accordance with the details thus approved.

REASON: To ensure that the external appearance and the lighting associated with the development is satisfactory and does not detract from the character and visual amenity of the area or affect the residential amenity of nearby occupiers.

29. Compliance with Surface Water Drainage Assessment

The development permitted by this planning permission shall be carried out in accordance with the approved surface water drainage assessment carried out by Stirling Maynard, report reference number 3787/170, dated May 2017 and the following mitigation measures:

- (i) Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 30l/s during the 1 in 100 year event plus 20% of climate change event.
- (ii) Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 + climate change event providing a storage volume in underground tanks.
- (iii) Discharge of surface water from the Main River.

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:

1. To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site.
2. To reduce the risk of flooding to the proposed development and future occupants.

30. Surface Water Drainage Scheme

No development shall take place until a detailed surface water drainage scheme for the site based on the approved drainage strategy and sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including 1 in 100 year + climate change critical storm will not exceed the run – off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the details before the development is completed.

1. Provide source control measures such as permeable paving, to ensure surface water run – off from the proposed car parking and roads can be treated in a sustainable manner and reduce the requirement for maintenance of underground features.
2. Final design of the attenuation tank should incorporate silt traps and appropriate pollution prevention methods.
3. Detailed engineered drawings of the proposed SuDS features including their size, volume, depth and any inlet and outlet features including any connecting pipe runs.
4. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON: To prevent the increased risk of flooding, both on and off the site.

### 31. Provision of a buffer Zone

No development shall take place until a scheme for the provision and management of an eight metre wide buffer zone (that which falls within the red line boundary of the development) alongside the River Lee watercourse shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping; and could form a vital part of green infrastructure provision. It is acceptable that the 8m buffer is encroached on as detailed in the documents submitted (drawing number 1712-CHE-102, Rev E, dated 18.08.16) provided that adjacent sections of wider buffer zone (i.e. over 8m) compensate for this. The scheme shall include:

- plans showing the extent and layout of the buffer zone.
- details of any proposed planting scheme (all plant species within 8m of the top of the river bank should be native)
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
- details of any proposed footpaths, fencing, lighting etc. There shall be no light spill from external artificial lighting into the watercourse or adjacent river corridor habitat. To achieve these specifications, location and direction of external artificial lights should be such that the lighting levels within eight metres of the top of bank of the watercourse are maintained at background levels. The Environment Agency considers background levels to be a Lux level of 0-2.

#### REASON:

Development that encroaches on watercourses has a potentially severe impact on their ecological value, e.g. artificial lighting disrupts the natural diurnal rhythms of a range of wildlife using and inhabiting the river and its corridor habitat. Land alongside

watercourses is particularly valuable for wildlife and it is essential this is protected in accordance with the National Planning Policy Framework (NPPF).

## **Informatives**

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water Interest) etc. Neither does this permission negate or override any private covenants which may affect the land.
  
2. **Environmental Impact from Construction/Demolition Sites**  
The applicant should take all relevant precautions to minimise the potential for disturbance to the occupiers of neighbouring properties in terms of noise and dust during the demolition and construction phases of the development. This should include not working outside the hours of 08.00 to 18.00hrs on Monday to Friday, 08.00hrs to 13.00hrs on Saturdays, nor at any time on Sundays, Bank or Public Holidays. The advising of neighbours and publication of a hotline in advance of any works is highly recommended. The granting of this planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received. For further information please contact the Environmental Health Service.
  
3. **Contaminated land**  
If during any site investigation, excavation, engineering or construction works evidence of any unexpected land contamination be identified, the applicant shall notify the Environmental Health Team without delay. Any land contamination identified, shall be remediated to the satisfaction of the Local Authority to ensure that the site is made suitable for its end use. You are reminded that the responsibility for safe development rests with the owner and/or developer.

4. Lighting scheme  
The lighting scheme should comply with the Institution of Lighting Professionals Guidance Note for the reduction of obtrusive light 2011 (or later versions). It should be designed so that it is the minimum needed for security and operational processes and be installed to minimise potential nuisance.
5. Any works proposed to be carried out that may affect the flow within an ordinary watercourse will require the prior written consent from the Lead Local Flood Authority under Section 23 of the Land Drainage Act 1991. This includes any permanent and or temporary works regardless of any planning permission.
6. Flood Risk Activity Permit  
Under the terms of the Environmental Permitting Regulations a Flood Risk Activity Permit is required from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Lee or Lea, including St Andrew's Stream, designated a 'main river'. Details of lower risk activities that may be Excluded or Exempt from the Permitting Regulations can be found on the gov.uk website. Please contact us at PSO-Thames@environment-agency.gov.uk for further details.

### **Summary of Reasons for Decision**

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan; the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The balance of the considerations having regard to those policies is that permission should be granted.

**KEY DATA****Non-Residential Development**

<b>Use Type</b>	<b>Floorspace (sqm)</b>
Retail A1	1,735 gross

**Non-residential Vehicle Parking Provision**

Use type	Standard	Spaces required
retail	1 per 18sqm gross floorspace	96
Total required		96
Accessibility reduction	Zone 3: 50 – 75%	Reduction of up to 48 spaces
Resulting requirement		48
Proposed provision		127

The same provision is required in the emerging Parking Standards (endorsed at District Plan Panel 19 March 2015)

**Legal Agreement – financial obligations**

This section normally sets out the financial obligations that could potentially be sought from the proposed development in accordance with the East Herts Planning Obligations SPD 2008; sets out what financial obligations have actually been recommended in this case, and explains the reasons for any deviation from the SPD standard.

In this case no obligations are proposed to be secured, in relation to the East Herts SPD, as the proposals represent a non residential form of development.