

REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	3rd August 2011		
Application Number	10/03664/FUL		
Site Address	Methuen Park, Bath Road, Chippenham, SN14 0UL		
Proposal	Reconfiguration and refurbishment of existing retail warehouse to create 3 retail warehouse units together with improvements to car parking landscaping and servicing.		
Applicant	Legal and General Assurance Society Ltd		
Town/Parish Council	Corsham Town Council		
Electoral Division	Corsham Town	Unitary Member	Peter Davis
Grid Ref	389844 172029		
Type of application	FUL		
Case Officer	Charmian Burkey	01249 706667	Charmian.burkey@wiltshire.gov.uk

Reason for the application being considered by Committee

The application is being brought to Committee under Officers' discretion due to the significant amount of interest in the application. The application was deferred from Committee on 20th April 2011 to allow Officers to consider recent retail decisions at Peterborough and Gateshead and subsequently deferred again from committee on 1st June 2011 to allow the Council to seek Counsel's advice on particular issues raised by third party objectors.

1. Purpose of report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Report summary

The main issues in the consideration of this application are as follows:

- Visual appearance.
- Impact on vitality and viability of Chippenham Town Centre.
- Landscape considerations.
- Highways issues

The application has generated no objection from Corsham Town Council and 4 letters of objection from the public and Chippenham Vision

3. Site Description

The site is currently one large warehouse like building which houses Focus Do-It-All (now in administration). The building has been vacated since June 21st 2011. There is some significant landscaping around the site and there is an existing car park to serve the store.

4. Relevant Planning History		
Application Number	Proposal	Decision
N.90.2742.F	New building for non-food retail use/garden centre/associated landscaping/ car parking and access road.	Permitted subject to conditions including one restricting the sale of food other than confectionery
N.94.1610.F	Extension to existing garden centre	Permitted no conditions

6. Planning Policy

North Wiltshire Local Plan: policies C3; R4

Central government planning policy PPS4

7. Consultations

Corsham Town Council raise no objections.

Highways do not object subject to the proposal remaining non-food.

The Council's landscape officer is satisfied with revised proposals in relation to landscape issues and the specific matter of adequately retaining and incorporating existing trees as important landscape features subject to conditions.

Environment Agency does not object subject to conditions and an informative.

On 14th December 2010, the **Spatial Planning Team** confirmed it had no objection to the application and recommended planning permission be granted. However, in response to objections from ING the Team reviewed its position and again assessed the need for a full retail assessment (given the nature of the proposal to "reconfigure" part of the floorspace). A subsequent meeting was held between the agent, spatial plans officer and DC officer.

The agent subsequently revised the proposal so that the total sales area is 3375 sqm (comprising of 3 units with a total ground floor sales area of 2725sqm and one retail trading mezzanine of 650sqm floor area). The total sales space (of 3375 sqm) is marginally greater than the existing floor space on site (3,315sqm), but less than the permitted development (i.e. 3315sqm as existing plus 200sqm mezzanine) and takes no account of the retail sales space comprising the garden centre/external sales area (1,320sqm). The revised proposals now result in less sales space at ground floor level compared to the existing and 1460sqm less sales space overall.

On 2nd March, the Spatial Planning Team confirmed it was happy with this amended proposal.

ING (who are working with the Council on the Bath Road Car Park Site) are very concerned about the nature of this retail application. The proposed units are the size of units which could be attracted to the Bath Road Car Park site. They state that the supporting material fails to provide analysis sufficient to determine the planning application. Given the significant change in the retail

offer they consider the application requires both an assessment of retail impact and a sequential assessment of other sites.

They point to Policy R4 of the Local Plan and Planning Policy Statement 4, "Planning for Sustainable Economic Growth" (PPS4). Policy EC14.4 in PPS4 states that an impact assessment is required for planning applications below 2,500 sqm which are not in an existing centre and not in accordance with the development plan which would be likely to have a significant impact on other centres. The type of retailers being attracted to the Focus site are typically national town centre type retailers, many of whom do not currently exist in Chippenham town centre. This would have the effect of diluting the retailer demand in the town centre. They argue that as the scheme enhances the qualitative nature of the permitted floorspace, policy EC14 in PPS4 indicates that the applicant should undertake a retail impact and sequential site assessment.

Since the last Committee, ING has sought Counsel's advice on the application and the documentation regarding the Peterborough and Gateshead sites mentioned at that last meeting. Both that Counsel's advice (together with a supplemental advice) are available on file and can be summarised as follows:

- The extent of the work involved pursuant to the application amounts to a new chapter in the planning history of the site;
- Policy EC14 of PPS4 is relevant and Policy R4 of the local plan should also apply. In order to comply with policy R4, the Council must consider whether it has been demonstrated that the proposal will not harm the vitality and viability of the town centre. In undertaking this assessment, ING's Counsel indicates that regard can and should be had to the conditions imposed on the existing building and regard would have to be had to the effect on the vitality and viability of the town centre of the alternative opportunities afforded by the existing building, etc.
- Impact and sequential tests are required;
- If the building is a new building its use can be specified.
- The Council can and should impose conditions;
- The planning application was not accompanied by an Environmental Statement accompanied by or preceded by a screening opinion. A decision to grant planning permission without adopting a screening opinion would be unlawful.

The effect of the advice to ING is that a new chapter in the planning history has been opened. The full representation is available on the application file and the Council's web site.

Chippenham Vision: The following paragraphs are a detailed summary of the points raised by the Vision Board. The *Chippenham Vision* comprises Chippenham Area Board Councillors, Chippenham Town Council, North Wiltshire Economic Partnership, Chippenham Community Area Partnership, Chippenham Civic Society, Chippenham Chamber of Commerce, Wiltshire College, Sheldon School, Chippenham Borough Lands Trust.

Chippenham Vision state that the applicants are proposing to reconfigure and refurbish the property to create 3 retail units. They state that in 2006, Stevenage Borough Council granted permission to retail premises that sought some minor amendments to an existing premises including installation of additional entrance doors. The planning authority had treated the application as being an amendment or alteration of the building permitted by the 1987 planning permission

The Secretary of State, however, determined that the impact of the planning permission was to create a new "building" for the purposes of planning legislation. By treating the application as an amendment the authority failed to reapply existing conditions or take the opportunity to apply new conditions. (Stevenage Borough Council v Secretary of State for Communities and Local Government 2010)

In another case it was held by the House of Lords that if the granting of planning permission was of such character that led to the creation of a new planning unit then the

existing use rights are extinguished. (*Newbury DC v Secretary of State for the Environment 1981*)

The Court of Appeal in '*Jennings Motor Ltd v Secretary of State for the Environment 1982*' held that 'where there has been a total change of the physical nature of the premises it is easy to infer that reliance on any prior use is abandoned and a new planning history [begins]'

Chippenham Vision mention that Wiltshire Council also has experience of this ruling – (*Bourne Retail Park, Salisbury 2010*). This was where Salisbury District Council had an opportunity to apply a condition to restrict the use of planning units – it did not apply a restrictive condition only but made reference to a previous permission which resulted in a legal challenge which was upheld. This effectively said that an application for physical alterations to the original units resulted in the creation of new units and reliance could not be placed on the conditions on the earlier consent controlling the nature of the use. New units had been created and so new use conditions were required.

Chippenham Vision state that this development (10/03664) is clearly the creation of three new buildings. Separate entrances are created, it is a completely new build, the development is divided into three distinctly separate units with their own access, delivery, servicing and security arrangements. Whatever permission, conditions or principles that were applied to the original development no longer apply. The application must be treated as new development. It is not appropriate to merely accept the interpretation of the development based on the applicant's own words.

The works could not and should not be carried out without planning permission. The application creates three completely new buildings where one stood previously. Therefore all policies pertaining to new development should be applied in this case.

These include:

Policy R4 of the adopted North Wiltshire Local Plan 2011 states that retail proposals (Use Classes A1, A2, A3) on the edge or outside of the defined town centre shopping areas will only be permitted where:

- (i) There is a demonstrable need for the development;
- (ii) It can be demonstrated the sequential test approach has been followed, whereby there are no suitable sites in the town centre and edge of centre sites;
- (iii) Proposals do not individually or cumulatively undermine the vitality or viability of the town centres; and
- (iv) The proposal is accessible by a range of means including walking, cycling and by public transport.

The policy also states that 'Applications to vary the goods sold or to allow subdivision of units will be permitted where it can be demonstrated that the proposal would not harm the vitality and viability of the town centre.'

PPS4 sets out planning policies for economic development to be taken into account when preparing local development documents and are a material consideration in development management decisions. PPS4 identifies that in achieving a prosperous economy, the Government's overarching objective is sustainable economic growth. To achieve this, key objectives include, amongst other things, improving the economic performance of towns, delivering more sustainable patterns of development, promoting the vitality and viability of towns and other centres. This latter objective is to be achieved through focussing economic development and growth in existing town centres and competition between retailers through the provision of efficient shopping services in town centres.

The sequential approach requires that all in-centre options have been thoroughly assessed before less central sites are considered. Where no town centre site is available, suitable and viable, preference should be given to edge-of-centre sites that are well connected to the centre by easy pedestrian access.

The Vision argues that there is therefore a very strong case for requiring a sequential impact assessment for this site prior to any planning permission being granted.

The Vision refer to comments made by the Spatial Planning Officer who assessed the application: "I have asked that appropriate conditions are added in order that we can claw back some control over the site, although I recognise that this may only be in relation to design matters." Appropriate conditions added to the development could (and we believe should) include restrictions to the range of goods permitted for sale, notably restrictions to bulky goods only. This would provide a degree of protection to the town centre with regards to both comparison and convenience goods sales. The Chippenham Vision therefore requests that these conditions should be applied to the planning application.

They state that the local planning authority may impose conditions regulating the development or use of land under the control of the applicant even if it is outside the site which is the subject of the application and that such conditions would be consistent with national planning policies as expressed in Government Circulars, Planning Policy Guidance notes and other published material. They also accord with the provisions of development plans and other policies of local planning authorities.

The original planning permission was granted in 1991. Planning policy both at local and national level has changed. The retail environment in and around Chippenham has changed and the focus and priority on 'sustainable' development is now at the fore of all planning and development activity.

Such a condition would not be unduly restrictive. The previous retail operator was a provider of bulky goods, therefore it would not nullify the benefit of any permission being granted. A large number of out of town retailers are covered by similar restrictions without problem.

Furthermore it is possible to restrict changes of use which would not be regarded as development within the terms of the Town and Country Planning Act, or by reason of the provisions of the Town and Country Planning Order 1987. Changes of use can be restricted either by prohibiting any change from the use permitted or by precluding specific alternative uses.

The Act identifies that it is reasonable to restrict changes of use so as to prevent the use of large retail premises where such a use might have a damaging effect on the vitality of a nearby town centre.

Such a specific restriction may be defined as retail sales limited to DIY products, furniture, carpets, electrical goods, gardening goods, office supplies and toys.

The Chippenham Vision believes that this would be reasonable in this particular case. The impact will be primarily on Chippenham Town Centre not Corsham.

Therefore to reiterate the position of the Vision members:

- The Chippenham Vision therefore urges that this application and the officer's recommendations relating to it be urgently reviewed by the planning committee.*
- The Chippenham Vision requests that a detailed sequential impact assessment be undertaken and reviewed prior to any decision being taken.*

- *The Vision also requests that full consideration be given to the application of class use restrictions (limiting trading to 'bulky goods' only) as a condition of planning permission.*

Corsham Chamber of Commerce: object on 2 main grounds: firstly the proposal represents an undesirable consolidation of out-of-town retail facilities, with free car parking, to the detriment of the viability of the town centres of Chippenham and Corsham and secondly that given the identified shortfall in employment land, the Chamber would prefer to see the site redeveloped for employment purposes, rather than retail purposes. However should planning permission be granted the Chamber would like a condition imposed restricting the goods sold to bulky goods.

8. Publicity

The application was advertised by site notice and press advert.

4 letters of objection have been received.

Summary of key relevant points raised:

- Effect on Town Centre Vitality and viability.
- Conditions to be imposed.

9. Planning Considerations

The proposal is for the reconfiguration and refurbishment of an existing retail warehouse to create 3 retail units.

The building in question had operated as a FOCUS Do-it All store but is currently vacant and was originally granted planning permission under N.90.2742.F and the garden centre extended under 94/1610/FUL. The original permission, whilst preventing food retail (other than ancillary) allows "general" retail. It also allows for subdivision of the units and no minimum sizes of units and insertion of up to 200sqm of mezzanine floorspace in any planning unit (Mezzanines over this size require planning permission in any event). Just because the current occupier has used it as one unit for essentially bulky goods does not deflect from this. In addition to this the garden centre addition had no conditions restricting what could be sold from that floor area and therefore this also comprises A1 retail space. Taken together, currently the total lawful retail sales space relevant to the site is 4,835 sqm (existing ground floor, plus garden centre and permitted mezzanine space).

As originally submitted, the current application involved removing a rear section of the building and rebuilding it to the side and introducing mezzanine floors within the building. The total retail area remained the same. The total 'existing' retail area referred to by the applicants included the outside retail space. The newly formed structure would be divided into 3 units with mezzanines inserted (with a total floor area identical to the existing unit including the outside retail area).

However, officers had expressed concern that the outdoor sales area was being included. There can be no doubt that the outdoor sales space is A1 retail and it is undoubtedly the case that this would constitute a material consideration in the determination of an application to "enclose" the space to create a retail unit. In order to allay the Council's concerns, the applicant has submitted revisions which, by the removal of the mezzanines from two units and removing the floor area apportioned to the outside retail area, brings the floor area figure within the floor area of the existing building (barring 60 sqm).

It is therefore clear that if permission is granted it will result in only a minor increase in size. (Officers consider 60 sqm to be immaterial in the light of the total floor space in question).

PPS4 Policy EC14 states "References in this policy to planning applications for main town centre uses include any applications which create additional floor space, including applications for internal alterations where planning permission is required, and applications to vary or remove conditions changing the range of goods sold". Officer's shared the opinion of the applicant that the current application falls outside this definition as the small increase in size proposed is not material in planning terms..

LP Policy R4 refers to retail proposals on the edge and outside the primary and secondary frontages and is the adopted current local plan. It provides as follows:

“Retail development proposals (Use classes A1, A2, A3,) on the edge, or outside, the defined Town Centre shopping areas of Chippenham, Calne, Wootton Bassett, Corsham, Malmesbury and Cricklade, will only be permitted where:

- i) There is a demonstrable need for the development;***
- ii) It can be demonstrated the sequential test approach has been followed, whereby there are no suitable sites in the town centre and edge of centre sites;***
- iii) Proposals do not individually or cumulatively undermine the vitality or viability of existing centres; and***
- iv) The proposal is accessible by a range of means including walking, cycling and by public transport.***

Applications to vary the goods sold or to allow subdivision of units will be permitted where it can be demonstrated that the proposal would not harm the vitality and viability of the town centre.

11.9 This policy relates to retail proposals situated on the edge of or outside the defined town centre primary and town centre secondary frontage areas. For the purposes of this policy, the definition of edge of centre is that contained within national planning guidance and are such locations within easy walking distance (i.e. up to 300 metres) of the Town Centre Primary Frontage Areas boundary. The definition of an existing town, district or local centres as noted within national planning policy guidance. In both cases retail developments should not be of such a scale, or type, or in such a location as to undermine the vitality or viability of the existing centres and should be accessible by a range of transport modes.

11.10 Developers will be expected to submit a retail assessment and supporting information for all proposals of 1500 square metres or more. Assessments may also be necessary for smaller developments, depending on the relative size and nature of the development in relation to the centre. Developers will be expected to demonstrate a need for additional facilities and that the sequential approach, as defined in national Planning guidance, has been applied when selecting sites for new development. The Council will expect developers to demonstrate flexibility in terms of the format, design and scale of their development, tailoring these to fit local circumstances.

11.11 The Local Planning Authority in determining planning applications will take into account the findings of the Retail Needs Assessment undertaken in 2004.

11.12 If planning permission is granted, appropriate conditions or other means of legal agreement may be used to limit the size of the units and the range of goods to be sold, in order to prevent harm to the existing town centres.”

Policy R4 sets out criteria which are to be considered in relation to the implications of development on an existing town centre. R4 (1) is no longer relevant as the issue of demonstrating need has been removed by the more recent PPS4. The second criteria refers to the sequential test, the third to impact and finally accessibility.

Section 54A of the Town and Country Planning Act 1990 provides that decisions on planning applications should be made in accordance with the development plan unless material considerations demonstrate otherwise. It is officers' opinion that Policy R4 is engaged, but it has to be considered in the context of the more recent PPS4, in particular Policy EC14.1. This policy requires a sequential assessment for planning applications which "create additional floorspace, including applications for internal alterations where planning permission is required, and applications to vary or remove conditions changing the range of goods sold." As indicated above it is Officer's view that the proposed additional floorspace is minimal and not material in planning terms.

A material consideration in the determination of this application is also the fall back position. Officers advise that considerable weight should be given to the fact that the applicant would be able to deliver retail proposals which provide the same amount (if not more when having regard to the unconstructed mezzanine permitted at the existing building and the garden centre space) in the existing building if permission were to be refused.

Counsel advising the objectors indicates that regard would have to be had to the effect on the vitality and viability of the town centre of the opportunities afforded by the existing building, prevailing conditions, etc. That existing floorspace is in non-food retail. The application proposal is also for non food retail but for a smaller floorspace area than existing (taking account of permitted additions/extensions).

The existing store comprises a floor area of 4635 sqm (3315 sqm existing plus 1320sqm external garden centre) from which the applicants could sell unrestricted non food items. They have PD rights to increase that floor area by up to 200sqm with a mezzanine. The current proposal is for a retail floor area of 3375sqm from which the applicants want to sell non food items. There is no material change other than the fact that the retail space will be divided into new units. Because the proposal effectively reduces the permitted floorspace area, officers' view is that Policy EC14 of PPS4 is not engaged and a sequential assessment is not necessary.

In the light of the existing use and its further potential, the applicant has confirmed that should a permission be granted that imposes restrictions which are not in force on the existing structure, they will simply retain the building with re-occupation of the whole, or sub-division in an alternative manner.

The Council has also obtained Counsel's Advice (a copy of which is available on the website).

Officers consider that it would be highly likely that the existing building would be refurbished to create the same if not greater floorspace if permission was refused and therefore this fallback position should be given considerable weight. The principles relevant to the fallback position are set out in *New Forest DC v Secretary of State for the Environment* (1996) 72 P&CR 61. The decision maker must ask himself if there is any real likelihood or real possibility that the fallback position will be implemented. In this case the fallback position is a real and not theoretical prospect and must be given significant weight. Therefore although Policy R4 is relevant under Section 54A as a development plan policy, the implications on the town centre of granting the permission in relation to the sequential test, impact, etc will be the same (if not less) when compared with the changes that the applicant could make if no permission is granted.

The objectors have argued that the application proposals would represent a new chapter in the planning history and drew attention to cases in Salisbury, Peterborough, and elsewhere. Members specifically asked Officers to consider the legal cases referred to by ING and the Chippenham Vision. These legal cases are not considered to justify a refusal of the application.

The Peterborough case centred around the grant of planning permission for redevelopment works to a retail park. In short, the prevailing permission specified the range of goods to be sold. However, in granting permission for the new works the Council failed to re-impose any range of

goods condition, let alone the prevailing one. Therefore, it was successfully argued that implementation of the planning permission would open a new chapter in the planning history of the site and in the absence of a condition the development would be without restriction on the range of goods that could be sold (i.e. food and non food)

The Gateshead case is not an appeal case. It is a Counsel's opinion on a particular planning decision made by Gateshead Council. It centres on the ability of a restricted use unit which had been granted permission for substantial alterations and whether the non imposition of the original conditions meant that food could be sold from the newly "designed" unit. The opinion was that without re-imposition of the original conditions any A1 retail use was allowable.

Approximately 55% of the original unit footprint will remain and 45% will be "reconfigured". The Mothercare case in Salisbury is to do with non-imposition of any conditions when a permission is granted. In this case the same conditions regarding limiting the range of goods to be sold are to be imposed.

In the case of Jennings Motors Ltd v SSE Oliver LJ summarises the position as follows: "Where there has been a total change in the physical nature of the premises, it is easy to infer.....that reliance on any prior user is being abandoned and a new planning history is to begin. Such inference may equally be drawn....where there is no change or a less radical change in the physical nature of the site but a change in what I may call its planning status which is inconsistent with the preservation of a prior existing use; for instance its subdivision into smaller units of occupation or its incorporation into a larger single unit.

Whether the alteration is of a character as to produce this result is, I think in every case, a question of fact and degree."

With 55% of the original building remaining the change could be considered to be significant. In determining the weight to be given to this change and the potential to treat the application as if it were a total new build on an unused site, consideration must be given to the alternative fallback position. Although a new chapter in the planning history of the site may be commence with the granting of this application, it is not considered, given the fallback position, that this can be used as an opportunity to impose new planning conditions.

The Council is not seeking to ignore the site's planning history and/or the conditions attached to it. On the contrary, the Council has negotiated out the element of the scheme which refers to unconditional retail, has reduced the floorspace area from the original that is controlled to non food sales, and has obtained agreement to reimpose all other conditions.

Even if it is accepted that the permission does represent a new chapter in the planning history, the 'fallback' position, that is what the applicant can do without permission, is a significant material consideration because it represents what is likely to happen if planning permission were to be refused or if different conditions were attached.

Conclusion

In determining this application the Council must take into account the existing permitted use of the site - That is 3315sqm of ground floor, 200 sqm mezzanine with 1,320sqm of external retail space = 4835 sqm. No conditions on the original approval placed any restriction on the goods to be sold other than it should only be for non food for the building and none at all for the outdoor retail space; there was no restriction on subdivision nor on adding (permitted development size) mezzanines.

The proposal, whilst involving demolition and rebuilding, will actually result in a retail floor area of less than the existing store plus its permitted "additions" and this figure includes taking out the external retail floor area (barring 60 sqm). The units will essentially be turned to face the car park and there will be 3 of them with their own entrances. The profile of the building will change, but the revisions are considered to enhance the scheme's appearance.

In considering whether to impose conditions, regard must be had to the tests in Circular 11/95 and other material considerations. A key test of Circular 11/95 is that conditions should be reasonable. Given the established position and the clear potential for alternative options for the existing building, it is not considered reasonable to impose a range of goods condition which is more onerous than that which prevails. Nevertheless, Officers have negotiated conditions relating to minimum unit sizes and removing mezzanine rights. It is considered that with the amendments that the agent has made in terms of floor area, the proposal is compliant with policy C3 of the North Wiltshire Local Plan 2011.

If permission is refused, the applicant has indicated they will retain the building and retail from it.

The actual impact on the town centre is so similar that the likelihood of sustaining a refusal on appeal on the basis of harm is remote. In officer's view, the application is acceptable and there are no reasons to refuse permission.

An EIA Screening opinion has now been undertaken by officers and is available on file Officers' conclusion is that no EIA is required for this development.

10. Recommendation

Planning Permission be GRANTED for the following reason:

In determining this application the Council must take into account the existing permitted use of the site - That is 3315sqm of ground floor, 200 sqm mezzanine with 1,320sqm of external retail space = 4835 sqm. No conditions on the original approval placed any restriction on the goods to be sold other than it should only be for non food; there was no restriction on subdivision nor on adding (permitted development size) mezzanines.

The proposal, whilst involving demolition and rebuilding, will actually result in a retail floor area of less than the existing store plus its permitted "additions" and this figure includes taking out the external retail floor area (barring 60 sqm), which has an open retail use. The units will essentially be turned to face the car park and there will be 3 of them with their own entrances. The profile of the building will change, but the revisions are considered to enhance the scheme's appearance.

The existing store is only restricted from selling food (other than confectionary), so whilst the fears about impact on the town centre are understood, it is not considered reasonable to further condition to restrict what can be sold. One of the tests of Circular 11/95 is that conditions should be reasonable. It is considered that with the amendments that the agent has made in terms of floor area, the proposal is compliant with policy C3 of the North Wiltshire Local Plan 2011 and advice in PPS4 Planning for Sustainable Economic Growth.

Subject to the following conditions:

- 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 provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

POLICY-C3

- 3) The proposed units shall not be used for the sale of food other than confectionery, ancillary to the main use, without the prior grant of planning permission in that respect.

Reason: In the interests of protecting the vitality and viability of the town centre.

- 4) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- (a) indications of all existing trees and hedgerows on the land;
- (b) details of any to be retained, together with measures for their protection in the course of development;
- (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- (d) finished levels and contours;
- (e) means of enclosure;
- (f) car park layouts;
- (g) other vehicle and pedestrian access and circulation areas;
- (h) hard surfacing materials;
- (i) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- (j) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- (k) retained historic landscape features and proposed restoration, where relevant.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY-C3

- 5) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY-C3

- 6) Prior to any development taking place a tree protection plan showing root protection areas for retained trees; routes of protective tree fencing; specification of protective fencing; construction exclusion zones in accordance with 'BS 5837:2005 Trees in relation to construction- recommendations' shall be submitted and approved in writing by the Local Planning Authority. The agreed methodology shall be implemented during the duration of the proposed construction phase of the development permitted.

Reason: To protect retained trees during construction.

Prior to any development taking place an arboricultural method statement shall be submitted to and approved in writing by the local planning authority for the excavation work. In the interests of visual amenity and the character and appearance of the area.

POLICY-C3

- 7) The proposed units shall not be used for the sale of food other than confectionery, ancillary to the main use, without the prior grant of planning permission in that respect.

Reason: In the interests of protecting the vitality and viability of the town centre.

- 8) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- (a) indications of all existing trees and hedgerows on the land;
- (b) details of any to be retained, together with measures for their protection in the course of development;
- (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- (d) finished levels and contours;
- (e) means of enclosure;
- (f) car park layouts;
- (g) other vehicle and pedestrian access and circulation areas;
- (h) hard surfacing materials;
- (i) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- (j) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- (k) retained historic landscape features and proposed restoration, where relevant.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY-C3

- 9) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY-C3

- 10) Prior to any development taking place a tree protection plan showing root protection areas for retained trees; routes of protective tree fencing; specification of protective fencing; construction exclusion zones in accordance with 'BS 5837:2005 Trees in relation to construction- recommendations' shall be submitted and approved in writing by the Local Planning Authority. The agreed methodology shall be implemented during the duration of the proposed construction phase of the development permitted.

Reason: To protect retained trees during construction.

- 11) Prior to any development taking place in the root protection area of Poplar Trees T1 and T2 as identified within 'Quaife Woodland Arboricultural Survey AR/2299/ci-amended 31st January 2011' and for the proposed route for the outflow pipe from the surface water cellular storage tank. The development shall be carried out in accordance with the approved methodology.

Reason: To safeguard the trees identified for retention for public visual amenity.

- 12) The total retail sales space (including any mezzanines the development hereby permitted shall not exceed 3,375 sqm.

Reason: To define the permission.

- 13) The development hereby permitted shall not be sub-divided to create more than 3 separate units and no individual unit shall be less than 850sqm. In floor area.

Reason: To protect the vitality and viability of the town centre.

