

**4/03157/16/MFA - HYBRID PLANNING APPLICATION FOR THE REDEVELOPMENT OF SITE TO PROVIDE 12,503 SQM RETAIL (CLASS A1) FLOOR SPACE, 545 SQM OF CAFE/RESTAURANT (CLASS A3/CLASS A5) FLOOR SPACE, AND 180 SQM OF CAFE/RESTAURANT (CLASS A1/CLASS A3) FLOOR SPACE, WITH ASSOCIATED PARKING, ACCESS AND LANDSCAPING (DETAILS SUBMITTED IN FULL); AND OFFICE (CLASS B1) BUILDING MEASURING 2,787 SQM (DETAILS SUBMITTED IN OUTLINE).. LAND AT MAYLANDS AVENUE, MAYLANDS AVENUE, HEMEL HEMPSTEAD.**

**APPLICANT: Aviva Life and Pensions Uk Ltd.**

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[Case Officer - Intan Keen]

## **Summary**

This application has been amended following its consideration at the Development Management Committee (DMC) of 2 February 2017 and is recommended for approval.

The current proposal seeks to allow for the provision of a majority proportion of fashion floor space within one of the Class A1 retail units (nine total).

The proposal would not result in a significant adverse impact on Hemel Hempstead Town Centre, noting the differences compared with the proposal considered at DMC on 2 February 2017 with respect to impact on the Town Centre would not be significantly adverse.

## **Background and previous applications**

### *Current application*

The application considered by the DMC of 2 February 2017 was a hybrid seeking full planning permission for a retail park comprising nine Class A1 units totalling 12,503m<sup>2</sup> in area and two detached restaurant units of 545m<sup>2</sup> (Class A3 / A5) and 180m<sup>2</sup> (Class A1 / A3), and outline planning permission for a commercial Class B1 building measuring 2,787m<sup>2</sup> on land at the former Peoplebuilding site on Maylands Avenue.

The outcome of the DMC was to refer the application to the Secretary of State (DCLG), and in the event that the application was not called in, to be delegated to the Group Manager of Development Management and Planning with a view to approval subject to the completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 and conditions set out in the addendum associated with that committee.

The application was referred to the Secretary of State who did not wish to call in the application.

### *Extant outline permission*

Also of relevance is application 4/01132/15/MOA which sought outline planning permission for the construction of retail floor space (Use Class A1) measuring 12,503m<sup>2</sup>, office floor space (Use Class B1) measuring 3,004m<sup>2</sup>, restaurants measuring 650m<sup>2</sup>, and associated car parking, access and landscape works was granted on 1 April 2016, pursuant to a Section 106 agreement.

The outline permission was also granted pursuant to a Section 106 Agreement which imposed the following additional limitations on the permitted retail use of the approved retail floorspace:

- Not more than one unit can be used for the sale of goods related to sports and outdoor pursuits, provided not more than 49% of the net sales area of that unit is used for the display of sports and outdoor pursuits clothing and footwear.

- Not more than one unit can be used for the sale of clothing (excluding sports clothing), footwear, jewellery and fashion accessories, toiletries and cosmetics provided it is limited to 49% of the net sales area.
- Notwithstanding the above two restrictions, no more than 3% of the net sales area of units can be used for the sale of food and drink, clothing and footwear, jewellery and fashion accessories, pharmaceuticals, toiletries and cosmetics.

### *Jarman Park*

Application 4/00424/15/MOA sought outline planning permission for the erection of Class A1 retail development (to include convenience and comparison retail floorspace and ancillary cafe) and Class A3 drive-thru cafe / restaurant unit (with ancillary takeaway) together with access, car parking, service yard and associated works. This application was refused and subsequently appealed and allowed on 4 March 2016.

### **Proposal**

This formal amendment was submitted by way of e-mail exchanges and a subsequent letter dated 19 April 2017, within which the proposed amendment to the permitted retail use is set out as follows:

Clause 5.6.2 of the Section 106 agreement, dated 31 March 2016, imposed the following other limitations on the permitted floorspace:

1. Only one unit can be used for the primary scale of clothing, footwear and associated goods; and
2. Not more than 49% of the Net Sales Area is permitted to be used for the sale of clothing, footwear and associated goods.

The applicant seeks the following amendment to the established provision as follows:

1. The total floor area permitted to be used for clothing, footwear and associated goods would be reduced from 1,550m<sup>2</sup> to 920m<sup>2</sup>; and
2. Remove the reference to the Net Sales Area to allow a greater proportion to be used for the sale of clothing, footwear and associated goods.

It is further noted that this amendment would not result in the alteration of the plans.

### **Referral to Committee**

The application was originally referred to the Development Management Committee as the application is a large scale major (over 10,000m<sup>2</sup>) and involves a planning obligation under Section 106 of the Town and Country Planning Act 1990.

The proposed amendment to the permitted retail use as detailed above was not a matter previously considered by committee.

### **Summary of representations**

#### Peter Brett Associates (PBA) retail consultants

A full copy of Peter Brett Associates (PBA) retail consultants review and associated information is attached at Appendix A.

The main sections of PBA's advice are set out below:

- The current permission allows the sale of clothing and footwear from one unit but on the proviso that the amount of floorspace devoted to those goods does not exceed 49% of the total net sales area. While the current amendment seeks to reduce the quantum of space from a maximum of 1,500m<sup>2</sup> to 920m<sup>2</sup>, it also includes the removal of the restriction which ensures that the majority of the floorspace in the unit cannot be used for clothing and footwear.
- The PPG adopts the principle of like competing with like. The change that is sought will mean a clothing retailer which might more readily compete with those currently in the town centre could take space in the proposed scheme and therefore the level of diversion and therefore impact could be greater than under the current permission of the February 2017 resolution.
- The maximum 920m<sup>2</sup> of clothing floorspace could comprise 65% of the net sales area. However, because the proposed restriction now relates to the gross area, the Council would have no way of controlling.
- A five-year 'no poaching' clause would prevent a number of retailers from taking space within the scheme. In principle, this is welcomed and considered important if the impact on the town centre are to be controlled.
- In terms of cumulative impact, the existing permissions at the application site and Jarman Fields represent fall-back positions, with an associated cumulative impact, which must be considered in the context of this current amendment. Based on the extant permission, forecast diversion of £26.4m from Hemel Hempstead town centre i.e. a 9.1% impact. The combined revisions to the scheme forecasts a 9.8% impact on the town centre.
- The current amendments exacerbate the quantitative impacts and while we are aware of the view taken in the previous Chase and Partners work, we remain of the view that the cumulative impacts are significantly adverse.
- The key concern is whether the current amendments will undermine the health of the town centre either by allowing existing tenants to relocate to the application site, thus reducing the attraction of and footfall within the town centre.
- However, the addition of a 'no poaching' clause, subject to the agreement of a suitable list of retailers, could mitigate these impacts.

#### Strategic Planning and Regeneration

The table below shows the cumulative impact on Hemel Hempstead town centre as calculated by PBA in November 2015. These calculations were taken into account by members when approving the Aviva outline application (4/01132/15/MOA):

Scenario	Developments included in calculations	Cumulative impact on Hemel Hempstead town centre
A	Aviva outline application and Jarman Fields appeal scheme	9.85%
B	Aviva outline application, Jarman Fields appeal scheme and Lidl Maylands Avenue application (4/01031/15/MFA)	10.15%
C	Aviva outline application, Jarman Fields allocation and Lidl application	9.02%

Since the above calculations were produced, the Aviva outline permission has been approved, the Lidl application refused and the Jarman Fields appeal allowed. The Aviva outline

permission and Jarman appeal decision are firm commitments and represent the ‘fall-back’ position.

PBA’s letter of 25 May 2017 to you stated that:

"As we advised in November 2015, our advice was that the cumulative impact of the schemes at both Jarman Fields and the Aviva site on Hemel Hempstead town would be significant adverse. However, in determining the original Aviva application, the Council was also informed by advice from Chase and Partners that in market terms the town centre could sustain two out-of-centre schemes; this was factored into the balancing exercise and permission granted."

PBA’s revised (May 2017) calculations of cumulative impact on Hemel Hempstead town centre are shown below:

Scenario	Developments included in calculations	Cumulative impact on Hemel Hempstead town centre
A	Extant Aviva permission (4/01132/15/MOA) and Jarman Fields permission	9.10%
B	Current Aviva application (4/03157/16/MFA) as amended and Jarman Fields permission (4/00424/15/MOA)	9.80%
C	Current Aviva application (4/03157/16/MFA) as proposed Feb 2017 (when Development Management Committee resolved to grant permission) and Jarman Fields permission	9.46%

In their 25 May 2017 letter, PBA concluded as follows:

"In our view, the current amendments exacerbate the quantitative impacts and while we are aware of the view taken in the Chase and Partners work, we remain of the view that the cumulative impacts are significantly adverse. As we have previously advised, because we judged the cumulative impact at 9.1% to be unacceptable, it is for the Council to determine how much weight should be attached to the fall-back position and in balancing their views on the modestly higher impact of the current amendments."

We consider that the following points are particularly important:

- With the current Aviva application as amended (Scenario B), the cumulative impact on Hemel Hempstead town centre is only 0.7% higher than with the fall-back position (Scenario A). This is a modest difference, as recognised by PBA.
- The cumulative impact of Scenario B is just 0.34% higher than with the Scenario C (i.e. the initial 4/03157/16/MFA proposals which the DMC accepted in February 2017).
- Scenario B’s cumulative impact is less than with two of the three November 2015 scenarios, which were considered when the Aviva outline application was approved.
- PBA’s calculations show how much the Aviva and Jarman schemes are likely to reduce turnover in Hemel Hempstead town centre in 2020, compared to the situation without these schemes. Nevertheless, even if the Aviva and Jarman schemes are built, PBA still expect turnover in the town centre to increase between 2015 and 2020. Indeed, with Scenario B, the predicted increase in turnover is 7.5%.

- There is likely to be significant housing and population growth in Hemel Hempstead post 2020, including high density developments in the town centre, Two Waters and Apsley. This will probably result in increased retail trade in the town centre.

Conclusion: the cumulative impact on Hemel Hempstead town centre is almost identical to that accepted by the committee in 2015 in approving the Aviva outline application and February 2017 when DMC resolved to approve the initial 4/03157/16/MFA proposals. Also, turnover in the town centre is expected to increase even if the Aviva and Jarman Fields developments are built. Therefore, we do not consider that application 4/03157/16/MFA should be refused on impact grounds.

### **Considerations**

The main issue for consideration in the assessment of the amended proposal to allow a greater proportion of fashion floor space from one of the retail units is the impact on Hemel Hempstead Town Centre. The relevant policy context for assessing the proposed change is set out below.

Other considerations detailed in the previous report to the DMC of 2 February 2017 remain unchanged.

### Relevant policies

The relevant policy context for assessing the amendment to the permitted retail use is set out below:

#### *National Planning Policy Framework paragraph 26*

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

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

#### *National Planning Policy Guidance - impact on existing town centres*

The following steps should be taken in applying the impact test

- establish the state of existing centres and the nature of current shopping patterns (base year)
- determine the appropriate time frame for assessing impact, focusing on impact in the first five years, as this is when most of the impact will occur
- examine the 'no development' scenario (which should not necessarily be based on the assumption that all centres are likely to benefit from expenditure growth in convenience and comparison goods and reflect both changes in the market or role of centres, as well as changes in the environment such as new infrastructure);
- assess the proposal's turnover and trade draw\* (drawing on information from comparable

schemes, the operator's benchmark turnover of convenience and comparison goods, and carefully considering the likely catchments and trade draw)

- consider a range of plausible scenarios in assessing the impact of the proposal on existing centres and facilities (which may require breaking the study area down into a series of zones to gain a finer-grain analysis of anticipated impact)
- set out the likely impact of that proposal clearly, along with any associated assumptions or reasoning, including in respect of quantitative and qualitative issues
- any conclusions should be proportionate: for example, it may be sufficient to give a broad indication of the proportion of the proposal's trade draw likely to be derived from different centres and facilities in the catchment area and the likely consequences to the viability and vitality of existing town centres

A judgement as to whether the likely 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.

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, as it would for any other development.

The design year for impact testing should be selected to represent the year when the proposal has achieved a 'mature' trading pattern. This is conventionally taken as the second full calendar year of trading after opening of each phase of a new retail development, but it may take longer for some developments to become established.

\* Trade draw is the proportion of trade that a development is likely to receive from customers within and outside its catchment area. It is likely that trade draw will relate to a certain geographic area (i.e. the distance people are likely to travel) and for a particular market segment (e.g. convenience retail). The best way of assessing trade draw where new development is proposed is to look at existing proxies of that type of development in other areas.

### *Dacorum Core Strategy (2013)*

#### Paragraph 13.12

An impact assessment will be required for all application for new retail development that are not in an existing centre, or which are in an existing centre, but whose scale is not considered to be in keeping with the size, role and function of that centre. Assessments should take into account the likely cumulative effect of recent permissions, development under construction and completed developments. Such applications will be assessed against the following impacts on centres:

- 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;
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and the range of quality of the comparison and convenience retail offer;
- c) the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan;
- d) the impact of the proposal on in-centre trade / turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to ten years from the time the application is made, and where applicable on the rural economy; and
- e) if located on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the retail hierarchy.

Additionally, Policy CS16 (Shops and Commerce) of the Core Strategy requires the proposal to demonstrate a positive overall outcome in terms of the impact assessment.

### Impact on Hemel Hempstead Town Centre

#### *Quantitative assessment*

Retail figures prepared by PBA set out the 2015 turnover and 2020 turnover projections from the application site, Jarman Fields and Hemel Hempstead Town Centre. These are also broken up into comparison, convenience and combined floorspace. For ease the combined impact of the three different scenarios have been reported below and also set out in chronological order:

- Extant outline permission granted 1 April 2016 (Scenario A in PBA advice)
- 1. Proposal at DMC 2 February 2017 (Scenario C in PBA advice)
- 2. Current amended proposal (Scenario B in PBA advice)

Firstly, the cumulative combined impact of the three schemes (together with the impact of the granted application at Jarman Park) has been considered below.

	Diversion	Cumulative impact
Extant outline permission April 2016	£26.37m	9.10%
Proposal at DMC 2 February 2017	£27.42m	9.46%
Current amended proposal	£28.40m	9.80%

Whilst the extant outline permission represents a fall back position, it is also important to consider the impact of the current proposal above that of the scheme considered at the DMC of 2 February 2017.

The difference between the proposal considered at DMC on 2 February 2017 under this application and the current proposal would result in a slight increase in impact (from 9.46% to 9.80%). The difference of 0.34 percentage points, equating to £0.98m, between the two schemes is not considered to be significantly adverse with respect to the impact on Hemel Hempstead Town Centre.

Secondly, in terms of the type of floorspace affected, the proposal for a majority fashion net sales floor area within one of the units would impact Hemel Hempstead Town Centre in terms of comparison floorspace (convenience floorspace as can be seen in PBA figures would not be affected by the proposed change to be considered at this committee).

As alluded to in the figures above, there would be an increase in diversion in terms of comparison floorspace from Hemel Hempstead Town Centre as a result of the current proposal together with Jarman Fields. This would be £25.28m (current proposal) compared with £24.29m (proposal at DMC in February).

However, the reported post-diversion turnover (the 2020 turnover projection minus the diversion figure), in both instances, would be greater than the 2015 turnover. Therefore, even as a result of the current proposal being implemented, Hemel Hempstead Town Centre would continue to experience growth in its comparison retail sector.

It follows that in quantitative impact terms, the current proposal would not represent a significantly adverse impact on Hemel Hempstead Town Centre.

#### *Quantitative impact*

In the submission outlining the amended proposal and the permitted retail use, the applicant has suggested a 'no poaching' clause or similar to be built into the Section 106 agreement which would ensure that retailers in the town centre would not be able to trade from the application site at the same time.

The Chase and Partners report dated November 2015, which was a key document in considering the impacts of the previous outline application and Jarman Fields appeal, noted that Hemel Hempstead Town Centre was in good health and featured 23 of the identified 30 key retailers.

In considering the current proposal, it is likely that with the clause suggested by PBA that the town centre could lose one of these key retailers to the application site.

Whilst the loss of one of the key retailers from the town centre would be an undesirable situation, it is noted that the town centre could lose any of these retailers (including to other centres such as Watford, for example) and this would be out of the control of planning.

The retail park proposed at the application site would also retain its essential layout characteristics which distinguish it from the retail offer of the town centre, including large warehouse-format units, a maximum of nine units and with minimum unit sizes. As noted in the previous report to the DMC of 2 February 2017, the application if granted would be subject to the imposition of similar conditions to the previous outline permission and are repeated below:

3. Setting out total gross internal area and breakdown of convenience and comparison floor space;
  - Restriction on minimum gross internal area for the retail Class A1 units;
  - Restricting the maximum number of retail Class A1 units;
  - Capping mezzanine floor space and requiring a plan showing the distribution of this over the retail Class A1 units;
  - Restriction for in-store post office, pharmacy, photo shop or financial services;
  - Restricting the amount of restaurant floor space;
  - Removing permitted development rights.

Consequently, the proposal would not have a significant adverse impact on Hemel Hempstead Town Centre in terms of its qualitative characteristics.

### **Conditions since previous consideration at DMC**

It is noted that since the addendum associated with the DMC of 2 February 2017, the approved plans condition (Condition 38) has been updated to include a revised layout showing the alteration of position of Unit 03 (restaurant Class A1 / A3 unit) 2.5m to the north and associated outdoor seating located to front the car park and provision of white lining to define the adjoining accessway. The following drawings have been updated: 16023-P-003 Rev D, 16023-P-004 Rev D, 16023-P-005 Rev C, and 16023-P-012 Rev C.

To reflect these changes, references to the latest plans have been included within Conditions 4, 5, 7, 8, 10 and 18.

### **Recommendation**

Under the 2009 Departure Directions the proposal does not require re-referral to the Secretary of State.

It is recommended that the application is **DELEGATED** to the Group Manager of Development



Management and Planning with a view to approval subject to the completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 and conditions set out below.

1. That the following Heads of Terms for the planning obligation be agreed:

- Financial contribution to address the immediate impacts of the proposed development on the local highway network to be agreed
- Provision of a Travel Plan
- Provision of fire hydrants
- Financial contribution towards Maylands Public Realm of £166,984.60
- To secure compliance with the retail conditions that restrict the sale of the following goods:
  - clothing and footwear; and
  - jewellery and fashion accessories;with the exception of the amended permitted retail use

2. That the conditions listed below are imposed:

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## **Report to Development Management Committee 2 February 2017**

### **Summary**

The application is recommended for approval subject to conditions and a Section 106 agreement to secure compliance with retail conditions and restrictions, provision of a Travel Plan and contributions towards public realm improvements. However, if the committee accept the recommendation the application must be referred to the Secretary of State for Communities and Local Government (SoS) as a Departure from the Development Plan for consideration to "call-in" the application as the proposal exceeds 5,000m<sup>2</sup> as an out of town shopping centre on designated employment land.

### **Background and previous application**

Application 4/01132/15/MOA sought outline planning permission for the construction of retail floor space (Use Class A1) measuring 12,503m<sup>2</sup>, office floor space (Use Class B1) measuring 3,004m<sup>2</sup>, restaurants measuring 650m<sup>2</sup>, and associated car parking, access and landscape works was granted on 1 April 2016, pursuant to a Section 106 agreement. Details of conditions and legal restrictions of note have been listed in Strategic Planning and Regeneration comments and are copied below:

The relevant conditions attached to this permission are summarised as follows:

- The gross retail floor area shall not exceed 12,503 sq. metres. The net retail floor area shall not exceed 9,290 sq. metres. comprising a maximum of:
  - 1,414 sq. metres of convenience food goods
  - 7,848 sq. metres of comparison non-food goods
- The retail units shall have a minimum gross internal area of 650 sq. metres.
- There shall be no more than six retail units.
- No retail unit shall contain a dedicated in-store post office, pharmacy, photo shop or financial services.

- The Class A3 floorspace shall be limited to 650 sq. metres (GIA).

The outline permission was also granted pursuant to a Section 106 Agreement which imposed the following additional limitations on the permitted retail use of the approved retail floorspace:

- Not more than one unit can be used for the sale of goods related to sports and outdoor pursuits, provided not more than 49% of the net sales area of that unit is used for the display of sports and outdoor pursuits clothing and footwear.
- Not more than one unit can be used for the sale of clothing (excluding sports clothing), footwear, jewellery and fashion accessories, toiletries and cosmetics provided it is limited to 49% of the net sales area.
- Notwithstanding the above two restrictions, no more than 3% of the net sales area of units can be used for the sale of food and drink, clothing and footwear, jewellery and fashion accessories, pharmaceuticals, toiletries and cosmetics.

### **Summary of reasons to grant**

The application submitted is a hybrid seeking full planning permission for a retail park comprising nine Class A1 units totalling 12,503m<sup>2</sup> in area and two detached restaurant units of 545m<sup>2</sup> (Class A3 / A5) and 180m<sup>2</sup> (Class A1 / A3), and outline planning permission for a commercial Class B1 building measuring 2,787m<sup>2</sup> on land at the former Peoplebuilding site on Maylands Avenue.

Planning permission (in outline form) currently exists for the redevelopment of the site for a retail park with a maximum of six Class A1 units, three Class A3 units and one Class B1 unit. This represents a fall back position where reserved matters could be submitted and this extant and recent permission is given significant weight in the determination of the current proposal.

Differences between the current proposal and the outline permission are noted in the following sections. The changes would not result in a significant material impact on the viability and vitality of Hemel Hempstead town centre, together with the allowed out of centre scheme at Jarman Park (details of this application and subsequent appeal provided below).

To assist with the retail impact assessment, the Council employed retail consultants Peter Brett Associates (PBA) to review the changes from the outline permission. Their findings are as follows:

- The increase in the number of units from six to nine is acceptable;
- The increase in convenience floor space could be acceptable, subject to the applicant updating their analysis as set out in their letter; and
- The extension to the permitted retail use to include the sale of baby and children's clothing and maternity wear from one unit is acceptable.

(Confirmation by e-mail was received on behalf of the applicant on 23 January 2017 that the extension to the permitted retail use to include the sale of pharmaceutical goods has been withdrawn from the proposal.)

PBA have recommended that cumulative impact assessment work is undertaken with respect to the current scheme and Jarman Park and the impact on Hemel Hempstead Town Centre. However, their advice is also that the Council should determine how much weight to give to the fall back position of the outline permission in assessing cumulative impact.

The previous outline application also relied on work carried out by retail consultants Chase and Partners (dated November 2015) whose advice would be relevant in the consideration of this application.

Emphasis on economic prosperity is detailed in Section 1 of the National Planning Policy Framework (NPPF). Together with the outline planning permission fall back, which is also given significant weight, the proposed development subject to conditions below and restrictions and contributions secured by a Section 106 agreement would outweigh any concerns in terms of retail impact on Hemel Hempstead Town Centre.

The proposal is considered satisfactory in all other respects subject to suitable conditions to accord with the guidance in the NPPF, the current and saved policies of the Dacorum Core Strategy (2013) and the Dacorum Borough Local Plan 1991-2011.

### **Site description**

The application site comprises 6.8 hectares of land forming part of the former Lucas Aerospace site, located on the corner of Maylands Avenue and Breakspear Way within the urban area of Hemel Hempstead and the Maylands Avenue General Employment Area. The site features a large frontage to Maylands Avenue and a prominent location as a gateway into Hemel Hempstead from the M1 motorway and from St Albans and forms part of the Maylands Gateway area as defined in the Maylands Masterplan.

Access to the site is via a signalised junction on the eastern side of Maylands Avenue.

The north-eastern part of the land, excluded from the application site, has been developed for one office building (B2). A health club and restaurant building has also been constructed adjacent to building B2, and a decked car park is located to the rear of the health club building to serve B2 with surface parking to the rear of B2 for users of the health club.

To the north of the Lucas Aerospace site are a number of factory units fronting Wood Lane End. To the north-east is a residential development known as Hales Park. East of the site is the former Lucas sports ground.

Public footpaths exist on the two street frontages of the site and also to the north-east connecting with the residential development at Hales Park.

Since the previous outline application, improvement works and landscaping to surrounding footpaths on Maylands Avenue and the gateway have been carried out.

### **Proposal**

This application is a hybrid seeking planning permission for the following:

- Full planning permission for the construction of 12,503m<sup>2</sup> of retail floor space (Class A1), 545m<sup>2</sup> of restaurant (Class A3 / A5) and 180m<sup>2</sup> of restaurant (Class A1 / A3), a car park with 557 car spaces, and associated landscaping and access works; and
- Outline planning permission for the construction of an office (Class B1) building measuring 2,787m<sup>2</sup>. All matters are reserved for this element of the proposal.

The site would utilise the existing access off Maylands Avenue, which is a traffic signalled junction.

The retail (Class A1) floor space would be spread over nine units of varying sizes, with no unit less than 650m<sup>2</sup> in area. It would comprise one standalone discount food retail unit located at

the northern end of the site and a terrace of eight retail units occupying the central portion of the site. The retail terrace would be set back from Maylands Avenue behind an open car park. Of the total 557 spaces proposed, 102 of those would be located immediately in front of the discount food retail building on the northern side of the main access. The remaining 455 spaces would serve the main terrace and restaurant units. There will also be 16 motorcycle spaces and 80 cycle spaces.

The premises have been designed so that the retail units are of a 'warehouse' format with a minimum gross internal area of 650m<sup>2</sup>.

The ground floor area would measure 9,898m<sup>2</sup> with 2,605m<sup>2</sup> to be provided at mezzanine level.

An extension to the permitted retail use is also sought, for the sale of baby and children's clothing and maternity wear from one unit (this was a restriction in the Section 106 agreement under the previous outline permission).

The two restaurant units would be located on the southern side of the main access, proximate to the site's Maylands Avenue frontage. Both units would have drive-through facilities.

Servicing for the retail terrace is proposed to the rear (along its eastern elevation), while the standalone retail unit would be serviced on its northern side.

Opening hours for the units are proposed as follows:

- Retail (Class A1) units: 07:00 to 22:00 Monday to Saturday and 10:00 to 18:00 Sunday
- Restaurant units (Class A3 / A5 and Class A1 / A3): 24 hour opening

The southern portion of the site, including the corner of Breakspear Way and Maylands Avenue, would be occupied by the office building, for which no plan details have been supplied. The submitted Planning Statement notes the location for the proposed office building to front Breakspear Way has been chosen as it offers good visibility and the potential to deliver a statement building on this gateway site in the future.

Access works as proposed are set out in the submitted Planning Statement and include:

- Minor alterations to the existing vehicular access point from Maylands Avenue;
- Changes to the kerblines of the internal road to increase the number of ingress lanes to two;
- Alterations to the existing access from Maylands Avenue to the north of the site to create a dedicated service access for Unit 01 (discount food retail unit); and
- New pedestrian links within the site, forming a link from Maylands Avenue to the development site immediately to the east of the application site.

### **Changes between current scheme and outline approval 4/01132/15/MOA**

The Planning Statement submitted under the current application outlines the differences between the outline planning permission and the new proposal, which are as follows:

- A minor change to the extent of the application site (to provide a connection with the public footpath to the north-east of the site);
- An increase in the number of retail units from six to nine;
- An increase in the net sales area and the area permitted to be used for the sale of convenience goods (from 1,414m<sup>2</sup> to 1,900m<sup>2</sup>);
- An increase in the amount of Class A3 space from 650m<sup>2</sup> to 725m<sup>2</sup>; and
- An extension to the permitted retail use to include the sale of baby and children's clothing

and maternity wear from one unit.

The composition of the retail floor space proposed at the application site and difference from the previous approval are set out in the submitted Planning Statement and copied below:

Area	Outline permission	Proposed	Difference
Total GIA	12,503m <sup>2</sup>	12,503m <sup>2</sup>	no change
Total net sales	9,262m <sup>2</sup>	9,700m <sup>2</sup>	438m <sup>2</sup>
Total convenience	1,414m <sup>2</sup>	1,900m <sup>2</sup>	486m <sup>2</sup>
Total comparison	7,848m <sup>2</sup>	7,800m <sup>2</sup>	48m <sup>2</sup> less

### **Referral to Committee**

The application is referred to the Development Control Committee as the application is a large scale major (over 10,000m<sup>2</sup>) and involves a planning obligation under Section 106 of the Town and Country Planning Act 1990.

### **Planning History**

#### *Jarman Park*

Application 4/00424/15/MOA sought outline planning permission for the erection of Class A1 retail development (to include convenience and comparison retail floorspace and ancillary cafe) and Class A3 drive-thru cafe / restaurant unit (with ancillary takeaway) together with access, car parking, service yard and associated works. This application was refused and subsequently appealed and allowed on 4 March 2016.

Details of the Jarman Park proposal included the construction of 10,305m<sup>2</sup> of Class A1 retail, consisting of 1,505m<sup>2</sup> of convenience retail and 8,800m<sup>2</sup> of comparison retail, along with a 180m<sup>2</sup> cafe unit.

This appeal confirms (at paragraph 8 of the Inspector's decision) that the wording 'a positive overall outcome' effectively means in this context no significant adverse impact; such a wording and understanding accords with paragraph 27 of the NPPF.

In coming to their conclusion, the Inspector took into account the retail review from PBA and Chase and Partners with respect to the Maylands Avenue proposal (application 4/01132/15/MOA).

The following extracts of the appeal decision are relevant:

15. The application for the site was made on the basis of unrestricted A1 usage. A retail statement submitted as part of the planning application considered that the proposal would not result in a significant adverse impact on Hemel Hempstead town centre or any other centre within or surrounding the catchment area. Planning Practice Guidance (PPG) states that a judgement as to whether likely adverse impacts are significant can only be reached in the light of local circumstances, going on to note that in areas with high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact. As part of the application process for the proposal the Council commissioned Peter Brett Associates (the PBA report) to undertake a retail review of the scheme. This concluded that the proposal would have a significant adverse effect on the vitality and viability of the town centre, and a real risk of retailers currently in the town centre moving to the site were unrestricted permission to be granted.

16. I agree with this assessment. An unrestricted A1 consent at the site would provide Jarman Fields with a major shopping offer coupled with a substantial leisure and restaurant presence. It

is easy to envisage customers travelling solely to the site to carry out a weekly food shop, combined with clothes and fashion shopping, with the day completed with a trip to the cinema and a meal out. The approval of unrestricted A1 on site would in effect create a mini-town centre, but one with fairly easy access by car, and would offer a significant alternative destination to the town centre. Retailers currently in the town would also be attracted by potentially lower rents and the free parking offer for customers. The proposal would have a significant adverse effect on the town centre and would be contrary to policy CS16 and the Framework.

17. The PBA report considers that the adverse impacts could be best mitigated through a restriction on the range of comparison goods sold from the development and other conditions that control the manner in which the development functions. Conditions are suggested to restrict total sales area and areas for convenience and comparison goods, a restriction on the minimum size of unit allowable and the range of goods allowed to be sold (specifically restricting clothing and footwear), and revoking permitted development rights. The appellant indicated at the application stage that they were willing to accept such conditions; this was confirmed at the Hearing. Such conditions would severely restrict the ability of the site to sell fashion and footwear, and would allow such items to continue to be sold largely in the town centre.

18. As part of the consideration of the Maylands Avenue application the Council commissioned Chase & Partners to undertake a retailer demand assessment (the C&P report). The assessment specifically considered the cumulative effect of 'proposed developments at Jarman Park and Maylands Avenue', and I note that the proposal at Jarman Park considered is the same scheme as is before me.

19. The C&P report considered that the planning conditions suggested for both schemes should help to protect the town centre from out of centre competition and that both proposals would produce 'attractive and fundable retail parks in today's market'. The report also considers that there would be sufficient retail demand to support each development, with the restrictions provided offering some protection to the town centre which should remain the primary retail focus for the town. At the Hearing the view was expressed that Maylands was more likely to attract customers from out of the town, due to its proximity to the M1 and thus have less of an impact potentially on the town centre than the appeal proposal. However, in sequential test terms both sites constitute out of centre sites. Due to its location Maylands would also be closest for many residents and office workers on the east side of the town, and I note that the C&P report states that it considers that the town centre is strong enough to withstand competition from additional out of town centre comparison retailing, subject to scale and conditions. I agree with this conclusion; the conditions would in my view mitigate the risk of the potential of some of the key retailers in the town centre moving to the Park and would ensure that the site remains complementary to the role of the town centre. For the same reasons, nor do I consider that the proposal would have a significant adverse effect on other nearby shopping centres.

20. The Council raise concerns over the precision and enforceability of the proposed PBA conditions. However, concerns over precision can be largely overcome by slight wording amendments to ensure that any alteration to conditions would require a formal application. I have no substantive evidence to suggest that the appellant would be likely to request changes to the proposed conditions or seek to act outside the controls of the conditions; in any event any possible applications to vary conditions in the future would be for the local planning authority to consider based on the evidence provided, and it would be the responsibility for the Council to enforce the conditions, as with on any consent granted. In relation to the proposed condition restricting permitted development rights, for the reasons given above, I consider that the condition would pass the test of necessity and that the potential effect on the viability of the town centre of the proposal constitutes exceptional circumstances.

### *Adjoining land to the east*

Also of relevance is application 4/00064/17/MFA for comprehensive redevelopment to provide 54,714m<sup>2</sup> of flexible commercial floor space within use Classes B1c / B8 and ancillary offices, together with car and cycle parking, access and landscaping at Maylands Gateway (former Lucas sports ground). This application is live and still under consideration.

### **Policies**

#### National Policy Guidance

National Planning Policy Framework (NPPF)  
National Planning Policy Guidance (NPPG)

#### Dacorum Core Strategy

Policies NP1, CS1, CS2, CS4, CS8, CS9, CS10, CS12, CS13, CS14, CS15, CS16, CS25, CS29, CS31, CS32, CS33, CS34, CS35

#### Saved Dacorum Borough Local Plan 1991-2011

Policies 10, 13, 31, 33, 37, 44, 51, 54, 55, 57, 58, 99, 100, 106, 113, 116, 118 and 129  
Appendices 4 and 5

Planning Policy Statement

Maylands Master Plan: The Gateway to a Greener Future (September 2007)

Maylands Gateway Development Brief (July 2013)

Site Allocations Development Plan Document Modifications (December 2016)

### **Summary of Representations**

A full copy of Peter Brett Associates retail consultants report is attached at Appendix A using the following link:

<https://democracy.dacorum.gov.uk/documents/s8267/DCC-02-02-2017-Item%205a-Appendix%20A.pdf>

A full copy of other consultation responses is attached at Appendix B using the following link:

<https://democracy.dacorum.gov.uk/documents/s8268/DCC-02-02-2017-Item%205a-Appendix%20B.pdf>

These are summarised below.

#### Peter Brett Associates (PBA) retail consultants

Subject to the Council being satisfied over cumulative impact and all other matters, PBA findings on proposed changes are below:

- The increase in the number of units from six to nine is acceptable;
- The increase in convenience floor space could be acceptable, subject to the applicant updating their analysis as suggested;
- The extension to the permitted retail use to include the sale of baby and children's clothing

and maternity wear from one unit is acceptable;

- The extension to the permitted retail use to include sale of pharmaceutical goods, toiletries, beauty and healthcare products from one unit is currently not acceptable.

### Strategic Planning and Regeneration

The planning policy context is set out with reference to the following provisions:

- NPPF paragraphs 22, 24-27
- Policies CS1, CS14, CS15 and CS34 and Figure 18 of the Dacorum Core Strategy 2013
- Saved Policies 44 and 116 of the Dacorum Borough Local Plan 1991-2011
- Maylands Master Plan September 2007
- Maylands Gateway Development Brief July 2013
- Site Allocations Development Plan Document

Following the Site Allocations public hearing (October 2016) and the Inspector's initial note, the Council is now consulting on the 'Site Allocations Modifications December 2016'. Substantial weight should now be given to the Site Allocations document, given the advanced stage it has now reached. It is expected that the Site Allocations document will be adopted by the council in spring or summer 2017.

However, the Site Allocations document does not deal with the Maylands Business Park, including the current application site. It was intended to cover this area in the East Hemel Hempstead Area Action Plan, but it is now expected that it will be considered in the single Local Plan. The Site Allocations document does include proposals for employment and retail development elsewhere in Hemel Hempstead.

Work has started on the evidence base for the single Local Plan. Once adopted, the single Local Plan will replace the existing saved Local Plan policies, the Core Strategy and the Site Allocations.

### Key planning issues

The extant outline planning permission was granted less than a year ago and should be given significant weight, particularly as the current application proposes the same amount of retail floorspace as the outline scheme. Nevertheless, the current application differs from the permitted scheme in a number of respects. Therefore, the issues examined below should be considered carefully in deciding whether the revised proposals are acceptable.

Sequential test is met.

PBA's advice is that a cumulative impact assessment should be carried out. The applicants have not provided a cumulative assessment. If this continues to be the case, we should commission PBA to undertake the cumulative impact assessment.

Substantial weight should be given to the Site Allocations document, as it has reached an advanced stage. It is expected that the Site Allocations document will be adopted by the Council in spring or summer 2017.

The Jarman Park site has been marketed recently and a number of bids submitted. These bids put forward a range of proposals for the site, with none of the bids proposing to implement the outline planning permission granted on appeal for 10,305 sq. metres (gross internal area) of Class A1 retail floorspace.

Therefore, it remains uncertain what will happen on the Jarman site, but a retail scheme along the lines proposed in the Site Allocations document should be assumed at this stage.



The increase in number of retail units is acceptable.

The increase in the amount of floor space used for convenience goods could be acceptable.

The inclusion of a unit selling baby and children's clothing and maternity wear is acceptable.

The inclusion of a unit selling pharmaceutical goods, toiletries, beauty and healthcare products would not be acceptable. (However, this element has now been removed from the proposal.)

The increase in the quantum of Class A3 floor space is acceptable.

There would be no objection to the reduced office floor space and changed location of the offices. However, there are serious concerns about the deliverability of offices located in the south of the site.

We accept that offices are unlikely to be built on the site in the near future because of current market conditions. However, even if the market improves we are concerned that the offices are still likely to be undeliverable due to the proposed layout of the retail development.

The application is not accompanied by any plan showing the potential location of the offices or the proposed access arrangements. It appears that access would be taken through the middle of the retail park car park. Assuming this to be the case, it seems highly unlikely there would be any interest from developers in building offices or from firms wishing to occupy offices in such a location. Indeed, it appears that the only type of development that could realistically take place in this location is more retail floorspace.

Advice should be sought from the highway authority on whether access to the offices through the retail park car park would be acceptable on safety grounds.

As explained, in section 3(ii) of these policy comments, the application site forms part of the Maylands Gateway where the Council's policy is for a high quality office led development. Indeed, Maylands Gateway is the only site in the Borough with potential for large scale office development. This is an important consideration, particularly as the office floorspace targets in Core Strategy Policy CS15 are not being met and the South West Hertfordshire Economic Study (February 2016) proposes substantial office floorspace in Dacorum over the period to 2036.

Given the above, our view is that the application should not be permitted if it appears that an important element of the scheme is undeliverable. Therefore, the applicant should be asked to provide further information to demonstrate how the proposed offices could be satisfactorily accessed.

#### Strategic Planning and Regeneration further comments

The Chase and Partners (C&P) report is only just over a year old. Since the report was completed, no further health checks of Hemel Hempstead town centre have been carried out as far as I am aware. However, the health of the town centre has probably improved since then, given that:

- A few months ago, a survey showed that vacancy rates in the town centre had fallen appreciably and were now (I think) below the national average. I don't know who this study was carried out by and what the vacancy rate in Hemel town centre is.
- The completion of further stages of the Council's Hemel Evolution project have increased the attractiveness of the town centre.

Therefore, I think we can still rely on what C&P said about the town centre's health.

Another important point is that major refurbishment by Capital & Regional (C&R) is likely to boost the health of the town centre in the future. They have purchased the Marlowes Centre (see C&P report paragraph 3.18) and significant stretches of Marlowes i.e. Edmunds Parade (C&P paragraph 3.19 and Appendix 6) and Fareham House. In March 2016 commercial agents Cushman and Wakefield announced as follows:

"C&R buys in Hemel Hempstead

Capital & Regional has acquired Fareham House in Hemel Hempstead in a £7.8m off-market transaction.

The property is adjacent to two other sites owned by C&R, Marlowes shopping centre and Edmunds Parade, which the company bought in February.

Together the properties cover 340,000 sq ft across 87 shops.

The purchases cost £53.8m and represent a yield of 7%.

Chief executive Hugh Scott-Barrett said:

"We have worked hard to acquire Fareham House off-market and the transaction represents a considerable success in the opportunity that we now have in Hemel Hempstead, a strong South East commuter town with significant growth potential that has historically been under-invested in.

"Together, the three acquisitions we have undertaken provide us with effective control of the town centre retail offer and unlock attractive longer-term prospects for a more comprehensive development and repositioning that fit well with our asset management capabilities." "

C&R are now drawing up proposals for major refurbishment of the land in their ownership. However, I don't think we can say much about their emerging proposals at this stage.

### Hertfordshire Highways

Does not wish to restrict the grant of permission subject to conditions relating to:

- Access arrangements for four-arm roundabout
- Details and specifications for drainage, access arrangements and visibility splays, parking provision, cycle provision, serving areas and loading and turning areas
- Delivery and Servicing Plan
- Stage 1 Road Safety Audit
- Travel Plan
- Construction Traffic Management Plan
- Swept path assessment

Works within the highway boundary and mitigation measures to be secured and approved via a Section 278 agreement.

Contributions shall be sought via Section 106 agreement for Travel Plan monitoring and implementation of mitigation measures for A414 / Maylands Avenue roundabout junction.

Recommended informatives relate to storage of materials, road deposits and general works

within the highway.

### Conservation and Design

Suggested amendments including:

- Unit 01 – alterations to design and materials to break up long elevations which are prominent within and outside the site
- Unit 02 – design to reflect character of Unit 11 at opposite end of the park as these two buildings provide entrance features to the park, consider reorientation to create active frontage
- Unit 03 – reflect the redesign of Unit 02 and Unit 11 in terms of materials and design features, detailing of eaves and clerestory element to be revised so that it sits comfortably above building
- Units 04-11 – generally acceptable, require samples by condition, recommend use of a suitable local brick or one which matches colour of local brickwork to reflect character of Dacorum
- Transformer has a prominent location and consider relocation and to be concealed with appropriate hard and soft landscaping
- Car parking area – standard guardrails be avoided and traffic signage limited.

### Trees and Woodlands

Comfortable with majority of proposed tree removal. There are trees in poor condition and low amenity value whose retention would not be desired. There are also trees of moderate value that are positioned too close to boundaries or that have self-set where there is no viable future for them.

Current proposals would create a landscape whose impact varies greatly to either side of the entrance way.

### Trees and Woodlands further comments

I would agree that over-planting could obscure the visibility of the new units, however this isn't being suggested. Compare the numbers, and therefore affect, of trees suggested within submitted plans along Maylands Avenue to the front of units 01, 02 and 03 versus those proposed in front of units 04 – 11. I count eleven trees to the front of units 01 – 03 (plus fifteen nearby along the site access road and one more on the public highway). This compares with four trees to the front of other eight larger sized units.

The visual affect of this disparity will be stark. The frontage of 01 – 03 will have visual interest, a mix of species and sizes and seasonal value. The frontage of 04 – 11 will only have real interest whilst the Liquidambar's are in autumnal leaf. Apart from this small part of the year, the frontage will appear sterile and uniform, with no variety of colour or size.

The density of trees to the front of units 01 – 03, in visual terms, was deemed acceptable by the agent in their submission, so there is little basis to their comment of lack of visibility regarding four trees in front of the larger units. Firstly, the site boundary to the front of units 04 – 11 is larger and so there is more opportunity to see the units over a longer period than with a shorter one, and secondly, the same density of trees has not been suggested. As previously stated;

“The intended purpose of landscaping here is to “reinforce the parkland aesthetic.” It is rare that modern urban parkland has regimented single species row planting, so I recommend that further planting is located within this area that creates a varied aesthetic. The visual impact of species such as Liquidambar is heightened when planted near to contrasting canopy shapes and colours. The Liriodendron will provide contrast but needs supplementing with more variety.”

Such variety could come from species like Birch (Betula) whose canopies are not dense.

Tree planting within the site needs to be of robust quantity at the start of the development's commercial life to allow for potential longer term tree thinning, should issues arise with specific specimens. It will not be possible to compel the site owner to plant more trees in the future should approved plans result in a poor 'parkland' aesthetic.

#### Parks and Open Spaces

I have looked at the landscaping proposals. The overall concept seems to be large swathes of wildflowers, which from May to September if managed properly should look spectacular. However proper management of this area is key to its success.

#### Parks and Open Spaces further comments

Proposed perennial wild flower mix is sown into the soil to negate the requirement for topsoil to be brought to site. The wild flower management regime is based around a spring flowering meadow. This is acceptable as long as the proposed management actually happens.

#### Rights of Way

No objection

#### Environmental Health

No objections regarding contaminated land and air quality matters subject to conditions.

#### Hertfordshire Lead Local Flood Authority

In the absence of an acceptable FRA we object to the grant of planning permission. It does not comply with the requirements set out in the Planning Practice Guide to the NPPF. The submitted FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

The following information is required:

1. Detailed surface water volume and run-off calculations for all rainfall events up to and including the 1 in 100 year plus 40% for climate change event.
2. Outline drainage strategy for the proposed office development.

#### Hertfordshire Lead Local Flood Authority further informal comments

Initial objection withdrawn following submission of additional information, recommend conditions.

#### Hertfordshire Crime Prevention Design

Whilst not against the proposals there are elements which have caused great concern. Current layout would allow for crime and anti-social behaviour.

Reference to the following provision:

- NPPF paragraphs 58, 64 and 69;

- NPPG part 010, 011 and 014;
- Policies CS12 and CS13 of the Core Strategy.

Requested conditions relating to safer Parking Award (Park Mark), CCTV provision for public parking area.

#### Hertfordshire Fire and Rescue

No objection subject to the provision of fire hydrants in accordance with standards by condition.

#### Hertfordshire Property Services

Provision of fire hydrants secured by Section 106 agreement.

#### Hertfordshire Environmental Records Centre

No objections subject to conditions relating to timing for removal of vegetation and submission of Landscape and Ecological Management Plan.

#### Hertfordshire Waste and Minerals

No objection subject to submission of Site Waste Management Plan.

#### Environment Agency

No objection subject to comments from Council's Environmental Health department.

#### Thames Water

No objection to both phases of development.

#### Affinity Water

Site is located within the groundwater Source Protection Zone (SPZ) corresponding to Marlowes Pumping Station. This is a public water supply comprising a number of chalk boreholes operated by Affinity Water Ltd.

Construction works and operation should be done in accordance with relevant British Standards and Best Management Practices.

#### National Grid

Due to the presence of National Grid apparatus in proximity to the specified area, the contractor should contact National Grid before any works are carried out to ensure our apparatus is not affected by any of the proposed works.

#### NGK Spark Plugs (UK) Ltd, Maylands Avenue

Our comments revolve around traffic flows resulting from this development. Our concerns are largely the same as they were for the previous application.

It is stated, "As is evident above, the site has been granted permission for a significant amount of office floorspace and associated car parking, of which only a small element has been implemented." This is true but our position is that the traffic flow is significantly heavier since that permission was granted, We do not measure it but we live with it.

It is also stated (2.13), "The above, extant, development was assessed as acceptable to HCC as the highway authority. Analysis of traffic flows expected to be generated by the extant permission proposals was reviewed within the outline retail scheme on the site." Again true, but again, the current traffic flows are significantly different (worse). Peak hours are especially worse and the progression seems to work in steps, most noticeably in September of each of the years 2013, 2014, 2015, and 2016.

It is true (3.52) that "The site currently has a planning permission for a large level of B1 office land, only part of which has been implemented." We are grateful for that and, while it may be that permission can not be withdrawn, we urge you to reconsider the conclusions regarding the adequacy of the road system.

Finally (5.12), "This junction has been designed in order to accommodate the previous extant office development consent, and therefore has been deemed appropriate for significant volumes of traffic." We believe that this is true only of the internal site traffic. We understand that the access road will be expanded to two lanes but that won't help the traffic on Maylands itself.

You can see that we are merely making one overall comment in 4 different ways ... what do we do about the traffic, indeed current traffic? Thank you for your attention.

## **Considerations**

### Policy and principle

The loss of employment land was considered under the previous application and detailed in the associated committee report and the principle has been established by the granting of the outline application referenced above.

The key issue in the consideration of the principle of the development is the impact of the changes of the current scheme compared with the previous approval in retail terms. It was established under the previous outline application that the site is in an out of centre location.

Section 1 of the NPPF relates to building a strong, competitive economy, where paragraph 18 seeks to secure economic growth in order to create jobs and prosperity.

Section 2 of the NPPF ensures the vitality of town centres. Paragraphs 24 and 26 set out when the sequential test for retail outside of town centres is required. PBA in their letter notes the proposal is compliant with the sequential approach.

Policy CS16 of the Core Strategy is relevant and permits new retail floor space outside of defined centres if the proposal complies with the sequential approach and demonstrates a positive overall outcome in terms of the impact assessment.

Similarly, saved Policy 44 of the Local Plan requires the sequential approach to be followed. Under this policy, shopping development will only be permitted outside existing centres if it would not seriously affect the vitality or viability of nearby town or local centres.

### *Retail impact from the changes compared with outline permission*

An assessment of retail impact is set out under the following sections.

- *Increase in the number of retail units from six to nine*

This is considered acceptable noting advice from PBA. PBA in their advice note that the floor space would remain unchanged as turnover calculations are based on area rather than units. However, the increase in the number of units could result in a higher turnover than the extant

outline permission depending on the eventual tenant line up. The 'warehouse' format units are proposed alike those approved under the outline permission (albeit with a slightly smaller average gross internal area) and as such the proposed retail offer differentiates itself from that of Hemel Hempstead Town Centre and would not conflict with the objectives of Policy CS16 of the Core Strategy.

As such, if planning permission is granted it would be reasonable to attach conditions relating to the minimum unit size (gross internal area) and maximum number of retail Class A1 units.

PBA in their retail review of the current proposal have not objected to the increase in the number of units and Strategic Planning has agreed with this approach.

- *Increase in the net sales area and the area permitted to be used for the sale of convenience goods (from 1,414m<sup>2</sup> to 1,900m<sup>2</sup>)*

It should be noted that a slight decrease in comparison retailing from the outline permission is proposed and PBA has advised limited weight should be given to this decrease when considering the increase in net sales area. This stance is considered appropriate given the overall amount of comparison floor space being considered.

PBA has raised queries with respect to the applicant's assessment of the uplift of convenience floor space. A full response is awaited, however, in the meantime, the following response has been provided on behalf of the applicant:

#### Summary of Uplift in Convenience Floorspace

As part of the consideration of the extant outline planning permission, PBA was instructed to undertake a detailed cumulative assessment of three proposed developments for foodstores within Hemel Hempstead. The separate proposals, including the floorspace and anticipated turnovers at a consistent date (2018) are set out in the Table below.

Development Proposal	Net Convenience Floorspace	Turnover at 2018
Jarman Park	812 sq. m	£7.8m
Lidl, Maylands Avenue	982 sq. m	£3.8m
Aviva Scheme, Maylands Avenue	1,414 sq. m	£17.2m
Total	3,196 sq. m	£28.8m

PBA concluded that the cumulative impact of the three proposed convenience stores on Hemel Hempstead and other defined centres was not 'significantly adverse'. Paragraph 6.3.3 of its Final Report (November 2015) stated:

In respect of the convenience sector, the cumulative effect would be less pronounced. This is primarily because there is only one significant foodstore within Hemel Hempstead town centre and instead the additional convenience floorspace would compete most readily with the strong out-of-centre provision, including mutual impacts on the schemes themselves.

The proposed development at Jarman Park was approved following a planning appeal but the proposed Lidl store at Maylands Avenue was refused by the Council on the ground of loss of employment space and design. No planning appeal was not lodged within the statutory time frames and that scheme is no longer being progressed.

The Table below shows the extant and proposed convenience floorspace having regard to the revised development scheme at the application site. It demonstrates that there is a material reduction in both the total convenience sales floorspace (- 446 sq. m) and turnover (- £1.8m) from that previously considered by PBA.

Development Proposal	Net Convenience Floorspace	Turnover at 2018
Jarman Park	812 sq. m	£7.8m
Aviva Scheme, Maylands Avenue	1,900 sq. m	£19.2m
Total	2,750 sq. m	£27m

The PPG requires applicants to provide a 'proportionate assessment' of impact. In light of the cumulative assessment previously undertaken by PBA and the reduction in the combined convenience floorspace and turnover it had deemed acceptable, the proposed development is considered to accord with development plan policies relating to impact.

As per the previous advice, the principal impacts of the additional convenience floorspace proposed at the application site will fall on other, existing 'out of centre' foodstores (e.g. Sainsbury's, Tesco and the two Aldi stores) as well as competing against themselves. The cumulative impact on Hemel Hempstead and other defined centres is not considered to be unacceptable.

Additionally, PBA's advice goes on to state that the increase in convenience floor space could be acceptable, noting the following:

It is recognised that PBA's November 2015 advice found that there would not be a harmful cumulative impact on the convenience sector from three schemes and this included a Lidl store of some 982m<sup>2</sup> net of convenience floor space. The application for this Lidl was refused and an appeal has not been submitted. Therefore, subject to the applicant undertaking the necessary analysis (bearing in mind the changes in convenience forecasts) and taking a proportionate approach to the evidence (bearing in mind it is not our role to justify the scheme) it is expected that the increase in net convenience floor space could be acceptable.

(No emphasis added)

It follows the proposed uplift in convenience floor space from the previous approval would not result in significant harm to the town centre and as such would not be contrary to the aims of Policy CS16 of the Core Strategy.

- *Increase in the amount of Class A3 space from 650m<sup>2</sup> to 725m<sup>2</sup>*

Given the size of the town centre and the function of the restaurant Class A3 space which is not a destination point in its own right, the increase in restaurant space is considered acceptable. It is also noted that the number of restaurant units has decreased from three to two when comparing the proposal with the outline approval. As such, this element of the proposal would not harm the viability or vitality of the town centre in accordance with Policy CS16 of the Core Strategy.

- *Extension to the permitted retail use to include the sale of baby and children's clothing and maternity wear from one unit*

No objections would be raised to this element of the proposal as set out in PBA advice.

PBA's previous advice as set out in the report associated with the outline application was that the impact on the town centre could be mitigated through the careful control of the amount of fashion floor space by planning conditions.

However, this element of the proposal is sought to allow specifically for the sale of baby and children's clothing and maternity wear. No such store currently exists at Hemel Hempstead Town Centre at present. The Planning Statement submitted in support of the proposal



identifies other clothing and fashion retailers which have a unit within Hemel Hempstead or Berkhamsted Town Centres. It is noted that none of the clothing retailers currently found in Hemel Hempstead offer baby and children's clothing and maternity wear as their primary goods; PBA in their advice has described this as part of a wider range of fashion goods.

To allow for the sale of such clothing from one retail unit would be most comparable with retailer Jojo Maman Bebe which has a presence in Berkhamsted Town Centre. However, due to the distance of Berkhamsted Town Centre and this centre's own customer catchment, it would not be unreasonable to allow such a store to trade from the application site.

As such, the proposal for the selling of such clothing targeting a specific customer / market would not be in direct competition with any of the main clothing retailers within Hemel Hempstead, which cater for a much wider range of customers.

Another fact which weighs in favour of this element of the proposal is that the sales density for such a store would lower the average sales density across the proposed retail development. PBA agree with this approach, noting the Planning Statement also argues that the average turnover of £3,405 per square metre net for the intended occupier would be lower than the turnover assumed for the extant permission of £4,000 per square metre net.

The following conclusion was reached by PBA:

"Therefore, taking into account the qualitative gap for this type of retailer, the fact that the existing children's clothing provision is within existing stores selling other products, the low level of turnover per sqm net vis-a-vis the turnover used in the extant permission means that we can agree that this change on its own would not cause an unacceptable impact on any designated town centres."

Consequently, this element of the proposal to allow the sale of baby and children's clothing and maternity wear from one unit would not prejudice the health of nearby town centres and is considered acceptable against Policy CS16 of the Core Strategy.

#### *Cumulative impact*

The matter of cumulative impact of the proposed scheme takes into account the proposed changes above the outline permission together with the recently allowed appeal at Jarman Park (reference above). Under the previous outline application, cumulative impact took into consideration the combined impact of the application scheme (under 4/01132/15/MOA), the Jarman Park proposal which at the time was subject to a live appeal at determination, and the Lidl application at the Kier site (opposite Maylands Avenue).

The principle of both the retail scheme at the application site and the retail offer at Jarman Park (now allowed on appeal) has been established. As such, the main focus of the assessment of the principle of this current application should be based on the changes sought compared with the extent of retail provision and breakdown under the previous outline approval on the site.

It is considered that the matter of cumulative impact of the application site as well as Jarman Park coming forward would not have a significant adverse impact on the vitality and viability of Hemel Hempstead Town Centre in light of retailer demand advice prepared by consultants Chase and Partners, an assessment which was carried out under the previous outline application. The Chase and Partners report dated November 2015 is considered relevant in the assessment of the current application, and was also considered relevant at the time of the Inspector's decision during the Jarman Park appeal (decision dated 4 March 2016). The main findings were set out in the previous committee report for outline permission and for ease are also included below:

- The level of comparison retailers in Hemel Hempstead is well above the national average. Comparison retailers occupy the largest proportion of units within the town centre. The high proportion of such retailers in the town centre and the reasonably expensive goods they sell is indicative that the town is in reasonable health.
- The vacancy level in Hemel Hempstead is slightly below the national average. This is also an indicator that the town is in reasonable health.
- Experian Goad has identified a number of multiple retailers as being 'key attractors'. Of the 30 key attractors, 23 are represented within Hemel Hempstead. This is a positive indicator of the town being in reasonable health.
- It is important for a town to have a variety and mix of multiples and independents, which is a feature of Hemel Hempstead town centre.
- The Riverside Shopping Centre has attracted a number of multiple retailers including a Debenhams department store and many fashion retailers.
- Dacorum Borough Council has been proactive in improving the quality of offer and environment through its 'Hemel Evolution' strategy. This investment will be critical for the future health and longer term success of the town centre as a retail destination.

As a result of these findings it was found under the previous outline application that the town centre could withstand the competition of both the outline retail scheme on the application site as well as that of Jarman Park.

Whilst the Chase and Partners November 2015 report has not been updated and no further health checks have been carried out, the health of the town centre has probably improved given that:

- A few months ago, a survey showed that vacancy rates in the town centre had fallen appreciably and were now (I think) below the national average. I don't know who this study was carried out by and what the vacancy rate in Hemel town centre is.
- The completion of further stages of the Council's Hemel Evolution project have increased the attractiveness of the town centre.

The following extract from the previous committee report notes PBA's conclusions on cumulative impact considered under the outline application:

Cumulative comparison impact on Hemel Hempstead Town Centre (Further Retail Review sections 5.2, 5.4, 5.5 and 6.3, dated November 2015): paragraph 5.5.3 assumes that the application proposal and Jarman Fields scheme will be controlled to limit the amount of floor space devoted to clothing and fashion. Nevertheless, paragraph 6.3.1 states that there is the potential for a significant adverse impact on Hemel Hempstead town centre, particularly due to diversion within the comparison goods sector. The following conclusion is reached in paragraph 6.3.5:

"The results of the cumulative assessment exercise demonstrate that DBC should only support either Jarman Fields or the current application."

PBA in the above advice (reported by Strategic Planning comments on the outline application) found the comparison element to be of concern where either the application site or Jarman Park should be supported. The amount of comparison floor space is broadly similar to the previous approval (a reduction of comparison floor space of 48m<sup>2</sup> is proposed) and therefore

the cumulative impact of both schemes would not be adverse on the town centre.

PBA also found that cumulative convenience impact on Hemel Hempstead Town Centre would be less pronounced in Hemel Hempstead town centre than the comparison impact. Their previous advice in their Further Retail Review (November 2015) went on to state that this was primarily because there is only one significant foodstore in the town centre, so any additional convenience floor space would compete mainly with other out of centre stores (such as Adeyfield, Leverstock Green and Woodhall Farm).

However, the outline permission (4/01132/15/MOA) is subject to a condition restricting the total gross internal floor space and the breakdown of comparison and convenience floor space as set out below:

**4. The Class A1 retail floorspace hereby permitted shall have a maximum gross floor area of 12,503sqm. The net sales area of the Class A1 retail floorspace shall not exceed 9,262sqm comprising a maximum of;**

**1,414sqm (convenience food goods)**

**7,848sqm (comparison non-food goods)**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

In assessing the uplift of the increase in convenience floor space compared with the outline permission, it is noted that the reason for this condition was only to protect the vitality and viability of the town centre, and not the local centres listed above.

It is also important to note that PBA in their advice under the current application do not raise concern with respect to the impact on local centres.

The submitted Planning Statement makes the following comment with respect to the main convenience retailer within the town centre, which is considered relevant:

7.47 In its analysis, PBA projected that 93% of the trade diversion (£2.74m) would be experienced by the Asda store at Hillfield Road. That store is projected to be overtrading by £13m at 2021 (operating at 163% of its Company benchmark). It follows that the cumulative impact of the committed and proposed development, even in this most extreme scenario, would still not result in the risk of any store closures. It follows the range of services in Hemel Hempstead town centre would remain constant and therefore its overall attraction maintained.

When considering the above factors, the current proposal would not represent a significant material change in the retail offer compared with the granted outline scheme and on the basis of the submitted and available information the proposal would not have an adverse cumulative impact on Hemel Hempstead Town Centre or surrounding local centres, subject to the imposition of similar conditions to the previous outline permission.

Such conditions would include:

- Setting out total gross internal area and breakdown of convenience and comparison floor space;
- Restriction on minimum gross internal area for the retail Class A1 units;
- Restricting the maximum number of retail Class A1 units;
- Capping mezzanine floor space and requiring a plan showing the distribution of this over the retail Class A1 units;
- Restriction for in-store post office, pharmacy, photo shop or financial services;
- Restricting the amount of restaurant floor space;

- Removing permitted development rights.

As a result, the proposed development would not conflict with the aims of Policy CS16 of the Core Strategy with respect to ensuring the vitality and viability of the town centre.

#### Access, traffic and parking

The proposed development would be accessed via the existing signalised junction on Maylands Avenue. A further exit only access onto Maylands Avenue is proposed approximately 130m to the north of the Maylands Avenue / A414 roundabout. Subject to conditions set out in their comments above, the highway authority have no objection to the development and proposed access works.

The application was accompanied by a Transport Statement and the highway authority has found the assessment acceptable subject to provision of a Travel Plan for occupants which shall be conditioned.

With respect to on-site parking provision, the site lies within Accessibility Zone 3 (as set out in Supplementary Planning Guidance) where 50% to 75% of the maximum parking standard applies.

Saved Appendix 5 of the Local Plan sets out maximum parking standards. The highway authority has made an assessment on parking provision based on these local standards, stating that the proposal would accommodate 90% of the maximum parking standard and consequently no concerns have been raised with respect to parking. This assessment is considered appropriate noting the following:

- Class A1 food discount retailer: 1 space per 18m<sup>2</sup> for food stores up to 2,500m<sup>2</sup>, resulting in a maximum 102 spaces for 1,825m<sup>2</sup> of gross floor area.

102 spaces are provided immediately in front of this retail Class A1 unit.

- Class A1 food retailer at main site: 1 space per 18m<sup>2</sup> for food stores up to 2,500m<sup>2</sup>, resulting in a maximum 87 spaces for 1,554m<sup>2</sup> of gross floor area.
- Class A1 non-food retail: 1 space per 35m<sup>2</sup> (non-food without garden centre), resulting in a maximum 274 spaces for 9,587m<sup>2</sup> of gross floor area.
- Class A3 fast food: 1 space per 8m<sup>2</sup>, resulting in a maximum 98 spaces for 780m<sup>2</sup> of gross floor area.

The maximum parking standard for the retail and restaurant uses within the main (central) section of the retail park is 459. The main retail car park provides 455 car spaces.

24 disabled parking spaces, 18 parent and child spaces and two spaces with electrical charging points would be accommodated for within the main retail car park.

Five disabled parking spaces and nine parent and child spaces would be provided within the northern car park serving the discount food retail unit.

The proportion of disabled parking is considered acceptable noting the 4% of total provision standard set out in saved Appendix 5 of the Local Plan.

Office Class B1 requires one space per 35m<sup>2</sup>, resulting in a maximum 99 spaces for 2,954m<sup>2</sup> gross floor area. The proposed office site would appear of sufficient area and scale in order to successfully accommodate 99 car parking spaces to accord with the above-mentioned parking

provisions.

Further details shall be sought through condition to secure appropriate levels of cycle parking for the proposed development.

The proposal is therefore considered acceptable with respect to access, traffic and parking in accordance with Policies CS8 and CS12 of the Core Strategy and saved Policy 58 of the Local Plan.

### Layout and landscaping

#### *Full application for retail and restaurant development*

The layout of the retail park would be satisfactory, noting there is no consistent pattern of development in the surrounding area (also noting the mix of uses). The detached discount food retail unit and the two restaurant units would be sited closest to the site's Maylands Avenue frontage, however a sufficient landscaping strip would be accommodated to soften the appearance of the development.

The main car park in front of the retail terrace would be set back from the two main street frontages which is considered appropriate.

Whilst the retail terrace would be considerably set back from Maylands Avenue, the southernmost unit (Unit 11) would represent a focal point on Breakspear Way and into Maylands Gateway and given the fall in levels to the south, this corner building would appear prominent, although some distance from Breakspear Way.

Additionally, the relocation and reorientation of the retail terrace would address layout concerns raised under the previous outline application. The retail terrace would be serviced along its eastern elevation and servicing would be concealed from Maylands Avenue which is considered an improvement from the previously considered indicative layout.

Servicing to the detached retail unit would occur on its northern elevation however due to the landscape buffer along Maylands Avenue this would not be a prominent feature of the development to raise concern.

Mezzanine levels for the retail Class A1 units are proposed, however details of these have not been provided. Instead, the Planning Statement includes a suggested condition for additional details to be submitted showing the distribution of mezzanine floor space. This is considered satisfactory, however the allocation of mezzanine floor space should not exceed maximum comparison and convenience floor areas set out above which shall also be conditioned.

The proposal would incorporate an extension to the existing public footpath to the north-east of the site to allow a pedestrian route between Hales Park and the discount retail unit (and the wider retail park). This is considered to be a significant benefit weighing in favour of the proposal satisfying Policy CS12 of the Core Strategy.

#### *Outline application for office Class B1*

Concern has been expressed by Strategic Planning with respect to the layout which would result in the proposed offices being accessed either via the retail car park or the servicing area. This has raised the question as to whether the offices would be attractive to occupiers and therefore viable. This part of the proposal is subject to an outline application with all matters reserved and in the absence of any indicative layout plans for the office (Class B1) element of the proposal, a request has been made for information as to how this part of the site would be accessed.

The applicant is of the view that the site is accessible and deliverable and therefore viable in providing offices within the southern portion of the site.

Access to the office site has not been shown on the plans as this part of the application is subject to outline with all matters reserved (including access). Access to the office site could be via the main retail car park using the main entrance off Maylands Avenue. Whilst unconventional, it is considered that the peak times for accessing the office would not coincide with peak customer times for the main retail park.

It follows that the proposal is acceptable in accordance with Policies CS10, CS12, CS13 and CS25 of the Core Strategy.

#### Appearance of buildings and impact on appearance of street scene

Recommendations have been put forward by Conservation and Design in their initial set of comments with respect to the orientation, prominent elevations and materials of buildings. The detached discount food retail unit, the two restaurant units and the southern end unit would be prominent both from the principal street scenes of Maylands Avenue and Breakspear Way and also from within the retail park.

The detached retail Class A1 unit within the northern part of the site would be sited proximate to Maylands Avenue and the amended plans propose the breaking-up of the long flank elevation facing the street through the insertion of panels of grey aluminium cladding.

Suggestions were made with respect to the two-storey restaurant unit (Unit 02) located immediately south of the main entrance to have a more active frontage to Maylands Avenue rather than the single-storey element, as such reorientation of this building was considered. However, this would not be favourable as the drive-through arrangement can only work in a clockwise direction. Large first floor windows to the upper level dining area would overlook Maylands Avenue and activity within would be visible from the north and south of the building when traveling along Maylands Avenue.

The design of the smaller restaurant unit (Unit 03) has been altered to adjust eaves depth and reduce bulk at roof level which is considered appropriate, noting its prominent location proximate to the principal street frontage.

The southernmost unit of the retail terrace (depending on the reserved matters for the office development to occupy the southern portion of the site) would be prominent from Breakspear Way, also noting the fall in levels and terracing across the site to this street frontage. The design of this unit would be acceptable incorporating a mix of materials to add interest to this focal point.

Amended plans have been submitted to show the slight relocation of the transformer further south and east giving it a greater setback from Maylands Avenue and from the prominent corner with the existing signalised junction that would lead into and out of the retail park. A reduction in size of the transformer together with screening measures have also been submitted. These are considered satisfactory and the amendments would ensure the transformer would not appear unduly prominent from public vantage points.

The majority of the proposed external materials are acceptable however to ensure the high quality and cohesion of the retail park, samples of materials shall be conditioned if planning permission is granted.

Whilst car parking, in particular the main car park, dominates the site, an appropriate balance must be achieved between ensuring a high quality development and appropriate provision of

parking. Additional planting to soften the car park has been suggested by Conservation and Design, however the amount of planting is influenced by other objectives such as clear visibility of retail units, identification of vacant parking areas, and minimal cover to deter theft from cars. Additionally, as noted above, the proposal incorporates a sufficient landscape buffer to Maylands Avenue to appropriately soften the parking area.

It follows the proposal accords with Policies CS10, CS12, CS13 and CS25 of the Core Strategy.

#### Impact on neighbouring properties

The proposed development would not prejudice the adjacent office sites immediately to the north and would not restrict development on the adjoining site to the east. The nearest residential properties are located to the south in Leverstock Green, however the wide road reserve of Breakspear Way would provide a sufficient buffer to these properties. Similarly, the nearest dwellings within Hales Park would not be sited directly adjacent to proposed buildings or the associated servicing area or route. The proposal is therefore acceptable under Policy CS12 of the Core Strategy.

#### Drainage and flood risk

Thames Water have raised no objection to the proposal.

Hertfordshire Lead Local Flood Authority (LLFA) in their initial response did not consider the submission to be satisfactory with respect to flood risk. An updated Flood Risk Assessment / Drainage Report has been submitted to address the LLFA objection and include details of the proposed outline office Class B1 site. Comments from the LLFA are awaited.

#### Contaminated land and air quality

Subject to conditions recommended by the Environmental Health team these matters are acceptable in accordance with Policy CS32 of the Core Strategy.

#### Crime prevention

The Hertfordshire Crime Prevention officer has made some recommendations including the imposition of conditions requiring the provision of CCTV and relating to Park Mark, which shall be imposed if planning permission is granted, to accord with Policy CS12 of the Core Strategy.

#### Ecology

Subject to the imposition of suggested conditions, the proposal is satisfactory in this regard in accordance with the aims of the NPPF.

#### Sustainability

Notwithstanding the submitted sustainability statement it is considered reasonable to require further details relating to sustainability and energy efficiency in light of the various elements of the proposal subject to approval outlined above, to accord with Policies CS29 and CS31 of the Core Strategy.

#### Section 106 agreement

A Section 106 agreement is required to secure financial contributions and other matters detailed as follows:

Hertfordshire County Council's Planning Obligation Guidance (2008) requires a two-strand approach to planning obligations in order to address the immediate impacts of the development (first strand) and the cumulative impact of all development on non-car networks (second strand). Only the First Strand would be applicable to this and other cases in Dacorum. The second strand does not comply with our approach under Regulations 122 and 123 of the CIL Regulations as the Council indicate it will use CIL funding for 'strategic and local transport proposals'.

- First Strand - financial contributions may be required to address the immediate and direct impacts of the proposed development on the local highway network. This is likely to be limited to mitigation measures at adjacent junctions to the application site and those works to access the development.
- Provision of a Travel Plan
- Financial contribution to Maylands Public Realm - the Council has excluded the Maylands Public Realm improvements from the Regulation 123 list and those items upon which it intends to spend CIL receipts. As such it is appropriate to secure such funds through a Section 106 agreement. The site represents a key area for the future regeneration of the business park as Dacorum Borough Council look to improve the quality of the built environment. The Maylands Masterplan, which was adopted by the Council as a planning policy consideration in September 2007, identifies these sites within the 'Face of Maylands' character zone. This zone is identified as high quality office led location.

The current site gives a mixed impact on Maylands Avenue delivering some Class B1 (office) and other retail uses. The new retail proposals seek to significantly reduce the level of office content within the development as to what has been previously approved. The site will significantly reduce the level of employment generating uses and provide lower amounts of employment than what would have been generated through previous office approvals. The new retail uses will also detract from the business park nature of the area through adding a wider mix of uses.

On this basis, contributions are sought towards the Maylands public realm improvements, which is necessary to mitigate the impact of the development. The Maylands Masterplan and Gateway development brief set a clear vision for the area, noting the desire to create a 'pleasant, high quality environment' among other objectives. A programme of works has been scheduled which details substantial improvements to the public realm of the Maylands Business Park; and most importantly the Maylands Avenue frontage has significant upgrade works detailed. Funding has been secured for the majority of the works; however, a proportion is expected to be achieved through Section 106 contributions associated with development taking place within the areas of the Development Brief. New developments are to contribute towards these with the schedule split into a number of sections with developments contributing 20% of the cost of the works of the section immediately to the front of the development site.

The total contribution requested therefore is £166,984.60.

- To secure retail conditions as set out under the Section 106 agreement attached to the previous outline permission amended as relevant (particularly to allow the sale of baby and children's clothing and maternity wear from one unit).

#### Community Infrastructure Levy (CIL)

The development of the site is subject to a CIL payment calculated in accordance with the CIL Charging Schedule. The convenience based retail and retail warehouse elements (Class A1) of the scheme are chargeable at £150 per square metre. A zero charge is levied against



"other" uses within the Charging Schedule and as such no charge is levied against either the Class B1 or Class A3 uses.

It is noted that the restaurant unit of split Class A1 and Class A3 would not exceed the minimum floor space threshold for which CIL would be required.

The scheme results in an overall CIL liability of some £1,875,450.

### **Referral to Secretary of State**

Under the Town and Country Planning (Consultation) (England) Direction 2009 paragraph 5.(1) local planning authorities are required to refer applications to the Secretary of State for development outside town centres consisting of or includes retail, leisure or office use, and which-

- (a) is to be carried out on land which is edge-of-centre, out-of-centre or out-of-town; and
- (b) is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and
- (c) consists of or includes the provision of a building or buildings where the floor space to be created by the development is:
  - (i) 5,000 square metres or more; or
  - (ii) extensions or new development of 2,500 square metres or more which, when aggregated with existing floor space, would exceed 5,000 square metres.

Given that the application is for Class A1 use on land designated for Class B1 employment use and exceeds the floor space stated it is considered that should the committee accept the recommendation to grant planning permission that the application be referred to the Secretary of State as it is considered the proposal does not comply with the provisions of paragraph 5.(1) above.

It is considered that in accordance with the direction the application should be referred to the Secretary of State for consideration as to whether the application should be called-in.

### **Recommendations**

That in accordance with paragraph 5.(1) of the Town and Country Planning (Consultation) (England) Direction 2009 the application be **REFERRED** to the Secretary of State (DCLG).

In the event that the Secretary of State does not call in the application that the application is **DELEGATED** to the Group Manager of Development Management and Planning with a view to approval subject to the completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 and the draft list of conditions below.

1. That the following Heads of Terms for the planning obligation be agreed:

- Financial contribution to address the immediate impacts of the proposed development on the local highway network to be agreed
- Provision of a Travel Plan
- Provision of fire hydrants
- Financial contribution towards Maylands Public Realm of £166,984.60
- To secure compliance with the retail conditions that preclude the sale of the following goods:
  - clothing and footwear; and
  - jewellery and fashion accessories;

2. That the following conditions be imposed:

**RECOMMENDATION** - That determination of the application be **DELEGATED** to the Senior Manager, Development Management, following the expiry of the consultation period and no additional material considerations being raised, with a view to grant for the following reasons.

**1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

**Outline Planning Permission element (office Class B1)**

**2 Approval of the details of the siting, scale, design and external appearance of the office building[s], the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development of that floor space is commenced.**

Reason: To comply with the provisions of Section 92 (2) of the Town and Country Planning Act 1990.

**Full Planning Permission element (Class A floor space and associated physical works)**

**3 The Class A1 retail floorspace hereby permitted shall have a maximum gross floor area of 12,503sqm. The net sales area of the Class A1 retail floorspace shall not exceed 9,700sqm comprising a maximum of:**

**1,900sqm (convenience food goods)  
7,800sqm (comparison non-food goods)**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

**4 The retail Class A1 units hereby permitted shall have a minimum gross internal area floor space of 650sqm (Units 01 and 04 to 11 inclusive as shown on Drawing No. 16023-P-005 Rev C).**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

**5 The development hereby permitted shall be limited to a maximum of nine (9) units for use exclusively within Class A1 (Units 01 and 04 to 11 inclusive as shown on Drawing No. 16023-P-005 Rev C).**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 6 **No retail unit shall contain a dedicated in-store post office, pharmacy, photo shop or financial services.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre and Heart of Maylands Local Centre in accordance with Core Strategy Policy CS16.

- 7 **Units 02 and 03 as shown on Drawing No. 16023 P-005 Rev C shall be limited to a maximum gross internal floor space area of 725sqm for use within Classes A3 / A5 and Classes A1 / A3, respectively.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 8 **The retail units hereby permitted shall not be used other than as a shop within Class A1 in accordance with other conditions of this planning permission and the Units 02 and 03 (identified on Drawing No. 16023-P-005 Rev C) shall not be used other than for Classes A1 / A3 and Class A3 / A5 uses and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification and for no other purpose permitted under Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.**

Reason: In the interests of safeguarding the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 9 **Of the total retail floor space (Class A1) hereby permitted (12,503sqm), no more than 2,505sqm (gross internal area) shall be installed at mezzanine level. Prior to the installation of any floor space at mezzanine level, metrically scaled floor plans showing the layout, amount and distribution of mezzanine floor space shall be submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

Reason: In the interests of safeguarding the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16 and for the avoidance of doubt.

- 10 **The proposed development hereby permitted shall not be open to customers other than between the following hours for the uses specified below:**

**Retail Class A1 units (Units 01 and 04 to 11, inclusive, as shown on Drawing No. 16023-P-005 Rev C): 07:00 to 22:00 Monday to Saturday and between 10:00 and 18:00 on Sunday**

**Restaurant units (Units 02 and 03 as shown on Drawing No. 16023-P-005 Rev C): 24 hour operation Monday to Sunday**

Reason: For the avoidance of doubt.

- 11 **The development of each building hereby permitted shall not take place before**

**samples of the materials to be used in the construction of the external surfaces of that building are submitted for approval in writing by the local planning authority.**

**Development shall be carried out in accordance with the approved details. Please do not send materials to the council offices. Materials should be kept on site and arrangements made with the planning officer for inspection.**

Reason: To ensure a satisfactory appearance to the development in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

12 **The development hereby permitted shall not commence before full details of both hard and soft landscape works have been submitted and approved by the local planning authority. These details shall include:**

- **hard surfacing materials;**
- **means of enclosure;**
- **soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;**
- **trees to be retained and measures for their protection during construction works;**
- **proposed finished levels or contours;**
- **car parking layouts and other vehicle and pedestrian access and circulation areas;**
- **minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc);**
- **proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc, indicating lines, manholes, supports etc);**
- **retained historic landscape features and proposals for restoration, where relevant.**

**As the development may be delivered in phases, appropriate information relating to the detail of individual phases may be submitted and agreed by the local planning authority.**

**The approved landscape works shall be carried out prior to the development being brought into use.**

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

13 **The development hereby permitted shall not commence before a Landscape Management Plan for a period of five (5) years from the date of the implementation of the landscaping scheme is submitted and approved in writing by the local planning authority. The scheme shall include long term design objectives, management responsibilities and maintenance schedules for the landscaped areas. The landscaping shall be managed in accordance with the approved plan.**

Reason: To ensure a satisfactory appearance to the development and to safeguard

the visual character of the immediate area in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

- 14 **The development hereby permitted shall not take place before the submission of a scheme for the protection of existing trees within and adjoining the site for approval in writing by the local planning authority. The approved scheme of protection shall be installed in accordance with the details approved and shall be maintained in place during the whole period of site demolition, excavation and construction (including any excavation for the purposes of archaeological assessment).**

Reason: In order to ensure that damage does not occur to the trees / hedges during building operations in accordance with saved Policy 99 of the Dacorum Borough Local Plan 1991-2011 and Policy CS12 of the Dacorum Core Strategy 2013.

- 15 **In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of five (5) years from the date of the occupation of the building for its permitted use.**

**(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998: 1989 Recommendations for Tree Work.**

**(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of a size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.**

**(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.**

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Policy CS12 of the Dacorum Core Strategy 2013 and saved Policy 99 of the Dacorum Borough Local Plan 1991-2011.

- 16 **Development of each building shall not take place before details of the proposed slab, finished floor and ridge levels of that building in relation to the existing and proposed levels of the site and the surrounding land shall have been submitted to and approved in writing by the local planning authority. The buildings shall be constructed in accordance with the approved levels.**

Reason: For the avoidance of doubt and to ensure a satisfactory form of development in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

- 17 **No removal of hedgerows, trees or shrubs, brambles, ivy and other climbing**

**plants or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and / or that there are appropriate measures in place to protect nesting bird interest on site.**

**Any such written confirmation shall be submitted to the local planning authority.**

Reason: In the interest of safeguarding any ecological interest on the site in accordance with the NPPF.

- 18 **The development of each building hereby permitted shall not commence before detailed plans are submitted and approved in writing by the local planning authority which show the proposed access arrangements for the internal four-arm roundabout, servicing access for the discount retailer (Unit 01 shown on Drawing No. 16023-P-005 Rev C), exit-only egress for the retail car park onto Maylands Avenue, and the widening of the signalised junction access to Maylands Avenue. Development shall be carried out in accordance with the approved plans and any approved phasing strategy.**

Reason: In the interests of highway safety and to safeguard the amenity of other uses of the public highway and rights of way in accordance with Policy CS8 of the Dacorum Core Strategy 2013 and saved Policy 54 of the Dacorum Borough Local Plan 1991-2011.

- 19 **The development hereby permitted shall not commence before full details in the form of metrically scaled plans and written specifications shall be submitted and approved in writing by the local planning authority to illustrate the following:**

- a) Roads, footways, foul and on-site water drainage;
- b) Existing and proposed access arrangements including visibility splays;
- c) Parking provision;
- d) Cycle parking provision;
- e) Servicing areas, loading areas and turning areas for all vehicles.

**As the development may be delivered in phases, appropriate information relating to the detail of individual phases may be submitted and agreed by the local planning authority.**

**The development shall be carried out in accordance with the approved plans and any approved phasing strategy.**

Reason: In the interests of maintaining highway efficiency and safety in accordance with Policy CS8 of the Dacorum Core Strategy 2013 and saved Policy 54 of the Dacorum Borough Local Plan 1991-2011.

- 20 **The development hereby permitted shall not be occupied for trading before a Delivery and Servicing Plan has been submitted and approved by the local planning authority. The Delivery and Servicing Plan shall contain the delivery and servicing requirements (including refuse collection) for the proposed uses, a scheme for coordinating deliveries and servicing for the proposed development, areas within the development site that will be used for loading**

**and manoeuvring of delivery and servicing vehicles, access to / from the site for delivery and servicing vehicles, and to ensure that there is no conflict between parked vehicles and arriving or departing vehicles in the service yard. Development shall be carried out in accordance with the approved details.**

**As the development may be delivered in phases, appropriate information relating to the detail of individual phases may be submitted and agreed by the local planning authority.**

Reason: In the interests of maintaining highway efficiency and safety in accordance with Policy CS8 of the Dacorum Core Strategy 2013 and saved Policy 54 of the Dacorum Borough Local Plan 1991-2011.

- 21 **The development hereby permitted shall not commence before a Stage 1 Road Safety Audit for all access arrangements is submitted and approved in writing by the local planning authority. The Stage 1 Road Safety Audit should consider the four-arm roundabout access within the proposed development site, exit-only egress from the retail car park onto Maylands Avenue and the widening of the signalised junction access with Maylands Avenue.**

Reason: In the interests of maintaining highway efficiency and safety in accordance with Policy CS8 of the Dacorum Core Strategy 2013 and saved Policy 54 of the Dacorum Borough Local Plan 1991-2011.

- 22 **No later than six months following occupation of each unit of the development hereby permitted, the occupier (retail, restaurant or office land uses) shall submit a Travel Plan in accordance with Hertfordshire's Travel Plan Guidance to be reviewed and approved by the local planning authority in conjunction with the highway authority. Implementation of the Travel Plan shall follow a timescale to be agreed by the local planning authority and the highway authority.**

Reason: To promote sustainable transport measures to the development in accordance with Policy CS8 of the Dacorum Core Strategy 2013.

- 23 **Construction of the development hereby permitted shall not commence until a Construction Traffic Management Plan has been submitted and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:**

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

Reason: To protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policy CS8 of the Dacorum Core Strategy 2013 and saved Policy 54 of the Dacorum Borough Local Plan 1991-2011.

- 24 **The development hereby permitted shall not be occupied before a swept path assessment for the proposed four-arm roundabout demonstrating that a 16.5m articulated lorry can safely traverse through the roundabout to access the servicing and delivery areas for the retail buildings is submitted and approved by the local planning authority.**

Reason: In the interests of maintaining highway efficiency and safety in accordance with Policy CS8 of the Dacorum Core Strategy 2013 and saved Policy 54 of the Dacorum Borough Local Plan 1991-2011.

- 25 **Unless otherwise agreed in writing by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Conditions 25 to 28 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Condition 28 has been complied with in relation to that contamination.**

#### **Site Characterisation**

**An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:**

- a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - (i) human health,
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
    - archaeological sites and ancient monuments;
- an appraisal of remedial options, and proposal of the preferred option(s).

**This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors in accordance with Policy CS32 of the Dacorum Core Strategy 2013.

- 26 **Submission of Remediation Scheme**



**A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy 2013.

## **27 Implementation of Approved Remediation Scheme**

**The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.**

**Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy 2013.

## **28 Reporting of Unexpected Contamination**

**In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 25 above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 26, which is subject to the approval in writing of the Local Planning Authority.**

**Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Condition 27.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy 2013.

INFORMATIVE:

The applicant is advised that a guidance document relating to land contamination is available in the Council's website:

<http://www.dacorum.gov.uk/default.aspx?page=2247>

- 29 **The development hereby permitted shall not commence construction before an updated Air Quality Assessment has been submitted and approved in writing by the local planning authority. The updated Air Quality Assessment shall be updated to include current baseline monitoring data with respect to traffic-related pollution and construction phase mitigation measures. The development shall be carried out in accordance with the approved details.**

Reason: To safeguard the local environment in terms of air quality in accordance with Policy CS32 of the Dacorum Core Strategy 2013.

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

The scheme shall also include:

- a) Details of how the scheme shall be maintained and managed after completion;
- b) Details of the proposed drainage scheme providing a drainage plan showing the location of any proposed SuDS, pipe runs and any areas of proposed informal flooding;
- c) Detailed assessment of the existing surface water flood risk as shown on the EA National surface water flood maps, ensuring the development layout does not place any proposed properties at risk from surface water flooding;
- d) Justification of SuDS selection giving priority to above ground methods, reducing the requirement for an underground piped system, reducing the requirement for overly deep attenuation ponds;
- e) Detailed engineering details of the design of the proposed SuDS features;
- f) Detailed surface water drainage calculations for all rainfall events up to and including the 1 in 100 year + climate change event.

Reason: To prevent the increased risk of flooding, both on and off site in accordance with Policy CS31 of the Dacorum Core Strategy 2013.

- 31 **The development hereby permitted shall not be commenced until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved in writing by the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.**

Reason: The development may lead to sewerage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact on the community in accordance with Policies CS31 and CS32 of the Dacorum Core Strategy 2013.

- 32 **The restaurant units (Units 02 and 02 shown on Drawing No. 16023-P-005 Rev C) hereby permitted shall not be occupied before a scheme for ventilation of the premises, including the extraction and filtration of cooking fumes has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out prior to the commencement of the use hereby permitted.**

Reason: In the interests of the amenity of occupants, visitors and adjoining uses in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

- 33 **A properly maintained fat trap shall be installed to serve any units operating within Class A3 hereby permitted at the application site.**

Reason: To prevent the blocking of drains, sewage flooding and pollution to local watercourses in accordance with Policies CS31 and CS32 of the Dacorum Core Strategy 2013.

- 34 **The development hereby permitted shall not commence before an updated Sustainability Statement and Energy Statement showing compliance with Policies CS29 and CS31 of the Dacorum Core Strategy 2013 have been submitted to and approved in writing by the local planning authority.**

**The development shall be carried out in accordance with the details approved.**

Reason: To ensure the sustainable development of the site in accordance with the aims of accompanying Policies CS29 and CS31 and paragraph 18.22 of the Dacorum Core Strategy September 2013 and the Sustainable Development Advice Note March 2011.

- 35 **No development shall take place until details of measures to recycle and reduce demolition and construction waste which may otherwise go to landfill, together with a site waste management plan (SWMP), shall have been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details.**

Reason: To accord with the waste planning policies of the area, Policy CS29 of the Dacorum Core Strategy 2013 and saved Policy 129 of the Dacorum Borough Local Plan 1991-2011.

- 36 **The development hereby permitted shall not be occupied until a Car Park Operation and Management Plan to demonstrate how access and security will be controlled within the car parking areas has been submitted to and approved in writing by the local planning authority in consultation with Hertfordshire Police. The car parking hereby permitted shall not be brought into use until the approved measures have been implemented in full and shall thereafter be retained.**

Reason: To prevent crime and protect people using the car park in accordance with paragraph 69 of the NPPF and Policy CS12 of the Dacorum Core Strategy 2013.

- 37 **No part of the development hereby permitted shall be occupied before information on the number and location of fire hydrants have been submitted to and approved in writing by the local planning authority. The relevant details shall include details on how the hydrants shall be incorporated into the mains water services whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus. The scheme(s) shall be implemented prior to occupation in accordance with the approved details.**

Reason: In the interests of health and safety.

- 38 **The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

**16023 P-003 D – Proposed Site Plan 1  
16023 P-004 D – Proposed Site Plan 2  
16023 P-005 C – Proposed Site Plan (received 25 January 2017)  
16023 P-006 A – Existing And Proposed Site Sections  
16023 P-007 A – Proposed Context Elevations  
16023 P-008 A – Unit 1 – Proposed Ground Floor Plan  
16023 P-009 – Unit 1 – Proposed Roof Plan  
16023 P-010 A – Unit 1 – Proposed Elevations And Section  
16023 P-011 A – Unit 2 - Proposed Plans , Elevations And Section  
16023 P-012 C – Unit 3 - Proposed Plans , Elevations And Section  
16023 P-013 - Units 04 To 11 - Ground Floor Plan - Sheet 1  
16023 P-014 - Units 04 To 11 - Ground Floor Plan - Sheet 2  
16023 P-015 - Units 04 To 11 - Roof Plan - Sheet 1  
16023 P-016 - Units 04 To 11 - Roof Plan - Sheet 2  
16023 P-017 - Units 04 To 11 - Proposed Elevations - Sheet 1  
16023 P-018 - Units 04 To 11 - Proposed Elevations Colour - Sheet 1  
16023 P-019 - Units 04 To 11 - Proposed Elevations Colour - Sheet 1  
16023 P-020 - Units 04 To 11 - Proposed Elevations - Sheet 3  
16023 P-021 - Units 04 To 11 - Proposed Elevations Colour - Sheet 3  
16023 P-022 - Units 04 To 11 - Proposed Sections - Sheet 1  
16023 P-023 - Units 04 To 11 - Proposed Sections - Sheet 2  
16023 P-025 – Phasing Plan  
TM271L01 – Landscape Masterplan  
TM271L02 B – General Arrangement North  
TM271L03 B – General Arrangement South  
TM271L04 A – Planting Strategy North  
TM271L05 A – Planting Strategy South  
TM271-SKP 19 – Transformer Screening Strategy**

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 35 Statement

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the

Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

## INFORMATIVES

### Highways

1. The applicant is advised that the storage of materials associated with the construction of the development should be provided within the site on land which is not public highway and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

2. General works within the highway: Construction standards for works within the highway: All works to be undertaken on the adjoining highway shall be constructed to the satisfaction and specification of the Highway Authority, by an approved contractor, and in accordance with Hertfordshire County Council's highway design guide "Roads in Hertfordshire". Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

3. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway.

Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

### Contamination

Paragraph 121 of the NPPF states that all site investigation information must be prepared by a competent person. This is defined in the framework as 'A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.'

Contaminated Land Planning Guidance can be obtained from Regulatory Services or via the Council's website [www.dacorum.gov.uk](http://www.dacorum.gov.uk)