

Public Document Pack



Steve Atkinson MA(Oxon) MBA FIoD FRSA
Chief Executive

Hinckley & Bosworth
Borough Council

A Borough to be proud of

PLANNING COMMITTEE - 14 OCTOBER 2014

ITEM MARKED 'TO FOLLOW' ON THE AGENDA:

7. **TOWN & COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED**
(Pages 1 - 16)

Application 06 on the schedule of applications (14/00480/FUL – 3-5 Hawley Road, Hinckley) is attached.

This page is intentionally left blank

Item: 06
Reference: 14/00480/FUL
Applicant: Westmoreland Investments Ltd
Location: 3 - 5 Hawley Road Hinckley
Proposal: Erection of class A1 retail development with associated access, servicing, car parking and landscaping
Target Date: 14 August 2014

RECOMMENDATION: - Refuse planning permission.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it a major development with a floor area in excess of 500 square metres.

Application Proposal

This application seeks full planning permission for the erection of three A1 retail units together with associated means of access, servicing, car parking and landscaping. In further detail, the total floor area would be 2,978 sq.m. (gross), with individual units ranging in size from 884 sq.m. to 1,164 sq.m. including a total mezzanine floor area of 697 sq.m.

135 parking spaces would be provided including seven disabled spaces, along with a secure cycle storage area.

The units would be set back from Hawley Road with the parking spaces provided to the building's frontage. Both hard and soft landscaping are proposed to the site's perimeter. The access would be to the eastern end of the front boundary. A commercial vehicle turning space is proposed in the south western corner of the site and a secure area including loading/drop off bays would be provided to the rear (south) of the building.

Site and Surrounding Area

The site covers an area of 0.91 hectares and is located on Hawley Road in Hinckley, approximately 150 metres west of Hinckley Railway Station. Immediately to the south is the main railway line between Birmingham and Leicester. To the east of the site is a large Tesco store. A Lidl store sits to the western edge of the site. To the northwest corner sits a single storey ARC car wash and the northern edge of the site is bounded by Hawley Road. The Hinckley Hub office building is located across the road in a north westerly direction. There are a range of industrial units elsewhere on the opposite side Hawley Road

Technical Documents Submitted with the Application

Design and Access Statement
Ground Investigation Report
Geology Report
Planning and Retail Assessment
Transport Assessment

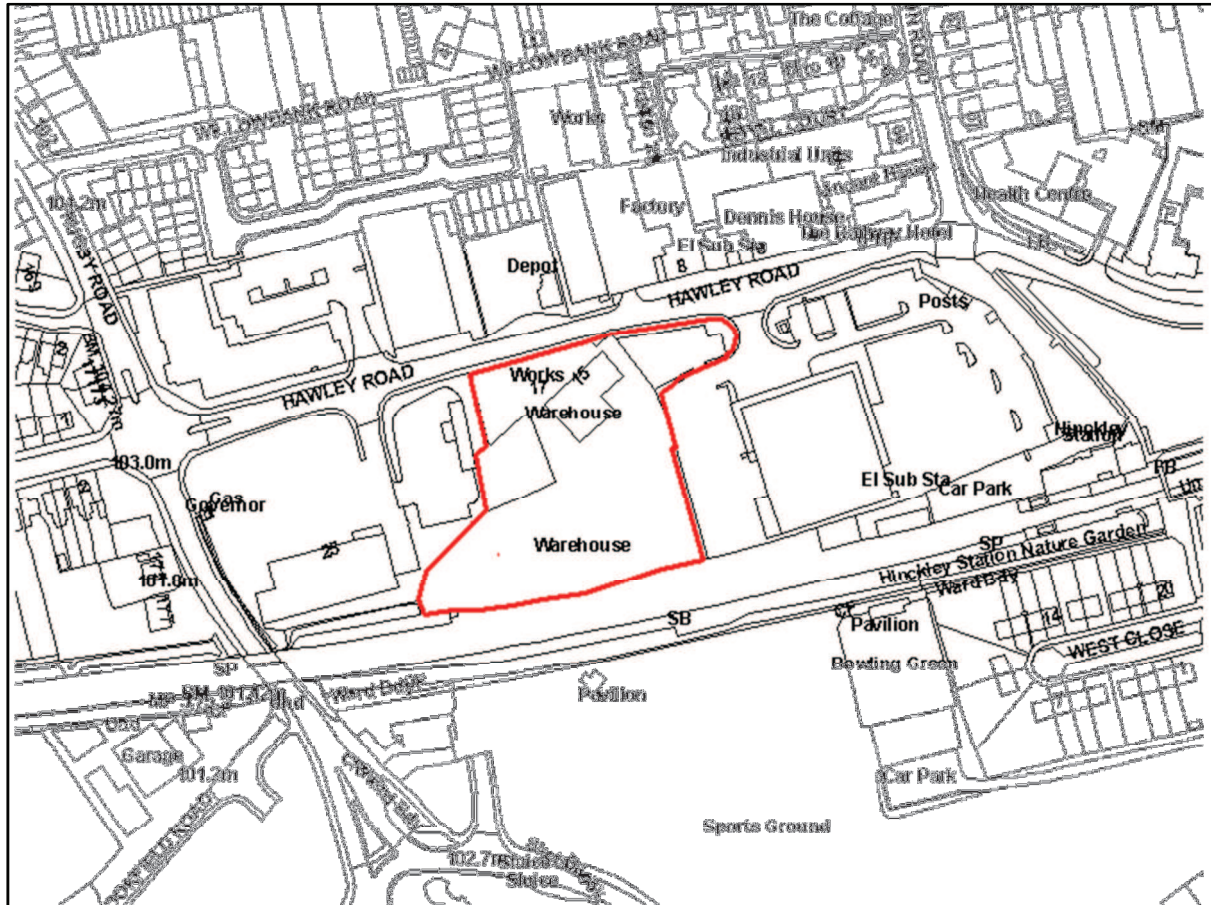
Relevant Planning History:-

98/00559/OUT

Erection of food store with
Vehicular and pedestrian access
car park and service yard

Refused

18.08.99



© Crown copyright. All rights reserved Hinckley & Bosworth Borough Council LA00018489 Published 2006

Consultations:-

No objection has been received from Head of Business Development and Street Scene Services (Waste Minimisation).

No objection subject to conditions have been received from:-

- Severn Trent Water Limited
- Environment Agency
- The Director of Environment and Transport (Highways)
- Head of Community Services (Drainage)
- Head of Community Services (Pollution).

As a result of the Developer Contributions consultation, Leicestershire County Council has made the following requests:-

- a) Director of Environment and Transport (Highways) requests that the Travel Plan and monitoring fee (£6,000) should be secured by the S106, £5,000 to be provided towards an updated MOVA unit. Information display cases at the two nearest bus stops (£120 per display), Bus shelters at the 2 nearest bus stops (£4,908 each) contribution towards the Real Time Information Systems (£5,150), Travel Packs (£52.85 per pack), 6 month bus passes, one per employee (£350 per pass), construction traffic routeing.

No contributions have been requested by:-

- Director of Children and young Peoples Services (Education)
- Director of Environment and Transport (Civic Amenity)
- Director of Adults and Communities (Libraries)
- Director of Environment and Transport (Landscape).

In addition, in accordance with Policy 15 of the Hinckley Town Centre Area Action Plan, a sum of £253,130 is required for Town Centre transport improvements.

A letter has been received from Pound Stretcher stating that their solicitors are currently in negotiations with the developers to secure a lease for units 2 and 3 as they focus new openings solely in retail park type locations as oppose to a mall type shopping centre. They continue that there is no available location in Hinckley which would suit them.

Two letters of objection have been received from Peter Brett Associates (PBA), acting on behalf of the Tin Hat Regeneration Partnership (developers of the Bus Station (The Crescent)). Below is a summary of the issues raised:-

- a) the viability and success of The Crescent scheme will be compromised by this development
- b) the scheme will compromise the ability of The Crescent to contribute to the vitality and viability of the wider town centre
- c) the scheme is contrary to Spatial Objective 3 of the Hinckley Town Centre Area Action Plan
- d) retail activity should be concentrated in the town centre
- e) the scheme will undermine existing town centre investment / regeneration
- f) the development is contrary to advice contained within the Planning Practice Guidance
- g) the scheme will undermine operator demand and investor confidence in The Crescent
- h) the application should be subject to the Sequential Test
- i) the development of comparison goods floorspace at the application site will not provide any benefit to the vitality and viability of the town centre
- j) by displacing potential tenants to the proposed out-of-centre application scheme at Hawley Road, the success of The Crescent will be seriously jeopardised and the scope for the town centre to benefit from the introduction of quality new retailers will be compromised
- k) queries raised in respect of the extent of the Town Centre boundary
- l) full and detailed appraisal of the Impact Assessment is required in order for 'significant adverse' impacts to be clarified there is no evidence that a full assessment of the current vitality and viability
- m) of the town centre has been undertaken, against each of the 'health check' criteria listed in the
- n) NPPG

- o) a full cumulative impact assessment of the scheme, plus the committed development should be undertaken.
- p) the application scheme will directly compete from the same tenants as The Crescent and Town Centre
- q) quantitative impact assessment should be undertaken
- r) there is not sufficient comparison goods expenditure capacity available within the catchment to support The Crescent and the proposed scheme.

Site notice and press notice were displayed and neighbours notified. Two letters of representation received, these raise the following concerns:-

- a) retail development would be better placed in the town centre
- b) out of town development will not breathe life back into the centre
- c) the TA contains a number of errors - the evening bus route 71A has been abolished
- d) clarification required of the 'on-road cycle route' along Station Road and whether this goes over the railway station footbridge
- e) details required of the 'Covenanted Area'
- f) the development will add to the lengthy queues along Hawley Road. Query raised about how this would be managed?
- g) the land would be better suited to providing a car parking area for the Hinckley Hub.

Policy:-

National Policy Guidance

National Planning Practice Guidance (NPPG) 2014
 The National Planning Policy Framework (NPPF) March 2012

Hinckley Town Centre Area Action Plan (2011)

Policy 9: Bus Station
 Policy 14: Retail Development outside Hinckley Town Centre
 Policy 15: Transport Infrastructure Delivery and Developer Contributions

Local Plan 2006-2026: Core Strategy 2009

Policy 1: Development in Hinckley
 Policy 5: Transport Infrastructure
 Policy 20: Green Infrastructure

Hinckley and Bosworth Local Plan 2001

Policy IMP1: Contributions towards the Provisions of Infrastructure and Facilities
 Policy BE1: Design and Siting of Development
 Policy T5: Highway Design and Vehicle Parking Standard
 Policy T9: Facilities for Cyclists and Pedestrians
 Policy NE2: Pollution
 Policy NE12: Landscaping

Emerging Site Allocations and Development Management Policies DPD (February 2014)

The pre-submission version of the Site Allocations and Development Management Policies DPD identifies the application site as being within the Hawley Road Local Centre (Policy DM22).

Appraisal:-

The main considerations in determination of this application are:-

- Principle of development including retail policy
- Relationship with the character of the area
- Highway safety
- Developer contributions
- Land contamination
- Other issues

Principle of development including retail policy

The site is located within the settlement boundary of Hinckley as defined in the adopted Local Plan Proposals Map.

Paragraph 12 of the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 14 of the NPPF states that at the heart of the framework is a presumption in favour of sustainable development. For decision taking this means:-

- Approving development proposals that accord with the development plan...
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the framework as a whole; or
 - specific policies within the framework indicate that development should be restricted

Core Strategy

Core Strategy Policy 1 relates to Hinckley. This supports the development of approximately 21,100 sq.m. (net) of new comparison sector sales floorspace, and 5,300 sq.m. (net) of convenience floorspace, primarily located on the bus station redevelopment site and the Britannia Centre. The Core Strategy does not preclude the development of retail floorspace outside the town centre, but states that development should conform with national planning policy relating to main town centre uses.

Hinckley Town Centre Area Action Plan

The Hinckley Town Centre Area Action Plan (AAP) was adopted in March 2011. The AAP identifies Hinckley as a main shopping centre for a large proportion of the population of south west Leicestershire, offering a range of activities and services. A theme that runs through the AAP is seeking to ensure that Hinckley Town Centre remains a vital and viable town centre.

The application site is located within the AAP boundary and the site is identified as an Existing Shopping Centre under Policy 14. Policy 14 is consistent with the NPPF in requiring proposals to be assessed in relation to any possible 'significant adverse impact'.

Paragraph 7.3 of the AAP acknowledges that its boundary is wider than the town centre boundary and it has been defined to include sites that have a relationship to the core retail

areas of the town centre. The redevelopment of key sites outside the town centre is recognised as supporting the main town centre and enhancing its role as a sub-regional centre. The application site is not within the defined town centre and is some distance from the defined primary or secondary shopping areas.

The identification of the site as an Existing Shopping Centre is set out within Appendix 3 of the AAP. This plan shows that the site is at the southern-most location of the AAP boundary and is clearly recognised as serving a different function from uses within the town centre boundary itself. The site allocation includes the adjacent Tesco superstore as there were aspirations at the time the AAP was being produced for the store to be expanded or redeveloped. While this site was not necessarily being promoted as a retail development site within the AAP, that doesn't mean that a form of retailing on this site would not be suitable in principle given its proximity to other nearby supermarkets on the southern side of Hawley Road. That said, the scale and nature of the proposed use needs to compliment the town centre. The supporting text to policy 14 (paragraph 12.4) states that these sites provide important retail facilities for local residents, but that it is essential to ensure that they complement Hinckley town centre and do not detract from it. While the Area Action Plan doesn't expressly seek to resist retail development on this site, it does seek to ensure that development does not prejudice the regeneration of the town centre.

National Planning Policy Framework

Section 2 of the NPPF seeks to protect the Vitality of Town Centres, so supports the aspirations set out in the AAP. In relation to development management the NPPF advises on the sequential test and the impact test.

The NPPF requires that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan.

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

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made. (paragraph 26).

Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused (paragraph 27).

In relation to the current scheme at Hawley Road, the applicant has not carried out a sequential test. This is discussed further below.

National Planning Practice Guidance

The National Planning Practice Guidance was published in March 2014. Of particular relevance to decision-making on proposals for main town centre uses the Guidance states the following:-

- a) It is for the applicant to demonstrate compliance with the sequential test and the impact test.
- b) The application of the sequential and impact tests should be undertaken in a proportionate and locally appropriate way.
- c) With due regard to the requirement to demonstrate flexibility, the suitability of more central sites to accommodate the proposal must be considered. Where the proposal would be located in an edge-of-centre or out-of-centre location, preference should be given to accessible sites that are well connected to the town centre.
- d) Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.
- e) The purpose of the impact test is to ensure that the impact over time (normally up to five years) of out-of-centre and edge-of-centre proposals on existing town centres is not significantly adverse.
- f) As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector.
- g) A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.
- h) Where evidence shows that there would be no likely significant impact on a town centre from an edge-of-centre or out-of-centre proposal, the local planning authority must then consider all other material considerations in determining the application.

Planning Balance (Issues Raised)

The site is located within the boundary of the town centre Area Action Plan but it is outside the defined town centre of Hinckley. The agent considers that there is no requirement in national planning policy for a sequential site assessment or retail impact assessment to support the application.

An objection has been received on behalf of the Tin Hat Regeneration Partnership, by Peter Brett Associates (PBA). PBA are of the opinion that a full sequential and impact assessment is required. PBA suggest that the application site's definition as an "existing shopping centre" does not exclude the requirement for a sequential test to be undertaken.

The site is defined within the AAP as an Existing Centre and therefore falls within the NPPF definition of 'town centre'. The scheme is for a main town centre use in an existing centre and is in accordance with an up-to-date Local Plan. It is clear that government policy seeks to locate development within centres and that there is a need to recognise the retail hierarchy whereby larger centres should be the priority for new retail development. However, as this site falls within a defined Centre within the AAP, it is considered that a sequential test could not be insisted upon. The implication of this is that it is not possible to consider, and potentially prioritise, suitable and available sites within the Town Centre, such as vacant units within primary or secondary shopping areas or unlet units within The Crescent scheme.

The impact assessment which accompanies the application is based on a health check of Hinckley town centre that is no longer up-to-date. It is important that the impact of the development is judged against the current health of the town centre. Accordingly the Local Planning Authority has commissioned an independent consultant to undertake an updated health check. The health of the town centre is a key factor in the local circumstances to be taken into account in assessing impact.

The independent review scrutinises the assumptions used in the submitted impact assessment and applies sensitivity testing. It is accepted that the retail assessment of the

proposals should be based on comparison goods retailing. The independent report reviews the turnover of the town centre, the turnover of the proposed development and the trade draw from potential claw-back of leakage and other sources. The report goes on to examine whether the impact test been undertaken in a proportionate and locally appropriate way and over appropriate suitable timescale.

The possible impact on the vitality and viability of the town centre depends not just on the amount of trade diversion and the health of the town centre, but also the relationship between the Hawley Road site and the Primary Shopping Area. Therefore, the potential for linked trips between Hawley Road and the Primary Shopping Area needs to be considered.

There are strong concerns in respect of the potential impact of the scheme on investment in the town centre. This includes potential harm to investor confidence in the Bus Station redevelopment given the significance of this scheme on the rest of the Town Centre as identified by Policy 9 of the AAP. The potential impacts on the Bus Station scheme are appraised further, below.

PBA has raised concerns on behalf of Tin Hat Regeneration Partnership that the impact assessment fails to satisfactorily consider how the scheme would dilute operator interest from comparison goods retailers seeking representation in Hinckley Town Centre. PBA states that the viability and success of The Crescent will be compromised should planning permission be granted at Hawley Road, and that the scheme would significantly undermine operator demand and investor confidence at a critical time.

The extent to which investment in The Crescent and the successful implementation of the scheme may be adversely affected by the Hawley Road proposals is a matter for judgement rather than quantitative analysis. The degree of competition between the two schemes will depend largely on the size of units and the nature of retailer requirements.

The independent retail impact assessment has been carried out in the context of local and national planning policy on retail development.

Existing Shopping Provision in Hinckley Town Centre and The Crescent Scheme

A review has been undertaken of existing and committed shopping facilities in the town centre.

Planning permission has been granted for the redevelopment of the Bus Station/Brunel Road site in Hinckley town centre (The Crescent) and the construction of that facility is underway.

Developer interest within the application site and The Crescent scheme will be influenced by the size of units. Therefore, a comparison of such is necessary.

Of the nine units approved in Block A on The Crescent, all are intended for Class A1 retail use and provide the same range in size (as per the reserved matters) as the units proposed at Hawley Road. However, there could be some flexibility in the configuration of retail floorspace/size of units depending on retailer requirements.

The nine units in Block C are all significantly smaller than those proposed at Hawley Road and four of the units are intended for A3 restaurant uses.

The Crescent scheme has commenced on site and PBA has stated that opening will be late 2015. PBA do not anticipate any negative effect on the Sainsbury's superstore development; the concern of the objectors is about the comparison (non-food) retail element of The Crescent.

Following the development of The Crescent, total shopping floorspace in the town centre would increase by 19,000 sq.m. gross, an increase of 62%. The Crescent is a large scheme which will add considerably to the retail offer in Hinckley town centre and its attraction as a sub-regional shopping centre.

Review of the Health of Hinckley Town Centre

The latest health check of Hinckley town centre was carried out by Roger Tym & Partners (RTP) in 2010. A further partial health check was also carried out in April 2010. The Planning and Retail Assessment for this scheme relies on the RTP health check, but reference is also made to a recent Goad Centre Report for Hinckley in July 2013. This report concludes that in the intervening period since the preparation of the Bus Station/Brunel Road Retail Statement in 2010, there has been no material change in the vitality and viability of Hinckley town centre.

The health check confirms that the vitality and viability of the town centre is sufficiently strong now, and will be even stronger in the near future, to be able to withstand some competition with new retail floorspace at Hawley Road. However, this is subject to the amount of trade diversion to the proposed development being relatively small and the application proposals not having a significant adverse impact on investment in The Crescent.

Retail Impact Assessment Assumptions and Sensitivity Testing

The agent has stated that there is no policy requirement for a retail impact assessment. Whilst a retail impact assessment is not strictly necessary in accordance with paragraph 26 (NPPF), to comply with Policy 14 of the AAP retail development must be of a type and size which will not have a significant adverse impact on the vitality and viability of the town centre's Primary Shopping Area. Accordingly, in order to further inform this application, an independent retail impact assessment has been undertaken. This considered the following:-

- Turnover of the Proposed Development
- Turnover of Hinckley Town Centre
- Trade Draw
- Trade Diversion

Impact on the Vitality and Viability of the Town Centre

Within the documents supporting the application, a level of trade diversion of around 3% in comparison goods is stated to be 'immaterial' in retail planning terms and cannot be considered to constitute a "significantly adverse impact" (NPPF, NPPG). There is no commonly accepted view of what represents a significant adverse impact.

The NPPG advises that the significance of impact must be based on local circumstances, with the emphasis on the vitality and viability of centres that may experience trade diversion. In this instance the predicted trade diversion is between 3% and 4% of total turnover in Hinckley town centre. In comparison goods the predicted trade diversion is between 4% and 5% of turnover.

It is generally accepted that a high level of trade diversion could have a significant adverse impact on a centre with a low level of vitality and viability. Conversely, a low trade diversion will not have a material impact on a centre with a high level of vitality and viability. In this instance there is a relatively low level of predicted impact on a town centre with an above average level of vitality and viability.

The updated health check illustrates that Hinckley has more strengths as a centre than it has weaknesses. On the completion of The Crescent redevelopment scheme, the overall vitality and viability of the town centre is expected to improve and the centre should achieve a higher level of vitality and viability.

As stated, the vitality and viability of the town centre is sufficiently strong now, and will be stronger in the near future, to be able to withstand some competition with new retail floorspace at Hawley Road. This is subject to the amount of trade diversion to the proposed development being relatively small and the impact on investment in the town centre not being significantly adverse. It is accepted that the predicted trade diversion to the proposed development at Hawley Road would be relatively small.

The possible impact on the vitality and viability of Hinckley town centre also depends on the relationship between the Hawley Road site and the Primary Shopping Area. Pedestrian linkages between the Hawley Road site and the Primary Shopping Area are currently poor. The distance between the site and the Primary Shopping Area along Station Road is roughly 400 metres, which would not normally be judged to be an easy walking distance when shopping. The route into town is not particularly attractive given the need to cross the busy Hawley Road itself and then walk either along Rugby Road or Station Road. If the application were acceptable in all other regards, improvements to this pedestrian route would be required.

Potential Impact on Investment in the Town Centre

The NPPG acknowledges that where wider town centre developments or investments are in progress, it will be appropriate to assess the impact of relevant applications on that investment. Key considerations will include:-

- a) The policy status of the investment (i.e. whether it is outlined in the Development Plan)
- b) The progress made to securing the investment (for example if contracts are established)
- c) The extent to which an application is likely to undermine planned developments or investments based on the effects on current / forecast turnovers, operator demand and investor confidence.

In relation to the three key considerations (above), it is clear that The Crescent is a firm commitment in terms of Council policy for the regeneration of Hinckley town centre. Its policy status is clearly established within policy 9 of the AAP and the fact that planning permission has been granted. Furthermore, redevelopment of the site has already started. The food retail (Sainsbury's) store is being constructed first and the non-food units will follow. Therefore, significant progress is being made towards implementation of the scheme.

Accordingly there is not believed to be any risk to the development of the Sainsbury's superstore.

Risk to planned investment would arise from competition between non-food retailers looking for units of a size proposed by both schemes. The critical issue is the extent to which the Hawley Road scheme is likely to undermine the successful implementation of The Crescent based on retailer demand and investor confidence.

The retail market is currently weak and national retailers are concentrating new investment in larger centres. Hinckley may find it difficult to attract the good quality national retailers that are essential for The Crescent to be successful. Therefore, if potential tenants are

discouraged from locating in The Crescent by the availability of new units at Hawley Road, the commercial success of the redevelopment in The Crescent could be prejudiced.

The three units proposed at Hawley Road have a total gross floorspace of 884 sq.m., 931 sq.m. and 1,163 sq.m. including mezzanines. Of the 18 units approved in The Crescent, at least three Units (A1, A4 and A9) which individually have a floorspace similar to that in the three units proposed at Hawley Road. Accordingly some prospective retailers could be interested in both schemes. Based on the above, three of the nine retail units in Block A could be said to be competing for the same occupiers. However, other factors need to be considered:-

(1) The possibility of combining units

It is possible that the developers of The Crescent could combine some of the smaller units in Block A to create similar sized units to those proposed at Hawley Road. Taking a flexible approach, a combination of Units A2/A3 and A7/A8 could theoretically accommodate a retailer who would locate in the largest unit at Hawley Road.

(2) The amount of mezzanine floorspace required

Some retailers may not require full mezzanines, as approved in the plans for The Crescent. All the units in Block A have full mezzanines. The mezzanine floor space at Hawley Road represents between 20% and 26% of the total floor space in these units. It is possible that retailers who would be attracted to the units at Hawley Road would not be interested in having units with full mezzanines, in The Crescent.

(3) Removal of mezzanines in Block A units

The approved plans for The Crescent show 'potential mezzanines' in Units A1 to A9. Some of these units could be occupied without mezzanine floor space. Considering the size of the ground floor areas only, and discounting Units A1, A4 and A9 which are the likely alternatives to the Hawley Road units if they have mezzanines, Unit A6 is similar to the size of the smallest unit at Hawley Road. The ground floors of Units A6 and A7 could theoretically be combined to create a unit of 1,131 sq.m., similar to the size of the largest unit proposed at Hawley Road.

(4) Car parking requirements

Some retailers will require car parking immediately adjacent to their units for the convenience of customers. The availability of car parking directly to the entrance of retail units is an important factor in the business model of some retailers, which would discourage companies from investing in The Crescent. The lack of car parking immediately adjacent to a store is relevant to the suitability of sites for certain retailers.

If permission is granted for the Hawley Road scheme, it is likely that there would be direct competition for 3 out of 9 units in Block A and 5 Class A1 units in Block C. This is likely to directly impact upon the success of The Crescent redevelopment and therefore the wider regeneration of the town centre.

Within the documents supporting the application it is claimed that the application proposal would complement the development provided by The Crescent. The applicant has stated the name of the two operators (Pets at Home and Poundstretcher) that are intending occupy the floor space at Hawley Road and they have submitted letters from those operators confirming that they have reached agreement with the applicant and that they would not have interest in The Crescent scheme. While this supporting information is helpful, this only carries weight if

the developer is prepared to enter into a S106 agreement to restrict occupation by other retailers until such time as the competing units in The Crescent scheme are successfully let. In the absence of a mechanism to control this, if permission is granted for the Hawley Road development, the units could be actively marketed for other retailers, potentially diluting developer interest from The Crescent scheme and undermining the regeneration aspirations of policy 9 of the AAP. Discussions have taken place with the applicant but they have strongly resisted the possibility of having any form of control over the operators, even if only for a temporary basis.

Conclusion in respect of Impacts on Town Centre and The Crescent

The levels of trade diversion are considered to be relatively small in this case and sufficient evidence on quantitative impact has been provided with the application in line with the requirement in the Practice Guidance to assess impact in a proportionate and locally appropriate way.

The scheme is not considered to direct trade to the extent where this would result in a significant adverse impact on the vitality and viability of the town centre. The updated health check confirms that the vitality and viability of Hinckley town centre is sufficiently strong now, and will be strengthened following the completion of The Crescent. This will enable it to withstand some competition from the proposed retail floor space at Hawley Road, as long as the amount of trade diversion to the proposed development is relatively small and there is not a significant adverse impact on investment in Hinckley town centre.

In terms of impact on investment, the most significant impact to planned investment would arise from competition between non-food retailers seeking to locate in Hinckley at The Crescent or at Hawley Road. It is considered that there would be direct competition for the same occupiers in a number of units in The Crescent. This is likely to have a significant adverse impact on investment upon the successful implementation of the scheme, adversely affecting the council's aspirations for the regeneration of the town centre.

A significant adverse impact would be grounds for a reason for refusal of the application. Where there would be negative impacts that are not judged to be significantly adverse, the NPPF and PPG require other material considerations to be taken into account. The positive benefits of the proposed development are material considerations but they must be balanced against the negative impacts identified. It is considered that the scheme would have a significantly adverse impact on investment in The Crescent redevelopment, which would outweigh the benefits associated with the scheme (see below).

Design and Relationship with the Character of the Area

Criterion (a) of Policy BE1 seeks to ensure that the development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features with the intention of preventing development that is out of keeping with the character of the surrounding area. This is considered to have a high degree of conformity with the NPPF and can therefore be given significant weight in the determination of this application. In addition, paragraph 64 within the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The layout of the site has been roughly split into two; the retail units are proposed adjacent to rear (southern) boundary of the site, with the parking area and landscaping to the sites frontage. The significant amount of hard surfacing to the sites frontage has been both visually and physically broken through the use of a differing pallet of material, and the edges

of the site have been softened through the incorporation of a landscaped buffer, which incorporates a considerable amount of new tree planting. To physically subdivide the hard landscaped areas from the soft landscaped buffers, a native hedgerow is proposed around the perimeters.

A range of boundary treatments are proposed. The existing brick wall to the Hawley Road frontage is to be retained and rebuilt where necessary, and to ensure security, the remainder of the site is to be bounded by the existing 3.05m height palisade fence and a new 2.03 metre high security fence. The security fencing will result in a fortress like feel, but is required to facilitate the successful operation of the site and as it is proposed along the rear and part side boundaries of the site, will not appear visually prominent.

Although there is a commercial need for the building to be visible; given its siting to the rear section of the site, it will not appear over dominating within the streetscene. The built development would have a continuous footprint, with the separate units being denoted by the building's staggered frontage. The building is of standard commercial design and thus has a significant mass. The applicant has attempted to break this up through the building's staggered footprint and the incorporation of projecting elements finished in timber cladding and a continuous row of glazing at ground floor level. The building's flat roof has a slight fall to the rear. As the gable end of unit 3 would be visible from the adjacent Lidl store, the projecting timber element and store signage would wrap around from the principle elevation and the ground floor glazing would be continued. Furthermore, the materials proposed to the buildings frontage will be used on the main publicly visible section of the building.

To the rear of the building would be a continuous stretch of loading bays. The pallet of materials would alter from the front to the rear elevation of the building to reflect its changing purpose and aid legibility.

The considerable form and massing of the building is reflective of its intended purpose. However, given the building's siting towards the rear of the site, the landscaping and the differing pallet of material proposed within the principle and side elevations of the building; a degree of interest will be added, its massing would be reduced and this otherwise bland, featureless development would be improved. While a higher quality design and form of materials would have been preferable, given the context of the site in relation to adjoining forms of development, this would be difficult to insist upon. Accordingly, the development is not considered to result in any materially adverse impacts on the character of the area and is considered acceptable in terms of design. The proposal therefore does not conflict with Local Plan Policy BE1 (a).

Highway Safety

The highway authority initially had concerns with the impact of the development on the roads in the vicinity, particularly the Hawley Road/Rugby Road signalised junction. However the evidence provided in the Transport Assessment is considered to be robust, and shows that there is only a small amount of additional traffic generated by the development, as most traffic will be pass-by or linked trips.

Based on the projected situation in 2019 including committed development, is predicted that there would be significant queuing at the Hawley Road/Rugby Road junction. Accordingly, the additional traffic from the development would act to increase this queue length, but not to such an extent as to cause a severe impact in the view of the highway authority. To mitigate the impact of the development on the Hawley Road/Rugby Road junction, the highway authority is asking for a contribution of a contribution of £5000 towards an updated MOVA unit with associated software and licence, validation and controller reconfiguration. By 2019 when the full impact of the development traffic is likely to be felt on this junction, this measure

would help to improve traffic flow and help to reduce delays which would have been created with the additional traffic from the development.

The site access design was initially a concern to the highway authority as right turning traffic entering the development would have to give way to traffic exiting the Tesco site. As there is only a short queuing length (enough for about 4 or 5 cars), traffic could back up into Hawley Road, and affect the movement of traffic on this road. The applicant has now provided a revised access plan showing mini-roundabout, which gives priority to right turning traffic into the development site. This would help to prevent queuing and any impact on Hawley Road.

In order to mitigate an adverse highway safety impacts of the development, the Director of Environment and Transport (Highways) has recommended approval subject to conditions and a S106 agreement.

Highway Developer Contributions

The requirement for developer contributions must be considered alongside the guidance contained within the Community Infrastructure Levy Regulations 2010 (CIL). CIL confirms that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

The Director of Environment and Transport (Highways) has requested the following developer contributions:-

- A Travel Plan which is required to achieve the defined outcomes to ensure that the proposed development is satisfactorily assimilated into the transport network. This approach is considered to be consistent with Government guidance in the National Planning Policy Framework, the CIL Regulations 2011, and the County Council's Local Transport Plan 3;
- A monitoring fee of (£6,000) to enable Leicestershire County Council to provide support to the developers Travel Plan Co-ordinator; audit annual Travel Plan performance reports to ensure Travel Plan outcomes are being achieved and for it to take responsibility for any necessitated planning enforcement.
- To mitigate the impact of the development on the Hawley Road/Rugby Road junction, a contribution of £5,000 towards an updated MOVA unit with associated software and licence, validation and controller reconfiguration.
- Travel Packs; to inform Employees from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. These would cost £120.00 per display.
- Bus shelters at 2 nearest bus stops; to provide high quality and attractive public transport facilities to encourage modal shift. These would cost £4,908.00 per shelter.
- Contribution towards equipping the nearest bus stop(s) and suitable bus route with Real Time Information (RTI) system; to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift. These would cost a total of £5150.00.
- 6 month bus passes, one per employee (application form to be included in Travel Pack and funded by the developer); to encourage employees to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £350.00 per pass.

These requests are considered to be directly, fairly and reasonably related in scale and kind to the development proposed and would therefore be requested for inclusion within the S106 agreement if the scheme was being recommended for approval.

Finally, the Highway Authority has recommended that a requirement for details of the routing of construction traffic, should be included in a S106 legal agreement. During the period of construction, it is requested that all traffic to and from the site shall use the agreed route at all times unless otherwise agreed in writing by the LPA. This request is not considered to be reasonable or enforceable and would therefore not be included within the S106 agreement.

Land Contamination

Head of Community Services (Pollution) has considered the content of the documents accompanying the application and has requested that ground gas protection measures are provided to the buildings. This requested is considered reasonable and necessary and would be imposed as a planning condition.

Other Issues

Residential Amenity

There are no residential properties within close vicinity of the application and therefore the scheme raises no impacts in terms of residential amenity.

Issues raised within the letters of representation not considered elsewhere in the report.

It has been stated that the Transport Assessment contains a number of errors and does not contain adequate information. A resident has stated that the evening bus route 71A has been abolished and clarification is required of the on-road cycle route along Station Road and whether this goes over the railway station footbridge. The Transport Assessment has been reviewed by the Highway Authority and where considered insufficient, further details have been requested. As the cycle route does not form part of this application, its specific route is not a matter for consideration in the determination of this scheme.

Details have been required of the 'Covenanted Area' of the site. Legal covenants on a parcel of land do not form part of the planning consideration and therefore have no bearing on the decision made.

Other Developer Contributions

Policy 15 of the Hinckley Town Centre Area action plan relates to transport infrastructure delivery and developer contributions. This states that developers should either make direct provision of infrastructure, or will contribute towards the overall provision of measures by way of providing contributions through Section 106 agreements to an overall pot of for transportation improvements in the town centre.

Hinckley Town Centre Strategic Development Contributions SPD sets out a framework for contributions for transportation measures, and a methodology for apportioning costs based on size of development. The methodology for calculation contributions is below:-

Per 100m² of commercial development = £8,500
Development Floor Area =2,978m²

Total contribution for this application = £253,130*

*Note: this includes contributions requested by the Highway Authority, and therefore the relevant reduction should be made to the total contribution.

If recommended for approval, this contribution would be requested from the developer.

Conclusion

The application site is located within the boundary of the Hinckley Town Centre Area Action Plan and the site is identified in the AAP as an Existing Shopping Centre. Policy 14 supports retail development of a type and size which would not have a significant adverse impact on the vitality and viability of the town centre Primary Shopping Area, would compliment the town centre and not detract from it.

In terms of impact on investment, it is considered that risk would arise to planned investment from competition between non-food retailers seeking to locate in Hinckley at The Crescent or at Hawley Road. This is considered to represent a significant adverse impact on investment in The Crescent redevelopment, and therefore the regeneration of the town centre, contrary to strategic aspirations for the town centre as set out in the Core Strategy and the AAP. In the absence of the applicant agreeing to a mechanism for controlling the end-users, on a temporary basis, the scheme would have a significantly adverse impact on investment in The Crescent redevelopment, which would outweigh the benefits associated with the scheme. The application is therefore recommended for refusal.

The design, scale and siting of the proposal is not considered to have any materially adverse impacts on the character of the street scene or surrounding area. Further, subject to conditions and S106 contributions, the proposed development is not considered to result in any materially adverse impacts in terms of highway safety.

RECOMMENDATION: - Refuse planning permission.

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Reasons:-

- 1 In the opinion of the Local Planning Authority, the scheme, by virtue of the similarities in floor space within The Crescent is considered to result in a risk to the planned investment from competition between non-food retailers seeking to locate in Hinckley. This would result in a significant adverse impact on investment in The Crescent redevelopment and would prejudice the regeneration of the town centre. The development is therefore considered to be contrary to Policy 1 of the Core Strategy, Policies 9 and 14 of the Hinckley Town Centre Area Action Plan and paragraph 26 of the NPPF.

Contact Officer: - Eleanor Overton Ext 5680