

**5A. 3/10/0386/FP - Redevelopment of 2.15 ha brownfield site to include new Asda foodstore (2601 sqm net); 13 dwellings (5 affordable) with 21 car parking spaces; retention and redesign of children's nursery; retention and refurbishment of Kiln and Maltings buildings together with associated access, 283 car parking spaces (including 10 spaces for nursery), servicing and landscaping, associated highways and pedestrian improvements (as amended) at Cintel site, Watton Road, Ware SG12 OAE for Asda Stores Ltd**

**Date of Receipt:** 03.03.2010

**Type:** Full - Major

**Parish:** WARE

**Ward:** WARE – ST MARYS

### **RECOMMENDATION**

That the application be **REFUSED** for the following reasons

1. The Crane Mead/Swains Mill site provides an alternative site which is available, viable and suitable and therefore sequentially preferable to the proposed food store at the application site. The proposal has therefore failed to demonstrate that the sequential test of PPS4 has been satisfied and would be contrary to Policies EC14, EC15 and EC17 of national planning guidance in PPS4 Planning for Economic Growth and Policy STC1 and STC6 of the East Herts Local Plan April 2007.
2. Inadequate information has been provided to satisfactorily demonstrate the site's impact upon the vitality and viability of the Ware Town Centre. The development is therefore contrary to Policies EC14, EC16 and EC17 of national planning guidance in PPS4 Planning for Economic Growth and Policy STC1 and STC6 of the East Herts Local Plan April 2007.

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#### **1.0 Background**

- 1.1 The application site, known as the Cintel site, Ware measures 2.15 ha, once used by Rank Cintel; it lies in a mixed commercial and residential area to the north west of Ware town centre and comprises mostly 20<sup>th</sup> century buildings formerly in B1 (office), B2 (industrial) and B8 (storage) uses as well as a 19<sup>th</sup> century kiln and maltings. The employment uses at the site have been in decline over recent years partly as the discussions over planning applications for its redevelopment have continued. The site is shown on the attached OS extract.

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- 1.2 The site is on the B1001 Watton Road, which connects the town centre with the A10 bypass. The “Angels at Play” Children’s Nursery operates from a converted former canteen building in the south east corner of the site. The 1970’s office block, Cintel House, with three storeys above ground floor parking is the largest and most prominent building on the site. Watton House, two storeys high, has been refurbished to provide improved accommodation but much of the other accommodation is quite basic and includes warehousing space. Park Road defines the southern edge of the site and divides it from the Buryfields Park. On the western section of the site, in a backland location at the rear of dwellings in Fanshawe Crescent and Park Road, is a disused three storey car park.
- 1.3 There is a 19<sup>th</sup> century Kiln with Maltings on the Park Road frontage which is considered to be of local heritage significance. There was an unsuccessful attempt to list this building by the Council, but instead the former site owner was granted immunity from listing in 2006. The particular interest of the building arises due to the large quantities of the rare Hitch Brick once produced at this site for a limited period in the 19<sup>th</sup> Century. The Maltings includes probably the largest example of hitch bricks in an industrial building. While two previous applications at the site have in whole or in part proposed to demolish this building, the current application would repair, enhance and re-use the entire structure within the development.
- 1.4 Two major planning applications at the site have been withdrawn in the last four years, most recently in November 2008 (3/08/1531/FP) a mixed use scheme for a 36,000 sq ft food store (3,366 sqm net) including offices, a 70 bed residential care home and retention of children’s nursery. Prior to that in September 2006, a proposal for 127 flats, 45 assisted living units and a retained nursery was considered. Both applications were withdrawn prior to committee determination in the knowledge of local residents’ and planning officers’ objections.
- 1.5 The planning application now subject of this report was received in March this year following a long period of preparation, negotiation and public consultation by the applicant. Meetings were held with officers and with the residents group Cintel Residents Committee. A public exhibition of the plans was held in February 2010.
- 1.6 The application is also subject of a Planning Performance Agreement (PPA), the first for East Hertfordshire. The PPA is a means for local planning authorities and applicants to work more collaboratively on complex applications with agreed planning objectives and sets out a timetable with

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key milestones and a target date for a decision with associated S106 agreement. Due to the length of time taken to consider aspects of the application, in particular highways and retail issues, this PPA has been revised to agree a final decision is reached by the end of October 2010.

- 1.7 The planning application is for a mixed use scheme providing a new store of approximately 26,000 sq ft (2,601 sqm) net sales area comprising 1820 sqm convenience sales and 780 sqm comparison (non-food) sales. The gross floor area is 6753 sqm. The total floorspace is reduced from 36,000 sq ft (3,366 sq m) net in the 2008 application. The reduction of store sales area from the previous application is approximately 23%. Parking for 283 vehicles is proposed below the store and in a decked car park to the east, 10 parking spaces are dedicated for the nursery use. The application provides for the redesign and retention of the children's nursery. The care home proposal is now replaced by a proposed scheme of 13 dwellings on the western section of the site.
- 1.8 Other significant changes from the 2008 application include
  - the retention of the Hitch Brick Maltings as well as the Kiln;
  - the redesign of the built form to respond to the town's maltings history;
  - the relocation of the service yard further from residents and alteration to servicing with access only at Park Road and exit only onto Watton Road;
  - the design of a T junction to Watton Road in place of a roundabout; the redesign of the Children's Nursery with a pitched roof.
  - the use of Park Road for service vehicle access requires part demolition of the dwelling at 54 Park Road to enable the access to be widened.
  - a stronger landscaping element to Park Road and Watton Road frontages as well as landscape buffers around the site including acoustic screens
  - A footpath access along the east site boundary is omitted in favour of a central route which passes the main store entrance.
- 1.9 Pre application discussions with residents have brought assurances that delivery hours will be limited to between 7:00 am and 22:00 pm and opening hours between 8:00am and 22:00 pm (except Sundays and Bank Holidays).

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1.10 The application has been submitted with documentation as follows:-

- Planning and Retail Statement (Planning Potential)
- Design and Access Statement (HGP Architects)
- Landscape Design Statement and Tree Survey (Fabrik)
- Linkage Options Statement (Fabrik)
- Transport Statement, Parking Assessment and Travel Plan (Cottee Transport Planning)
- Air Quality and Noise Assessment Statements (SKM *Enviros*)
- Ecological Assessment (*Ecology Solutions*)
- Geo Environmental Appraisal (GD Partnership Ltd)
- Sustainability Statement (Planning Potential)
- Arboricultural Statement (*RPS*)
- Flood Risk Assessment (*RPS*)
- Archaeology (HCC email dated 2 Feb 2010)
- Lighting scheme (Abacus lighting)
- Statement of Community Involvement (Asda Stores Ltd)

1.11 In April 2010 the Co-op announced its intention to develop a store at Star Street. In June 2010 Waitrose indicated that they are preparing an application for a 15,000 sq ft (1394 sqm) store at the Swains Mill Site in Crane Mead Ware. Both have submitted objections to the Asda application.

1.12 As part of the retail submissions, the applicants have made submissions on the sequential test considerations of the potential alternative sites at Swains Mill (Waitrose) and Star Street (Co-op).

## **2.0 Site History**

2.1 There is a long history of applications at the site but the most relevant planning history to the current application is

- 3/02/0597/FP: Change of use to children's day nursery. Granted August 2002.
- 3/03/0915/FP : Permission granted for fitness gym in August 2003
- 3/06/1892/FP: Redevelopment for 127 new dwellings (51 affordable) and the erection of 45 very sheltered flats for the elderly, retention of offices and children's nursery. Withdrawn December 2006.
- 3/08/1531/FP Mixed use redevelopment to include residential care home, restoration of Kiln Building, retention of children's nursery and new foodstore. Associated car parking and landscaping. Withdrawn November 2008.

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- 2.2 In Ware, the extension of the Tesco store in the town centre was approved in June 1994 with additional car parking (Ref: 3/94/0799/FP). Proposals for a 66,000 sq ft store at Crane Mead (Ref: 3/93/1692/ZA) were made but dismissed on appeal in January 1995.
- 2.3 In Hertford a new 26,900 sq ft (2502 sqm) Sainsbury's store (3/08/1528/FP) was granted planning permission earlier this year by the Secretary of State and an approved extension to the existing Hertford Tesco Store (3/09/1282/FP) increased its net sales floorspace to 29,200 sq ft (2714 sqm).

#### **Hertford and Ware Food stores**

<b>Existing / Proposed Stores</b>	<b>Convenience (sqm)</b>	<b>Comparison (sqm)</b>	<b>Total Sales (sqm)</b>
<b>Tesco Hertford</b>	<b>2443</b>	<b>271</b>	<b>2714</b>
<b>Sainsbury, Hertford</b>	<b>1862</b>	<b>466</b>	<b>2328</b>
<b>Tesco Ware</b>	<b>1879</b>	<b>332</b>	<b>2211</b>
<b>Waitrose Hertford</b>	<b>1170</b>	<b>----</b>	<b>1170</b>
<b>Asda, Ware</b>	<b>1820</b>	<b>780</b>	<b>2610</b>
<b>Waitrose, Ware</b>	<b>1394</b>	<b>-----</b>	<b>1394</b>
<b>Co-op Ware</b>	<b>370</b>	<b>-----</b>	<b>370</b>

### **3.0 Consultation Responses**

- 3.1 Chase and Partners, retail consultants to this Council, advise that PPS4 places a clear onus on the applicant to conclusively demonstrate that the proposed development is in compliance with the sequential approach; does not have "significant adverse impact" and is satisfactory in all other respects.
- 3.2 With regards to the sequential approach Chase base their views on broadly agreed distances that the Asda store would be at its closest 297m from the secondary frontage at Baldock Street compared with 264m for a potential Waitrose store connecting to secondary frontage in Amwell End; and Asda would be over 500m from the nearest primary shopping frontage in the High Street whereas Waitrose would be only 287m from the primary shopping frontage in Amwell End. Due to its physical proximity Chase therefore consider the Swains Mill/Crane Mead site for Waitrose to be potentially a

'sequentially preferable' alternative to the Cintel site although the success of any scheme, as for Asda's scheme, rests on the ability to deliver good pedestrian links to the existing town centre. This is only a potential alternative due to some uncertainty in the absence of a planning application by Waitrose. As such based on the advice in Policy EC17.1 of PPS4 the applicants have failed to demonstrate there is no available, suitable or viable alternative and the application should be refused.

- 3.3 With respect to the Star Street site for a proposed Co-op, Chase and Partners have advised that it is available and may be viable but as a smaller store it is not capable of enhancing consumer choice and not therefore a suitable alternative location to the proposed Asda development. They also note that no planning application has been received even though one was promised last May.
- 3.4 They state that the impact test is not of significance if the sequential test fails but nonetheless have doubts about the methodology and figures. Following objections raised by Co-op and Waitrose about the figures submitted on turnover and impact they sought further analysis. They state that Asda's subsequent analysis has probably raised more questions than answers. As matters stand Chase and Partners consider the applicant has failed to provide the clear evidence required by PPS4 that the store would not cause demonstrable harm to the vitality and viability of the town centre as a whole. While it is not proven that there will be harm the onus is on applicants to demonstrate this by PPS4.
- 3.5 Their final overview of the retail arguments is attached as an appendix to this report.(Appendix A). While they maintain their view that the sequential test is not satisfied, they accept that the Swains Mill site may be too small to accommodate a store of the size proposed by Asda. Their judgment is that the benefits of a new (Asda) fascia and a larger store in the area are not such as to reject the Swains Mill site for being deemed unsuitable to accommodate one, although they accept others (local members and residents) may make a different judgement. With regards to impact although the retail assessment is far from satisfactory their analysis indicates the proposal is unlikely to materially affect the vitality and viability of the Ware town centre as a whole, although there is an equal danger of the benefits being overstated.
- 3.6 County Highways have recommended approval of the application subject to relevant planning conditions and agreed S106 obligations notwithstanding anticipated worsening congestion around the site. The modelling has undergone a number of revisions and although not fully validated, it does form a basis to consider the likely future impact of the development.

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- 3.7 They have agreed the trip rates within the Transport Assessment e.g. 259 arrivals, 267 departures in the Friday evening peak hour and 264 arrivals, 274 departures in the Saturday lunch peak hour, and that 10 – 30 % of trips are accounted for by passing traffic already on the network. Trip rates for the existing site and use however have not been agreed.
- 3.8 From 2011 to 2016 with background growth, even without the proposals, the highway network will become over saturated with significant queues forming. The addition of the development to this will obviously increase queues as physical improvements are not possible for the Park Rd/Watton Rd and Baldock St/Watton Rd roundabouts. It is essential that any development on this site contributes significantly to the recently developed transport plan to mitigate any impact.
- 3.9 The agreed S106 amounts are £365,000 for bus service improvements as the site is poorly served at present. £232,000 for general sustainable transport provisions. £80,000 for traffic calming within Fanshawe Crescent . £25,000 for residents parking scheme and the implementation of the approved Green Travel Plan.
- 3.10 HCC advise that if the local planning authority considers there is no benefit or need for a retail proposal, it could be considered that the additional congestion impact is also not acceptable as alternative mixed use development scenarios will not generate the same level of traffic congestion.
- 3.11 Highways say that the proposals have been assessed by safety audit and the physical design of the highway proposals are acceptable from a safety point of view.
- 3.12 While the parking provision for the store (as for the nursery) is below maximum provision there is a range for Zone 4 sites, and with sustainable transport provisions it may be appropriate to consider Zone 3 reductions. They consider the parking to be generally in line with other recent store permissions in this area., one space per 9.6 sqm retail floorspace is comparable to one space per 10 sqm for the recently approved Hertford Sainsbury's and Tesco's Hertford approved extension. A robust package of sustainable transport measures is essential to support the provision of reduced parking.
- 3.13 Highways are content that servicing takes place from Park Road. They anticipate there will be 7–8 artic deliveries a day and approve of the agreed route for service vehicles to the store via the A1170 Wadesmill Road direction. A layby in Canons Road will provide for the existing Londis store.

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- 3.14 They consider the submitted travel plan and other details such as the bus stop location, the pedestrian and cycle routes to be acceptable and necessary to be secured by planning condition.
- 3.15 Following the receipt of further information on flood risk the Environment Agency has withdrawn an earlier objection. It requires a planning condition that floor levels are set no lower than 36.76m (AOD) in order to reduce the risk of flooding to future occupants
- 3.16 English Heritage observe that significant changes have been made to the proposal which it welcomes. The store has been reduced but it is still a large element to assimilate in the conservation area. They are pleased to see the retention of the entire maltings range, the retention in part of 54/56 Park Road and the nursery too which will help to integrate the new scheme into this important street frontage.
- 3.17 The new housing is seen as somewhat bland and repetitive and the timber balustrade to Watton Road may not prove durable and they recommend attention to these issues.
- 3.18 The County Archaeologist comments are informed by the completion of three trial trenches in February 2010. The Roman Road Ermine Street crossed the site and nearby sites suggest there may be further evidence of Roman occupation present with potential for earlier prehistoric activity (Mesolithic and Neolithic). She has noted the scheme retains the significant and locally important maltings and kiln complex. These are remarkable for their rare use of hitch bricks in the construction. It is recommended that a ground works and programme of archaeological works condition be applied and in the event of permission she will be happy to provide a design brief for this.
- 3.19 Natural England welcomes the submission of the ecological survey and refers to its standing advice on protected species. They make no objections.
- 3.20 Herts Biological Records Centre makes recommendation on conditions to safeguard protected species of bats and reptiles as well as avoiding clearance affecting breeding birds.
- 3.21 Veolia Water advises the site is within the Musley Hill Pumping Station source protection zone and that works should be carried out in accordance with the relevant British Standards.
- 3.22 The Herts County Development Unit recommends a condition for a site Waste Management Plan.



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- 3.23 East Herts Planning Policy advise refusal of the application on the basis of the alternative site being available for development and sequentially preferable. As it stands, there is a site located closer to the town centre than the proposed Asda site although it is acknowledged that improvements to pedestrian links would have to be delivered. The alternative is also closer to other town centre facilities such Ware Station. A supermarket at this (Waitrose) site would provide sufficient consumer choice to offer competition and expand the range of retail offer within the proximity of Ware Town Centre at a level that supports Ware's role as a minor town centre (Local Plan – para 7.5.1) providing local convenience needs. At a smaller size a supermarket would have limited flexibility in terms of providing a non-food offer. This could help to reduce any potential impacts on Ware's existing comparison goods stores. Neither site is particularly well-linked to the town centre and both would need considerable work to improve their connectivity to the main shopping areas)
- 3.24 With regard to sustainability, it is recommended the Combined Heat and Power element provide for the store and the housing and clarification is requested on what the sustainable drainage scheme will be.
- 3.25 The Conservation Officer is encouraged that one of the key historic assets identified, the Maltings and Kiln buildings are to be brought into beneficial use. Surveys, repairs for the maltings and hard paving proposals for the Kiln need assessment. The concept of the development reflects the Buryfields Maltings site. 54 Park Road is also identified as a local heritage asset.
- 3.26 Although it would be subject of separate application, there is concern about corporate signage on Park Road. This and other detailed suggestions for the Park Road and Watton Road frontages have been responded to. The overall design has taken into consideration the architectural and historic character of the Kiln, Maltings and the adjacent Conservation Area of Ware.
- 3.27 The Landscape Officer has recommended refusal of the plans. He comments that the general landscape layout has evolved as part of the planning process and is acceptable and will have a major impact on the appearance of the public realm. If permission is granted conditions are required to take the detail to the next level. The loss of trees along Watton Road is noted as these have group value but this loss will be mitigated by new tree planting.
- 3.28 The loss or reduction of the nursery play space is a major detractor in his view although partly mitigated by the new toddler play space in Buryfields. His major objection is to the 4m acoustic fence which bounds the service yard which hides planting behind it. There will be no benefit to the landscaping behind it and the fence itself will be visually dominant to people

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arriving and exiting the store by car. He recommends the fence be resited to the rear boundary of properties in Fanshawe Crescent. If this point can be addressed then on balance the proposals are considered to be acceptable in landscape terms.

- 3.29 The East Herts Housing Development Manager has advised that the 5 affordable houses will go some way to meet the needs of the residents of the district and would wish some to be built to lifetime homes standards to make them suitable for families who have a member with a physical disability. The requested mix is 3 x 2 bed units and 2 x 3 bed units, ideally all rented, but the policy asks for 75% rented and 25% shared ownership. It is recommended that the smaller homes be put forward if there are any in shared ownership.
- 3.30 The Architectural Liaison Officer has written to refer to verbal commitments made by ASDA in meetings on security measures and subject to this will be happy to support the application. (e.g on aligning with the principles of Secured By Design, provision of CCTV, glazing details and the securing of the car park when the store is closed)
- 3.31 The Environmental Health Officer has not objected but has recommended conditions on dust, noise mitigation measures, hours of working, asbestos removal, and contaminated land.

#### **4.0 Ware Town Council Representations**

- 4.1 Ware Town Council does not object to the development in principle but would wish to see the following conditions applied by East Herts Council.
- a limit of 13 low houses on the development and their construction started during or before the foodstore construction
  - that trading hours be 8am to 22 pm and Sunday trading hours
  - the extent of landscaping should be protected to provide year round screening
  - that the store should not be permitted to expand from 28,000 sq feet
  - that there should be a S106 agreement to enable the County Council to assess and carry out necessary traffic calming to Fanshawe Crescent, Watton Road and Park Road
- 4.2 With regards to the options for Buryfields Park the Town Council prefer the design to be open with a view across the park. The loss of 9 trees along Watton Road is regretted and they request a planning condition that they be replaced with something of similar size.

4.3 Stanstead Abbots Parish Council objects that the proposal by its size and design will be detrimental to the vitality and quality of life and viability of the surrounding rural communities. It will challenge the trade in Ware High Street and the neighbouring villages including Stanstead Abbots. Retail and service outlets will be lost that provide the personal touch that the new store cannot. Small traders should be encouraged; the risk is of a high street of vacant shops and a monoculture of charity and pound shops. They do not support multinational companies destroying the bedrock of communities and consider the proposal is contrary to Local Plan Policy STC6.

## **5.0 Other Representations**

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 270 letters of representation have been received the majority of which are objecting to the application although a substantial minority (35%) are written in support. Of the 175 letters of objection, the main objections voiced are to the perceived neighbour and environmental impacts, retail and highways impacts. Some have responded to the Waitrose bid and Co-op to say these offer a better alternative to Asda.

5.3 95 letters of support have been received. Supporters of the scheme wish to see competition to the existing town food store of Tesco which is considered to be unattractive and in need of competition. A 1128 signature petition has been received; while closer inspection reveals some missing signatures, several signatures from one school and people living a significant distance it nonetheless indicates a significant level of support in the town, as do the individual letters received. Supporters have also written to say that the Waitrose will not meet the local need and bring benefits.

5.4 The Cintel Residents' Committee active at pre application, and throughout the consultation, has made a number of points but key demands for them are that planning conditions are imposed to cover opening hours, construction hours, lighting and noise, lack of traffic calming measures including a raised crossing for the Toucan on Park Road. They object to the loss of trees along Watton Road as it is widened, the location of the bus stop, the loading and parking provisions for the Londis store. They object that the acoustic fence is not a "design flaw" (see Landscape Officer comment) but a concession gained after a long and hard fought battle by the residents, its repositioning is totally unacceptable but they would accept provision of climbing plants.

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- 5.5 The Co-op (Nathaniel Lichfield Partners) have objected that the Retail Planning Statement underestimates the impact of the store on Ware Town Centre. The turnover assumptions are incorrect for both the Asda store and the town centre Tesco. 20% of the store's turnover is unaccounted for. Their own sensitivity testing suggests a far higher impact on the town centre (37%). This will threaten the town's vitality and viability, contrary to Policy EC16(b) of PPS4 and Local Plan Policy STC6(b). The Asda store will jeopardise their own mixed use retail and residential scheme at Star Street with a Coop store estimated sales floorspace of 370sqm. Their own store is able to meet all the identified need (293sqm) to 2013 in the Retail and Town Centre Study 2008.
- 5.6 They consider the net: gross ratio of floor space to be exceptionally low at 39:100 against an industry standard range of between 50:100 and 75:100. They challenge the assumption that no trade will be diverted from 16 other smaller convenience store outlets in Ware. They say only 80% of trade diversion is accounted for and doubt that so much will be diverted from further afield. The proposal threatens to undermine the redevelopment of their Star Street site contrary to PPS4 Policy EC16.1(a).
- 5.7 Waitrose have written with lengthy submissions to challenge the application submissions and to identify the benefits of an alternative Crane Mead development. Asda's sequential assessment discounts the Crane Mead site because it is in a designated employment area; but Waitrose point out in the East Herts Employment Land Review 2008 that the site was rated as "amber" requiring future intervention due to its low visibility and access points. Their scheme can provide the necessary intervention and new employment opportunities. Sainsbury's site in Hertford they note was also an allocated employment site but with a "green" rating. Like Co-op, they challenge the turnover figures and say there is no explanation as to why the original figure (£10,334 per sqm) has been used aside from it being previously agreed. They believe the turnover of the Asda store will be more like £33M rather than the £26M. The methodology is confused and the figures are inconsistent. The impact question becomes academic if the store fails the sequential test.
- 5.8 In conclusion, they consider the application should be refused because their site at Swains Mill, Crane Mead is sequentially preferable and is available, suitable and viable. Furthermore they believe the Asda store would have a significant impact on Ware Town Centre. The proposal would therefore be contrary to Policy EC17.1a and EC17.b of PPS4. Their store by its relationship with the town centre will support the vitality and viability of the town centre.

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- 5.9 GlaxoSmithKline are interested to protect their investment and secure their long term future as an employer in the town. They object that the proposal represents an overdevelopment of the site and given that 39% of the floor area is for sales are concerned about later expansion. If the retail floor area increased later then there would be increased pressure on local roads. They are concerned that the car parking provision is below adopted standards. They are concerned about parking obstructing the free flow of traffic in Park Road. They would wish to be consulted on changes to Buryfields Park given visibility concerns
- 5.10 The owner of Mill Studio at Crane Mead says that Asda are incorrect to say the Swains Mill site is not available and that there is excessive car parking space at their site which can be used as part of a redevelopment scheme without detriment to the office space at Mill Studio. In a more recent letter he again confirms he is prepared to see his land come forward in a redevelopment of Crane Mead in the event that ASDA are refused consent.
- 5.11 Orchard House pre school which lies to the west of the site is concerned about noise and disruption and seeks reassurance that safety and security will not be affected at their site.
- 5.12 The existing nursery Angels at Play welcome the proposals and the proposed improvements to their building. Their flat roof is a maintenance liability. They support the changes to pedestrian and vehicular access and feel that their outdoor play space will be larger. The Asda scheme brings much needed regeneration and employment to the site
- 5.13 The scope of third party representation made is extensive. A summary of the objectors' points made is set out below with supporters points from paragraph 5.33 onwards
- 5.14 Highways / Traffic Objections:
- 5.15 General
- Traffic is being drawn from a wide area
  - Asda say 95% of traffic is already on the network however 60% of the traffic is being drawn from a wider area
  - High Street congestion will worsen
  - Object to the congestion and pollution of 30,000 visitors a week
  - Weekend traffic will become like the weekly peak hours.
  - Please resurface the road as it is covered in potholes
  - Need traffic calming measures on local roads
  - Want a 20mph zone

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- Costly traffic management measures should not fall on the local taxpayer
- The store pick up is not convenient and people will therefore pick up from roads around
- Any traffic lights will be unwelcome as these are obstructive

#### 5.16 Parking

- There is insufficient parking. Need for 450 calculated and only 283 proposed
- There is no parking for staff
- Store will be under pressure to reduce the length of stay given the shortage of parking
- Asda's own figures show 415 vehicles per hour at peak - so not enough space if people are to visit the town centre as well
- There will be parking congestion on surroundings roads
- Fanshawe Crescent and Park Road need to be resident permit parking areas
- Store is larger than the town centre Tesco but with fewer spaces
- Inadequate parking for Nursery Staff – the original permission required 28 spaces for staff.
- Nursery parents will use Park Road
- Parking in front of 2 – 26 Park Road is needed for residents. Want residents parking restriction.
- The restrictions on long term parking in Park Road is a loss for users of the town centre

#### 5.17 Deliveries

- Object to 20% increase in HGV traffic
- Delivery hours should be conditioned to store hours but allowing one hour before opening.
- Delivery hours should be 8am to 8pm
- Lorry deliveries should be directed out along Wadesmill Road ( A road) rather than Watton Road (B road)
- What is to stop lorries parking in surrounding streets ?
- The Park Road entry appears too narrow

#### 5.18 Sustainable Transport

- Pedestrian crossings needed on Watton Road
- Pavements along Watton Road are too narrow and feel dangerous; traffic noise is so loud cant converse with people.

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- Pavements are too narrow for people with pushchairs
- Provide raised table crossings on Park Road near to store exit – prefer zebra crossing for convenience
- No room for bus shelters
- Buses should access Asda site
- Bus stop location is inappropriately site on Watton Road
- Increased risks to school children from Chauncey Secondary and St Catherine's Primary
- Only 24 cycle stands are on the plans but 58 cycle stands mentioned in the documents
- Buryfields is not well lit
- Object to cyclist use of path across Buryfields – used by elderly and children
- Train station is 15 minute walk away not convenient

#### 5.19 Watton Road

- Watton Road is already congested and can't cope with the predicted 30% increase
- Traffic often backs up all the way to A10
- 5000 cars a day – there will be continual jams
- Watton Road is a dangerous road to access so this will get worse
- Gridlock when cars are queuing right to go into Asda and right to turn into Cross Road
- The T junction will be inadequate
- The middle waiting lane is too short
- Cars trying to exit right will not wait and will turn left and rat run through Fanshawe Crescent
- T junction will need traffic lights
- Need to address speed on Watton Road
- Watton Road should be HGV free
- Road needs resurfacing and pavements are narrow

#### 5.20 Park Road

- Park Road already has GSK traffic and deliveries, schools traffic, swimming pool users
- Serious morning congestion will worsen

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#### 5.21 Fanshawe Crescent

- Prefer build outs to speed bumps for traffic calming
- There will be increased rat running as a result of congestion
- Should be access only from Watton Road

#### 5.22 Retail Objections

#### 5.23 Need

- No need for supermarket.
- Other Asda stores within driving distance.
- Many vacant shops in town – No 12 High Street has been standing empty since built
- Tesco serves existing population very well.
- 2008 Study by Chase and Partners said no need – identified a need for 800 sq ft up to 2021

#### 5.24 Impact

- People will shop at Asda but not go to town .
- 20% linkage is hugely optimistic.
- Store is 500m away from town centre.
- Live in Fanshawe Crescent and find the distance too great to walk
- There is insufficient draw in the town centre
- The store will offer ATM's, comparison and other services removing the need for a town centre trip
- Store will be a competitor to the town centre rather than complement it
- The store needs to be closer to the town otherwise encourages unnecessary car journeys
- Asda will take 40% trade from Tesco and town centre.
- Focus will move away from town centre.
- Store includes a butcher, pharmacy, baker, clothing outlet all in direct competition with town centre businesses.
- List given of at least 21 businesses in town centre in direct competition
- Asda will soak up lunchtime trade from GSK and divert this from the High Street.
- Ware town centre already in terminal decline
- If High Street dies then heart of the community goes
- Wouldn't be surprised if Tesco abandoned Ware altogether



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- Ware will end up a Ghost town like Hoddesdon, Cheshunt or Royston for welcoming big stores.
- Adverse impact on delicatessens and cafes in town
- Added town roads congestion will discourage trips to the town centre

#### 5.25 Scale

- Store has a low retail floorspace ratio 38.5% - if it moves to the average of other stores 47.7% then net floorspace increases back to 34,600 sq ft.
- The back of house area of 6,000 sq ft for offices is probably for later use as sales floor area; later enlargement of the store has happened at Tesco Hertford (twice)
- Asda have subsequently expanded their stores at Stevenage and Biggleswade
- Asda sales are reduced by 23% (net) but the store is reduced by only 5% (gross) from last application.
- If 48% of traffic is coming along Watton Road from A10 then the store is obviously not for the town of Ware and is clearly serving a wider need
- Stores of this size are best placed out of town

#### 5.26 Miscellaneous retail

- The local plan still asserts a need test even though PPS6 does not
- Ware is defined as a minor town centre and provides for this role well (Chase) this proposal draws trade in from wider area
- The previous phone poll is flawed and overestimated the leakage of trade from Ware as it took in areas outside Ware
- Why cant people just shop online?
- Detriment and loss of the local Londis store. The store loses its loading bay
- 24 hour opening is unacceptable but Asda will be back in future for this and future expansion, no guarantees offered on this by Tom McGarry spokesman for Asda
- Store to be 9am – 9pm Mon – Sat.
- Object to the size of the store but not the principle.
- Would support an alternative smaller store in a central location
- Store should be no larger than existing Tesco.
- Would support if Asda committed money to develop the town.
- More traffic in high street will damage town centre.

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- If a new store is needed it would be better located at the other end of town near to the shops, the university and the station
- Asda supporters are elderly who live on north side and struggle to get to Tesco's. They will not make linked journeys to town centre.

#### 5.27 Neighbour Amenity

- Must remember the proposed store is in the middle of a residential area
- Acoustic fencing is insufficient to contain noise, requires extension along the rear of pub wall.
- Semi mature planting should be used to provide instant screen.
- A mound to the landscaping needed at rear of 2 – 4 Fanshawe Crescent.
- Noise from vents to CHP
- No more than 13 houses
- Conditions must protect landscaping
- Service Yard should be restricted to 7:30am – 20:30
- Servicing no earlier than 7am
- 8m lighting columns are too high
- Lights to service yard need to be switched off at night
- Construction will be hugely disruptive to Watton Road area
- Conditions on construction hours needed
- No 62 Watton Road. Object to impact of car park, fencing, lighting, privacy (1.2m fence inadequate)
- Compactor within yard will cause noise pollution
- Hazard beeps need to be turned off at night
- Noise from upper deck entry / exit.

#### 5.28 Use

- Proposal does not fulfil the ideal of sustainable development
- Asda don't do small
- Site should be used for affordable housing
- Need for leisure facilities e.g. indoor tennis courts, gym
- Site best used for mixed use with housing employment, gym
- Site history began with the John Logie Baird Cinema TV Company in 1940's. Best to continue with high technology jobs
- Car park fumes will impact on the existing nursery. Nursery garden lost.
- Site is dilapidated and underused as a result of a succession of property developers seeking to obtain planning permission
- Propose a smaller store and missed businesses

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### 5.29 Design

- Fencing to Watton Road is very poor and inadequate landscaping
- Fence 4m above the road level – blights the view of the site
- Will stick out like a sore thumb
- Building of a scale still out of character with area
- Possible damage to listed buildings in area.

### 5.30 Employment

- Asda will bring unskilled low paid jobs unlike the potential of other businesses

### 5.31 Information

- Many mistakes, references to previous applications.
- Retail refers to Heanor and Eastwood in place of Ware and Hertford
- Air pollution within car park not accounted for
- Construction will be hugely disruptive to Watton Road Area

### 5.32 Crime / anti-social behaviour

- Asda must commit to manage any antisocial behaviour problems
- Car park needs to be secured at night

### 5.33 A summary of the points made by supporters of the Asda application are set out below

### 5.34 Ware – need/benefits

- Ware is losing out. Hertford will have 3 supermarkets even Buntingford has two. Ware will only have one.
- Ware needs a superstore and Asda will enhance the overall experience. The town has lost so many stores.
- The benefits will outweigh the disadvantages.
- Ware is a growing town with lots of new flats.
- Asda will keep these people in the town rather than driving elsewhere.
- There used to be a free bus service to Brookfield Farm but that has ended now.
- The nearest Asda is 9 miles away but within 9 miles there are 12 Tesco's and 8 Sainsbury's.

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- Asda will enable people to shop in their own town, this will help to keep small shops open.
- Asda will bring people back into the town.
- I would start to shop in Ware again.
- Asda will give a boost to Baldock Street.

#### 5.35 Choice/competition

- Tesco needs competition as it is poorly managed currently
- Tesco has got lazy, service lines run out. Unhelpful attitudes and poor service.
- Tesco is a monopoly.
- Tesco store is too small.
- The Asda will extend choice.
- Provides a clothes range and fills a void in the town
- Presently have to travel to Harlow for an Asda
- Waitrose is more expensive than Asda
- Asda is very popular and excellent value for money

#### 5.36 Employment

- Asda will bring more people back into Ware and be a boost for businesses
- The 250 new jobs an Asda will bring are a benefit as Ware has fallen upon hard times
- Asda will bring a range of clothing which fills a void in the town as good clothing stores are few and far between
- Ware needs the 250 jobs. Ware has lost jobs from Glaxo and Regional College.
- I would like to work there
- In a recession people need value

#### 5.37 Design/heritage

- Support the redesign and smaller store.
- The store has taken account of the town's historical background
- Pleased that the kiln and malting are being retained
- Can provide new public toilets when these are closing down
- Site is neglected and needs regeneration. What will happen to it if Asda doesn't get permission?

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### 5.38 Transport benefits

- We travel by bus to go to Asda in Harlow.
- Asda will be good for non drivers, the elderly.
- Reduces need to travel, currently forced to go to Harlow and Stevenage for Asda.
- Suggest traffic is diverted via A10 to avoid High Street.
- Asda will slow traffic down and make Watton Road easier to cross.
- Pleased Asda will provide a bus service.

### 5.39 Waitrose alternative

- Waitrose are already in Hertford so why come to Ware.
- Waitrose are more expensive
- Waitrose would only serve the south side of town

### 5.40 Public opinion

- Don't let the Nimby brigade win. The small noisy minority opposed to it.
- The vast majority of people I have spoken to are in favour of it
- Generally people are in support.
- Haven't spoken to anyone against it
- 29 residents of Hartfield Court are in support of the application

## **6.0 Policy**

6.1 The relevant 'saved' Local Plan policies for the consideration of this application include the following:-

SD1	Making Development More Sustainable
HSG1	Assessment of Unallocated Housing Sites
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR3	Transport Assessments
TR4	Travel Plans
TR5	Dual use of private car parks
TR7	Car Parking – Standards
TR12	Cycle Routes – New Developments
TR13	Cycling Facilities Provision (non residential)
TR14	Cycling – Facilities Provision (Residential)

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EDE2	Loss of employment sites
STC1	Development in town centres and edge of centre
STC6	Out of centre and out of town retailing
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV16	Protected Species
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
BH3	Archaeological Conditions and Agreements
BH6	New developments in Conservation Areas
LRC3	Recreational requirements in new residential development
LRC11	Retention of communal facilities
IMP1	Planning Conditions and Obligations

- 6.2 In addition to the above it is considered that national guidance in the following documents is relevant to the determination of the application:-

Planning Policy Guidance 1, *Delivering Sustainable Development*,  
Planning Policy Statement 3 *Housing*,  
Planning Policy Statement 4, *Planning for Sustainable Economic Growth* in particular policies EC10, EC14, EC15, EC16 and EC17,  
PPS5 *Planning for the Historic Environment*  
PPG13 *Transport*

## **7.0 Considerations**

### **Principle of development**

- 7.1 Although now mostly unused, the application site is a significant employment site within Ware by its historic use, buildings and size. As a substantial brownfield site with few buildings that are worthy of retention its redevelopment accords with national and local planning policies for recycling and making the best use of urban land. Although there has been local opposition to previous housing and retail applications, as well as the current scheme, the Council knows from its survey 3 years ago that there is general support locally for the principle of a well designed, environmentally friendly, comprehensive mixed use redevelopment of the site.
- 7.2 Having regard to this and the established local and national planning policies of PPS1, PPS3 and PPS4 a retail led mixed use scheme, including housing and a retained nursery use, is therefore considered to be acceptable in principle subject to the key tests of retail, highways and

parking, neighbour impacts, design and conservation including its impact on the adjacent Conservation Area, the setting of listed buildings and the significant heritage assets at the site.

7.3 The main planning issues to consider in the determination of this application are therefore whether:

- the site makes sufficient provision for employment uses as part of a mixed use redevelopment (Policy EDE2)
- there is justification for an “out of centre” retail store not in accordance with the development plan having regard to the tests of PPS4.
- there is a sequentially preferable site to the proposed store contrary to the tests of PPS4
- the retail impact of the store will be detrimental to the vitality and viability of the existing Ware town centre (PPS4 and Policies STC1 and STC6)
- the traffic impacts of the development are acceptable and the existing highway network is able to accommodate the additional traffic and servicing demands generated (TR1)
- 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 such as walking, cycling and passenger transport (TR7 and PPG13)
- the development will cause undue detriment to the amenities of nearby residents (Policy ENV1)
- the development preserves and enhances the appearance and character of the adjacent Ware Conservation Area (Policy BH6 and PPS5)
- the proposal preserves and enhances the setting of the listed Rose and Crown Public House and gives due regard to significant heritage assets within and around the site (PPS5)
- the development is otherwise of a high standard of design quality reflecting the local pattern of development and in its provisions for connection with its surroundings and landscaping (Policy ENV1 and ENV2 and PPS1)
- whether the housing proposal is appropriately designed, of satisfactory quality and makes due provision for affordable housing (Policy ENV1, HSG3 and HSG4 and PPS3)
- whether the development makes necessary S106 provisions to mitigate the impacts of the development (Policy IMP1)

## **Employment Impact**

- 7.4 Local Plan policy EDE2 requires and sets out tests for existing employment sites that are not designated employment areas to ensure that they are as far as possible retained in continuing employment use.
- 7.5 The proposed development of the site will include employment in the retained nursery use at the site and provide an estimated 250 jobs (full time equivalent). National planning guidance in PPS4 (para 4) recognises the employment generated by town centre uses such as retail development can be considered. Proposals will still need to be in accordance with the detailed tests set out in policy.
- 7.6 The site would be acceptable for redevelopment for other high end employment uses and this has been encouraged at previous stages by the council, although that is not the proposal now presented for the Council to determine. In negotiations on previous applications at the site it was accepted that the site had limited suitability for B2 (industrial) or B8 (warehouse) development
- 7.7 Bearing in mind the current weak market for commercial development and the costs of cleaning up the site and repairing the maltings and kiln building, it would be likely to be a significantly long time before any alternative business led regeneration of the site were feasible that delivered the same benefits of comprehensive regeneration. The applicant has estimated that there is 5,500 sqm of vacant business space at the site.
- 7.8 The previous retail led scheme included a care home and an estimated larger number of jobs (500) at the site but was not recommended for refusal on employment grounds. Notwithstanding the reduced employment in this current scheme, this is mainly a consequence of the reduced size of the store and the introduction of a housing element to replace the care home (which has been promoted by officers) so there is still a significant and acceptable employment element. Overall, having regard to the above matters I do not consider there to be an objection on employment grounds to the scheme.

## **Retail Considerations**

- 7.9 The site is agreed by all parties to be outside Ware town centre. Asda consider their store to be “edge of centre” whereas I agree with Chase and Partner’s consistent and firmly held view that the site is “out of centre” because it is more than 300m from an assumed Primary Shopping Area.



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- 7.10 It should be emphasised that there is no defined Primary Shopping Area (PSA) in the East Herts Local Plan for Ware or any of the district's town centres. The plan at Appendix B identifies the Asda site in relation to the designated secondary and primary shopping frontages in the adopted Local Plan.
- 7.11 Policy EC3 of National Guidance in PPS4 advises that Primary Shopping Areas (PSA) be identified in Local Development Frameworks and that they will broadly comprise "*the primary shopping frontages and those secondary frontages which are contiguous and closely related to the primary shopping frontage*" (Annex B). As neither the Local Plan nor the 2008 Retail and Town Centre Study recommended a PSA then this has to be a matter of judgement.
- 7.12 The two main retail tests of national planning guidance in PPS4 for sites outside the town centre not in accordance with the development plan are as relate to sequential assessment and retail impact as set out in Policy EC17.1. Firstly the applicant needs to demonstrate compliance with the requirements of the sequential approach (policy EC15) and secondly that the development will not result in "significant adverse impacts" having regard to policies EC10.2 and EC16.1. The PPS4 impacts cover a range of retail impact considerations including the impact on investment in towns, town centre vitality and viability, other locally important centres, as well as non retail issues including climate change, transport, design, regeneration, and employment.
- 7.13 Legal advice the council has obtained is that in reaching a reasonable and defensible planning decision the local planning authority must give due weight to the tests of the sequential and impact tests. In particular the expectation of Policy EC17.1 that a development complies with the sequential test or should otherwise be refused. Only exceptionally, and where the Council can give clear reasons for doing so, could a development be agreed contrary to the policy.
- 7.14 Sequential Assessment: In its original submission, Asda identified, with the cooperation of your officers, nine alternative sites in and around Ware Town Centre for appraisal in order to identify whether they could be determined to be sequentially preferable sites to the Cintel site. The Sequential Assessment was originally accepted by Chase and Partners to demonstrate that there were not any sequentially preferable sites. Asda discounted the Swains Mill / Crane Mead site as being unsuitable due to its designation for employment use in the local plan and a restrictive covenant for rail maintainence, as well as to its unavailability due to 3 separate land ownerships. The Co-op site (part of a larger identified site) was discounted as too small and therefore unsuitable and unviable.

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- 7.15 The assessment was first challenged by the Coop who objected and announced that they intended to develop a mixed use scheme of residential and retail floorspace (approx 4000 sq ft net sales) at Star Street on the edge of the town centre, and then secondly in June this year when Waitrose publicly entered the discussion with their outline proposal for an alternative smaller food only store (15,000 sq ft) at Crane Mead. Waitrose stated that the 3 landowners had now come together in principle with a property developer to secure an agreement for the site's redevelopment. Chase and Partners asked for the sequential analysis to be reviewed, their view now is that while the Co-op site is not suitable to provide a food store of choice, the Crane Mead site is available, suitable and viable for development which is therefore an objection to the grant of permission at Cintel.
- 7.16 PPS4 practice guidance notes that the key sequential tests are of
- availability – whether sites are available or are likely to become available for development within a reasonable time period;
  - suitability – whether sites are suited to accommodate the need or demand that the proposal is intended to meet;
  - viability – whether there is a reasonable prospect that development will occur on the site at a particular point in time.
- 7.17 Neither the proposed Asda store or Waitrose site is particularly favourably located for the town centre. When measuring comparable walking distances for linked pedestrian journeys between the stores and town centre, the Waitrose store is about 264m to the nearest secondary frontage and Asda is 297m; Waitrose is about 287m from the nearest primary shopping frontage whereas the nearest primary shopping frontage to Asda will be about 520m (see site comparison plan at Appendix A). The comparison of distances between the stores shows that in terms of a centre judged to be that of retail concentration, the Primary Shopping Area, then the Waitrose store would be some 200m closer to the town centre than the Asda.
- 7.18 Chase and Partners do not agree with Asda's view that Baldock Street can be considered to be within the Primary Shopping Area as this street is characterised by offices, A2 uses and restaurant/takeaways and it cannot be viewed as an area of retail concentration. Chase do not agree with the view of Asda that the linkage to the store and increased pedestrian activity and vitality of Baldock Street would make it part of the PSA in the future. This they argue pre-empt's the planning authority's decision on how it intends to define a PSA for Ware in its Local Development Framework.

- 7.19 In Asda's favour, I would acknowledge that the proposed store may be visible at a distance from the top of Baldock Street whereas the Waitrose store would not be visible from any town centre shopping frontage. Neither store would be visible from the Primary Shopping Area. Furthermore, the Waitrose store is separated from the town centre by an area of residential development whereas the routes from Asda along Park Road, Watton Road and Baldock Street are of a mixed residential and commercial character. This linkage in part reflects the linear form of the town's commercial area. In Waitrose's consideration their store is well placed to provide attractive river links to the town and is better placed for public transport. Both of the sites offer reasonably level walks into the town and neither requires the crossing of major road barriers. Because of the fact that the Waitrose store is physically much closer to the PSA and can be considered "edge of centre" then on balance I agree with Chase and partners view that their Crane Mead site should be considered sequentially preferable to the Cintel site with a greater likelihood of generating linked trips.
- 7.20 **Suitability** - Although the Waitrose store is smaller than the proposed Asda store, Chase and Partners disagree with Asda's view that it cannot provide for the identified need and consumer choice. They accept that the Waitrose store is smaller and will not provide as much "claw back" of trade to the town as Asda. It is also the case that the Waitrose will not introduce an additional operator in the Hertford/Ware area although there will be more competition and choice in the local area. Some of the Waitrose custom will be taken from customers normally loyal to the Hertford town centre store. However none of these factors are considered sufficient to overcome the disadvantage of the Asda site by its relative lack of proximity. Although there is support for Asda in the town there is also opposition and uncertainty about its impact, the case has not been proven that the scale of the Asda store approximates more appropriately to the needs of the town than say the Waitrose site. If it were the case, then the Cintel site could be argued to be the more suitable.
- 7.21 The Waitrose site was assessed as being unsuitable by Asda as it is allocated for employment use in the local plan. Although this is a factor in PPS4, Waitrose have pointed out the "amber" assessment of Crane Mead in the 2008 Employment Land Study, this means that the employment use is only viable with intervention. Chase and Partners feel that this study discounts the employment objection and means the site is suitable and I agree. The pre application development options presented for the Waitrose site have been shown to provide an improved employment offer at the site and given the fact that employment with retailing is recognised by PPS4 I do not think there is likely to be an employment objection to a food store as part of a mixed use redevelopment of Swains Mill site. By comparison, the Secretary of State had no employment objection to the Sainsbury's

application in Hertford on a designated employment site even though that site had a more favourable “green” rating in the 2008 Employment Land Study.

- 7.22 Asda claims that their site will deliver conservation benefits greater than at Swains Mill is accepted, but this is not relevant to the sequential assessment or a reason to discount the Swains Mill site as unsuitable.
- 7.23 **Availability and viability** - Although there has been some uncertainty about deliverability of the Swains Mill site and no planning application has been made, Waitrose indicate that they are working towards a detailed submission and this requires time to prepare properly. They have reaffirmed that all 3 landowners are working together to deliver an alternative. Subject to submission of an application, the related work on other planning and design issues then, as Chase and Partners say, due to its physical proximity there would be a sequentially preferable alternative site and the Council would be expected to refuse planning permission. If Waitrose subsequently failed to come forward with a suitable detailed scheme then there the presumption would move back in favour of the Asda scheme but this seems unlikely at the present time.
- 7.24 Impact Assessment. If the assessment on the sequential test is conclusive then other assessments about impact become irrelevant.
- 7.25 Nonetheless Chase and Partners have questioned the figures provided in the Planning and Retail Statement about estimated turnover at the store which have been strongly challenged by the Co-op and Waitrose. The objections made are that the figures are an underestimate and significantly underestimate the impact of the store on the town. The further work raises “more questions than answers”. The main doubt is to the level of turnover at the store with a significant discrepancy and lack of understanding for the derivation of the company average turnover figures. Chase believe that the store, being smaller than average, would be likely to achieve a higher than average turnover. The Co-op’s agents, NLP, object that a large amount of turnover (20%) is unaccounted for and the combined effect with under-estimation of turnover is that the impact of the store on the town centre could be as high as 37%.
- 7.26 Asda have responded and stand by their original turnover estimates but also comment that even if the store does trade beyond estimates, due to the level of linkage and spin off trade to the town centre, then the impact will be to the benefit of the town centre. This depends of course on whether the assumed linkage of 20% of shoppers visiting the town will occur. The figure is justified by Asda as it is below the range (22-53%) of linkage discussed for the Hertford Tesco Store (although that store is physically better linked

to a town centre with a stronger pull factor) Only 30% of Ware Tesco shoppers by comparison visit the town centre, so for Asda, 20% linked trips from a store comprising both convenience and comparison goods over 500m from the primary shopping area may be an overestimate.

- 7.27 Overall , Chase have summarised their view that the proposal is unlikely to materially affect the vitality and viability of Ware town centre as a whole and the test in these policies – in so far as they relate to retail impact. However they do believe that the benefits to the town centre are overstated.. The ability of a new Asda store to retain custom and trade within the town and provide a modest associated level of linked trips (20%) is judged to more than compensate for the draw of trade away from the town centre. Chase have accepted that there could therefore be an additional spin off trade to the town centre (estimated by Asda at least £336,000). If turnover at the store goes higher then this could figure would increase.
- 7.28 In view of this there would not by itself be a retail impact reason to refuse the application although the lack of credible figures is a supporting reason to the overall retail objection.
- 7.29 The size of the store is larger than the existing town centre Tesco store but overall the scale, following the reduction from the previous application is considered to be more appropriate to the minor service role of the town.
- 7.30 The Co-op has objected that it intends to develop a small convenience food store site in Star Street at its former dairy site and this would be jeopardised. This would provide more of a “top up” shopping function rather than a comparable bulk food shopping offer as at Tesco or Asda. As such, even if the investment is threatened by the possibility of an Asda development it’s future importance to the vitality of the town centre is doubted by Chase who do not think this would constitute grounds for refusal.
- 7.31 The retail objection of significance is therefore to the fact that there is a sequentially preferable site and this is sufficient to refuse the application notwithstanding any other benefits of the proposal.

### **Design and Landscaping Issues**

- 7.32 The design of the scheme represents one of the most significant areas of change and development since the last planning application in 2008. An overall approach and design has been broadly agreed with your planning and conservation officers, and including input from English Heritage.

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- 7.33 The changes have resulted in a tighter built form to Park Road; increased landscaping at the public boundaries of the site as well as the private internal site boundaries with neighbours. The retention and incorporation of both the hitch brick kiln and the maltings for the new store. The references to maltings buildings in the design and the use of materials suggest a more traditional approach although the main design objection previously was to the form and layout of the rather uninspired “box-like” form of the proposal rather than any architectural style issue. Although the style of architecture was not advocated by officers, the applicants have introduced a language of buildings that now have more reference to local context and distinctiveness.
- 7.34 The Conservation Officer and English Heritage have given their positive endorsement to the approach and the public exhibitions and correspondence indicate a wide agreement that the design of the scheme is a positive material consideration. Although the mix of uses was encouraged to include other active uses along the main road frontages the introducing of the café element to Park Road, the retention of openings and the strengthened landscaping as well as the active use of the Kiln building will result in a more active street frontage and an acceptable design. The opening up of the area in front of the Kiln will make this a much more positive feature in the street and in combination with the other changes, such as the nursery extensions I consider there will be a significant enhancement of this part of the Conservation Area.
- 7.35 The retention of the Kiln and Maltings secures a significant heritage asset in both this Council’s view and that of English Heritage and the County Archaeologist. Although it was not listed, the building has in your officer’s view an equivalent significance and new national guidance in PPS5 strengthens the weight to be given to non designated heritage assets where a case can be made. The repair and enhancement of this building represents a valuable benefit of the overall scheme. It is not immediately clear if an alternative development scheme for the Cintel site would be able to secure the repair of this building and certainly not within a reasonable time frame.
- 7.36 To the north of the site is the only listed building adjacent to or within the site, the Rose and Crown Public House also constructed of the local hitch brick. The proposal will provide significant landscaped areas to Watton Road nearby and I consider the proposed development will consequently enhance the setting of this building.

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- 7.37 As part of the design work, in accordance with the requirements of Policy ENV1, a lot of attention has been given in negotiations to how the store will connect with its surroundings and the town centre. A number of improvements to crossing points on Watton Road, Park Road Fanshawe Crescent and walking and cycling routes will be included. The corner of Buryfields Park is to be opened up to view from Park Road to make the route more inviting as well as addressing a concern raised by Glaxo about poor visibility. The development will allow people to cross from Watton Road to Park Road via the store entrance during opening hours (a provision that can be secured by condition for additional hours on Sunday).
- 7.38 Overall the design and conservation aspects of the proposal are not only in my view acceptable in design terms but give a very positive weight to the application to which I shall return in my overall summary of the planning application.

#### **Highways and parking**

- 7.39 The application has been subject of lengthy detailed work, between the County Highways Officers and applicant, who have not been able to agree all figures but sufficient agreement has been reached on the basis of modelling for them to conclude that the congestion, while increased as a result of the proposals, is acceptable and can be mitigated by the S106 contributions towards identified sustainable transport.
- 7.40 The County Council add however that the congestion could be deemed unacceptable unless outweighed by other planning benefits such as the retail need for the store. In making this point they are having regards to the Inspectors decision on the Sainsbury application, where an objection to traffic congestion was accepted by the Inspector but found to be outweighed by the wider planning benefits.
- 7.41 In the case of the Asda proposal I would take the view that it can potentially provide significant planning benefits by regeneration of a major brownfield site, by increased local retail choice and competition and by the repair and reuse of a significant historic asset (the kiln and maltings building). Without prejudice to the sequential assessment, I do think there are planning benefits to the proposal which would override the highways concern and in view of the highways comments I do not recommend refusal on highways grounds.
- 7.42 The overall level of parking provision has been accepted by your officers and highways officers. The 283 spaces provides a comparable level of parking in ratio to the net sales area as has been agreed at other store proposals (Tesco extension/Sainsbury's in Hertford) for edge of centre sites

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which have also allowed for town centre shoppers parking. A S106 provision to manage the parking to ensure short term parking charges but reasonable longer stay charges will also make the car park an option for shoppers using the town centre.

- 7.43 The guideline parking provision under the SPD, a maximum, is not considered so reliable in this case as this is based on gross floor area figures, rather than net, and the gross floor area of the Asda store is disproportionately high due to the retention of the kiln and maltings building.
- 7.44 A S106 obligation will manage the car parking so that it is comparable to other town centre car parking regimes, in accordance with advice in PPS4, with a small charge for short stay, refundable on a minimum spend at the store and higher charges for longer stays.
- 7.45 Although the green travel plan will be a means to discourage staff use of the private car, and in part addresses concerns about parking in neighbouring streets, there is a S106 provision to fund the implementation of a residents parking scheme as also recommended by highways.
- 7.46 Overall therefore I do not consider there is a planning objection to the application on highways or parking grounds.

#### **Neighbour Amenity**

- 7.47 The last retail led planning application (3/08/1531/FP) was considered by officers to raise unacceptable neighbour amenity issues in particular with regard to the service yard location and the proximity of footpaths to adjoining private gardens. The proposals have been significantly amended in my view with regards to the relationships to surrounding dwellings. For a large food store operator there will inevitably be a level of disturbance. However the number of objections by neighbours has fallen and the residents group is not objecting subject to the control by planning condition. Environmental Health do not object to the development or the noise implications from the site.
- 7.48 The service yard area, a key objection of the last application, has been positioned more centrally and now further away from residents in Fanshawe Crescent. This was partly enabled by the revision of access arrangement with delivery vehicles entering from Park Road and exiting via Watton Road. The dwellings in Fanshawes Crescent will be separated by a 4m acoustic fence and a wide tree planted mound. The yard would be subject to a service yard management plan.



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- 7.49 On the eastern side of the site the dwellings at 26 Park Road and 63 Watton Road are immediately adjacent and the most likely to be affected by the proposed development and its car park. The footpaths proposed along the east side boundary in the first application have been omitted and the decked car parking will now be separated from the adjacent houses by intervening planted areas of over 5m width. The deck car park will have a boundary fence of sufficient height (1.6m to restrict overlooking) and in time planting will provide additional screening. The store will be open up until 10pm Monday to Saturday which will mean some level of evening disturbance although consideration must be given to the fact that the site is lawfully in employment use and favoured to remain so in policy terms. The current use of the site is not subject of any time restrictions.
- 7.50 The undercroft car parking should ensure that much of the car park activity does not raise any particular issues of noise to residents and the car park will be closed off when the store is closed. There will be some noise from the upper deck and the nearest properties affected are those on Watton Road and Park Road. In the previous scheme the car park was closer to them and the introduction of a pathway adjacent to their boundaries was likely to add to disturbance. Now as proposed with screen or acoustic fencing, new planting, a condition to control lighting and the restricted opening hours then these should all combine to keep the neighbour disturbance within reasonable limits.
- 7.51 There will be a general increase in activity and traffic that will be noticeable to residents, partly by comparison with the low level of activity as the employment uses have left the site. The traffic generated by the development will be a source of additional disturbance and loss of amenity to residents but there is already loss of amenity due to traffic in the locality and I do not think that the increased traffic levels would give rise to such a level of harm as to sustain an objection to the proposal.
- 7.52 Overall I see no grounds for objection on neighbour amenity grounds subject to the recommended conditions

### **Housing provision/affordable housing**

- 7.53 The housing proposed to the western part of the site has been subject of considerable discussion with officers and with the local Cintel residents group. The 13 dwellings in this location substitute for an earlier proposal for a 70 bed care home in the previous withdrawn planning application (3/08/1531/FP).

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- 7.54 The site is large enough to support a provision of dwellings that would warrant affordable housing in my view, having regards to the thresholds of local plan policy. However the applicants have been keen to honour a commitment to residents that only the current proposed form of development would proceed as part of the overall scheme and have offered a planning condition to that effect. The Town Council have also asked for this condition.
- 7.55 Although the applicant's initial view was that the threshold did not apply in the approved Planning Performance Agreement they have signed up to the objectives of providing 5 of the 13 dwellings as an affordable provision. This enables local needs for affordable housing family to be met as part of the overall provision. The affordable provision could be secured as one of the obligations of a S106 agreement.
- 7.56 The layout of the housing is in 3 separate blocks in an L shape arrangement and at sufficient distance from neighbours to respect their amenity. There will be private garden space provision as part of the scheme and parking provision in front of the dwellings. It is reasonable to impose a condition for the completion of this part of the development as part of the overall scheme as this secures the regeneration of the housing area. A condition that only 13 dwellings has been offered by the applicant and sought by residents, however I do not think is sustainable and would not meet the tests of national planning guidance in Circular 11/95.
- 7.57 Overall the housing would provide a useful contribution to the private and affordable housing needs of the area although not perhaps not securing the most efficient use of the land. There are no objections to the housing aspects of the application subject to securing the benefits as part of a comprehensive redevelopment of this brownfield site.

### **Miscellaneous / Public Opinion**

- 7.58 The application has been prepared over a long period of time with public consultation and negotiation at several stages. The applicant was asked to conduct a revised survey of the town's residents and traders to clarify the public views on the store but did not do so, arguing that there is overwhelming support. The impression from all sources that I have gained is that there is a genuine divide of opinion, that while the town is generally supportive of more choice and competition it is more balanced regarding the merits of the proposed scheme even though the greater number of written representations made are opposed. The main public concerns are the environmental impact on the immediate site and surroundings area, the

impact on the town centre. Some seek the alternative provision of a Waitrose food store and a small Co-op convenience store to the larger Asda.

- 7.59 The fact that one brand may be more popular is not a material planning consideration and the decision of the council cannot have regard to the reputation or image of the operators. The level of support for Asda may give some indication that the town has a retail need for a substantial competitor choice to the existing town centre Tesco. Ultimately it is not the balance of support that a scheme may have in the town, but a planning decision which needs to be taken on its planning merits, having regard to national and local planning policies and all other relevant material planning considerations.

### **Planning Obligations**

- 7.60 Although the application is recommended for refusal, a draft set of S106 planning obligations and conditions have been agreed in principle with the applicant. They provide a comprehensive package of contributions of almost £950,000 that are related to the store development and would be considered necessary for it to be acceptable in planning terms having regard to the tests set out S122 of the Community Infrastructure Levy 2010 and the tests of Circular 05/2005. The most significant element of the provisions relate to the need to promote sustainable transport modes for the development in accordance with PPG13 and PPS4. There would be provision of £365,000 to fund additional bus routes to the site for 5 years as part of the scheme and provision of £232,000 to meet pedestrian and cyclist schemes within the vicinity of the site.
- 7.61 Being in an out of centre location and needs to promote the pedestrian links into the town. The S106 provisions would include grants to repair the building facades in Baldock Street and the development of an Architectural Lighting Strategy. The improved lighting and encouragement to owners to invest in their buildings in Baldock Street would enable the route to be more attractive to pedestrians throughout the year but the lighting will be partially of benefit in the winter afternoons and evenings. The possible boost to Baldock Street has been used as part of the wider retail planning case for Asda. Other planning conditions secure pavement widening along the route to Baldock Street and a cyclist/pedestrian route across Buryfields.
- 7.62 Contributions are also agreed in principle in relation to the housing element of the scheme to meet increased impacts on open space (including a new toddler play facility in Buryfields), schools, library and childcare services.

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- 7.63 A £30,000 contribution is made to the long term funding of a public realm scheme for Tudor Square, a key opportunity and public space within the Town Centre. This contribution will help to improve the attractiveness, vitality and viability of the town centre and counter concerns about the balance of impacts on the town centre.
- 7.64 The S106 would also fund of a residents parking scheme (subject to due consultation) to address concerns about parking in the surroundings streets; the management of the car park as a comparable short stay car park to be priced favourably for journeys into the town centre; the securing of affordable housing provision at the site and a Green travel Plan for employees and users of the store.

## **8.0 Conclusion**

- 8.1 The proposed Asda development is a detailed and well developed set of proposals which would provide for the retail led regeneration of a major brownfield site in the town on the edge of the Conservation Area. It can provide a new out of centre food store for the town and increased competition for the existing Tesco store, something which is desired by many residents in the town and broadly has the support of the Town Council. Equally there have been a large and significant numbers of objectors to the scheme.
- 8.2 In terms of the latest national planning guidance for economic/retail development, in PPS4, the proposed store is judged by our independent retail adviser to fail the critical sequential test albeit it is a finely balanced judgement. This is due to the reasonable likelihood of an alternative and sequentially preferable site being available, namely the possible development of a Waitrose store at Swains Mill which it is considered is suitable available and viable. The Co-op Star Street site is discounted as it is not capable of providing a main foodstore and increasing choice.
- 8.3 This is a fundamental point as whatever other planning merits the application may have, in terms of PPS4 the sequential test is expected to be satisfied in its own right. The application should therefore only be approved if this question is first satisfied, namely whether the store is sequentially preferable to any other sites.
- 8.4 In my view, although contested by Asda, I think there is the reasonable prospect of a Waitrose development coming forward at the Crane Mead site given the stated interest and the level of agreement expressed by landowners. While there have been past uncertainties about the 3 landowners ability to deliver and Waitrose has not yet made a planning application, or had one tested on its own planning merits, there is

nonetheless enough likelihood of it coming forward to say it is a viable option.

- 8.5 Asda point out that the rival sites are more or less equivalent in distance to the town's secondary shopping frontages, but I agree with our advisor that the Amwell End area is significantly busier than Baldock Street and whereas the former may be considered part of the core, or Primary Shopping Area, Baldock Street would not.
- 8.6 Asda seem to concede that the Waitrose site may have physical proximity but correctly say that sequential assessments are a balanced judgement as advised by PPS4 practice guidance based on the specific circumstances of the case. The Waitrose site they contend is not a suitable alternative due to the fact that the larger Asda store brings a new fascia into the area and would "clawback" more trade to the town than Waitrose can and this is a point accepted by Chase and Partners although not to the extent that the Crane Mead site should be discounted.
- 8.7 Asda, as many residents, believe that their store provides the kind of new offer that the town needs and introduces a choice into the area that is absent, whereas Waitrose are already represented by their town centre store in Hertford. Unfortunately there is no local plan policy to assert this given Ware's more minor town centre role that is identified in the Local Plan. There is also limited evidence for them to base their assertion of this added need as the 2008 Town Centre Study only identified a need for modest new floorspace (albeit not allowing for claw back or expansion). That there is leakage of expenditure out of Ware is acknowledged and also the local support indicates a need, and certainly a desire for competition and choice but Chase and Partners advise that these could be provided by a Waitrose store. The overall level of support for the larger Asda provision, rather than a choice *per se*, is not proven. I therefore think it is more finely balanced on the suitability issue and Chase point out a judgement may be made locally that the larger store and a new fascia is a wider benefit but it is not their judgement. In view of the advice received the application should in my view be refused due to the failure to satisfy the sequential test.
- 8.8 As the sequential test fails then the question of impact becomes less critical. However impact is also a significant test of PPS4. While it is not anticipated by Chase that there will be "significant adverse impacts" or material harm to the vitality and viability of the town centre, there are many objections from third parties that the town centre will be damaged. Chase have been critical of the methodology and figures produced and professional objections from representatives of the Coop and Waitrose have both challenged the turnover figures in particular and the overall level of impact. The objection is that to date that the Retail Assessment has not demonstrated that the

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impact will be acceptable and this lack of evidence forms a further supporting reason for refusal of the application.

- 8.9 The independent expert advice received is that the retail impact of a Waitrose foodstore at Swains Mill on the town centre is not anticipated to be any more beneficial than the proposed Asda store at Cintel. The Asda proposal in terms of its retail impact on the town centre or its overall scale may not be harmful or inappropriate but the evidence is not there to show it complies with the tests of PPS4. With regard to the sequential test the proposed development is deemed to be contrary to national planning policy.
- 8.10 It is not possible given the stance of PPS4 to assert that other material planning considerations can be weighed in the balance to override a sequential objection.
- 8.11 From the highways submissions, assessments and modelling enough progress has been made to be satisfied officers that the proposal will not raise safety concerns or introduce highway hazards. The Asda scheme will generate significant traffic congestion in the area although the traffic models anticipate this even without a foodstore, this congestion is proposed to be mitigated by the measures and funding of the S106 Sustainable Transport Contributions and on this basis the County Highways engineers have now withdrawn their objection to the proposal although they accept there will be increased congestion. They do however advise that in their view the highways objection stands unless there is a retail need or planning benefits to override it. In my view, notwithstanding the retail objection on sequential grounds, because of the wider planning benefits, the wider PPS4 impacts, that are identified for the town by the development then I do not recommend refusal of the application on highways grounds.
- 8.12 A S106 package of obligations has been negotiated with planning conditions in the event of planning permission being granted. These would provide for sustainable transport contributions; secure the enhanced pedestrian and cyclist links between the store and the town centre; including elements to support recovery in Baldock Street, a more peripheral area of the town centre that suffers from less activity, investment and higher levels of vacancy.
- 8.13 In terms of heritage assets; the Cintel site contains a building of significant heritage interest, the hitch brick Kiln and Maltings which will be repaired and brought into use as part of the development and this is a benefit and consideration I would give significant weight. The refurbishment will be to the benefit of the wider surroundings as the frontage views of the building will be opened up to street view along Park Road. The re-establishment of a more attractive frontage to Park Road and attractive links into Buryfields will

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be to the enhancement of the pedestrian links and to the Conservation Area.

- 8.14 The development has been redesigned to modify and in my view address the previous objections to neighbour impacts and raises no grounds for objection on this point. Significant landscaping around the site will be to the benefit of both public and private viewpoints of the site and Asda have committed to its long term maintainence.
- 8.15 All the identified benefits of heritage, site regeneration, new employment, provision of retail competition and a potential boost to the vitality of Baldock Street by associated S106 obligations may outweigh the disbenefits of increased traffic congestion, but they are not relevant to the primary sequential test of PPS4.
- 8.16 I therefore recommend that planning permission be refused for the proposed store for reasons as set out at the head of the report. Given the length of time taken to get to the stage of a finalised and largely justified scheme for Asda then some may feel frustration that it can be prevented due to a late rival bid even if the rival is on a sequentially preferable site. While this may be understandable, it is not a planning reason to override the sequential assessment and does not mean the alternative bid is unsuitable.
- 8.17 The sequential decision needs to be taken with regards to the Practice Guidance and does not distinguish between the merits of operators but does between the merits of sites. While the proposal may be acceptable in relation to a range of planning issues, securing positive benefits, my judgement informed by our expert advice, is that there are objections on sequential test grounds and the evidence in relation to the retail impact of the proposal as set out above that warrant the recommendation of refusal.