

- (a) **3/08/1528/FP – Mixed use redevelopment of part of the McMullen's Brewery site, comprising a foodstore and conversion of the former brewery building to provide elements of the foodstore, including cafe, offices and commercial space, community space, associated car parking and landscaping, riverside walk, re-naturalisation of river bank, bridge link to town centre, re-routing of Hartham Lane and associated provision of new access and servicing points, amended design and additional information.**
- (b) **3/08/1529/LB – Alterations to listed building to accommodate ancillary elements of the proposed foodstore, business/office space and community space, including an interpretation centre**
- (c) **3/08/1530/LC – Demolition of buildings including lager building, former derelict public house and former derelict cottages and truncation of warehouse in Conservation Area to allow for comprehensive redevelopment at McMullen's Brewery Site, Hartham Lane, Hertford, Herts for Sainsbury's Supermarkets Ltd.**
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Date of Receipt: (a) 26.08.2008
(b) 26.08.2008
(c) 26.08.2008

Type: (a) Full
(b) Listed Building Consent
(c) Conservation Area Consent

Parish: HERTFORD

Ward: HERTFORD - BENGEO

RECOMMENDATION

- (a) That in respect of application 3/08/1528/FP planning permission be **REFUSED** for the following reasons:-
1. The predominance of surface car parking areas, the limited elevation interest within two main frontages of the store building, are poor features within the setting of the listed brewery and the Hertford Conservation Area. Concern remains about the long term consequences of worsened traffic congestion, in particular at Old Cross. The proposed development fails in such ways to achieve the high standards of design and enhancement necessary for new development and appropriate for this key urban regeneration site within the Hertford Conservation Area, and is thereby contrary to Policies ENV1 and BH6 of the adopted East Herts Local Plan Second Review April 2007 and national guidance in PPS1. Notwithstanding the associated benefits of the proposed development, including the regeneration of this part of the Conservation Area, and the repair and re-use of the listed brewery, the balance of these considerations is not considered to outweigh the overall highways objections and be such as

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to warrant the grant of planning permission.

2. The traffic demands resulting from the nature and scale of the proposed development and its servicing requirements exceed the capacity of the local road network to manage them satisfactorily, in particular the demands that will result on the junctions at Cowbridge with Hartham Lane and at Old Cross and the narrow roads leading to them. The proposed development would therefore result in significantly worsened congestion detrimental to the safe and convenient use of the public highway. The proposal is therefore contrary to Policies STC1 and TR2 of the East Herts Local Plan Second Review April 2007 and the objectives of the Local Transport Plan.
 3. Inadequate provisions are made to mitigate the harmful impacts of the development or to promote walking, cycling and passenger transport options as part of the proposed development. The submitted Transport Assessment and draft Travel Plan has failed to adequately analyse the scope for encouraging these modes. The proposal is thereby contrary to national guidance in PPG13 and Policies SD1, TR1 and TR4 of the East Herts Local Plan Second Review April 2007 and the objectives of the Local Transport Plan.
- (b) That in respect of application 3/08/1529/LB Listed Building Consent be **GRANTED** subject to the following conditions
1. 3 year time limit (1T12)
 2. Samples of materials (2E12)
 3. New Brickwork (8L06)
 4. New Rainwater Goods (8L09)
 5. New Windows (8L03)
 6. New Doors (8L04)
 7. Making Good (8L10)
 8. Schedule of Repairs (8L11)

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- (c) That in respect of application 3/08/1530/LC Conservation Area Consent be **GRANTED** subject to the following conditions
1. Five year time limit
 2. Conservation Area (demolition) (8L12)
- (d) That in the event of refusal of the full planning application, 3/08/1528/FP, members consider and advise on future development options for the site. That it be recommended that the future Local Development Framework incorporate provisions for a Development Brief for the Hartham Lane area, to be subject of public consultation, which accords with a lower traffic impact development strategy, Option 2 or Option 3, to secure the regeneration of the area and enable the repair and use of the listed brewery.

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1.0 Background

- 1.1 The application site is shown on the attached OS extract and lies on the north side of Hertford town centre. Measuring 2.36ha of land formerly used by McMullen's Brewery, it comprises car parking and vehicle turning areas, outdoor storage areas, the 1984 built "lager building", the former Unicorn Public House and the Grade II listed Victorian Brewery as well as undeveloped land. Members may recall an earlier application (3/08/0098/FP) for a foodstore at this site; this was withdrawn prior to consideration at the 9th April 2008 committee.
- 1.2 The application site boundary extends along highway areas up to Cowbridge and also includes a small riverside amenity area in East Herts Council ownership known as "Little Hartham" which is part of the proposed footbridge and pedestrian/cycleway link from the foodstore to the town centre via Bull Plain.
- 1.3 To the north of the site is the large recreational open space of Hartham Common, which includes the Hartham Leisure complex and swimming pool, skateboard park, children's playgrounds' and play areas as well as public car parks. Hartham Lane, (85 spaces), is immediately north of the site and and Hartham Common, (119 spaces), runs along the raised ground of a former railway line to the north east of the site. The site is bounded by the commercial and industrial areas of Hartham Lane to the south and west including the retained McMullen's Brewing, office and warehousing operations. On Station Approach, adjacent to the listed brewery is the Grade II listed Ekins Offices. The River Lea divides the site from the

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residential area of Folly Island to the east with its characteristic Victorian terraces. A recent terrace of dwellings, "Waters Edge" faces the river directly opposite the proposed foodstore car park and riverside path.

- 1.4 Recreational visitors, businesses and employees use the main vehicular access into Hartham Common along Hartham Lane via Cowbridge. There is a separate road access to one part of the Hartham Lane Car Park from Port Hill. Hartham Common is also accessible via connecting public footpaths and the River Lee recreational cycleway which links Hertford with Ware and the Lee Valley Regional Park.
- 1.5 The site lies within the Hertford Conservation Area, partly within an Area of Archaeological Interest and partly within the indicative floodplain of the River Lea.
- 1.6 It is proposed to demolish all the buildings on the site including the lager building and the former public house but retain and refurbish the listed brewery as part of the proposed food store.
- 1.7 The main changes made from the first planning application in January 2008 are a reduction in the net floor sales area (from 2508 sqm to 2328sqm) , reduction of parking area from 268 to 240 car parking spaces, renaturalisation of river bank, increased landscape areas and planting, greater provision for footpath links through the site. In subsequent discussions, including English Heritage, the store design has been amended, the gross floor area of the store has been reduced in size by 193 sqm and the parking reduced to 232 spaces. A Supplementary Retail Assessment was made which delayed the final consideration of the application. The proposal therefore now comprises
 - A new Sainsbury's supermarket of (4872 sqm) sq m gross (2328 sq m net)
 - 602 sq m of community space in listed brewery
 - 1,201 sq m of business/ office accommodation (in listed building)
 - 232 customer car parking spaces
 - 50 cycle parking spaces
 - A new bridge over the River Lea to provide pedestrian and cycle links into the town centre
 - A new footpath along the River Lea on the eastern boundary of the site.

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- 1.8 The retail store includes a new coffee shop (141sqm). The store opening times are proposed at 7am to 10pm Monday to Saturdays and 6 hours on Sundays and Bank Holidays. The store would employ up to 300 staff and it is anticipated that up to 80 jobs would be provided in the listed building.
- 1.9 As part of the proposals, Hartham Lane would be stopped up as a public road and traffic into Hartham Common would divert along Station Approach and along a new access road which would connect to the existing Hartham service road and car parks. Pedestrian access would continue along the route of the existing Hartham Lane and be partly shared with access vehicles servicing McMullen's remaining brewery operations.
- 1.10 The applications have been submitted with an Environmental Impact Assessment and documentation as follows •
- Planning Statement
 - Design and Access Statement;
 - Transport Assessment;
 - Retail Statement (with supplement in response to Chase and Partners Critique);
 - Statement of Public Consultation;
 - Employment Report;
 - Sustainability Statement (and supplementary energy report);
 - Listed Building Statement and Structural Survey Report
 - Conservation Area Statement;
 - Tree Condition Survey;
 - Tree Root Survey;
 - Construction Method Statement;
 - Flood Risk Assessment
- 1.11 Details of pre application consultations are summarised in the Statement of Public Consultation. This refers to meetings with stakeholders, leafleting and a public exhibition with questionnaire in June 2007 prior to the first application. 374 completed questionnaires were received.
- 1.12 46.5% of respondents who expressed a view were generally in favour of the proposals as set out in June 2007. The principle of a new Sainsbury's is judged by the applicant to be "broadly welcomed" so long as traffic and access issues were fully addressed. The majority of those who did not offer their support were mainly motivated by concerns about traffic. Respondents indicated that a pedestrian bridge would be an essential feature of the plans, although some Folly Island residents were concerned and preferred that no bridge be provided.

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1.13 When the first application (3/08/0098/FP) was made in January 2008 the Council received 39 objection letters, with 2 supporting letters, including the St Andrew Street Traders.

1.14 The applicants have had discussions with officers about what S106 provisions might be appropriate in the event of a planning permission and their current proposals total contributions of £555,000. It is anticipated that an update of these negotiations and S106 commitments may be given to members before the committee meeting

- Refurbishment of the listed buildings
- Contributions for improving pedestrian, cycle links and passenger transport improvements, SCOOT system, Streetscape Schemes (£530,000)
- Implementation of travel plans
- Contributions (£5,000) to recreation/community provision at Hartham Common
- Funding (£5,000) of a wider alcohol ban area and community safety initiatives
- Maintenance and management of an interpretation centre within the brewery
- Funding of town centre and environmental improvements (£15,000) to link the site with town centre and Hartham Common
- Funding of traffic regulations for highway orders and parking restrictions around the site
- Agreed car park pricing regime in order to operate as equivalent town centre car parks.

2 Relevant Planning History

2.13 The original brewery was first built in 1891 with a modern addition in 1984. Both of these became redundant when McMullen's brewing activities moved to a new smaller facility in 2006. There is a long history of minor planning applications related to McMullen's use of the site; of particular relevance are

- 3/81/0910. Brewery extensions. Permission. 23 September 1981.
- 3/85/1648/FP. Brewery extensions. Conditional permission. 13 December 1985.
- 3/86/2104/FP. Change of use of dwelling (33 Hartham Lane) to store and workshop. Conditional permission. 4 March 1987.

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- 3/94/1580/LC. Conservation Area Consent application for demolition of public house, cottages and storage building. Withdrawn 23 January 1995.
 - 3/95/1224/LC. Demolition of public house, cottages and storage building. Withdrawn 27 December 1995.
 - 3/08/0098/FP. Mixed use development including foodstore (2508sqm net) Withdrawn 8 April 2008.
 - 3/08/0099/LB Alterations refurbishment of listed building. Withdrawn 8 April 2008.
 - 3/08/0100/LC Demolition of buildings. Withdrawn 8 April 2008.
- 2.2 Planning permission for B1, B2 and B8 industrial units to the north of the application site, the Great Northern Works on Station Approach was granted in 1993 (Ref: 3/93/0292/FP). This was on the site of the former Hartham Railway Station demolished in the late 1980's.
- 2.3 Hertford has seen no major supermarket expansion since the development of Tesco's (2124 sq m net) in the late 1980's at Ware Road. The Waitrose store (1170 sq m net) in Bircherley Green dates from the opening of that centre in the 1970's.
- 2.4 Proposals for a 60,000 sq ft Sainsbury store at Foxholes (3/94/0879/OP) were submitted but later withdrawn in September 1994. A 60,000 sq ft Tesco superstore (3/93/0849/OP) at Foxholes Business Park was refused and an appeal against the refusal withdrawn in March 1994.
- 2.5 Marks and Spencer's opened a Simply Food store (770 sqm net) two years ago in Fore St converting the former Iceland shop.
- 2.6 More recently Tesco submitted application (3/08/1268/FP) for the demolition of their existing Ware Road store in Hertford and replacement with a larger store and residential development of 54 flats. This was refused permission on 24th September 2008 and an appeal has now been lodged with a Public Inquiry anticipated in April 2009.
- 2.7 In Ware, application (3/08/1531/FP) for a 36,230 sq ft (3366 sqm net) proposed ASDA store at the former Cintel Site in Watton Road, was subject of officer recommended objections and withdrawn prior to consideration at the November 2008 committee.

3 Consultation Responses

- 3.1 County Highways has raised a number of objections and concerns in relation to the application, primarily to the resulting congestion. It states that tackling the causes and impact of congestion is a key corporate challenge, a major concern for local businesses and a key theme of Hertfordshire's Local Transport Plan (LTP). The proposals are overall, considered to be detrimental to the priorities and objectives of the Local Transport Plan.
- 3.2 Highways recommend refusal for the following reasons:
- that the application fails to satisfactorily demonstrate the site's impact upon highway safety, capacity and free flow of traffic
 - The proposed development is contrary to Hertfordshire County Council's Transport Policies;
 - Traffic arising from the proposed development would be likely to interfere with the free and safe flow of traffic, be detrimental to highway safety and the environment and amenity of nearby residential areas;
 - The applicant has failed to demonstrate satisfactory measures to mitigate the impact of the development
- 3.3 The applicant has failed to provide an adequate Travel Plan. There is no objection to car parking provision of 232 space, although Zone 3 range suggests a lower provision of 141 to 212 spaces. They are concerned that no parking provision is made for the office use of the brewery.
- 3.4 County Highways are not satisfied with the proposed mitigation measures and contributions offered of £0.53M, they seek at least £1.1M and potentially up to £1.6M. This could fund bus stop enhancements (£150,000) Bircherley Green bus station enhancements (£250,000) improvements to evening/weekend bus services (£200,000) with £0.5m for funding of schemes arising out of the Hertford Urban Transport Plan.
- 3.5 County Highways has considered the simple alternative development assessment but advocates a full development brief for the site to explore options. To demonstrate the impact of alternative uses they quote the general daily vehicular trip rates of Retail Use: 210 trips per 100sqm, Office Use 17 trips per 100sqm; Flats 2 trips per dwelling. Alternative site uses would be able to sustain a much higher sustainable transport share.
- 3.6 Chase and Partners, retail consultants to this Council, provided a critique of the original submitted Retail Assessment and have also advised on a Supplementary Retail Statement by the applicant. They originally raised

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concerns that the quantitative need to support the proposals was not demonstrated – the revised methodology and information has satisfied them that the need is now demonstrated. They accept there is a qualitative need too and that there are no sequentially preferable sites within Hertford town centre. While acknowledging that scale has implications for other issues of traffic and design, they do not believe there is a retail objection regarding the scale of the proposal. They believe there may be positive benefits to the town centre through encouragement of linked trips via the bridge link but this will be dependent upon the restrictions placed upon the use of the car park, a matter that must be addressed to the Council's satisfaction.

3.7 The Environment Agency has no objections to the proposals subject to recommended conditions and adjustments to increase the area of naturalised river bank. They consider the scheme can deliver a significant improvement to the River Lea in Hertford.

3.8 English Heritage had originally raised concerns to the unjustified loss of the existing buildings, the mass, bulk, scale and layout of the new store and the impact of the large open car parking and its adverse effect on the street pattern in this part of the Conservation Area and the setting of the listed building. They also favoured your officer's suggestions for a smaller supermarket as part of a mixed use scheme with built and active edges to Hartham Lane, The Common and The Riverside (this was an informal Concept Plan produced by officers to aid discussions). Following English Heritage's participation in recent meetings and a further revision of plans they note

- A reduction in the bulk of roof forms and varied roof forms at the rear
- Remodelling of north and east elevations with vertically emphasised fenestration
- The canopy to Hartham Lane is of lightweight form
- The course of Hartham Lane is now distinguishable from the car park as a thoroughfare
- That the costs of repairing the listed brewery (£3m estimated) are material in considering whether the demolition is justified of 31 and 33 Hartham Lane and the high costs of their repair (£0.5M estimated)

3.9 English Heritage now considers the application is one that can be determined in accordance with local and national policy guidance and based on the Council's own specialist conservation advice.

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- 3.10 The Environmental Health Officer requests planning conditions to address issues of noise, air quality, contaminated land and refuse.
- 3.11 The District's Drainage Engineer has recommended the use of permeable paving for all areas. Naturalisation of river edge is welcomed that. Public transport and green travel plans should be promoted to minimise use of cars to the site.
- 3.12 Thames Water has no objections.
- 3.13 Natural England advise that permission be withheld until the Council is satisfied that previously submitted information can be shown to apply equally to the current application.
- 3.14 The County Archaeologist advises the site is adjacent to the probable site of the northern of the two Saxon burghs founded in 912 – 913. It has significant potential remains. She recommends an appropriately worded planning condition to secure a programme of archaeological works.
- 3.15 British Waterways welcomes the redevelopment of the site and the proposed footbridge to link the site with the town centre and the River Lee navigation. They seek a legal agreement for contributions towards waterways infrastructure to provide boater facilities. They also recommend improved signage and possibly a gateway art feature at the towpath entrance.
- 3.16 The Fire Safety Inspecting Officer has no objections but comments on the provisions for access, water supplies and sprinkler suppressions systems.
- 3.17 The Hertfordshire Biological Records Centre recommend planning conditions for the protection of any bats in the old brewery, the naturalisation of the river bank, restrictions on site clearance to protect breeding birds, retention of the willow tree by moving the bridge 3m and to minimise the impact of lighting.
- 3.18 The East Herts Conservation Officer recommended negotiations on the original submitted scheme, the gables and rooflight panel features were considered somewhat large and could be downsized to be more subservient (it is considered the recent design amendments to roof and Hartham Lane elevation reflect the late Conservation Officer's suggestions).

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Regarding the listed building, the Conservation Officer observed that the applicant has taken considerable interest in the industrial legacy of the building fitments, the internal arrangement is less invasive of the original structure and there is less of the floor structure compromised by the ancillary areas.

- 3.19 The Council's Landscape Officer's comments are awaited on the proposal.
- 3.20 The Planning Policy section has advised that in terms of employment the application does not conflict with the principle of maintaining employment generating uses. They note the Retail Study has identified this area with potential for retail development although this is for comparison goods. They question the appropriateness of the quantitative assessment (relying on overtrading figures) but say the store will provide more consumer choice and subject to operating like a town centre car park may support the town centre. They question whether the development could not integrate residential uses to create a more diverse character and addressing the provisions of Policy SD1. In relation to the provisions for renewable energy they feel the other options to the biomass boiler, such as photo-voltaics, ground source heating and cooling and combined heat and power (possible with additional residential uses) are not properly investigated and costed. While the figures are queried, it is acknowledged the proposal now meets the East of England Policy Requirement. Planning conditions are suggested for space within the Old Brewery to provide a 1MW CHP Unit serving the wider town centre to serve a district heating scheme with provision of a pipe network. 4 spaces for charging of electric cars area are also sought.
- 3.21 The East Herts Council's Parking Manager advises that the creation of a 232 space car park serving the town centre could have a useful role to play in a future transition phase as existing Hertford Car Parks arrive at the end of their useful life. A parking strategy for Hertford is to be prepared as part of the Hertford Urban Transport Plan 2009/2010. Charging should not be less than existing car parks and three hours is the minimum period for staying with longer periods being permitted at higher charge. In the long term Sainsbury's may discuss a lease arrangement with East Herts to run the car park.
- 3.22 The East Herts Taxi Licensing Enforcement Manager believes the applicant underestimates the use of taxis by persons with heavy shopping and a taxi rank of 4 spaces is sought. He queries how the subsidised home taxi service is going to operate, whether there is a local firm who can provide such service and advises that rates are set by East Herts Council although he acknowledges they can be discounted.

4.0 Town Council Representations

4.1 Hertford Town Council previously objected to the loss of the Unicorn Public House but is now in agreement to it in conjunction with the current planning application. Regarding the listed building application, it applauds the keeping of the Victorian Brewery which will be sustained by the proposed use. The café will convey the quality of the previous use and the arts area is excellent, supplementing the Arts Society and Courtyard Arts to become the “arts quarter” of Hertford. The maintenance of a working clock and retention of the flagpole are also requested.

4.2 However, with regards to the planning application, the Town Council’s overriding concern is the development’s enormous and damaging impacts on traffic movements across a wide area. Cowbridge, Old Cross, Mill Bridge, and St Andrew Street would all suffer damaging character change and any attempt to increase the capacity of junctions at Cowbridge and Old Cross must be firmly resisted. The dynamics of development of this size and nature are entirely inappropriate. Additional concerns are

- the impact of lighting on The Warren;
- the awkward configuration of new road access;
- pedestrian safety along the route from Cowbridge to the store entrance
- intensified use of Folly Island – need for increased policing
- does not represent “in scale” change and evolution of the town
- harm to the conservation area
- negative economic affect on market town and smaller shops

5.0 Other Representations

5.1 The applications have been advertised by way of press notice, site notice and notification letters across a broad surrounding area.

5.2 In total 39 letters of objection have been received including representations from the Hertford Civic Society and Diageo Pension Trust (owners of Bircherley Green).

5.3 4 letters of support mention

- the deterioration of the area that is now a centre for anti social behaviour;
- the increased enjoyment and enhancement of the river landscape;
- the repair of the listed brewery;
- the increased competition for Tesco, Waitrose and M & S;

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- a closer supermarket for Bengeo residents;
 - the improved access to Bull Plain
 - the opportunity and space for community groups.
- 5.4 The St Andrews Street Traders Association, in support, consider that Hertford's Town Centre needs to grow and is not viable in its current size. They feel the application site is the last major opportunity to extend the town centre. The application provides for a good reuse of listed buildings with improvement of Hartham Lane and pedestrian access. Sainsbury's will bring an additional name to the town. Any development of the McMullen's site will increase traffic, but some congestion could shift as shoppers from the north and west of town do not need to travel across the town. They advocate a comprehensive town transport plan.
- 5.5 Hertford Art Society and Courtyard Arts welcome proposals for the courtyard buildings and basement as galleries, workshops and artisan studios – an Arts Quarter. They comment on their detailed requirements such as good daylighting, lift access, storage, security and servicing. Other letters indicate they would support a smaller supermarket at the site
- 5.6 The main area of objection to the application is the perceived traffic impact of the proposal, confirming the responses to the last application and the outcome of the pre application public consultation. There are also common objections regarding the need for the store, the impact on the town centre, neighbour amenity and in particular for residents of Barbers Wharf and Coopers Court the provision of the footpath and footbridge.
- 5.7 Hertford Civic Society have objected that the need for the development is not demonstrated; that the supermarket would damage the vitality and viability of the town centre; that traffic congestion and access for Hartham Lane is unacceptable; that the supermarket is not a beneficial re use and that the employment and planning benefits are questionable. The Society also questions the assumptions on expenditure growth; objects that traffic congestion will adversely affect travel by bus cycle and on foot; supports a mixed use approach to the site with residential uses to the riverbank and consider car parking a wasted opportunity. They object that the design of the Hartham elevation remains weak and a reduced horizontal emphasis is needed on the west elevation. Funding should be secured for the new bridge crossing at Dolphin Yard to add to the contributions made by McMullen's.
- 5.8 The Diageo Pension Trust challenge whether the proposal meets the tests of PPS6. It objects that there is no proven need for another retail store in Hertford, that there will be an unacceptable impact on the vitality of the town

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centre in particular the Waitrose at Bircherley Green and that the proposal will neither preserve nor enhance the character of the Conservation Area. A public consultation will commence shortly into the extension of the town centre Waitrose, but has not been considered in the application documentation. The Council should liaise with its retail consultants as to whether it affects their views.

5.9 Sustrans share concerns about traffic but appreciate the provisions for pedestrians and cyclists.

5.10 Residents of 3, 4, 5, 8 Old Cross Wharf; 3B The Folly; 9 Coopers Court; 1-4 Waters Edge and 4 Nicholas Lane object to the footpath and bridge that :

- Increased pedestrian traffic will increase noise and anti social behaviour in the area.
- Will be used at night by people returning from pubs in town or youngsters going to the skateboard park.
- Any lighting will be intrusive.
- Damage to wildlife
- Urbanisation of the river environment.
- Bridge will be very busy.
- Loss of privacy, only 10m from rear door and 5m from rear terrace garden.
- Listed properties are open to view but due to restrictions cannot be screened off like normal dwellings.
- Will devalue property.
- Existing crossings are sufficient.
- No need as the existing bridge link and walk through Folly Island is fine.

5.11 Residents of mostly nearby streets around Folly Island and Cowbridge set out further objections as follows:

5.12 Traffic

- Applicant is tinkering with problem – only slight changes from previous scheme
- Old Cross is already gridlocked, chaotic and cannot cope.
- St Andrews Street, The Wash, Cowbridge, Port Hill are all narrow roads and inadequate. Traffic is already queuing from Bengo to Old Cross and queuing back to Gascoyne Way.
- Local poll said that 62% of residents felt Sainsbury's will cause traffic problems in Hertford
- Junctions are already at capacity, how can traffic be accommodated?

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- 240 more cars are unwelcome
- Reputable independent consultant should produce a working traffic management scheme for Old Cross before any decision taken to increase Hartham traffic.
- Cowbridge/Hartham Lane junction is not large enough to accommodate articulated lorries. Lorries regularly mount the pavement here to make the right hand turn.
- unsuitable for delivery lorries.
- Congestion in surrounding roads will become a permanent condition.
- Increased traffic and hazards at Cowbridge/ Hartham Lane may discourage people from walking/cycling to Hartham for swimming/skateboarding etc contrary to PPG13.
- Only way it could work would be to knock down part of the town to widen streets which is senseless.
- Hertford needs fewer cars and more pedestrian areas
- Should encourage people to walk to shops
- Lorries will damage historic buildings.
- Access via Port Hill would be more sensible.
- Tesco caused Friday queues until they were able to widen Mill Road to 4 lanes and provide an additional exit to Ware Road.
- Major safety issue at top of Hartham Lane.

5.13 Need

- No need for a fourth supermarket store in Hertford.
- Clawback of £7.2m for town is not substantiated.
- Town is well served by Tesco, Waitrose, Co-op and Marks and Spencer.
- Waitrose size of 12000 sq ft gives excellent choice of convenience goods and is perfectly viable.
- Hertford should not be a battleground for a supermarket war without any regard for local need.
- Can't assume Tesco won't expand
- Proposal is a Trojan horse for future expansion

5.14 Impact on town centre

- Shoppers will not make linked trips but will bypass town centre.
- Independent small retailers and the market will suffer, the cornerstone of the town's character
- Majority of shopkeepers are against proposal.
- Supermarkets have already damaged the town with loss of favourite shops e.g. fishmongers, builders, grocers.

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- Comparison goods element needs to be rigorously watched as it will undermine the town centre.
- Opening hours should be subject of planning condition so that they can't do what Tesco did (going 24 hour opening at Ware Road).
- Sainsbury's analysis cannot exclude Tesco as out of town as it is an integral part of the town probably providing too much competition for the town centre as it is.
- Sainsbury's retail analysis underestimates the capacity of Welwyn Garden City with plans to double the town centre store.
- With closure of Woolworths in Maidenhead Street town is looking desolate

5.15 Neighbour amenity

- Late night revellers already until 1:30am for 4 nights a week
- Supermarket car park will bring noise and light disturbance to neighbours. Only 15m away.
- Need conditions to restrict hours of servicing.
- Concern about future 24 hour opening
- Using 7.5 tonne lorries means more deliveries.
- Store restocking during the night will disturb residents.
- Disturbance from trolley collection bays.
- Increase pedestrians walking along roads in The Folly.

5.16 Crime/anti social behaviour

- Large car park a target for anti social behaviour – how will it be secured?
- Need controls on the car park.
- Need a fence or barrier along the footpath.
- More opportunity for buying cheap alcohol.
- Need to illuminate the footpath along the river to a high standard.

5.17 Conservation/design/listed building

- Planning committee should say what they want on the site
- Site needs redeveloping with something which will add to the town not kill it off
- A hideous building. A large supermarket and huge car park will be an eyesore and destroy the great natural beauty of Hartham Common.
- There are better uses of a listed building than as part of a supermarket
- Bridge design is odd, prefer a gradual sweep.
- Cavalier approach to demolition of a Victorian public house.

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- Anyone walking to Hartham will have a longer walk on diverted road.
- Harmful to the town's historic market town character, its atmosphere, charm and its heritage.
- View of the brewery needs a natural aspect not an unattractive slab of supermarket.

5.18 Environment

- Traffic congestion increases air pollution and discourages walking.
- Support a cinema, sports facility or a small supermarket
- Pedestrian conditions will worsen for those walking along Cowbridge towards Old Cross.
- Hertford needs less traffic and more pedestrian areas.
- Object to loss of tree for new footbridge at little Hartham.
- Disruption and loss of wildlife at Little Hartham
- Biomass Heating will require a local supplier or will not be used.

6.0 Policy

6.1 Within the East Herts Local Plan Second Review Adopted April 2007 the site is within the Hertford Conservation Area and the Hartham Lane Employment Area. Hartham Common is in the Metropolitan Green Belt and is a designated Open Space and Recreational Area.

6.2 The relevant policies of the adopted local plan for this application are:

- SD1 – Making Development More Sustainable requires major proposals to submit Sustainability Statements to show *inter alia* how they will encourage sustainable movement patterns through design and transport infrastructures.
- TR1 - Traffic Reduction in New Developments, requires that developments incorporate measures to ensure that alternative transport to the private motor vehicle are available to users of the site.
- TR3 - Transport Assessments, requires the submission of a Transport Assessment for developments likely to generate significant movement and travel demand.
- TR4 - Travel Plans, requires the submission of a Green Transport Plan for major developments.
- TR5 – promotes the dual use of Private Car Parks.
- TR7 – Car Parking – sets standards for car parking requirements.
- TR8 - Car Parking – allows for contributions towards sustainable transport provisions.

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- TR12 - Cycle Routes in New Developments seeks to design in cycle routes with development and allows for wider contributions.
- EDE1 - Employment Areas – states that these are reserved for B1 and B2 uses, and for B8 uses where well related to the highway network.
- STC1 - Development in Town Centres and Edge-of-Centre, sets the criteria to consider applications for new retail development.
- ENV1 – Design and Environmental Quality sets criteria for new developments to achieve a high standard of design and layout and to reflect local distinctiveness.
- ENV2 – Landscaping requires special consideration to the landscape treatment of prominent sites and proposals should help to meet targets for the Hertfordshire Local Biodiversity Action Plan.
- ENV3 - Planning Out Crime – encourages new development to include the surveillance of streets, footpaths, and communal areas, and the creation of areas of defensible space.
- ENV18 - Water Environment, requires new development to preserve and enhance the water environment.
- ENV19 - Development in Areas Liable to Flood, requires development to avoid any increased risks of flooding to people and property.
- ENV21 - Surface Water Drainage requires best management practices.
- ENV27 - Air Quality, states that developments which will significantly increase air pollution will not be permitted.
- BH2 - Archaeological Evaluations and Assessments, gives guidance on the requirements prior to determination of applications if necessary.
- BH4 - Demolition in Conservation Areas, states that this may be permitted where a structure makes no positive contribution to the character of a Conservation Area and the proposed replacement development enhances the Conservation Area.
- BH6 - New Developments in Conservation Areas, requires that development be sympathetic in terms of scale, height, proportion, form, materials, and siting in relation to the general character and appearance of the area or are otherwise of such quality as to be highly likely to enhance the character and appearance of the area.
- BH10 - Extensions or Alterations to a Listed Building.
- BH11 - Conversion or Change of Use of a Listed Building.
- BH12 - Development Affecting the Setting of a Listed Building, requires that the setting of such buildings be preserved and enhanced.
- LRC1 – Open Space, Sport and Recreational Land, protects designated spaces such as Hartham Common.
- LRC4 - Arts, Culture and Entertainment encourages appropriate new locations for arts centres.
- LRC9 - Public Rights of Way, protects existing rights of way and seeks to maintain and enhance them.

(a) 3/08/1528/FP, (b) 3/08/1529/LB, (c) 3/08/1530/LC

- HE8 - Hertford Employment Areas, identifies Hartham Lane as being “primarily reserved” for B1 (Business) and B2 (General Industrial) Uses.
- IMP1 - Planning Conditions and Obligations sets out the policy to secure appropriate contributions via conditions or S106 agreements for provisions related to new development.

6.3 Regional planning guidance in the now approved East of England Plan 2008 is also of relevance, while most policies set out considerations for local plan policies there are some of relevance immediately for consideration of development such as

Policy ENG1 – Carbon Dioxide Emissions and Energy Performance
Policy SS1 – Achieving sustainable development
Policy SS6 – City and Town Centres

6.4 National planning guidance of relevance to this application is contained within

- PPS 1 – Delivering Sustainable Development
- PPS 6 – Planning for Town Centres and ODPM companion Guidance on design in town centres
- PPG 13 – Transport
- PPG 15 – Planning and the Historic Environment
- PPG 16 – Archaeology and Planning
- PPS 25 – Development and Flood Risk

Recently published guidance in “Manual for Streets” is also a material consideration to the application.

7.0 Planning Considerations

7.1 The application is a departure from the adopted East Herts Local Plan, as the site lies within a designated Employment Area reserved for B1 and B2 employment uses. Grant of planning permission would therefore require such material planning considerations that justified a departure from this policy.

7.2 The main retail issue is that, as the site is an edge of town centre location, then under the tests of national planning guidance in PPS6 there must be a proven retail need, no other sequentially preferable site available to meet the need and no harm to the vitality and viability of the town centre.

(a) 3/08/1528/FP, (b) 3/08/1529/LB, (c) 3/08/1530/LC

- 7.3 Sainsbury's does not currently have a store in Hertford, and therefore promotes itself for widening local choice. This can support the qualitative need under current national planning guidance in PPS6; the retail advice from our consultants is that the proposed changes to PPS6 would strengthen the case for the application.
- 7.4 The application needs to be considered on its own merits, as do the redevelopment and expansion of Tesco's store on Ware Road Hertford and the proposal for an ASDA store in Ware. It is considered that the potential combined impact of supermarket developments on the towns does need to be given some weight as other proposals still have the potential to be realised either through planning appeal or resubmission of planning applications.
- 7.5 The main planning issues to consider in the determination of the planning application (3/08/1528/FP) are whether:
- the principle of a major retail store is acceptable having regard to the employment designation of the site in the adopted local plan;
 - the existing highway network, its junctions and roads are able to accommodate the additional traffic and servicing demands generated by the new store
 - the development makes adequate provisions for car parking, transport and access to the site and in particular if sufficient provision is made to encourage non private car modes of transport;
 - there is a quantitative and qualitative retail need justification for the store in its edge of town location
 - the sequential site test is satisfied, namely whether there are other sites more sequentially suitable for retail development to meet the identified need
 - the retail impact of the store will be detrimental to the vitality and viability of the existing town centre.
 - the development preserves and enhances the appearance and character of the Hertford Conservation Area;
 - the proposal preserves and enhances the setting of the listed building
 - the development is otherwise of a high standard of design quality including provisions for connection with its surroundings, landscaping and the riverside.
 - the development will cause undue detriment to the amenities of nearby residents
 - the potential benefits of development, the repair of the listed brewery and regeneration of brownfield land within the Conservation Area are such as to outweigh the planning objections to the proposals

(a) 3/08/1528/FP, (b) 3/08/1529/LB, (c) 3/08/1530/LC

- 7.6 The main issue to consider in determination of the listed building application (3/08/0099/LB) is the impact of the development and alterations on the special historic and architectural character of the listed brewery.
- 7.7 The main issue to consider in the application (3/08/0100/LC) for the demolition of buildings in the Conservation Area is any negative impact this may have on the character and appearance of the Conservation Area and any wider justification for their demolition having regard to the planning proposals under consideration.

Local Plan / Employment Provisions

- 7.8 The site is within a designated employment area reserved for B1 and B2 uses but being accessed via narrow town centre roads is not in my view generally appropriate for B8 uses (storage and distribution). The Council's recently commissioned 2008 Employment Study rated the Hartham Lane Employment Area as "Green" meaning that it should be a priority for retention as high quality employment land. The study noted good demand by small occupiers and that the site scored well for above average quality buildings and accessibility to the train station and town centre making it attractive for employees, aiding staff recruitment and retention.
- 7.9 In general retail employment is not in accordance with employment area policy as the A1 use contravenes the policy. Draft national planning guidance in PPS4 is indicating that A1 retail employment can play a part within the local economy. The fact that the new store will provide an estimated 250 to 300 new jobs and office /community use up to 80 jobs in the retained brewery is therefore an important material consideration. The Policy team advise no conflict with the overall aims of employment policy.
- 7.10 The applicants commissioned an Employment Land Report by Colliers CRE in 2007 (pre dating the Councils own report of 2008) which advised there is limited demand for B1 business space in this area; that local uptake of new units in Mead Lane has been slow and that the site is not suitable for B2 development. While such arguments can be made too often, and could undermine the adopted Local Plan employment strategy, I would accept that in order to achieve an earlier regeneration of the former McMullen's part of the Hartham Lane area, this important and neglected part of the Conservation Area, with its potential to provide an extension of the town centre and to secure the repair and reuse of the listed brewery; then there is justification to depart from the local plan policy EDE1 restriction that the employment area only be developed for B1 and B2 uses.

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7.11 I do not therefore object to the proposed development on employment policy grounds.

Highways/Access Considerations

7.12 The main planning issue raised via public consultation consistently at pre application stage and during the application consultations by objectors, and even by supporters of the proposal, has been the question of whether there can be satisfactory highways access for the proposed development.

7.13 The last application was withdrawn partly due to the many objections on this critical issue. County Highways have considered the additional measures proposed in the Transport Assessment to try and address the highway objections, these include

- Reduced store size (approximately 7% reduction in net sales area) reducing traffic demands
- Modelling the traffic implications of an alternative mixed use scheme for the site (to secure its regeneration) with office and residential use
- Introduction of a home delivery service and subsidised taxi scheme
- Improved pedestrian and cyclist links and S106 funding
- Increased on site cycle parking

7.14 Notwithstanding lengthy engagement with the applicants, Highways retain some fundamental disagreements about the likely impact of development. For instance, they disagree with the applicant's assumption that due to existing congestion there will be no future traffic growth and also the lack of justification for a 15% reduction in trip rates calculated. County Highways say this has thrown up significant disparities with submissions with other recent applications, such as for Tesco's Hertford, where the forecast trip rates for a comparable time period are significantly higher than those stated for the proposed Sainsbury's.

7.15 Although County Highways are now satisfied with some detailed aspects of the proposals, such as the shared use surface along Hartham Lane and the reduction of the Hartham Lane exit onto Cowbridge from the proposed two lanes to one, they largely have maintained their objections to the proposals:

- Increase of congestion at Old Cross and nearby roads
- Peak hour congestion spreading
- Increased rat running through Bengo
- Impact of Sainsbury's HGV deliveries at Cowbridge junction
- Adverse impact on bus service reliability

(a) 3/08/1528/FP, (b) 3/08/1529/LB, (c) 3/08/1530/LC

- 7.16 The approach roads to Hartham Lane are narrow and follow the medieval pattern of the town centre streets, these wind towards Old Cross at the historic centre of the town and Conservation Area. Peak hour queuing at the Old Cross junction is well recorded and the Highways view is that this junction is effectively already operating at saturation, well above their acceptable threshold of 90%. For instance on Friday evening peak this is currently between 99- 107% capacity and forecast to increase in any event to 103 – 110% by 2010. With the proposed development and assuming future growth, the 2010 forecast would increase to 116 - 134% saturation (although the applicants no growth scenario would still suggest 111- 126%).
- 7.17 It is observed by objectors that queuing in the mornings regularly proceeds from the top of the hill at Bengo all the way down Port Hill and Cowbridge to Old Cross. County Highways accept some logic in the view that existing congestion will put off Sainsbury's shoppers to some extent at known busy periods, but like them, I find it difficult to accept that the other anticipated effects of a spreading congestion period, rat running, environmental disturbance and disruption to bus services will not be a significant problem.
- 7.18 The Old Cross junction is already traffic dominated and measures to increase its capacity, such as by the re- introduction of a roundabout would increase vehicle speeds and be detrimental to the safety of pedestrians. I share Hertford Town Council's concern that any later measures to increase highway capacity at Old Cross may also harm the Conservation Area. Increased traffic generation by the development would also in my view create such additional traffic demands that this may prejudice future opportunities to achieve a better environmental balance of traffic with pedestrians and town centre businesses at Old Cross. As congestion intensifies and spreads another concern is not only the inconvenience and lost time for residents and businesses, but that the town centre will become less accessible for visitors and shoppers.
- 7.19 The more general use of larger articulated vehicles is also a highways concern notwithstanding the historic use of the area by lorries. County Highways say the swept path analysis for a 15.5m lorry indicates no margin for error if vehicles are not to mount the pavement, also turning vehicles will need to occupy more than one line creating obstruction with vehicles causing queuing back to Old Cross. Disruption could become too common and the pedestrian environment suffers by noise and air pollution and competition for highway space. The applicants have said that larger lorries can be confined to the hours of 7pm to 7am, but Highways say the store will be busy after 7pm, and there will be a detrimental impact on safety and capacity whatever the time of day.

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7.20 Although the applicant has addressed some of the practical issues of earlier highway objection and employed highways consultants to make the case that the scheme is acceptable on traffic generation grounds; in the light of the continuing objection of County Highways I see no reason to doubt that the proposed development will significantly worsen traffic congestion in the area and to an unacceptable degree.

Transport / car parking

7.21 The wider transport question is how the development is promoting alternatives to the private car, in accordance with national and local planning policies, and particularly for such a constrained site. This has been subject of representations by County Highways and Hertford Civic Society. The impact of significantly increased traffic congestion in the immediate and wider area, can worsen air quality and noise levels resulting in poorer conditions for pedestrians and discouraging walking trips to local schools, shops and leisure visits to Hartham.

7.22 Positive provisions of the application include the riverside footpath and footbridge to connect to the town centre, retention of Hartham Lane as a public avenue, the new path within the site between the store entrance and the river edge. Additionally commitment is given via the proposed S106 to fund wider improvements to walking and cycling, for instance to fund Route 61 cycleway improvements and links. Finalisation of detailed commitments is being negotiated regarding a pedestrian crossing of Port Hill; assistance with a footbridge as part of the now commenced Dolphin Yard scheme; Public Realm Designs to secure environmental improvements for the Old Cross and Bull Plain areas with additional contributions. An overall total of £0.53m is committed towards transport provisions, significantly below the amounts requested by County Highways.

7.23 The parking provision for the store is within the maximum parking standards calculated at 282 spaces. However, for a Zone 3 site there should be a reduction of between 50% and 75% of the maximum, which would be to between 141 to 212 spaces. County Highways have noted the presence of other car parks in the vicinity and suggested a need for controls on other roads in the vicinity of the site but do not object to the proposed 232 space car park. In my view, the additional 20 spaces (above the upper range figure) are reasonable if the car park is to provide for town centre shoppers parking as well as the store's own customers.

7.24 No provision is made for car parking for offices within the listed brewery, the applicants assume that this will be split between the existing Hartham car park and on street parking. A travel plan via planning conditions would assist to reduce car parking demands. S106 provisions can help to address

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parking issues too. Overall I do not think there is a case to refuse the application on its parking provisions.

- 7.25 Other measures to reduce traffic generation are the provision of a subsidised taxi service and a home delivery option to give people the choice to arrive and leave by modes other than private car. These can be secured by S106 agreements. The impacts of these initiatives is welcomed but considered to be more marginal by County Highways.
- 7.26 Overall, the range of measures being considered may represent a significant provision to encourage sustainable transport modes. County Highways, partly based on the County's toolkit for contributions, seek funding of up to £1.6M for mitigation measures whereas Sainsbury's are only prepared to offer £0.53M. County object that the provisions are inadequate, the additional funding could support increased evening and weekend bus service provision, bus stop enhancement and measures to improve the bus station at Bircherley Green. County have requested that financial contributions be flexibly directed at schemes arising from the Hertford Urban Transport Plan.
- 7.27 There are limitations of what can be done to reduce car use for the size of the proposed development, and the development carries the burden of the costs of the brewery repair. Nonetheless there is a lack of justification for the current level of funding provisions and I therefore support the County objections to the inadequate mitigation measures. The Transport Assessment says that walking can account for 17 – 25% of supermarket modal share while bus /cycle use only 1.5- 3.5 % , so there would be more benefit achieved by focussing S106 payments on measures to promote walking. The package of measures should be directed firstly at recognisable projects within the vicinity of the site to promote walking and the pedestrian environment, with a fallback provision, that unspent money be added to the contributions already earmarked for projects identified by the future Hertford Urban Transport Plan.

Retail Need, Impact on Town Centre

- 7.28 The Council has received specialist retail advice from Chase and Partners on the Retail Assessment and the supplementary retail submission by Sainsbury's.
- 7.29 PPS6 sets out the Government's objective of promoting vital and viable town centres, development should be focused in existing centres in order to strengthen and, where appropriate, regenerate them and applicants should demonstrate, inter alia:

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- a) the need for development;*
- b) that the development is of an appropriate scale;*
- c) that there are no more central sites for the development;*
- d) that there are no unacceptable impacts on existing centres; and*
- e) that locations are accessible*

7.30 Local Plan Policy STC1, Development in Town Centres and Edge-of-Centre follows the guidance in PPS6 and adds further considerations related to issues of character, design and access which are dealt with elsewhere.

7.31 As an edge of town centre site, a retail need for the development must be proven. The need was disputed when the first Sainsbury application was made in February this year. Since then the overall findings of the 2008 Retail and Town Centres Study by Chase and Partners have been published, this identifies a need (appropriate for plan making purposes) of only 186 sqm in Hertford, well short of the 2328 sqm currently proposed by Sainsbury's. Chase advise that their lower figure is a guideline only which, assumes constant market share, and takes no account of over trading. With increased market share, and greater retention of shopping then a higher figure can be justified

7.32 Chase and Partners were sceptical about the applicant's Retail Statement methodology of calculating need by "overtrading" in existing stores, as the figures used are based on company averages and are unreliable. The revised retail assessment is based on "clawback" of trade. The applicant's household surveys identified £3.65m of expenditure in Hertford which is currently leaking out to Sainsbury's stores beyond the catchment area, this leakage is occurring because some Hertford residents prefer to drive to Sainsbury's stores in Hoddesdon or Stevenage rather than use the Tesco or Waitrose stores for their main food shopping. Chase considers it is reasonable to assume that at least half of these Sainsbury's shoppers will choose to use a more convenient store if one were provided. They also agree with the applicant's estimate that 20% of leakage to other stores outside Hertford will be clawed back and this will benefit the new Sainsbury's store by around £2.01m. As a cross-check, Chase have re-examined the applicant's retail data against their own Retail & Town Centres Study 2008, which of course was based upon a different set of household survey results, the findings are similar. The total clawback of expenditure is estimated to be between £3.6m (Chase's adjusted figures) and £3.84m (the applicants), together with identified overtrading of existing stores, this provides sufficient "headroom" for the anticipated turnover of the

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proposal. Therefore following this assessment I see no basis to disagree with the advice received by Chase that the quantitative need has been identified.

- 7.33 The qualitative need test of PPS6 for the store is not disputed by Chase. In fact they advise that the store will considerably enhance consumer choice in their view being in direct competition with the currently dominant Tesco store. The relief of over trading at existing stores, including Tesco, will enhance the shopping experience at these destinations.
- 7.34 Although, Chase had recommended the store be reduced by 191sqm to 2137 sqm, based on the minimum size of company's stated required range, they would not advise a retail objection on the grounds of scale . The scale test of PPS6 test, they say, does not relate to trimming proposals at the margins and they feel sufficient justification has now been provided. This relates to the applicant's later submissions that they require additional store space to provide an online shopping facility. However, I would question the appropriateness of this at such a constrained site, as do Chase, as this will add to traffic and online customers that can be served from other stores
- 7.35 With regard to demonstrating that there are no more central sites, a sequential approach is recommended by PPS6. In applying the sequential approach developers and operators should demonstrate that they have been flexible about their proposed business model in terms of the following planning considerations
- 7.36 Sainsbury's have appraised 11 alternative sites but do not identify any alternative sequentially preferable sites that are available for development. They maintain that the need for retail floorspace requires a store of a minimum size, (at least 2137 sqm net) so sites with potential for smaller expansion than this are assessed as unsuitable
- 7.37 While there are smaller town centre sites that could represent a future opportunity for enhanced town centre shopping, as well as townscape enhancement, these do not meet the need identified and Chase and Partners have advised there is no basis to refuse on the sequential test grounds.
- 7.38 It should also be noted that in the 2008 Retail and Town Centres Study, Chase and Partners recommended the Brewery site be included in the Local Development Framework for the future expansion of the town centre to meet retail needs. This report is in the form of background evidence to inform the production of the LDF. However, it does highlight the potential suitability of the Hartham Lane area for retailing as an extension to the town centre.

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- 7.39 The definition of edge-of-centre within PPS6 is a location that is well connected to and within easy walking distance (i.e. up to 300 metres) of the primary shopping area. The adopted East Herts Local Plan does not define a boundary for the primary shopping area, but a boundary has been recommended within the 2008 Retail Study. The store entrance would be approximately 240m from this boundary at Bull Plain and 200m from the boundary at Cowbridge. I therefore agree with the Chase and Partners advice received to this application, that with the proposed new bridge, the site would meet the “edge of centre” definition. Without the bridge the more circuitous route through Folly Island would place the site beyond the “edge of centre” definition. The quality of the new link has been improved in my view since the application submission in February 2008 and this is extremely important to encourage its use. Sainsbury’s have indicated they would promote and contribute to a town centre enhancement scheme for Bull Plain but will not commit to directly providing this.
- 7.40 In respect of retail impact, Chase believe it passes the impact test. The bulk of the trade diversion for the new store, 57%, is judged to be from the existing Tesco but as this is in an edge of centre location this is not a material consideration. Chase believe that the store will primarily trade and compete with stores on a like for like basis so for this reason its trade impact on the town centre Waitrose will be less, estimated at 9.5 % and will not bring its viability into question. The applicants have estimated that 3% of the new store’s trade will be from the Tesco’s in Ware which is not considered to harm the vitality of Ware Town Centre. Less than 1% of the trade will be from existing Coop stores in Hertford which is judged to be a negligible impact.
- 7.41 The store includes a comparison goods element of 466 sqm, about 3% of overall town centre floorspace of 13,870 sqm. Chase and Partners advise that as these goods are found already in Tesco then this is unlikely to present competition to make town centre retailers unviable. The proposed development, by providing a new car park, and on the basis that it is priced to serve the town centre as well, will support linked trips and Chase consider therefore has the potential to support the vitality and viability of the town centre.
- 7.42 The recent proposal for extension of the existing town centre Waitrose is as yet untested as new retail development. The lack of details and early stages of this mean that no formal assessments have been made but our retail advice, informal only, has been that this will not affect the overall need calculations for the Sainsburys application.

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7.43 Based on these considerations, and the expert advice received, there are no retail objections to the planning application on the proven level of quantitative need or to the qualitative need. The impact of the development has the potential to be supportive to the town centre. The scale of the development is broadly appropriate to the town although there remain questions about how appropriate it is given the site's poor access. Overall the tests of Policy PPS6 and Local Plan Policy have been satisfied.

Design - Conservation Area/Setting of Listed Brewery/Landscaping

7.44 The design considerations of this development relate to the overlapping considerations of its acceptability in its general design standards and its acceptability on conservation grounds. Policy ENV1 sets a high standard of design test for new development and includes within this landscaping, sustainable initiatives, effective connection with surrounding areas. These design considerations go beyond the aesthetics of the individual buildings. PPS1 advises (para 34) that

“Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted....”

7.45 Policy ENV2 says special consideration will be given to landscaping on prominent sites. Policy BH6 requires that new developments must be of such quality as to be highly likely to enhance the conservation area.

7.46 Hartham Common provides an historic landscape setting to the town, one of its green fingers and the largest green open space within the town's conservation area. Areas along Hartham Lane, which frame the main entrance to the common, are in need of regeneration with significant scope for townscape enhancement. The neglected buildings and vacant areas of the McMullen's site have remained so for the last two decades. Travelling along Hartham Lane provides a sense of arrival at Hartham, albeit the flanking industrial and warehouse buildings are large and bland in appearance; however the existing open areas of car parking and wasteland provide a poor appearance at this southern entrance to Hartham Common. The 1980's lager building was purposefully functional in its design and appearance, but has proven to be an unloved neighbour for the listed Brewery which will not be missed. By its siting, height and massing it also obscures views of the Brewery's landmark tower from Hartham Common.

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- 7.47 There are therefore significant opportunities to enhance the application site and surroundings and in my view any carefully considered design of new development would be likely to achieve an improvement to the appearance of this part of the Conservation Area, especially if it is combined with a good landscaping strategy.
- 7.48 The proposed changes to the listed building are not radical. One significant external change is the removal of a modern metal roof covering to open up a courtyard within the front range of buildings on the brewery site. Additionally, there is the opening up an internal roadway and restoration of other parts of the building to its former design and condition. The proposal allows for the brewery to be partly linked into the new store. Historic brewery equipment will be retained and displayed. The estimated listed building repair costs are £3M, full costings have yet to be submitted. The applicant's state the development is the only way to secure the repair work. These proposals have been developed in liaison with English Heritage and the Council's Conservation Officer who have given the repair and alterations a positive recommendation on listed building grounds.
- 7.49 The design of the new supermarket building itself has developed and evolved from the original proposals submitted, and more recently amended to respond to concerns by English Heritage. The roofline is now lower, less bulky and more fragmented; and the Hartham Lane elevation, the principal store elevation, includes modified gables and high windows. A shelter over a proposed pathway has been sited opposite the store to allude to the siting of the existing buildings on the east side of Hartham Lane and give some sense of the definition of the lane. The canopy detail is amended to a lightweight design. Lettering is not part of this application, although the plans indicate large corporate lettering styles which I would consider to be generally inappropriate. The design of the building in the previous planning application was received positively by the County Architect's Panel and the further comments of the panel on the latest submissions will be sought.
- 7.50 Inevitably, it is a design challenge to accommodate a wide span single use building such as a large supermarket within the fine grain patterns of development of an historic market town like Hertford and alongside a listed Victorian Brewery. The proposal for the listed building is in many respects admirable in the manner of its restoration proposals for the Brewery and the way in which it will be connected to the new use. Local Plan Policy STC1 advocates better use of upper floors for town centre developments, although the applicants maintain that the lower building is preferred to maximise views of the listed brewery. Overall with the use of good materials, quality brickwork and detailing, and good quality landscaping, I consider the new store building will achieve a significant enhancement to

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the setting of the listed building and the improvement of views of it within the Conservation Area. A comprehensive paving scheme indicating the use of Yorkstone paving and Granite Kerbs are proposed to enhance the immediate setting of the listed building and the new store.

7.51 However, other aspects of the proposal remain of concern and have been discussed at length with the applicant. The size of the store requires a corresponding size of car park that spills across both sides of Hartham Lane whereas your officers have always advised that the car park area be contained as much as possible and at least to one side of Hartham Lane. This could only be addressed by a smaller store and lower level of parking. However the applicants maintain the store must be competitive with others, and the project as a whole viable, and therefore they are unable to make further reductions. While the store proposed may be relatively small for current day store developments, it would potentially be the largest store in Hertford (see table).

Hertford : Existing and Proposed Convenience Stores. Jan 2009.

	Current (Net Sales Area)	Proposed (Net Sales Area)	Parking Spaces
Waitrose (Bircherley Green)	1170 sq m	-----	182 (town centre)
M & S Simply Food (Fore Street)	700 sq m	-----	(27) Existing
Tesco (Ware Road)	2124sqm	4348sqm (appeal pending)	284 (existing) 334 (proposed)
Sainsbury's (Hartham Lane)	-----	2328sqm	232 (proposed)

7.52 While the proposed landscaping of the car park is reasonable, the areas of car parking will be viewed together with other extensive car park areas at this southern end of the Common. I feel unable to accept this as an appropriate or high quality design approach. The Council's own Conservation Area Character Statement refers to Hartham Common and its definition within the landscape but also identifies the poor screening of car parking and the opportunity for enhanced landscaping of the southern edge of Hartham. English Heritage has also criticised the impact of this car parking.

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- 7.53 The applicants have been encouraged to incorporate residential building at the north end of the site to improve the definition of the space, conceal parking areas and provide an improved design of building for the north elevation facing Hartham. It would also ensure a wider pattern of activity and surveillance within the surrounding area, as the store will inherently have a period of inactivity outside retail hours and the area currently experiences anti social behaviour. The applicants do not feel a residential element can be insisted upon for policy reasons, and in any event say it could only be incorporated if the store were of reduced size when they argue it is of the minimum size possible for a commercially viable scheme. They also argue that overnight office work and servicing will provide a surveillance presence in the area throughout the night.
- 7.54 The building is set back from Hartham, and in its design does not relate to its activities as much as would be desired. The cafe for the store is at the brewery end of the development, it will be attractive and connect back into the brewery and its uses, but there is a lack of detailed interest or activity at the north end of the development exacerbated by the prominence of additional car park areas.
- 7.55 The rear service yard of the proposed store will be behind high walls and in spite of attempts to improve its aspect, such as by tree planting and the ornate design of the service yard gates, it will not present an especially attractive frontage. There have been no formal objections to this aspect by English Heritage and in truth it is no worse than some other industrial areas within Hartham Lane.
- 7.56 To this extent the design has its weaknesses when the local plan policies ENV1 and BH6 aspire to a higher standard, especially for development within the Conservation Area
- 7.57 I consider the general quality of landscaping proposed to be much improved with the softening of the riverbank and clearly defined pedestrian and public routes along the alignment of Hartham Lane. The new access road would no longer threaten the avenue of lime and sycamore trees that presently mark the southern edge of the Common with the application site.
- 7.58 The potential of the riverside link to the town centre now appears more fully realised with improvements to the environment of the riverside environment, re-naturalisation of the river, the increased width of the footpath, more planting and a curved design for the bridge crossing.

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- 7.59 The new planting proposed will compensate for the loss of the Willow Tree at Little Hartham required to enable the footbridge link. This tree is not of good health to retain in the long term in any event so there is no objection to its replacement.
- 7.60 While English Heritage had hoped that the landscaping along the riverside could be more generous than the 6m space defined, and I agree that this would be beneficial, I consider there is an overall enhancement and the space is acceptable as presented. In general therefore I accept the landscaping strategy and design for the development and make no specific objection on this point.
- 7.61 With regard to the demolition of the unlisted Victorian buildings at no's 31 and 33 Hartham Lane, submissions have been made that estimate its repair at £0.5m, a significant additional sum compared to the £3m estimate already required for repairing the listed brewery. English Heritage does appear more satisfied with the proposal for demolition, due to the provision of a replacement structure on the east side of the lane and having regard to the cost of repairs. It had previously given a view that due to its isolation and poor condition, coupled with potential enhancements there may be no fundamental objection to the loss of the Unicorn Pub building albeit the buildings have a scale and character that reflects both Folly Island and the earlier terrace of Victorian cottages along Hartham Lane.
- 7.62 There are conservation concerns too about the impacts of excessive traffic generation by the store and the potential for retrograde measures to try and address highways problems that adversely impact on the pedestrian environment and the appearance and character of the Conservation Area. The Old Cross area of the town which is a known bottleneck at peak hours and already traffic dominated would be a particular concern. To respond to these concerns the applicants have been asked to develop new ideas, via a S106 provision to manage a Public Realm Design Competition for Old Cross, to challenge designers on ways to enhance the area given the traffic constraints this is still being considered.
- 7.63 Overall the scheme includes measures for the enhancement of the setting of the listed brewery and for the enhanced appearance of the site and Conservation Area. However, given the poor existing state of the site, other regeneration strategies and designs would also be expected to enhance the appearance of the site. Notwithstanding the fact that concerns remain about some aspects of the building design, the extent of car parking and the

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demands of traffic generation on the local highway, in the light of the proposals and the consultations received it is not considered that an objection or refusal based on harm to the Conservation Area can be sustained.

- 7.64 The listed building proposals represent the most positive part of the application plans, with provisions for careful repair and reuse bringing a mix of uses into the building. Alterations follow the principle of minimal intervention. The exhibition of brewery heritage will be accessible to the public and increase public awareness of the historical importance of brewing in Hertford. There seems to be greater confidence that space will be taken for Arts or other community groups. As the buildings are repaired and space made available it is anticipated that greater interest will be generated. The wider setting of the listed building will overall in my view be enhanced, albeit that there are the reservations on the impact of car parking.
- 7.65 The committee will want to consider carefully the applicant's point, which I do not agree with, that this scheme is the only one to guarantee the future repair of the listed building; it is certainly the only one on offer at present. Although there is no risk as yet to the listed brewery, it is beneficial and desirable to bring it into use and good repair and in the current economic climate a non retail development scheme may not be likely for some period of time.
- 7.66 On balance, it is not proposed to object to the impact of the development on the conservation area or the character or setting of the listed building. The landscaping strategy and enhancements are generally acceptable. However the weaknesses of the design and layout such as the excessive areas of surface car park, the lack of elevation interest and activity at the north end mean that the development does not achieve the level of quality or enhancement to meet the standards of Policy ENV1 and BH6 and therefore is contrary to these policies.

Residential Amenity

- 7.67 A key consideration of the development and Policy ENV1 is the impact of development on residential amenity. The main adverse impact identified is likely to be the general deterioration of the environment by noise and air pollution as traffic congestion worsens at the site.
- 7.68 There are neighbour objections to the loss of privacy and amenity by the proposed riverside footpath and footbridge crossing. The concerns of nearby residents are that this footpath and footbridge will not be an inviting route and will become an area for antisocial behaviour. These dwellings are

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within a town centre situation which already allows public access to the area of “Little Hartham” and already contains riverside access, which is supported by local plan policy ENV17, and provides a public amenity for the benefit of the town. The proposed route will in my view be generally well designed and overlooked. Riverside public access will further increase when the Dolphin Yard development is completed with a public river space on the south side of the river lea, the proposed bridge will improve links into this area.

- 7.69 Any large car park area can potentially become an area for anti social behaviour in the evening or weekends, especially when the store is closed although these are matters that are more issues of ongoing management and policing. I anticipate that the regeneration of the area will give a lift to the whole atmosphere of the area, which currently feels down at heel and neglected and this will make it less likely to attract such behaviour. I understand that people living nearby may view a new path and bridge as invasive, but I do not think there is such a marked change, compared to the general pattern of riverside public access, that this will cause harm to the amenity of residents. Some disturbance for residents cannot be ruled out in these environments but this has to be balanced against the public benefits of providing attractive riverside areas and walkways. The architectural liaison officer has not raised objections to the proposed footpath or bridge links. There is provision within a S106 to extend the area of no public drinking to include the whole of the Hartham Common area. The car park will also be closed off by a barrier.
- 7.70 Increased traffic generation and congestion will impact on the amenity of the area and the local environment. It is less clear that this will impact specifically on amenity of residential areas significantly by comparison with current levels of traffic congestion.
- 7.71 The existing site is an industrial and warehousing site with unsightly buildings and neglected areas that are more prone to problems of vandalism and anti social behaviour. With safeguards for the management of the car park area then I do not consider there are likely to be such impacts on neighbour amenity as to justify refusal.

Renewable Energy

- 7.72 The development should now meet the 10% renewable energy requirement required by the Regional Plan. The applicant has provided details of measures to secure renewable energy provision for the development. This indicates that by including a biomass boiler plant this can offset 17% if not more, of the total site energy consumption. Although it would be good if the plant could be extended in its use to the listed brewery, and other initiatives

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incorporated, the provision meets the minimum policy requirements of the East of England Regional Plan.

Balance of benefits and costs

7.73 Overall, there is a balance of planning considerations for this complex development of competing virtues and problems. The potential benefits of the development, as now amended, include

- securing the regeneration of an important part of the Conservation Area;
- enhanced landscaping and renaturalisation of riverbank
- the repair, reuse and part public access to the Grade II listed brewery including new arts space;
- improved views of the brewery tower and enhancement of its setting;
- provision of new employment (380 jobs) ;
- improved public access to the riverside and the town centre;
- provision of car parking to support the town centre
- the 'clawback' of trade to the town currently leaking to other centres
- increased consumer choice within the town
- provisions for additional walking and cycling links and town centre enhancements via S106 agreement.

7.74 Against these benefits are the objections, the costs

- that the development is contrary to the local plan designation of Class B employment uses
- that the development would give rise to significant adverse impacts on traffic congestion;
- that the size of the store is unjustified given the constraints of the site and the local highway network and that the building and mix of uses does not represent the best design or development solution for the area;
- that traffic demands and congestion may lead to future highway measures that adversely impact on pedestrians and public space within the conservation area
- that the car parking, in conjunction with existing car parking, is too extensive and visually poor in this part of the conservation area;

7.75 I have carefully considered the balance of these costs and benefits. I note and appreciate the amount of detailed work carried out by the applicants to address inter alia the riverside enhancement, the design of the Hartham Lane route and measures to redesign the store building as well as the scheme for the repair of the listed brewery, much of it valuable work that will

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still inform any future development proposals for the site. Notwithstanding this, it is my view that planning permission should be refused.

- 7.76 Firstly, there is a legitimate objection on highways grounds to the proposal due to its traffic generation and the significant congestion that is forecast by County Highways and I believe will occur. Secondly, I am not persuaded that there are no alternative forms of development to regenerate the area, as the applicant implies. Given the identified overtrading of other smaller stores in the town, I doubt the claim made that a smaller retail scheme would not be commercially viable. The proposed store has only been reduced by 7% in net sales area from the first application, and yet would still be larger than any other convenience food outlet in Hertford, but with the most restricted vehicular access arrangements. Thirdly, the extent of car parking proposed cumulatively with other car parks will be visually poor at the entrance to Hartham Common and to the conservation area. A smaller retail element as part of a wider mix of uses would enable a better design and traffic solution for the site. Finally, the impacts of highways congestion may lead to unforeseen incremental harm to the wider conservation area and the lack of any well designed measures to improve the Old Cross junction is a particular concern.
- 7.77 Members, aware of the Tesco Planning appeal, may wonder if approval of this scheme would meet the identified quantitative retail need in Hertford such that there would be further added objection to that proposal. Members should consider the Sainsbury's scheme solely on its own merits, rather than on the perceived lack of merits of a competitor's planning application. No detailed retail assessment has been made to assess the joint impacts of both store proposals, potentially an issue for the Planning Inquiry. While it appears unlikely from informal advice that the quantitative need for both stores would exist under the current PPS6, members will be advised of any further comments by Chase. However, the future revision of PPS6 is expected to introduce an impact test which at this stage is neither known nor understood so would provide a different basis for assessment.
- 7.78 For the reasons outlined, I do not believe that the balance of planning considerations is positive enough or the justification sufficient to outweigh the highways and design objections to the proposal. If members were minded to approve the scheme, it would have to be referred to the Secretary of State due to the size of the retail floorspace proposed.

8.0 Conclusion

- 8.1 For the reasons set out above, it is recommended that planning permission be refused for the proposed development of the site although conditional consent is recommended for the Listed Building and Conservation Area

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Consent applications. Although there are still design issues, the most intractable problem for any supermarket development of the Hartham Lane site is the traffic generation and servicing issues.

- 8.2 The report to committee last April on the first withdrawn application outlined broadly three alternative development scenarios for the site to promote the regeneration of this important area within the Conservation Area, these are options are outlined and reappraised below.
- 8.3 **Option 1 – Class B employment only.** The development of the site proceeds only in accordance with the designations of the adopted 2007 East Herts Local Plan. However, this is unlikely to fund the repair of the listed brewery or secure early regeneration of the area, even though the Employment Study 2008 noted the area for its continuing attractiveness for employment. The 2008 Town Centre and Retail Study also now identifies the Hartham Lane area for its potential to provide an expansion of the town centre and comparison goods shopping as do the St Andrews Street Traders.
- 8.4 **Option 2 – Modified supermarket scheme.** This would be for a reduced supermarket proposal, either at or below the minimum size for Sainsbury's "Full Grocery Offer" as appropriate for such a constrained access. This would reduce traffic demands and allow more scope to limit the intrusion of car parking, strengthen landscaping and perhaps enable the introduction of some other business or residential uses which could provide added design interest, more diverse activity and improved natural surveillance. The scheme would still be expected to include a shopper's car park to operate for the benefit for the town centre.
- 8.5 **Option 3 – Mixed Use Development.** This option would be for a broader mixed use regeneration strategy for the site. The site is an important part of the Hertford Conservation Area and contains the key environmental assets of the listed brewery, the river and Hartham Common. It is in need of development and a regeneration strategy to deliver this. The option would comprise a broader mix of uses including A1 retail uses, commercial B1 use and some residential for instance overlooking the river and the Common where good amenity can be provided. This option would focus on ways to achieve a low impact traffic development which is advocated by County Highways. This option would be less likely to provide additional town centre shoppers parking.
- 8.6 Option 1 is not likely to result in development in the near future or be able to fund the repair of the listed brewery. In the current economic climate, Option 2 of a reduced retail store proposal would seem the most likely to deliver the early regeneration of the area and repair of the listed brewery, although

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there are still anticipated to be congestion issues arising. Option 3 may mean regeneration only in the longer term, but may offer the most appropriate form and scale of development within the historic town and Conservation Area and one that more realistically reflects the limitations of access to the area.

- 8.7 If the application is refused, Options 2 or 3 should be encouraged and members are requested to indicate which future option for development they would wish to promote for the site.