

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	14.07.2010		
Application Number	W/10/01434/FUL		
Site Address	Sainsbury Store Bath Road Melksham Wiltshire SN12 6LL		
Proposal	Extensions to existing foodstore, including a mezzanine floor, cafe, construction of a new pedestrian link to bank street, relocation of the petrol filling station and new kiosk, extensions and alterations to the car park and associated landscape, flooding and ecological works		
Applicant	Sainsbury's Supermarkets Ltd		
Town/Parish Council	Melksham (Town)		
Electoral Division	Melksham Central	Unitary Member:	Stephen Petty
Grid Ref	390311 163970		
Type of application	Full Plan		
Case Officer	Mr Michael Kilmister	01225 770344 Ext 5228 michael.kilmister@wiltshire.gov.uk	

Reason for the application being considered by Committee

The application is brought to committee at the discretion of the Director of Development Services.

This application is very similar to an application considered by this committee in March 2010 which was refused planning permission against officer advice.

1. Purpose of Report

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

2. Main Issues

The main issues to consider are:

- retail impact;
- flooding and drainage matters;
- impact on Listed Buildings and the Conservation Area;
- amenity (noise & nuisance);
- highways and sustainability impact;
- contaminated land matters;
- archaeology matters;
- nature conservation;

3. Site Description

The Sainsbury store lies to the western side of Bath Road (the A3102), and runs along the southern bank of the River Avon. Commercial and residential properties adjoin Bath Road to the east of the site. To the south is Church Walk, residential properties many of which have long rear gardens running to the rear of the existing store. To the south-west lies amenity and nature conservation land, with associated pedestrian accesses over it. Beyond the River Avon to the north of the site lies a mix of commercial uses.

The Melksham Conservation Area adjoins the site on its southern boundary.

The store and its ancillary service yard lies to the southern edge of the site, overlooking the River Avon, with its car park located in front and to its western side. It is a distinctly-designed building with a curved roof, with the service yard located to its eastern end. Service and customer access comes off Bath Road, to the northern edge of the site, with the existing petrol filling station lying adjacent to the river.

Beyond the car park along the store's western elevation lies a level, overgrown area, bounded by semi-mature trees, and beyond this lies existing landscaping including flood compensation schemes.

A public footpath runs along the riverside, with an additional route leading into the town and Church Walk.

The site also includes the area known as the Bear Car Park, which is currently segregated from the Sainsbury site by landscaping and timber fencing. There is vehicular access to this site from Bath Road, but with no current vehicular or pedestrian linkage to the store.

4. Relevant Planning History

95/01126/OUT – Redevelopment of site including retail, flats, offices, petrol filling station and leisure uses with landscaping, car parking, servicing, highway, flood plain storage and engineering works – Permission 10/07/96

96/00591/REM – Redevelopment of site including retailing, petrol filling station, shops, and flats with ancillary landscaping, car parking, servicing, highway and flood plain storage – Approved 08/08/96

98/00807/FUL – Restaurant extension (156sqm) – Permission 27/07/98

01/01159/FUL – Extension to petrol filling station kiosk together with ancillary works – Permission 30/08/01

01/00613/FUL – Erection of a 605 square metre extension to existing foodstore and revision to car park layout – Permission 19/08/02

02/01581/FUL – Restaurant extension (renewal of 98/0807 dated 27 July 1998) – Permission 04/03/03

02/01661/FUL – Extension to warehouse area – Permission 05/12/02

02/01718/FUL – Variation of condition 02 of permission 01/00613/FUL: parking provision – Permission 10/04/03

03/00232/FUL – Air handling plant to the rear of the sales area extension – Permission 14/07/03

03/01053/FUL – Erection of a new 2m high acoustic fence to rear of store – Permission 08/08/03

05/01185/FUL – Relocation of air conditioning units – Permission 28/09/05

07/01399/FUL – Variation of condition 15 of planning permission 95/01126 in order to allow deliveries to take place up until 1am (mon-sat) for a temporary 6 month trial period – Permission 10/09/07

08/00211/FUL – Variation of condition 15 of planning permission 95/01126/FUL in order to allow deliveries to take place up until 1am (Mon to Sat) – Withdrawn 22/04/09

W/09/00690/FUL - Erection of a single storey 1,937sq m gross extension to the east and western elevations of the store; car park improvements and an extension to the south west of the existing car park resulting in an additional 91 car parking spaces; relocation of the petrol filling station from the river avon to the south eastern area of the site; revised service yard arrangements; provision of an online service facility; construction of a new pedestrian link with town centre; and landscape and ecological improvements to enhance the nature and amenity value of the site and the surrounding land to the south west – Refused 10/03/2010 for reasons relating to flooding, impact on the conservation area and impact of the proposed petrol filling station on nearby residential properties. An appeal is pending with a public inquiry date set for early September.

5. Proposal

The application is almost identical to the application refused in March of this year. A number of minor amendments have been made to the scheme but the most significant changes are:

- the introduction of an in- store café and toilets and mezzanine level
- the inclusion of a petrol filling station (PFS) kiosk.

As with the previous application, the proposals include

- the erection of a single storey extensions to the eastern and western elevations of the store;
- car park improvements and an extension to the south west of the existing car park resulting in an additional 91 car parking spaces;
- relocation of the petrol filling station from the River Avon to the south-eastern area of the site;
- revised service yard arrangements;
- provision of an online service facility;
- construction of a new pedestrian link with the town centre; and
- landscape and ecological improvements to enhance the nature and amenity value of the site and the surrounding land to the south-west,

The Store

The application proposes the extension of the store to both its east and west elevations, plus an extension to the existing first floor.

The western elevation would be extended to provide for additional sales floor space (approximately an additional 555sqm), a bakery and an online service area.

To the east there would be an extension providing an extended and relocated servicing area, which would in turn allow approximately another 700sqm of sales floor space for the store.

This revised scheme introduces an in- store café and toilets and mezzanine level.

Above the service area, the first floor would be extended to provide further ancillary support floor space for the store.

The extensions would be constructed of materials to match the existing, i.e. reconstituted Bath stone faced blockwork with cladding to the roof.

The walls of the service yard would also be constructed of matching blockwork.

The access to the service yard would be as existing (i.e. off Bath Road), but one of the access roads within the store would be realigned so that it could also serve the relocated petrol filling station.

Car Park

The relocation of the petrol filling station would allow additional car parking provision for the store. A new access road would be located along the northern edge of the site to provide access to a further car park to the west of the store.

Landscaping would be provided along the northern edge of the access road, and to the western boundary of the car park, to compensate for that lost by its extension.

The Petrol Filling Station (PFS)

The existing PFS lies to the northern edge of the site adjacent to the bank of the River Avon. The application seeks to relocate it to the south-eastern corner of the site, in the area currently known as The Bear car park.

The proposals considered in March were for an unstaffed self-service PFS. This revised proposal introduces a kiosk which will enable staff to be present on the PFS site throughout opening hours. Other changes have been made to reduce the visual impact of the PFS from outside the site, for example an indication that signage will be at a lower level on the kiosk rather than on top of the PFS canopy as proposed previously.

The existing access to former public house car park will be retained as pedestrian access and linked to a pathway round the edge of the PFS to the store thereby providing a shorter pedestrian route between the store and the town centre.

The public sewer crossing the site would be diverted and have a three metre easement each side.

Access,

The existing access from Bath Road is to be retained with changes within the site brought about by the relocation of the petrol filling station. In addition to the new pedestrian access off Bath Road, the existing footpaths in the site would be retained, including those along the river bank and that going into the church yard.

Flood Mitigation measures

Compensatory flood mitigation works (i.e. enlarged flood storage areas) are proposed in the south western part of the site to take account of the additional areas of the site being built on and hard surfaced for car parking. These works are designed to ensure that the risk of flooding to the store and adjoining properties in other ownerships will not be increased as a result of this development. A proposed landscaped bund will further reduce the risk of flooding to properties in Church Walk and Canon Square.

Ecology

Comprehensive landscaping and ecological works at the site are proposed including land remodelling, replacement planting, and ecological management measures.

Acoustic screening

Acoustic screening is proposed to boundaries of the service yard and relocated petrol filling station. At present the service yard is not acoustically screened.

The application has been supported with the following information and submissions:-

- a design and access statement;
- a PPS5 statement;
- a transport assessment;
- a statement of community consultation;
- protected species and habitat surveys;
- a retail statement;
- an air quality assessment;
- a noise assessment;
- a flood risk assessment;
- a ground gas generic risk assessment;
- a controlled water quantitative risk assessment
- a geo-technical and geo-environmental assessment.

In support of the previous similar application determined in March of this year, the applicants commented that the scheme would

- allow for qualitative improvements to the internal layout of the store to provide a more comfortable and enjoyable shopping experience for all customers;
- facilitate more innovative and attractive product displays; and
- help to relieve congestion in the store and the 'back-up' areas of the store.
- meet in retail terms, the proposed extension meets a quantitative need for comparison goods floorspace identified in the West Wiltshire Retail Needs Study (2007). Meeting the identified need at

an existing town centre retail anchor complies with the sequential approach to site selection and will ensure both qualitative and quantitative benefits to the town centre as a whole.

- improve the range of non-food goods on offer at the application store will increase the attractiveness of the store and the town centre as a retail destination. The proposed extension and alterations to the store will increase its ability to compete with larger stores in nearby Chippenham and Trowbridge. In turn, an improved anchor store will increase the attractiveness of Melksham Town Centre as a retail destination and its ability to satisfy the shopping needs of the catchment population in the face of competition from alternative centres and facilities in the sub-region.”
- create 91 additional car parking spaces for both the town store and the town;
- improve access to the store from the town centre, particularly with the new pedestrian link;
- relocate the petrol filling station away from the listed town bridge;
- provide an improved landscaping scheme, including an enhanced riverside walk; and create approximately 30 jobs.

6. Planning Policy

Wiltshire Structure Plan 2016

DP1 – Priorities for sustainable development

DP2 – Infrastructure

DP3 – Development Strategy

DP5 – Town centres, district centres, and employment areas

DP6 – Shopping

T3 – Public passenger transport

T5 – Cycling and walking

T6 – Demand management

C1 – Nature conservation

C2 – Nature conservation

C3 – Nature conservation

C5 – The water environment

HE2 – Other sites of archaeological or historic interest

HE7 – Conservation Areas and Listed Buildings

West Wiltshire District Plan - First Alteration 2004

C6 – Areas of High Ecological Value

C9 – Rivers

C17 – Conservation Areas

C23 – Street scene

C24 - Advertisements

C25 – Shopfronts

C31A - Design

C32 – Landscaping

C35 – Light pollution

C37 – Contaminated land

C38 – Nuisance

C40 – Tree planting

LP1 – Protection and enhancement of existing open space or sport and recreation provision

CR1 – Footpaths and rights of way

CR3 – Greenspace network

T9 – Bus services

T10 – Car parking

T11 – Cycleways

T12 – Footpaths and bridleways

SP1 – Town centre shopping

SP3 – Out of centre shopping

U1A – Foul water disposal

U2 – Surface water disposal

U4 – Groundwater Source Protection Areas

I1 – Implementation

I2 – Access for everyone

National Guidance

Planning Policy Statement 1 - Delivering Sustainable Development

Planning Policy Statement 4 - Planning for Sustainable Economic Growth

Planning Policy Statement 5 – Planning for the Historic Environment

Planning Policy Statement 9 - Biodiversity and Geological Conservation

Planning Policy Guidance 13 - Transport

Planning Policy Guidance 23 – Planning & Pollution Control

Planning Policy Guidance 24 - Planning & Noise

Planning Policy Statement 25 - Development & Flood Risk

7. Consultations

Town/ Parish council

Melksham Town Council

It was noted that only minor changes have taken place with regards to this new application and whilst the Town Council welcome the improvements to the inside of the store (i.e. the new café etc) their previous objections still stand with regard to the extension of the car park and the repositioning of the petrol filling station as follows:

After considering the minor alterations to the plans, and listening to the members of the public present the Town Council's previous objections made on 30 March 2009 still stand ie:

- Displacement of water. There is already a problem with flooding in the area, there is a concern if areas that currently flood are built upon, where will water go, especially as there are houses nearby in Church Walk / Canon Square area, which could be damaged. Again regarding displacement of water, this could even dry out some properties in Church Walk and the Conservation Area.
- Flooding. This is already a problem, the footpath adjacent to Sainsburys currently floods as does the small access road leading to the rear of properties in Victoria Terrace / Church Walk, if building work goes ahead this could make the problem worse. There is also a flooding problem to the rear of Sainsburys, however, it is not clear if this is a result of blocked drains and it was asked what plans are in place to resolve this problem now and in the future.
- The removal of the balancing pond to allow for the extra car parking may also cause more flooding problems.
- There is a concern there are existing underground water courses in this area which could be disturbed if building work goes ahead. This situation needs to be looked into in more detail.
- Repositioning of the petrol filling station could cause pollution problems ie fumes, light from the petrol station and cars and also noise from the cars to nearby properties in Victoria Terrace, Church Walk, and Canon Square. This matter needs to be looked at carefully and whether there is a need to move the petrol filling station at all as this is a safety issue for nearby residents. Indeed could the extra parking spaces be provided on the proposed new petrol station site. There needs to be clarification on how many more extra parking spaces there will be as several documents available seem to contradict each other.
- If this application goes ahead there needs to be a restriction on the delivery times, as current delivery times cause noise pollution problems for nearby residents.
- Part of this application affects houses in a Conservation Area and indeed part of the application encroaches onto a Conservation Area. The Conservation Officer and English Heritage need to be informed of this application as consideration needs to be given to how this application impacts on the Conservation Area.
- Riverside Walk. Currently this footpath is not maintained to a satisfactory standard and any maintenance, cleanliness issues need to be part of any Section 106 Agreement relating to this application.

- There needs to be reassurances that the building work will have no impact on the neighbouring properties in the Conservation Area, as had happened in the past when pile drivers were used.
- It was noted that residents in Victoria Terrace and Canon Square were not informed of the planning application.
- There seems to be confusion on how many more parking spaces will be provided.
- Recycling bins. These need to be positioned so as not to cause a nuisance to nearby neighbours.
- If minded to give permission to this application, could a condition be placed on any planning permission that Church Walk is repaired to a satisfactory condition.
- Planning policies C18, C21, C31A, C32, C35, C36, and C38 apply.
- The Town Council also wished to add the potential risk to customers using the new pedestrian access via The Bear Public House across the service road.

The Town Council ask if minded to approve this application that the petrol filling station is not made 24 hour and a restriction in opening hours is placed on it to minimise the impact of noise, light and fume pollution nuisance for nearby residents. Also the Town Council asks that restrictions be placed on the times of deliveries to avoid noise and light pollution nuisance for nearby residents.

The town council also requests that serious negotiations need to be considered with regard to any section 106 monies available for the town.

Highways

The planning application includes measures to improve to the internal access arrangements and the access into the site which were agreed under the previous planning application process. Therefore, as for the previous application, I have no objection subject to conditions relating to construction details of roundabouts, junctions and alterations to the site layout and details of the bus gate and a note advising of the need for a section 278 agreement regarding works on the highway

Strategic Planning

Re-iterates the comments made in respect of the earlier application as follows

The application looks to the additional land purchased as an opportunity to increase the convenience offer of the retail store modernising an older facility, and to use this to facilitate the enhancement the existing peripheral landscaping, improve the ecology and also improve the pedestrian link with the town centre of the store.

Whilst enhanced links and landscaping are welcome, the key test of suitability comes from criteria set out in Planning Policy Statement 6 - Planning for Town Centres; namely that there should be a need for the development, and that it should not impact upon the vitality and viability of the town centre. Furthermore, given that the extension to the store in gross floor space is greater than 200 square metres a sequential test should be applied to the proposal (paragraph 3.29 of Planning Policy Statement 6 - Planning for Town Centres).

Both the Retail Assessment submitted with the application and the West Wiltshire Retail Needs Study 2007 demonstrate that there is quantitative need for additional convenience retailing in Melksham, and that the extension will not have an excessive impact on the town centre.

Although the Sainsbury's development can be described as edge of centre, the store is already in existence. This ensures that the criteria in the sequential test is fulfilled by the need to improve the offer of an "anchor" for Melksham town centre retail offer.

In terms of Structure Plan Policy DP6, the location of the store at one of the main settlement centres ensures it is in line with the retail hierarchy. Also given that the retail assessments have shown there should be no adverse impact on the town centre in terms of viability and vitality the application satisfies structure plan requirements.

“Conclusions: The need assessment and sequential test both demonstrate that the proposed extension will have a positive benefit to Melksham

“Policy Recommendation: The application is in line with strategic policy.

Planning Policy

Flooding Matters

Re-iterate the comments they made to the earlier application as follows

It is understood that parts of the proposed development site are located within the floodplain. However, the majority of this area falls within Flood Zone 3a and therefore as less vulnerable development, as defined by Planning Policy Statement 25 - Development & Flood Risk, is considered as appropriate. A small area of the development site falls within Flood Zone 3b and on this basis it should be demonstrated that the Sequential Test has been passed. It is understood that the only part of development that will fall within Flood Zone 3b is part of the store car park.

It should be noted that as the proposal is to extend an existing store, avoiding development within the floodplain would involve re-locating the store to another site in Melksham. The existing store is currently located in close proximity to the Primary Retail Frontage and so any alternative site would need to be identified in a highly sustainable, town centre location and in or in close proximity to the Primary Retail Frontage. It is not appropriate to consider out of town locations for the re-location of this store. It is considered that moving this store to an out of town location would be likely to have a significant negative impact on the town centre.

Existing retail in the heart of Melksham has suffered from the existing economic climate and town centre regeneration has been identified as a priority for the emerging Wiltshire Core Strategy. The existing Sainsbury's performs as an anchor store in Melksham and loss of this retailer in the town is likely to have a significant negative impact on the vitality of the town centre. A summary of the business case for store location has been made by the developer (Appendix 1) and this is supported by Spatial Planning.

There are no other sites in the town centre of Melksham and in close proximity to the Primary Retail Frontage that can be considered suitable or large enough for the development of a supermarket.

The developers have prepared plans for flood alleviation work which will allow the reclassification of the affected area from Flood Zone 3b to 3a. Details are attached as Appendix 2.

It is considered that no alternative sites are available for a supermarket within the heart of the town centre. Work is proposed that will provide flood protection and allow the reclassification of the affected Flood Zone area to Flood Zone 3a. This will result in any development being classified by Planning Policy Statement 25 - Development & Flood Risk as 'appropriate'. For the reasons described above it is considered that the Sequential Test is passed.

Environment Agency

As part of their assessment of the new planning application the Environment Agency have compared the hydraulic modelling carried out by the applicant's consultants and included as part of the revised flood risk assessment carried out in April 2010 with other recent hydraulic modelling exercises carried out in the vicinity of the application site.

They have completed their review of the revised flood risk assessment (FRA) and whilst agreeing that part of the site is within functional floodplain (Flood Zone 3b) where only water compatible

development is acceptable under PPS25, the FRA shows how sufficient floodplain compensatory storage on a level-for-level basis will be provided and will, in effect, relocate the functional floodplain.

The FRA states that only the proposed car park development will be within the current area of functional floodplain on the site and that this will still be allowed to flood at a 1 in 50 annual probability event. The design changes in this amended proposal do not affect the flood risk mitigation proposal and will not increase flood risk to others. Therefore we have no objection in principle to the proposed development subject to the conditions relating to floodplain compensation, surface water drainage, maintenance access to the River Avon, operations and maintenance strategy for the flood storage area, risks associated with contamination of the site, remediation of any contamination, ecological management plan, construction ecological management plan, prevention of pollution during construction and a shopping trolley management system.

Area Drainage Engineer

No comments received. A reply will be pursued and reported on the late list.

In respect of the previous scheme he commented that in view of the Environment Agency having no objections and the proposed mitigation measures included in the development proposals there are no reasons to object to this proposal on grounds of flooding.

Wessex Water

A public foul sewer crosses the location of the proposed petrol filling station. A diversion of this will need to be agreed with Wessex Water and implemented prior to construction.

Conservation Officer

No objections having considered the proposals and the submitted PPS5 Statement.

He comments that the canopy of the petrol filling station (PFS) has been designed to be smaller in depth at the edges in order to present a narrower profile to the eye. It has also been coloured in a dark blue rather than white. This will reduce the visual impact of the canopy and give it a much more lightweight appearance.

The top of the canopy would be coloured a non-reflective grey, this would help when viewed against the car park background from Church Walk. It would better blend with its surroundings rather than appear as a visually intrusive feature.

The colours and materials for the PFS should be made the subject of a condition as the submitted proposed elevation drawing does not show it in full colour.

The principle of development on this area has been established and therefore the encroachment of development into this area cannot be an issue. The revised design and materials of the PFS canopy would not result in undue harm to the Conservation Area. The revised proposal would result in a lightweight structure which would not have a harmful impact on the special character and appearance of the Conservation Area.

This revised application proposes a kiosk building to serve the PFS. This is proposed to be a low building sited into a vegetation screen. The kiosk would be built from non-reflective matt silver panels, of which samples should be provided by condition but is acceptable in principle. The site section drawing CHQ.07.7707-PL10C shows the relationship between the PFS and Church Walk. It is clear that the kiosk would not be readily viewed from Church Walk due to its diminutive size. Due to the non-reflective material and its unobtrusive location it would not result in harm to the Conservation Area.

The benefit of relocating the petrol filling station is that there would be an improvement in the setting of the Grade II listed town bridge.

Regarding the proposed extension of the store to the west, I do not consider that this would have any greater impact on the listed buildings in Church Walk or the Conservation Area than the existing building.

Regarding the eastern extension: This is not harmful enough by itself to warrant an objection. The proposed eastern extension would continue the form of the existing building, in matching materials, and the proposed 4m high wall would screen the delivery yard and the vehicles within. The proposal would therefore be in keeping with its host building and in the context of the Conservation Area, would not represent a major change in scale or built form.

Likewise, the settings of the nearby listed buildings would not be adversely affected. The relative distances between the listed buildings on Church Walk and the proposed development would ensure their settings are preserved and maintained.

Public Protection

No comments received in respect of current application.

In respect of the earlier application noise, air quality and contaminated land were considered

Noise.

I have previously objected to plans for extended delivery hours, due to the proposal to build dwellings in "The Bear" car park. This proposal would extinguish that permission and instead move the filling station onto that locality. The applicant's consultant has carried out a thorough review of previous noise surveys and modelled the impact of this proposal. It concludes that there will be no unreasonable impacts and that noise levels will meet national planning guidelines. I have audited the work and am satisfied that it is robust. I am satisfied that this proposal is acceptable in terms of noise."

Air Quality.

The applicant has carried out monitoring and modelling of Benzene levels from the proposal to move the fuel filling station onto the car park of "The Bear". The consultant concluded that Benzene levels will be well below the National Air Quality Objective which comes into force in 2010. I accept the conclusions. There is no Air Quality Management Area in Melksham and it is not considered that increases in traffic will make a significant difference to existing Nitrogen Dioxide Levels, the pollutant most affected by road traffic. I therefore have no objection on grounds of Air Quality.

Contaminated land.

The development site has been subject to a previous site investigation undertaken in the approximate area of the proposed development. This study identified that there was a possibility of gas arising from peaty deposits and that there was also the possibility of some historic contamination in the made ground in the approximate region of the proposed development. This original study was undertaken on the assumption that housing was to be developed and the proposed commercial use is clearly less sensitive. It will however be necessary to undertake a survey to determine the existence and extent of any possible contamination and to ensure that the development mitigates any risks to a satisfactory level. Recommendation: No objections subject to conditions to cover site characterisation, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination and long term monitoring and maintenance

Food and safety comments.

No general concerns or objection in principle but disappointed by reduction in toilet facilities for customers is disappointing given increased retail area. Applicant is advised to reconsider. Minimum of two extra urinals for male customers should be considered within current scheme. Further application for inclusion of small café might reasonably be expected as a future development which would also impact on scale of provision of customer toilets.

Library & Museum Services

No objections subject to a condition requiring an archaeological watching brief.

Regeneration Officer

No comments received in respect of this application but commented on earlier application as follows:

The proposals to extend the store and remodel the external form and function of the site are acceptable in terms of town centre regeneration. This is the right site in terms of town centre large floor plate retail provision and the delivery of the proposed improvements may well off-set the potential detrimental impacts of the edge of town ASDA development in terms of minimising leakage from the town centre. The proposals to improve pedestrian linkage with the town centre are to be welcomed as this has scope to allow linked shopping trips to the town centre which would benefit other existing retailers. This scheme has potential to enhance the vibrancy and vitality of Melksham Town Centre and is to be welcomed in terms of its economic and regeneration benefits.

8. Publicity

The application was advertised by site notice/press notice /neighbour notification.

Expiry date: 7 June 2010

Summary of points raised:

Nine letters have been received, eight from property owners in Bath Road, Church Walk and canon Square and one from an address in Lewisham. Objections raised include from twenty households and organisations, making the following comments:-

- Scheme little changed from the earlier scheme
- There is no need for an extension to the store as there are already six large supermarkets in the town, and Asda on the way;
- No benefit to town from online shopping facility as this will encourage people to shop from home.
- Online facility could be located at any Sainsbury store and need not be at this location in Melksham.
- Acoustic fencing is needed to the store and petrol filling station and online facility;
- Increased nuisance to residential properties from the new online facility and the enlarged car park;
- The loss of the floodplain will impact on properties in the surrounding area;
- Flooding has been very close to the property in the past, so what provision will there be to stop it happening in the future;
- The proposal will have a serious impact on the safety and well being of Melksham residents in the event of a flooding episode. The proposals are likely to result in shifting the flood area to the north of The river Avon, affecting the properties in this area; the last development on the Sainsbury site increased flooding on the north side of the river.
- Flooding already occurs every year and is getting higher in level and more frequent in occurrence
- The access road between Sainsbury and the rear of Church Walk regularly floods
- Global warming is likely to increase the severity of flash floods thereby increasing the risk to local businesses and residents; and
- Increased risk of flooding and disruption to the natural water course affecting wells sited in various properties in Church Walk;
- Disturbance to underground watercourses from moving the petrol filling station
- the works will block up the historic drainage system for the area;
- Objection to 24 hour use of the site, including the petrol filling station due to the resulting increased noise and light pollution;
- Impact of relocated filling station on the conservation area
- Proximity of the Petrol Filling Station to the Bear public house. People smoking outside the pub close to the Petrol Filling Station could be hazardous.
- The proposed new footpath will be across a petrol station forecourt and is therefore unsafe and will cause security problems for adjacent businesses;

- The petrol station's relocation will result in the loss of a mature tree which offers amenity value and landscape character to the area;
 - Increased noise from an increase in delivery vehicles, which is already a nuisance problem;
 - Loss of views in and out of the Conservation Area;
 - The roofline of the proposed extension is not in keeping with the surrounding Conservation Area;
 - Impact on the bats in the area;
 - Loss of a small woodland area which will result in a habitat loss and visual impact;
- Sainsbury's are an inconsiderate company not fully committed to ecology and maintaining landscaping etc.

9. Planning Considerations

9.1 The main issues to consider are:

- retail impact;
- flooding and drainage matters;
- impact on Listed Buildings and the Conservation Area;
- amenity (noise & nuisance);
- highways and sustainability impact;
- contaminated land matters;
- archaeology matters;
- miscellaneous matters.

9.2 Retail Matters.

Planning Policy Statement 4 - Planning for Sustainable Economic Growth aims to maintain the vitality and viability of town centres, and that proposals that are considered to be edge of or out of centre do not undermine this function. The Sainsbury store is considered to be an edge of centre store, and as a result Policy SP3 of the West Wiltshire District Plan - First Alteration 2004 applies. This states:- "New and extensions to existing edge of centre and out of centre shopping developments, including superstores, supermarkets and retail warehouses but excluding small neighbourhood shops, will only be permitted if all of the following criteria are met:

A There is a need for the development;

B There are no suitable and viable sites available within firstly, the defined Primary Retail Frontages and secondly, (for out of centre proposals) edge of centre locations;

C The development does not, either by itself or together with other retail developments, harm the vitality or viability of nearby centres;

D The development is of acceptable scale, materials and design and does not harm the local environment or residential amenity;

E The development is sited to reduce the number and length of car journeys and is accessible by a choice of means of transport, including by foot, bicycle and public transport;

F The traffic generated by the proposal can be accommodated safely on the local highway network and sufficient car parking and servicing is provided;

Applications to vary the range of goods sold from out of centre stores, or to allow subdivision of units, will only be permitted where it can be demonstrated that the proposal would not harm the vitality and viability of the town centre's shopping role."

Spatial Planning have considered the application and the retail impact of the proposal on the town centre. The store is considered to be important to the town, acting as a key anchor store for Melksham. They conclude that there is a need for the store's extension and that it will not have an adverse impact on the Melksham town centre in terms of viability and vitality. The Council's Regeneration Officer also supports the scheme in that it will allow regeneration opportunities for the town, plus offset any potential detrimental impacts of the proposed out-of-town Asda store in terms of minimising leakage from the town centre. The edge of centre location and the proximity of the store to the town centre enables a potential reduction in vehicle movements, especially with the new pedestrian linkage to the town centre. It is considered that the scheme has the potential to enhance the vibrancy and vitality of Melksham town centre, and is to be welcomed in terms of its economic and

regeneration benefits. Conditions have been suggested which limit the floor space and type of sales occurring in the store so as to protect the vitality of the town centre. The proposal is considered to fulfil the policy requirements of SP3 of the West Wiltshire District Plan - First Alteration 2004 and the government guidance in Planning Policy Statement 4 - Planning for Sustainable Economic Growth.

9.3 Flooding and Drainage Matters.

The site lies in the River Avon floodplain. The application is been supported by a Flood Risk Assessment.

Sainsbury is considered by the Council to have an important anchor store role for the town in a sustainable location. The possible loss of the store loss would be likely to have a significant negative impact on the vitality of the town centre. There are no other sites in the town centre in such close proximity to the Primary Retail Frontage that can be considered suitable or large enough for the relocation of a store the size of the proposed Sainsbury. Indeed this store can only be extended at this location. On this basis the proposals meet the requirements of the sequential test in PPS25 in that there are no other sites outside the floodplain on which this development could take place.

It follows in light of this that the application has had to be robustly justified in terms of its impact on flooding. Since the earlier application was refused the applicants have prepared and submitted a new flood risk assessment. The Environment Agency have tested the flood risk assessment against other recent hydraulic modelling exercises carried out in the vicinity of the application site and conclude that with the flooding mitigation measures included in the proposals the flood risks to others will not be increased. In technical terms the mitigation measures provide sufficient floodplain compensatory storage on a level-for-level basis which will, in effect, relocate the functional floodplain. In addition the only the proposed car park development will be within the current area of functional floodplain on the site and that this will still be allowed to flood at a 1 in 50 annual probability event.

In addition the relocation of the petrol filling station to the Bear car park moves the structures associated with this facility further away from the river.

In conclusion and subject to the relevant conditions set out in the recommendation below, it is concluded that these proposals will not increase the flood risk to others.

Conditions addressing pollution control measures recommended by the Environment Agency have also been attached in order to prevent contamination.

9.4 Impact on the Listed Buildings and Conservation Area.

The site is surrounded by a number of Listed Buildings and is adjacent to the Melksham Conservation Area on its southern boundary.

The proposals impact on the conservation area in three places – the two additions to the store and relocation of the petrol filling station.

With regard to the two additions to the store, the key issue is whether the impact of the extensions on the conservation area will materially and detrimentally increase the impact of the store on the conservation area and nearby listed buildings.

The proposed extension of the store to the west reflects the design of the existing store and would not have any materially greater impact on the listed buildings in Church Walk or the Conservation Area than the existing building. Existing trees to the south of the site of this addition will provide screening which will further mitigate the impact of the extension on the conservation area.

Similarly, the eastern extension is not harmful enough to warrant an objection. This extension would continue the form of the existing building, in matching materials, and the proposed 4m high wall would

screen the delivery yard and the vehicles within. The presence of the comparatively modern telephone exchange building to the rear of this part of the site should be noted.

The proposal would therefore be in keeping with the existing building and in the context of the Conservation Area, would not represent a material change in scale or built form.

With regard to the petrol filling station, the principle of development in this area (the former Bear car park) is well established. In 2007, planning permission was granted for a residential development of 10 apartments and 6 houses in blocks up to 9 metres in height. The proposed petrol filling station canopy is proposed to be 6 metres high and the kiosk 4 metres high. The mass and bulk of the structures now proposed will be far less than that of the earlier residential approval. Furthermore the petrol filling station has been redesigned for this application in ways which reduce its visual impact. The canopy of the petrol filling station has been designed to be smaller in depth at the edges in order to present a narrower profile to the eye. It has also been coloured in a dark blue rather than white. These changes will reduce the visual impact of the canopy and give it a much more lightweight appearance. The top of the canopy would be coloured a non-reflective grey, this would help when viewed against the car park background from Church Walk. It would better blend with its surroundings rather than appear as a visually intrusive feature. The revised proposal would result in a lightweight structure which would not have a harmful impact on the special character and appearance of the Conservation Area.

This revised application proposes a kiosk building to serve the petrol filling station. This is proposed to be a low building sited into a vegetation screen. The kiosk would be built from non-reflective matt silver panels, of which samples should be provided by condition but is acceptable in principle. The site section drawing shows the relationship between the petrol filling station and Church Walk. It is clear that the kiosk would not be readily viewed from Church Walk due to its limited size. The acoustic wall on the boundary of the petrol filling station will provide further screening. A combination of location, size, materials and landscaping will it would not result in harm to the Conservation Area. The kiosk also offers positions for signs in much less obtrusive positions than indicated in the earlier planning application.

A benefit of relocating the petrol filling station is that there would be an improvement in the setting and views of the Grade II listed town bridge and the river frontage of the site.

Adjoining and nearby listed buildings would not be adversely affected. The relative distances between the listed buildings on Church Walk and the proposed development would ensure their settings are preserved and maintained.

9.5 Amenity Matters, Including Noise & Nuisance.

Concerns have been expressed that the expansion of the store, the introduction of an online service and relocation of the petrol filling station will result in increased nuisance to neighbouring residential properties. These additions, new activities and changes are felt likely to result in more activity at the site, particularly vehicular movements and deliveries etc.

Also concerns have been expressed that the relocation of the petrol filling station is likely to result in light, noise, and fumes nuisance in a location closer to householders than the existing PFS close to the town bridge.

Public Protection has considered the proposals and have not raised any objection to the proposals. They consider that the petrol filling station will not make a significant difference to existing pollution levels, and that the extensions to the store will not result in significantly greater impact in terms of noise, pollution et .

The scheme includes acoustic screening on the boundaries of the service yard and petrol filling station. At present the service yard is not acoustically screened. Conditions are recommended restricting the hours of various operations and activities on the site and also with regard to lighting at the site. Some of these restrictions already exist on the site.

9.6 Highways and Sustainability Impact.

The highway layout is the same as with the previous application and remains acceptable subject to conditions concerning construction details and details of the bus gate.

The pedestrian access from “The Bear” car park enhances links between the site and the town centre and is a key element of the scheme in terms of the role of the store contributing to regeneration and the vitality and viability of the town centre. The highway department raise no objections although a condition requiring further details of the footpath to ensure public safety is recommended.

To meet the council's aspiration to encourage joint trips to both this store and other businesses in the town centre, the applicants have agreed to an extension of the two hour parking limit to three hours subject to a parking management condition which would include a fall back position to vary the time period if the applicants find that the longer time limit is being abused by non-shoppers. A condition is recommended.

To further encourage linkage with the town centre and other facilities in Melksham, the applicants have agreed to information boards and signage on the site in respect of the town centre and the riverside signage to the town centre. A condition is recommended for its provision together with an informative note concerning the need for Advertisement Regulations Consent.

In considering the earlier application, the committee requested that the applicants considered gating the store's car park out-of-hours to prevent its nuisance use. The Highway Department have no objection to this idea but the applicants have raised concerns because of the need for emergency access to the river at all times. To address security and nuisance concerns the applicants have agreed that the whole site, including the petrol filling station and footpath across the former Bear car park would be covered by close circuit television. In addition to emergency river access concerns, if the site was gated it may well also prevent the other businesses and individuals who share use of the site gaining access.

9.7 Contaminated Land.

There are contamination issues on parts of this site. Conditions are recommended to address these issues.

9.8 Archaeology

The extension to the site requires an archaeological assessment, which due to negotiations during the processing of the application, can be dealt with by the imposition of a condition. This requires an archaeological watching brief prior to the commencement of development on the site.

9.9 Nature Conservation Matters.

The River Avon has a high nature conservation importance that includes its banks and floodplains. The applicant was supported with a protected species report, which the County Ecologist and the Environment Agency have assessed. Both required additional conditions to protect the wildlife and their habitats, including an Ecological Management Plan, and these have been recommended.

9.10 Additional facilities

The two most significant changes since the earlier application introduce an in- store café and toilets at mezzanine level and the addition of a petrol filling station (PFS) kiosk as part of the redesign of the petrol filling station. Both changes are to be welcomed.

Members expressed disappointment at the lack of better café and WC facilities in the earlier scheme and public protection voiced concern about the lack of enough WCs. Those concerns have been addressed.

Similarly, members were concerned about access for people with disabilities to the automated as previously proposed. The introduction of a kiosk and with it the facility for the petrol filling station to be staffed overcomes these concerns and enhances security in this part of the site.

9.11 Impact of Building Works

The publicity responses raised several objections in that building the original store caused damage to neighbouring properties, particularly those to the south of the store in the Church Walk vicinity. Alleged structural damage to properties is not a planning matter, so cannot be addressed through the processing of this application. Any claims of this nature should be dealt with outside of the planning system.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and relevant planning policy statements and with the conditions attached to the planning permission the development will be acceptable in terms of sustainability, retail need, the regeneration and continuing vitality and viability of Melksham Town Centre, the PPS 25 sequential test, flood prevention mitigation measures, contaminated land issues, archaeological investigation and ecology and landscaping.

Subject to the following condition(s):

- 1 The development hereby permitted shall begin 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 amended by the Planning and Compulsory Purchase Act 2004.

- 2 The net sales and display area (defined as all areas used for the display and sale of goods, including floor spaces used for checkouts, customer circulation and customer services but excluding entrance / exit lobbies, customer toilets, café and Automated Teller Machines (ATMs)) shall not exceed 3,425 square metres, of which not more than 1,203 square metres shall be used for comparison goods.

REASON: in order to protect the vitality and viability of the town centre.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy SP3.

- 3 No part of the net sales and display area (defined as all areas used for the display and sale of goods, including floor spaces used for checkouts, customer circulation and customer services but excluding entrance / exit lobbies, customer toilets, café and automated teller machines (ATMs)) of the foodstore hereby permitted shall be given over to any dry cleaning services, key cutting, shoe repair, photographic, or pharmacy services dispensing medicines by prescription or post office counter services.

REASON: in order to protect the vitality and viability of the town centre.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy SP3.

- 4 The delivery and despatch of goods to and from the site shall be limited to between the hours of 0600 and 2300.

REASON: in order to safeguard the amenities in which the development is located.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy C38 and SP3.

- 5 The use of the petrol filling station hereby permitted shall only take place between the hours of 0700 and 2300 on Monday to Saturdays, and 0900 and 2200 hours on Sundays and Bank Holidays.

REASON: in order to safeguard the amenities in which the development is located.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies C38 and SP3.

- 6 The use of the online deliveries facility hereby permitted shall only take place between the hours of 0800 and 2200 on Mondays to Saturdays, and 09.00 and 1700 on Sundays and Bank Holidays.

REASON: in order to safeguard the amenities in which the development is located.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies C38 and SP3.

- 7 No development shall commence on site until details of the external materials for the development, including the petrol filling station, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details.

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

POLICIES: West Wiltshire District Plan - First Alteration 2004 - Policies C17, C18, C31A, and SP3.

- 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) all means of enclosure including all walling, fencing, railings, etc;
- (f) car park layouts;
- (g) other vehicle and pedestrian access and circulation areas;
- (h) hard surfacing materials;
- (i) minor artefacts and structures (eg furniture, play equipment, refuse and other storage units, signs, lighting, etc);
- (j) proposed and existing functional services above and below ground (eg drainage, power, communications, cables, pipelines, etc, indicating lines, manholes, supports, etc)

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

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies C17, C18, C31A, C32.

- 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 buildings 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 be

carried out in accordance with the approved details prior to the occupation of any part of the development or 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 landscape features.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies C17, C18, C31A & SP3.

- 10 No development shall commence on site until details of all earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, and the nature of the material, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

REASON: to ensure a satisfactory landscaped setting for the development and in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk and West Wiltshire District Plan - First Alteration 2004 - Policy C32.

- 11 No development shall commence on site until a landscape management plan, including longterm design objectives, management responsibilities and maintenance schedules for all landscape areas (other than small, privately owned, domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved in accordance with the approved details.

REASON: to ensure the proper management of the landscaped areas in the interests of visual amenity and in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk and West Wiltshire District Plan - First Alteration 2004 - Policy C32.

- 12 No external lighting shall be installed on site before full details showing the type of light appliance, the height and position of fitting, illumination levels, light spillage, and hours of use, have been submitted to and approved in writing by the Local Planning Authority. These details shall include all measures for security lighting to the site. The lighting and use approved shall be installed and maintained in accordance with these approved details.

REASON: in the interests of the amenities of the area and to minimise unnecessary light spillage.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy C35 and C38.

- 13 No development shall commence on site until details and positioning of the directional signage to the town centre, riverside walk and nature reserve, have been submitted to and approved in writing by the Local Planning Authority, including, if necessary the relevant consents under the Control of Advertisement Regulations 2007.

REASON: in order to encourage joint visits to other town centre premises in the interest of maintaining and enhancing the vitality and viability of the town centre.

POLICY: West Wiltshire District Plan - First Alteration 2004 - C24.

- 14 Before the commencement of development on the site a scheme providing details of the security measures to the site, including CCT and lighting, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with

these approved details, prior to the first use of the petrol filling station and the store's extensions.

REASON: in the interests of the security of the site and surrounding area.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy C38.

- 15 No development shall commence on site until full details showing ventilation and extraction equipment within the site, including that to suppress and disperse any fumes and or smell created by the cooking operations on the premises have been submitted to and approved in writing by the Local Planning Authority. The details shall include details of noise attenuation, position and appearance. The approved equipment shall be installed before the first use of the store's extensions, and shall thereafter be maintained in accordance with these approved details.

REASON: in order to safeguard the amenities in which the development is located.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies C38 and SP3.

- 16 No development shall commence within the site area until:
- (a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
 - (b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

POLICY: Planning Policy Guidance 16: Archaeology and Planning

- 17 No development shall commence on site until a management plan for the use of the service yard, including details of the provision for loading and unloading of goods within the site has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with these approved details before the store extension is first brought into use, and at all times thereafter.

REASON: To ensure that adequate provision is made for servicing in the store in the interests of highway safety.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy SP3.

- 18 No materials, goods, plants, machinery, equipment, finished or unfinished products or parts of any description, skips, crates, cages, containers, waste or any other item whatsoever shall be placed, stacked, deposited, or stored outside any building on the site without the prior approval in writing of the Local Planning Authority.

REASON: In the interests of the appearance of the site and the amenities of the area, and in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk, and West Wiltshire District Plan - First Alteration 2004 - Policies C17, C18, C38, and SP3.

- 19 No development shall commence on site until details of the storage of refuse, including details of location, size, means of enclosure and materials, have been submitted to and approved in writing by the Local Planning Authority. These arrangements shall be undertaken in accordance with these approved details and shall be brought into use before the first use of the store's extensions. The approved arrangements shall be subsequently maintained in accordance with the approved details thereafter.

REASON: in the interests of public health and safety.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies C38 and SP3.

- 20 No development shall commence on site until full construction details of the alterations to the roundabout junction to the site, as indicated on drawing reference S1 - 07382 - 004 B, have been submitted to and approved by the Local Planning Authority; the measures shall be implemented in accordance with the approved details before the store extensions are first brought into use.

REASON: To ensure a safe and satisfactory access arrangement.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy SP3.

- 21 No development shall commence on site until full construction details of the alterations to the site layout, as indicated on drawing reference CHQ.0707707 - PL05 P, have been submitted to and approved by the Local Planning Authority; the measures shall be implemented in accordance with the approved details before the store extensions are first brought into use.

REASON: To ensure a safe and satisfactory access and parking arrangement.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy SP3.

- 22 No development shall commence on site until full details of the bus gate, including a scheme for its operation and maintenance, shall be submitted to and approved by the Local Planning Authority; the bus gate shall be in continuous operation on first use of the store extensions in accordance with the approved scheme.

REASON: To prevent unauthorised and unsafe use of the bus gate and to ensure the bus gate remains available at all times.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy SP3.

- 23 No development shall commence on site until full details of the cycle parking facilities shown on drawing CHQ.07.7707-PL05-P have been submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be implemented in accordance with these approved details before the store extensions are first brought into use, and shall be retained in accordance thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided to encourage travel by means other than the private car.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy SP3.

- 24 Before the commencement of any development on site, a car park management plan, including specification of the terms and conditions of the existing and proposed hours of free public parking, shall be submitted to and approved in writing by the Local Planning Authority. The operation of the car park shall be in accordance with these approved details, and any changes to it shall be subject to the written consent of the Local Planning Authority.

REASON: to ensure that adequate provision is made for parking within the site in the interests of highway safety and to encourage multiple trips between the store and the town.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies T10 and SP3.

- 25 The flood compensation scheme detailed in the approved Flood Risk Assessment (FRA) dated April 2010, 'Extension to Sainsbury's Supermarket, Melksham, Flood Risk Assessment - Final', by Black & Veatch, shall be carried out and delivered in full prior to the first use of the car parks and store extensions.

REASON: to ensure that the flood risk to the land is not increased at any time during or after the development.

POLICY: Planning Policy Statement 25 - Development & Flood Risk.

- 26 No development shall commence on site until details of the balancing pond shown on the approved plans has been submitted to and approved in writing by the Local Planning Authority. Subsequently the scheme shall be constructed strictly in accordance with the approved details prior to the use of the store's extensions.

REASON: in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk.

- 27 No development shall commence until detailed plans and cross-sections showing the maintenance to the River Avon have been submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with these approved details, and thereafter.

REASON: in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk.

- 28 No development shall commence on site until details of the operation and maintenance of the flood storage area and the production of a Habitat Management Plan have been submitted to and approved in writing by the Local Planning Authority. The flood storage area shall be maintained in accordance these approved details.

REASON: in the interests of flood prevention and habitat protection.

POLICY: Planning Policy Statement 25 - Development & Flood Risk, and West Wiltshire District Plan - First Alteration 2004 - Policy C9.

- 29 No development shall commence on site until a scheme to restrict shopping trolleys leaving the site has been submitted to and approved by the Local Planning Authority. The development shall not be first brought into use until the approved scheme has been brought into operation. The approved scheme shall be maintained in operation in accordance with these approved details.

REASON: in the interests of the character, appearance, and amenities of the area, and to prevent pollution of the water environment and reduce the potential of blockage to flood flows.

POLICY: Planning Policy Statement 25 - Development & Flood Risk, and West Wiltshire District Plan - First Alteration 2004 - Policies C38 and SP3.

- 30 No development shall commence on site until details of surface water drainage from impermeable parking areas and hardstandings for vehicles, commercial lorry parks and petrol stations associated with the development to oil interceptor(s) has been submitted and approved by the Local Planning Authority. The development shall not be first brought into use until the oil interceptor(s) has/have been installed in accordance with the approved details. Thereafter the oil interceptor(s) shall be maintained in accordance with the approved details. Roof water shall not pass through the interceptor(s).

REASON: To minimise the risk of pollution of the water environment.

POLICY: West Wiltshire District Plan 1st Alteration 2004 - Policy U2.

- 31 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage

details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained and to prevent the increased risk of flooding by ensuring the satisfactory disposal of surface water.

POLICY: Planning Policy Statement 25 - Development & Flood Risk and West Wiltshire District Plan 1st Alteration 2004 - Policy - U2.

32 Unless otherwise agreed 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 requirements 1 to 4 (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 4 has been complied with in relation to that contamination.

1. 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:

i. a survey of the extent, scale and nature of contamination;

ii. an assessment of the potential risks to:

- 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;

iii. 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'.

2. 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 remediat³⁵ Before the commencement of any development on site, a car park management plan, including specification of the terms and conditions of the existing and proposed hours of free public parking, shall be submitted to and approved in writing by the Local Planning Authority. The operation of the car park shall be in accordance with these approved details, and any changes to it shall be subject to the written consent of the Local Planning Authority.

REASON: to ensure that adequate provision is made for parking within the site in the interests of highway safety and to encourage multiple trips between the store and the town.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies T10 and SP3.

3. 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.

4. 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 2, 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 3.

5. Long term monitoring and maintenance. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. 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 offsite receptors.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy C37.

- 33 Prior to the commencement of any development on site, an Ecological Management Plan, detailing how the habitats created as a result of the development will be managed in future for wildlife benefits should be prepared and submitted in writing for approval by the Local Planning Authority. The Plan should include details of who will be responsible for ensuring the management is carried out in the long-term.

REASON: to protect, safeguard and enhance the wildlife value of the site.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy C9.

- 34 A Construction Ecological Management Plan / Method Statement should be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development on the site. The Plan should provide full details of how works will be carried out on site with regard to protecting the wildlife and river corridors.

REASON: to safeguard the wildlife and river adjacent to the site during construction.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy C9.

- 35 No development shall commence until a scheme for the provision of pollution during the construction phase has been submitted to and approved in writing by the Local Planning Authority. The scheme should include details of the following:-

- site security;
- fuel storage, bunding, delivery and use;
- details of how major and minor spillages will be dealt with;

- containment of silt, soil, and contaminated run off;
- disposal of contaminated drainage, including water pumped from excavations;
- site induction measures for workforce for pollution prevention and awareness.

REASON: to prevent pollution of the water environment.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policy U4.

36 No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- (a) the parking of vehicles of site operatives and visitors;
- (b) loading and unloading of plant and materials;
- (c) storage of plant and materials used in constructing the development;
- (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (e) wheel washing facilities;
- (f) measures to control the emission of dust and dirt during construction;
- (g) a scheme for recycling/disposing of waste resulting from demolition and construction works
- (h) measures for the protection of the natural environment.
- (i) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

POLICY: Planning Policy Guidance 24: Planning and Noise and West Wiltshire District Plan 1st Alteration 2004 - POLICY: C38.

Informative(s):

- 1 You are advised to contact Wessex Water to agree points of connection onto their apparatus.
- 2 The applicant should note that under the terms of the Wildlife and Countryside Act 1981 and Countryside and Rights of Way Act 2000, it is an offence to disturb nesting birds or roosting bats. You should note that the work hereby granted consent does not override the statutory protection afforded to these species and you are advised to seek expert advice if you suspect that the demolition would disturb any protected species. For further advice, please contact the district ecologist at Wiltshire Council.
- 3 Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works to structures in under, over, or within 8 metres of the top of the bank of the River Avon, designated a 'main river'. Please contact the Environment Agency's Development and Flood Risk team on 01278 484654 for guidance on how to apply for Flood Defence Consent.
- 4 Ecological Recommendations: the suggested conditions to any permission to should seek to achieve the following:
 1. Long term protection of the proposed flood compensation area should be secured in perpetuity by condition or legal agreement in order to protect the features of Conigre Mead nature reserve

2. Before works commence a Construction Environment Management Plan will be submitted for LPA approval and implemented as agreed. The CEMP will cover, but not be limited to, the following:

- Protection of the banks and water quality of the River Avon
- Protection of habitat used by otters
- Translocation of reptiles
- Erection of bat boxes
- Protection of breeding birds

5 Before works are completed a habitat management plan covering the proposed flood compensation area will be submitted for LPA approval and implemented as agreed.

6 A lighting scheme will be submitted for approval by the LPA and implemented as agreed. The scheme will demonstrate that the River Avon and its bankside habitats will remain unlit.

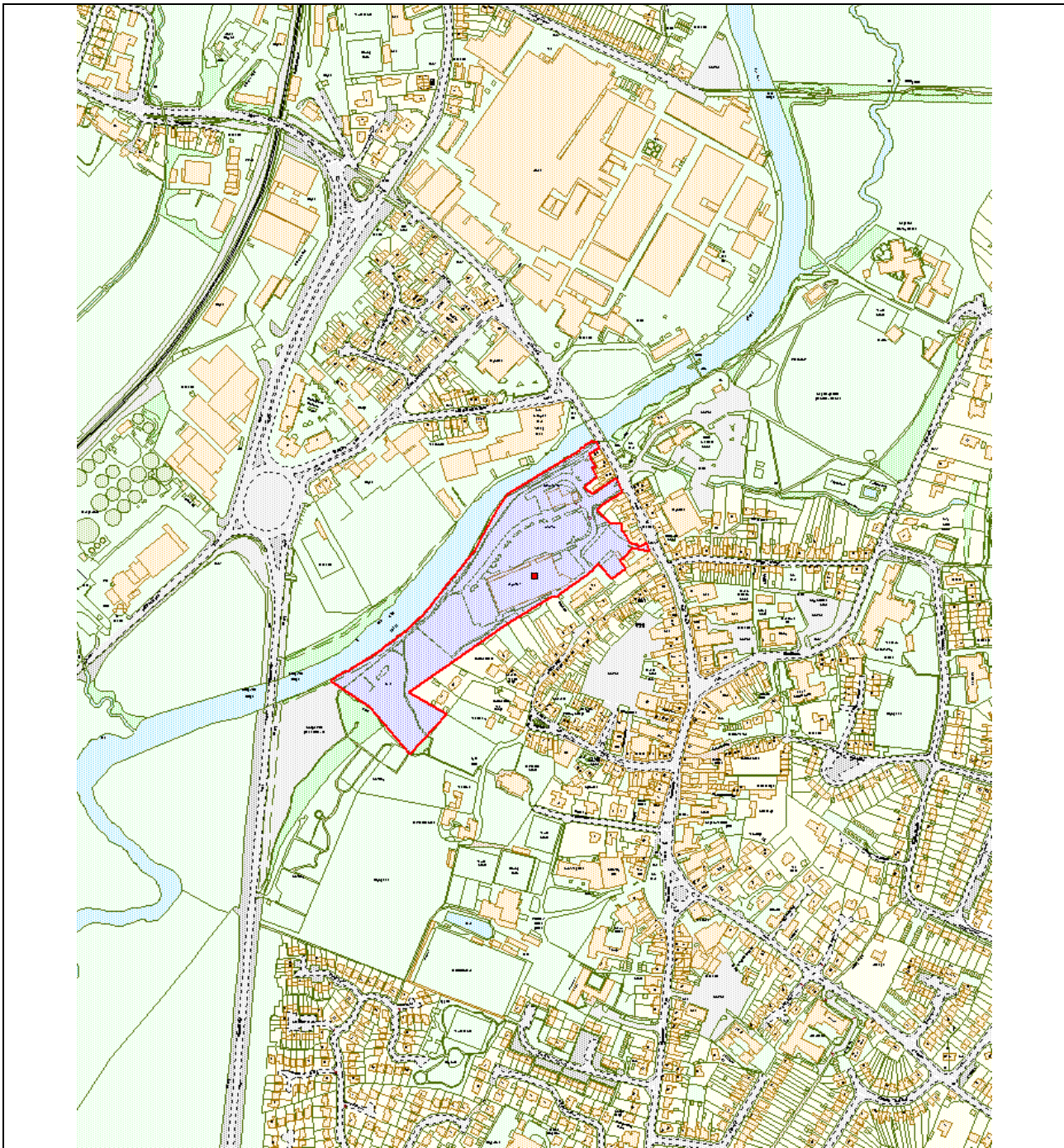
7 The archaeological watching brief should be conducted by a professional recognised archaeological contractor in accordance with a brief issued by this office and there will be a financial implication for the applicant.

8 The Environment Agency recommends that developers should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination;
2. Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, eg human health.
3. Refer to our website at www.Environment-Agency.gov.uk for more information.

9 You are advised that signage in and around the site may require Consent under the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

Appendices:	
Background Documents Used in the Preparation of this Report:	



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Bradley Road Trowbridge Wiltshire BA14 0RD www.wiltshire.gov.uk

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