

Rep 2

Application No: Y09/0627/SH

Location of Site: Smiths Industries, Military Road, Hythe, Kent

Development: Demolition of existing buildings, construction of a new 5573 square metre retail superstore, together with associated engineering operations, car parking, delivery yard and vehicular access.

Applicant: Sainsbury's Supermarkets Limited

Agent: Mr S Wilson
WYG Planning & Design
100 St John Street
Farringdon
London

Date Received: 24.06.09 **Date of Committee:** 15.12.09

Expiry Date: 23.09.09 **NG REF:** 615579 134802

Officer Contact: Mr Ben Geering

RECOMMENDATION:

That the Head of Planning Services be given delegated authority to grant planning permission, subject to the completion of a legal agreement to secure improvements and funding to encourage linked trips to the High Street, provide a fund for double/secondary glazing and new doors to the properties 3 to 17 Military Terrace and provide off site staff parking. The permission to be subject to the conditions set out at the end of the report including any revisions or additions the Head of Planning Services may consider appropriate.

1.0 Introduction

1.1 The application was considered by the Development Control Committee of the 20th October 2009. Following considerable debate and a defeated motion to approve the application Councillors voted unanimously to defer the application, pending further discussions with the applicant regarding the following issues:

- The impact of the storage yard on residential properties in Military Terrace, Hythe;
- To assess whether it would be appropriate to transpose the location of the Sainsbury store and its car park;
- Measures to prevent car parking by Sainsbury staff on Military Road, Hythe;
- More information to be provided regarding the possible impact on smaller shops in the town centre;
- Further breaks in the design of the proposed elevations.

1.2 This report will primarily focus on the above issues and can be considered as an addendum to the previous report, which is attached as Appendix 1 to this document and should be read in conjunction with this update.

2.0 Additional information provided by the applicant in response to Councillors' requests.

2.1 Following the deferment of the application Council Officers have entered further discussions with the applicant so as to ensure the issues raised by the Committee are fully considered. In response the applicant submitted additional information and amended plans, dated the 5th November 2009. In summary this additional information proposed :0

- Moving the service yard wall 3 metres further to the west away from Military Terrace.
- Installing a 'quiet' surface to Sir John Moore Avenue to reduce vehicle noise and vibration.
- Increasing the height of the acoustic fence along Sir John Moore Avenue in line with the gradient of the road so that it remains at 4m height above ground level.
- Reducing the delivery hours to that proposed by Cllr Carey at the committee (no earlier than 8am, no later than 10pm with considerable weekend reductions).
- Providing a fund of £12,000 to which the owners of numbers 17,15,13,11 Military Terrace can apply (i.e. £3k per property) to install secondary glazing via the s106 legal agreement.
- Providing 20 staff parking spaces on site with 20 permits for staff within local nearby Shepway car parks so as to reduce staff parking on Military Road (survey work identifies that 47% of Sainsbury's staff drive to work).
- Amendments to the design, increasing glazing and reducing the amount of euroband cladding to the south elevation.

2.2 Whilst further information and analysis was provided regarding –

- The option of "flipping" the site layout so that the car park is located to the east and the store to the west
- The impact of the proposal on the High Street and a comparison with New Romney Town Centre

2.3 Following further discussion with Officers and nearby residents further additional information was provided on 1st December 2009. This additional information provided a response to points raised by consultees, together with further concessions beyond that set out above, which are discussed in detail in the following text.

3.0 Publicity

3.1 All those neighbours originally notified by letter, together with all members of the public that have commented on the proposal in writing have been formally consulted by the Council, giving a period of 14 days for further comments relating to the amendments to the development. Expiry date 20th November 2009.

4.0 Representations

- 4.1 Section 6 of the original report contains a summary of objections and support received for the proposal. Prior to the meeting further letters of objection and support were summarised in the supplementary sheets. The precise nature of objections and support is set out in the original report and supplementary sheets (attached).
- 4.2 In summary however these objections relate to whether there is a need for the development, the increase in vehicle movements, traffic generation and parking, the design of the development, the visual impact of the development upon the adjacent listed Military Terrace, Conservation Area and Royal Military Canal, the increases in noise, disturbance and vibration caused by access to the service yard via Sir John Moore Avenue, the opening and delivery hours of the store and the view that the development would have a significantly detrimental impact on existing High Street retailers. Letters of support suggested that the proposal would provide opportunity for vital employment within the town, would retain shoppers and bring new shoppers to Hythe who currently drive to Ashford and Folkestone, is of a tasteful design replacing a poor quality building and would also bring more people to the High Street and attract new retailers
- 4.3 Following reconsultation the following comments have been provided which relate specifically to the recent changes to the proposal 0
- 4.4 Hythe Town Council

RECOMMENDED - That Hythe Town Council requests that:

- 1 The trading hours to be limited to 8am – 8pm Monday to Saturday inclusive and 10am – 4pm on Sundays, with the doors remaining closed until opening times.
 - 2 The delivery times to be limited to 8am – 8pm Monday to Saturday inclusive and 10am – 4pm on Sundays.
 - 3 Sufficient S106 monies to be provided to appropriately double glaze the 4 properties in Military Terrace (numbers 17, 15, 13 & 11).
 - 4 Shepway District Council requests of Sainsbury's that the S106 monies be increased in light of the Shepway District Council's Development Control Committee's consideration that the "flipping" of the car park would benefit the Town and in the light of Sainsbury's non-compliance with the proposal to "flip" the car park.
 - 5 3 hour free car parking to be provided.
- 4.5 Additional comments received from:
- A Jenner, 6 Sir John Moore Avenue; D Crook, Troon, Barrack Hill; R cope, 11 Wych Elm Way; Aj&JE Butter, 3 Commodore Court; MK Bishop, 22 Palmbeach Avenue; D Ames, 41 Castle Avenue; CA Smith, 26 Mill Road; R Knuden; 2 Sir John Moore Avenue; C Bruce, 16 Summer Court; R Daniels, 67 Sir John Moore Avenue; A Smith, 26 Meadow Way; S Stevenson (email); Y Hogg, 1 Palmersh Avenue; J Beason, 8 Peregrine Close; E&J Lavery, 47 Dymchurch Road; H Vaughan, 12 London Road; S Duprey, 12 London Road; A Jackson 5 Spnaton Crescent; L Barker, 2 Shepherd Walk; A Wheatley, 26 Appledore Crescent Cheriton; J Meek, 4 Redoubt Way Dymchurch; B Vassillieff, 5 Tanners Hill Gardens; DM Ellison, 1 Old Post Office Mews; W Kent, 7 Military Terrace; G Coombes, 6 Peregrine Close; N Gibson, 6 Woodland Rise; KA Harris, 32 Sir John Moore Avenue; Z Phillips,

Ebbor House, Barrack Hill; J&B Twist, 26 Station Road; S Ciediora, 60 Orchard Park, Dymchurch; P Christie, Frenchmans Field, Sir John Moore Avenue; RA Verney, Willowcrest, Rhodes Minnis; E&G Hansen, Broadview, Hillside St; I Anderson, 1 Albert Road, J Penson, 11 Theatre Street; JVE Munier, 63 Turnpike Hill; G Whitehead, J&H Drury, 6 Elm House; WT Clark, 40 Larch Walk, Ashford making the following additional comments to those already set out in the previous report and supplementary sheets:

- Deliveries up until 10pm, 6 days a week will have an unacceptable impact on the people in Military Terrace and Sir John Moore Avenue, particularly if the occupants have children. Whilst the quieter road surface and s106 contributions will help the vehicles will still be turning into and out of Sir John Moore Avenue until late at night.
- Sainsbury's investigation of "flipping" the scheme has been taken quite literally and without any real thinking outside of the box. Mr Wilson's report reiterates the point that the store size is "reasonably needed in order to effect a major change in shopping patterns locally" Is it not possible that a smaller store with a flipped layout could not still attract a reasonable number of people from travelling elsewhere to shop? A more reasonable balance needs to be found between the interests of Sainsbury's and those of the town. This idea needs more work.
- Although we all shop at stores like Sainsbury's there are places where they should not be permitted and Hythe is such a place.
- The site should be used for housing.
- Neither Hythe nor New Romney are thriving towns.
- All of the considerations within the press and at the committee seem to be regarding the residents of Military Terrace rather than Sir John Moore Avenue. It was bad enough having the Smith's factory nearby, with huge articulated lorries coming up the very narrow Sir John Moore Avenue to turn into the yard, associated noise and inconvenience and the noise of air conditioners in the yard. I complained to Smiths on 3 occasions, but the noise heard at night continued to disturb my sleep. I do not see flipping the scheme will help me a great deal and consider Sainsbury's should offer compensation for those within close proximity.
- Hythe has plenty of small shops we try to use. The supermarket will result in losing these shops and therefore the employment benefits of the store have to be questioned.
- Traffic will result in the greatest environmental and social impact on the whole town, making it a less attractive place for visitors.
- Why not use the site for the benefit of the people and build a swimming pool and related facilities?
- If people want to shop at Sainsbury's they can go to New Romney, Ashford or Park Farm. There are already enough Sainsbury's stores within the area.
- The location is not convenient for the High Street, people will not visit the High Street shops from the store.
- I live in Military Terrace and consider that delivery hours should be restricted until 8pm. Lorry noise along Military Road does not stop after four houses.
- The amendments are not enough to account for the horrendous size and ugly design of the building.
- Why have the people of Military Terrace become so vocal? When Seeboard owned the building there were large vehicles coming and going all day. When Portex took over the same applied and often very

large buildings would arrive in the early hours of the morning, waiting outside the gates. I cannot believe that Sainsbury's will have more deliveries or larger vehicles than any previous occupant of this site.

- Military Terrace fronts onto a busy road and from approximately 5am to 2am the following day traffic thunders by – why are they suddenly showing such concern?
- People who shop in the town already park on Military Road and therefore it shows that people will walk to the town from this location. I therefore don't believe it will be detrimental to the small businesses in the town and may bring in people who would usually go to the supermarkets and shops in Folkestone.
- I dispute the findings of the survey which has been sponsored and organised by Sainsbury's.
- KCC have not fully detailed how they expect to control traffic along Military Road.
- The planning condition should set a maximum noise level to be allowed from the service yard.
- 100% of staff car parking needs should be met on site, how can the Council control staff parking otherwise?

5.0 APPRAISAL

5.1 The following appraisal should be read as an addendum to the appraisal set out in sections 8 017 of the report. These sections provided a detailed analysis of the proposal, including thorough discussion of the policy context by which the application must be determined, the independent analysis completed by Retail Planning Consultants appointed by the Council, analysis of the character, layout, scale, appearance and impact of the development, highway and parking issues, landscaping, neighbour impact and legal agreement requirements.

5.2 Following amendments to the scheme the plans under consideration are as follows –

- 74950000 – Site location plan
- 74950002 'd' – Proposed site plan
- 74950003 'b' – Proposed store plan
- 74950004 'e' – Proposed elevations
- 74950005 'a' – Site sections
- 74950006 'a' – Proposed roof plan
- 74950008 – Topographical survey
- 74950009 'a' – Stair, plinth and planter details
- 74950010 'a' 0 Service yard and surrounding detail

In addition high quality computer generated images of the proposed store have been created which provide images of the proposed store within the context of the site looking towards the store from the east and west.

5.3 The addendum report will address each of the 5 issues raised by Councillors in turn, providing detail of the responses from Sainsbury's followed by officer comments.

6.0 To assess whether it would be appropriate to transpose the location of the Sainsbury store and its car park;

6.1 Members requested that the applicant give consideration to "flipping" the foodstore so that the store is located to the western side of the site, with the car park to the east. The layout as currently proposed has been designed so as to present an attractive façade to those approaching the Town Centre along Military Road whether on foot or travelling by car, this is achieved by having the store in the position shown in the application scheme. In addition it must be considered that Smith's deliveries took place from a location broadly equivalent to where the current delivery yard access is proposed, where it has functioned for a considerable number of years.

6.2 During the application considerable changes were made to the scheme to further separate the service yard from properties on Military Terrace through the removal of the Goods Online area, the widening of Sir John Moore Avenue in this location and the inclusion of significant landscaping. In the applicant's view the current scheme is therefore appropriate.

6.3 Drawing 7495-sk50A has been provided in support of the application to provide an indicative layout of the site with the store repositioned to the western extreme of the site with car parking for 173 cars to the east. Service access is provided from a location broadly equivalent to the car park entrance as proposed in the current application, with the customer car park accessed directly from Military Road.

6.4 Comparing the proposed (application) scheme with the flipped scheme can be summarised as follows:

	Submitted scheme	Indicative scheme flipped
Proposed sales area	3508 sq/m	3508 sq/m
Total external area	5573 sq/m	5573 sq/m
Car parking spaces	267	173
Distance from service yard to nearest building	16m	11m
Distance from unloading bay to nearest building	22m	22m
Level of the store m (AODN)	9.2m	9.4m
Level difference between Military Road and the store	3.0m	3.2m
Approx number of trees lost to Military Road	8	12
Parking ratio area/spaces	1:21	1:32

6.5 The applicants consider that the flipped scheme would result in considerable problems 0

- The distance to properties in Sir John Moore Avenue is significantly less than that currently proposed.
 - 4 more considerable trees will be lost from the Military Road frontage than in the current scheme.
 - The store entrance is further away from the Town Centre boundary
 - A less attractive façade is presented to those approaching the site from the west.
 - The proposal cannot provide sufficient car parking to serve the store.
- 6.6 The applicant also considers the flipped scheme has implications for the stability of the retaining wall. The submitted scheme produces a small "pinch point" adjacent to the retaining wall of 203 metres in length with minimal disturbance to existing levels, minimising the risk of undermining the retaining wall. The "flipped" scheme would involve building in front of a taller and therefore more heavily loaded retaining wall along its entire length and due to the close proximity of the store to the retaining wall there is a risk of undermining the existing retaining walls foundations significantly. This greatly increases the potential risks of movement of both the wall and the properties/infrastructure above.
- 6.7 The applicant's Retail Impact Assessment, together with the independent assessment of this document by the Council's consultants Roger Tym and Partners has shown that the proposed store is of the size needed in order to bring about a major change in shopping patterns locally and to claw back shopping trips currently leaked from Hythe to other destinations, in particular Folkestone. To that extent a reduced store size would not achieve as great a reduction in shopping expenditure outside of Hythe, nor result in the significant number of vehicle mile savings that the current proposal brings and it would not result in the substantial spinoff benefits for the town centre that has been demonstrated. Further, the applicant has stated that a further reduction in the floor space of the store would severely hinder the viability of the scheme and cast doubt over whether Sainsbury's would proceed with the development, meaning that Hythe would not receive the significant investment associated with the store, nor would the increase in linked trips to the High Street as well as the significant job creation materialise. Under these circumstances the applicant considers the site could remain vacant for a considerable period of time.
- 6.8 Irrespective of the above, a 173 space car park is inadequate to serve a store of this size. Information contained within the Transport Assessment submitted with the application shows that even during quieter periods during the week a car park of this size would be insufficient for the likely number of trips to the store. Sainsbury's transport consultants, MeyerBrown have provided additional supporting information, setting out the likely overspill from a smaller car park of 173 spaces associated with the flipped scheme. This shows that on numerous occasions throughout the week demand would outstrip supply, with a deficit of up to 89 spaces occurring. If these customers are not able to park in the car park they will look to surrounding roads, including Military Road where parking is unrestricted. This has been previously noted as a concern of residents and Members alike. As well as being potentially unsatisfactory from an amenity and safety perspective, an under provision of parking of this magnitude would reduce the likelihood of linked trips to the Town Centre.

- 6.9 Taking the above into account, particularly the under provision of parking it is the view of the applicant that the "flipped" scheme does not possess any advantages over the current application proposals and, in fact, exhibits a number of fundamental difficulties which make it a far less attractive planning proposition than the current scheme.

Officer response

- 6.10 Following the submission of further information regarding the possibility of "flipping" the scheme comments have been sought from the Contracts Manager, Technical and Health Manager, Kent Highways, English Heritage and the Council's Senior Project Engineer. These comments are summarised below.

6.11 Kent Highways

I have to agree with the applicants that the reduced number of parking spaces for the flipped design is likely to result in illegal and irresponsible parking on the highways abutting and in the vicinity of the site. Trusting the Gross Floor Area to be the same as the previous scheme the car parking requirements would fall somewhere between 230 spaces and 300 spaces depending on how much of the site was non food retail and how much was food retail. Assuming it is to be predominantly food retail the previous allocation of 267 spaces was probably about right for this size of development, although if it was all food retail the maximum figure would have been 318 spaces.

I therefore consider that to provide only 173 spaces is likely to have a negative impact which will result in abortive car journeys and customers entering and leaving the site without having found a car parking space or unnecessary queuing in the aisles of the car park whilst waiting for spaces. This could have a knock on effect back onto the access road and Military Road itself. I would therefore not support the application with such a reduced level of car parking in the interest of highway safety.

6.12 Technical and Health Manager

By flipping the scheme this will bring residential properties closer to the service yard. It is difficult to respond to such a scheme without a complete acoustic assessment being undertaken. However, if Members have concerns about the current application and its implications on local residents, then this alternative would potentially have greater detrimental affects, simply because houses will be closer to the service yard. Also, this scheme provides less car parking spaces, so at potentially busy times shoppers may decide to use the surrounding roads, which could potentially cause an increase in noise from car door slamming, engine revving, people's voices etc.

6.13 Council's Senior Project Engineer

My main comment is that the indicative flipped scheme is just that. It doesn't take much inspection of the drawings to see how inefficient the layout is, particularly in terms of parking. It is impossible to say how this flipped scheme could be improved but it looks like there may be scope to do so. A different shaped building could, for example increase the distance between the rear wall and retaining wall and so overcome the stability problems mentioned.

I consider that the number of parking spaces provided by the flipped scheme could be increased with an optimised layout but without detailed knowledge of the applicants' operational requirements it is not reasonable or possible to say how,

Comment

- 6.14 The principle of "flipping" the store and car park had previously been raised by English Heritage. Paragraph 11.2 of the original report addressed this issue, concluding that *"It is your officer's view that, on balance, and considering the considerable amendments to the scheme including setting back the car park to allow for the retention of existing trees, the importance of seeing the active store frontage on approach from the west (rather than the service yard) and the reduction in height and removal of the 'online area,' the proposed layout is not of detriment to the character and setting of the adjacent listed buildings, Conservation Area and Scheduled Ancient Monument."*
- 6.15 In deferring the application Members requested the principle of transposing the store be investigated in order to reduce the impact on the adjacent properties of Military Terrace. It is your officer's view that whilst relocating the store would reduce the impact of deliveries upon the residents of the terrace (who have been located adjacent to a busy service area for many years) relocating the service yard could lead to potentially greater disturbance to the rear of properties fronting Sir John Moore Avenue to the west of the site (who have not) and this view is reinforced by the Technical and Health Manager. The loss of 94 parking spaces (due to the eastern side of the site being narrower) would also have considerable detrimental consequences – with Kent Highways identifying that it is likely vehicles would queue along Military Road in order to access the store whilst off site parking along Military Road would also raise concerns over crossing the highway with shopping bags/trolleys. It must be noted that the 267 space car park sought by the original scheme does not reach the maximum parking standard and is considered an appropriate car park size for the development by Kent Highways Services. By reducing the car park size it would not be possible to offer free parking at the site, which following negotiation the applicant have increased from 2½ hours to 3 hours and therefore the possibility of linked trips to the town centre would be significantly reduced, undermining the benefits of the proposal and the viability of the High Street traders identified by the Council's independent consultants, Roger Tym & Partners.
- 6.16 The applicant have provided information so as to assess the possibility of flipping the location of the store and car park and concluded that such an arrangement would be unacceptable. Whilst this flipped scheme has not undergone the detailed design of the application scheme it provides an indicative example of how such a layout could function. A detailed design transposing the store to the other side of the site would form a materially different planning application, requiring significant supporting information. The committee requested that the applicant investigate flipping the store and it is our officer opinion that they have done that. It is your officer's opinion, based upon a review of the submitted information and the guidance received from Council Officers that such a flipped proposal would result in an scheme of lesser design, a poorer layout and greater amenity problems than that proposed. Whilst further detailed design could improve the flipped layout so

as to allow for more parking spaces, it is your officer's opinion that such a scheme would still not provide the same number of spaces as that of the submitted scheme, nor would it remove the issues associated with deliveries to the store and could considerably undermine the potential for linked trips to the High Street. The applicant does not wish to pursue a flipped option and in your officer's opinion such a scheme would not offer any overriding benefits to that under consideration. It is therefore suggested that other alternative improvements, as set out in the reasons for deferral below, should be focussed upon as the best way to improve the submitted scheme under consideration.

7.0 The impact of the storage yard on residential properties in Military Terrace, Hythe.

- 7.1 Sainsbury's response states that no objection is raised to the operation of the service yard by the Council's Technical and Health Manager who agrees with Sainsbury's noise consultants that subject to deliveries being appropriately controlled via condition the proposal would not lead to a significant loss of residential amenity to neighbouring residents. Sainsbury's also point out that the existing use of the site, which involved deliveries via Sir John Moore Avenue is unrestricted and that at the height of operations around 15 vehicles a day accessed the site via the existing service yard entrance. Despite this, Sainsbury's have proposed 6 additional measures aimed at further reducing the potential for disturbance to local residents. These are

1. Delivery Hours

- 7.2 Whilst Sainsbury's do not consider it necessary in order to adequately control noise from the service yard, if Members consider it necessary they are prepared to accept a condition restricting the hours of delivery to the store. Following additional negotiation with the applicant and discussions with neighbours the applicant have suggested the following delivery hour restrictions 0

Monday to Friday	0800 02200
Saturday	1000 02200
Sunday	1000 01700

With all operational service activity to cease within 40 minutes of the last delivery time and controlled via planning condition.

These restrictions exceed those suggested by Councillor Carey at the previous committee meeting.

2. The height of the acoustic wall

- 7.3 The applicants propose to raise the height of the acoustic wall separating the service yard from Sir John Moore Avenue to follow the uphill gradient so that it remains 4 metres in height along its entire length. This will result in a further reduction in noise levels beyond the site. Acoustic gates to the service yard are also proposed. The applicant's acoustic consultants have calculated that the amendments to the height and location of the acoustic wall will result in a reduction of service yard activity sounds by 1.2dB and average noise levels by 0.8dB.

3. Secondary/double Glazing

- 7.4 In light of comments made by Members at the committee the applicant originally proposed to make an additional s106 contribution of £12,000 to be ringfenced and available for the Council to use for the benefit of local residents to provide an appropriate form of secondary glazing for the four Military Terrace properties closest to the application site boundary (17, 15, 13, 11).
- 7.5 Following detailed discussions with neighbours the applicants have now proposed further contributions as part of the s106 legal agreement to provide double/secondary glazing to all properties (3017) within Military Terrace, as well as replacing all front and back doors for all dwellings within the terrace. Following internal inspection this investment has been costed at £10,000 per house, £80,000 in total. This figure assumes that all new doors and windows would be constructed in timber. On the basis that both the applicant's acoustic consultant and Council's Technical and Health Manager are satisfied that the residential amenity of nearby properties can be protected via planning conditions, the applicant does not believe it is technically necessary to fund double glazing and replacement doors for any properties within the terrace. However this is considered a goodwill gesture by the applicant in light of the comments made by the Development Control Committee Members and following discussions with local residents who are concerned that the arrival and departure of vehicles to and from the service yard, along Sir John Moore Avenue and Military Road will impact upon their residential amenity.

4. Service yard management plan

- 7.6 Following the resolution of Members a Service Yard Management Plan has been prepared. This contains additional information to that included with the application and seeks to provide greater clarity on the measures that will be put in place to ensure the service yard functions with as little disruption to near by properties as possible. The majority of measures are applicable throughout the operational hours of the service yard. The applicant is happy for the Service Yard Management Plan to be made a condition, as proposed in the previous report.

A copy of the Service Yard Management Plan is attached as Annex 1 to this document.

5. Relocation of the service yard wall and provision of additional landscaping.

- 7.7 Following the resolution of Members the layout of the scheme has been amended, with the service yard wall, immediately opposite the western flank of number 17 Military Road being pulled back to the west by a further 3 metres. This allows for additional substantial landscaping to the strip of land between the corner of Military Road and Sir John Moore Avenue and also helps reduce noise levels from the service yard by up to 1.2dB. The service yard wall is now 19.3 metres from the flank wall of 17 Military Terrace, 2.5 metres further away than the closest point of the existing Smiths Industries building on site. The applicant considers that by pulling the service yard wall

further into the site and closer to the source of noise any noise associated with deliveries will be more effectively contained within the confines of the service yard.

6. Road Surfacing

- 7.8 Military Road is an A road which forms the principle route between New Romney, Hythe and Folkestone. The applicant conducted a traffic survey for a week, commencing 11th May 2009 to record the number of heavy vehicles (all buses and lorries over 5.5m in length) and articulated vehicles using the road. This identified that on average traffic on Military Road varies between 9,000 – 12,000 vehicles per day, with heavy goods vehicles accounting for 10% of the traffic using Military Road. The table below sets out the number of heavy and articulated vehicles using the road, and then factors in the percentage increase associated with the proposed store.

	Heavy Vehicles	Articulated vehicles
Weekday average existing	1014	208
Maximum number of deliveries associated with Sainsbury's store	12	8
Percentage increase associated with store	1.2%	3.9%

Given the figures set out above the applicants consider that the development would result in an extremely limited increase in heavy vehicle traffic along Military Road.

The proposal includes the widening and resurfacing of Sir John Moore Avenue, as shown in drawing 7495 0010. This resurfacing proposes a "quiet" material to further minimise the extent of noise and vibration. The applicants have included details of various materials with such properties, which result in a reduction of noise of between 2.50-4.5dB (A). The use of such a surfacing material could be controlled by planning condition.

Following further discussions with residents the applicants have agreed to extend the area of "quiet" material to include both Sir John Moore Avenue and the junction area with Military Road, extending along Military Road to the front of Military Terrace. Whilst the applicant does not consider there is technical justification for the additional surfacing to Military Road, it is acknowledged that such works would have benefits for the occupants of Military Terrace, reducing vibration and noise and disturbance from all heavy and articulated vehicle movements along Military Road.

The cost of the works have been estimated at £50,000 and could be achieved by planning condition.

Officer Comment

- 7.9 Following the submission of additional information set out in paragraphs 6.1-6.7 above the Council's Technical and Health Manager has provided further

comments in addition to those set out in paragraph 4.3 of the original report. These comments are as follows 0

7.10 Technical and Health Manager

I can confirm that from the evidence supplied by Sainsbury's that through appropriate planning conditions there should be no significant loss to the residential amenity of nearby occupants. In fact, from the proposals put forward to what is currently allowed (no restrictions) greater control is being put in place regarding delivery times, and associated noise that can arise from deliveries.

Delivery Hours

Concessions have been made on delivery hours for Saturday and Sunday mornings, where deliveries cannot take place until after 1000.

Acoustic Wall

The acoustic wall and acoustic gates will aid a reduction in noise escaping from activities within the service yard. Essentially it acts as a barrier, and in simplistic terms therefore the energy in the sound waves produced from the noisy activities have to work harder (by using more energy), and therefore the noise that does escape travels less distance

Secondary/double

The provision of secondary glazing to residents at Military Terrace will obviously be beneficial to them. However, what ever the basis this has been offered on, then possibly similar criteria should be looked at for the residents who may be affected in the premises that lie above the service yard and rear of the store. The finances for the secondary glazing are being proposed within a S106 agreement. Members may want some reAssurance that all residents within the locality are given equal protection. It should also be noted that although such provisions are of benefit within the property, this will not result in reducing noise levels within the external garden areas (however, other concessions as proposed will aid this).

Service Yard Management Plan

The proposals made in the plan provide adequate opportunity for any problems that arise to the local residents to be highlighted and brought to the attention of Sainsbury's. EH are prepared to accept any complaints that may arise from the use of the yard, and investigate the problem. If it is not possible for us to establish statutory nuisance, and possible enforcement for noise nuisance, then through regular meetings any problems that have been highlighted should be able to be resolved. If it is necessary, then specific problems should be notified to Sainsbury's as soon as possible, rather than waiting for an annual review.

Relocation of Service Yard

The reLocating of the service yard wall by pulling back by 3 metres will reduce the noise levels for 17 Military Terrace, simply because there is greater distance being created from the noise source to the receiver. However, without further acoustic predictions it is difficult to determine whether this distance will be sufficient enough for any benefit to be perceived by the occupants of the residential premises (for this to happen it is generally accepted that there needs to be a change of 3 dB or more for the human ear to detect a difference). The additional landscaping proposed

will not contribute to any reduction in noise levels between the source and the receiver.

Road Surfacing

Materials used in road surfacing have the potential to contribute to a significant reduction in noise levels from traffic, and should therefore be seen as a benefit to reducing noise generally within the vicinity.

Additional comments relating to further information submitted:

- 1) The further concessions proposed by Sainsburys in respect of delivery hours, service yard management plans and double glazing will be of additional benefit to the local residents compared to the current situation for deliveries to Smiths Medical.
- 2) It is agreed the resurfacing of the road in front of Military Terrace will provide the residents with general benefits from noise and vibration associated with the level of use of the road currently, and not just in respect of Sainsburys development.
- 3) Technical Note – Appendix 1

This states the maximum number of deliveries will be 12, of which 8 would be articulated. The total number of delivery lorries will still be a small percentage compared to the number of lorries that use Military Road at present.

Officer Comment

- 7.11 Paragraph 13.1 013.5 of the original report set out Officer's assessment of the impact of the proposal upon residential amenity of neighbouring occupants. It is considered that the package of measures set out above; controlled via the imposition of strict conditions and a s106 agreement in relation to secondary/double glazing and new doors will further reduce noise and disturbance to the properties of Military Terrace. The applicant has demonstrated that Military Road experiences considerable traffic flows, with the proposed superstore increasing articulated vehicle traffic by just 3.9% and heavy goods traffic by 1.2%. By resurfacing the section of Military Road and Sir John Moore Avenue adjacent to Military Terrace it is your officers' opinion that the applicant has significantly reduced the impact of the proposal upon the amenity of neighbouring properties and also significantly reduced the impacts of noise and vibration upon the properties from the existing vehicles using Military Road. It is considered by the Technical and Health Manager that the package of measures provided by the proposal will reduce the impact of the proposal on neighbour amenity to the extent that it would be less than that of the existing lawful use of the site.

8.0 Measures to prevent car parking by Sainsbury staff on Military Road, Hythe;

- 8.1 The location of staff parking was raised by residents and members at committee, with concern expressed that there was no staff parking provided within the Sainsbury's car park, forcing staff to park on the surrounding streets. In response the applicant have investigated staff travel to work patterns at existing similar Sainsbury's stores in Barnstable, Andover,

Epsom and Tadley. These stores were chosen as they exhibit locational similarities to the Hythe proposal. Based on these surveys it is expected that the travel mode proportions in the new store will be:

Car on own	Car share	Foot	Bicycle	Bus	Other
47%	9%	28%	5%	7%	4%

- 8.2 It is estimated that the proposed store would have up to 100 staff on site at any one time. It is proposed that 20 spaces will be allocated within the proposed Sainsbury's car park for staff use which will be allocated in favour of those with mobility difficulties and those who car share. A further 20 permits will be purchased from Shepway District Council to enable staff to park within the long stay car parks at Military Road (250 metres from the store) and the Paddocks (600 metres from the store). It is likely that due to the proximity of the Military Road car park staff would park in this location. Providing discounted parking permits has three main advantages:

1. It removed staff parking from within the store car park and on street nearby.
2. It offers a number of members of staff the opportunity to park closer to the town centre, making it more likely that they themselves will undertake linked trips to the High Street.
3. The Council will have guaranteed revenue from the bulk purchasing of parking permits. The parking permits could be made available only to those members of staff who wish to car share, thus reducing further the amount of vehicles on the road in the vicinity of the store.

It is suggested that the travel plan, which will be secured by condition, will contain these suggested measures. The agreed travel plan will be monitored and the results of this monitoring made available to the Council.

Officer Comment

- 8.3 Following the submission of additional information set out in paragraphs 8.1 and 8.2 above Kent Highways have provided the following additional comments relating to the development.

8.4 Kent Highway Services –

The staff parking is taken into account when calculating the number of spaces to be provided overall on site generally so I had already anticipated some staff utilising the same car park as customers in my original appraisal of this application (Kent Vehicle Parking Standards 2006). I agree that to help combat the lack of off-street provision to incorporate measures for staff to seek alternative car parks would be supported and should be within their staff travel plan incentives.

- 8.5 Condition 44 of the original report set out the requirements of the applicant to provide and monitor a travel plan for the store, the purpose of which is to reduce staff reliance on private transport when travelling to work. As stated in paragraphs 14.1 of 14.6 of the original report, the proposed superstore is located within an edge of town centre location within walking distance of much of the town and well served by public transport. The provision of off-street parking, both on and off site should ensure that additional parking along Military Road for staff is minimised by the proposal. It must be taken

into consideration that this road is unrestricted and used for parking by both visitors to the town centre and those who live and work in the locality. The Travel Plan, required by condition 44 provides an appropriate mechanism to minimise staff on-street parking in the area. Given the significant increase in staff parking provision, together with the previous recommendations of Kent Highways and their additional comments, it is your officer's view that the proposal makes appropriate provision for customer and staff parking and will not significantly reduce the number of public spaces available in the vicinity of the store, with evidence from Shepway District Council Highways Manager suggesting that the car parks proposed to be used have sufficient capacity available.

9.0 More information to be provided regarding the possible impact on smaller shops in the town centre.

9.1 A number of comments were made by the Members at Committee regarding the potential adverse effects of the store on independent retailers in Hythe Town Centre. It was suggested, and this point was made in the report to the committee that this had not been looked into as part of the planning application. The applicants consider this is incorrect. There were also questions regarding the extent of the survey undertaken by the applicant.

9.2 The household survey was undertaken over a wide area (15 minutes drive time from the proposed store). The survey area was broken down into 6 zones, Hythe being Zone 1. The survey shows that 63% of shoppers from Zone 1 (i.e residents of Hythe) undertook their main food shopping elsewhere. This figure of 63% is similar to that found by similar studies carried out in support of application Y09/06814/SH by Tesco and an independent study by Kent County Council in 2007; which found that 67% of main food shopping expenditure from residents of urban Hythe left the town.

9.3 Table 32 of Appendix 1 to the Retail and Planning Assessment submitted with the planning application considers the impact of the superstore on 'other' shops in Hythe, based upon the findings of the household survey. This survey does not identify individual local stores, and finds that "local shops" attracted 0.9% of main food shopping expenditure from residents of zone 5 (Hythe) and 3.4% of "top up" expenditure from these residents. The reference to "local shops" excludes existing supermarkets within Hythe which are considered separately.

9.4 Considering shopping activities in more detail the results show that of the Hythe residents surveyed (Zone 1) 9.5% bought clothing and footwear from Hythe Town Centre, compared with 6.5% who bought such goods from Ashford Retail Parks, 9.5% from Ashford town centre, 12% from Canterbury and over 30% from Folkestone. The survey identifies that such shopping already takes place outside of Hythe, possibly as part of a linked trip to food shopping. On this basis the applicant considers that by retaining the likelihood of food shopping within Hythe the potential for these shoppers to visit Hythe Town Centre will only be increased.

9.5 In addition to the household survey a "health check" of Hythe High Street was carried out in support of the original application, located within Appendix 3 of the Retail and Planning Statement accompanying the application. On October 22nd an updated health check was carried out in the town centre. In summary this states that 0

- The number of vacant units in the Town Centre has reduced by 4 from 33 to 29 between March and October.
- The vacancy rate in Hythe remains below the national average and can be considered to have bucked the national trend by recording a decrease in vacancy levels during the recession period. Whilst this statistic should be regarded with caution it is nevertheless a key indicator in respect of the current health of Hythe Town Centre.
- The applicants have provided a detailed list of all units within the town centre and consider in the vast majority of cases there is not going to be any overlap with stores in the High Street. In a number of cases it is considered there will be some overlap with a limited number of retailers selling goods found within the proposed store.
- Where overlap has been identified the applicants do not consider that Sainsbury's is likely to provide direct competition to these stores. As an example they consider that it is unlikely that higher end fashion retailers such as Johns Menswear and Pixies of Hythe will compete with the clothing ranges proposed to be sold in the Hythe store. Whilst Sainsbury's would sell limited stationery items it is not considered it would compete with those artist materials sold in Artrite Hythe, which purely functions as an art material shop and contains a highly specialised range of goods.

9.6 It is the applicant's view that the extent of direct competition between the proposed Sainsbury's store and the independent retailers in Hythe is limited. It is likely that some independent shops may benefit most, together with the existing cafes and restaurants from having a large store within walking distance of the High Street. As previously pointed out it is highly likely that all of the spin off trade for the town centre (associated with linked trips) will go to these independent retailers and not, self evidently to the other supermarkets in Hythe. The applicant also considers that it is the effect of the store on the town centre as a whole which is the key consideration and in this they share RTP's view that the store has the potential to benefit the town centre in overall terms.

9.7 During the committee a number of comments were made by Members regarding the effects of the Sainsbury's store on New Romney High Street. In response to this the applicant has provided a health check of the town centre. At the time of the New Romney Sainsbury's application WYG, Sainsbury's agent for the current application also acted on their behalf. In summary they state that:

- There are now (22nd October) currently 5 vacant units within New Romney Town Centre, representing less than 8% of total units and far below the national average.
- At the time of the Sainsbury's application (1999/2000) there were 3 vacancies in the town. Whilst there has been an increase in vacancies by 2 units, it must be noted that since 2000 two of the current vacancies (in terms of numbers) are within a building that has been demolished, one is the former job centre and number 18 is currently being refurbished, suggesting it is likely to be occupied shortly.
- It can therefore be seen that there has been no material worsening of the vitality of New Romney Town Centre following the opening of the Sainsbury's store. Importantly the 'Spar' store, which might have been

expected to have borne the single biggest impact as a result of the Sainsbury's, is still trading as is Bourne's butchers and Savages Greengrocers.

- 9.8 Whilst we can understand Members concerns about the opening of new stores, there is no evidence from the New Romney example to suggest that the store has had a detrimental effect on the vitality and viability of the town centre. On the contrary there are signs that the town centre has remained strong following the opening of the Sainsbury's store

Academic work

- 9.9 In addition to the further details provided regarding Hythe High Street and New Romney town centre the applicants have provided details and analysis of a recent study of Shepton Mallet, published in Town and Country Planning magazine. This research, carried out by the University of Southampton sought to compare the potential of linked trips when a foodstore (Tesco) relocated from an out of centre location, to an edge of centre location such as that being sought in the current application. Whilst Shepton Mallet cannot offer a direct comparison with Hythe there are similarities between the two towns so as to give the findings some weight.
- 9.10 The study provides a survey of linked trip activity of main food shoppers at the out of centre store, which are then compared with a survey of linked trip activity following the opening of the edge of centre store and the closure of the out of centre store. Given the out of centre store closed as part of the study it is considered there is more likelihood of linked trips within the study than could be predicted for Hythe. The study identifies that following the relocation of the store over 32% of shoppers always or frequently combined a linked trip, with a further 28% occasionally combining a trip to the town centre and store, a 14% increase in those always or frequently combining their main food shop with a trip to the town centre and a 10% reduction in those who never combine a trip to the town centre from the store.
- 9.11 The applicants have suggested a conservative figure of 10% of customers making a linked trip from the proposed Hythe store to the town centre. The research shows that it is possible to achieve far higher levels of linkage than this, even where, in the case of Shepton Mallet (and not Hythe) the High Street is failing.
- 9.12 The research also considers the impact of the new store on the vitality and viability of the town centre following the opening of the new store and found that 12 months after the opening of the store the number of convenience retail units had increased by 1 compared to the prelocation position and that there had been a sizable increase of 25% in the number of leisure service operators such as cafes and delicatessens, despite their being a café within the new store (we would note that no café is proposed in the Sainsbury's store and is expressly excluded by a condition).
- 9.13 It is the applicant's view that the study of Shepton Mallet further reinforces their own assessment that the superstore will increase linked trips to the town centre and that the number of linked trips is likely to exceed the 10% assumed. Even with a 10% assumed linked trip rate it is the applicant's view, reinforced by Roger Tym and Partners in their report completed on

behalf of the Council that the likelihood of linked trips and the turnover benefits for the town centre are likely to be significant.

Officer's Comment

- 9.14 In considering this issue it is vital that Members are fully aware of the policy framework in which the application must be determined. Section 8 of the original report sets this out in full, whilst section 9 provides a detailed analysis of the Retail Impact Assessment submitted by the applicant in support of the application and the independent review of this assessment, completed by Roger Tym and Partners (RTP) on behalf of Shepway District Council.
- 9.15 The applicant's up to date further assessment of Hythe Town Centre identifies that it is performing well, with vacancies below the national average. Roger Tym and Partners share this view in their independent report, whilst the recent study has shown that vacancies within the High Street have dropped since the summer. It can be argued that although the High Street is statistically performing above the national average it could certainly perform better. The Retail Impact Assessment, together with that completed in support of application Y09/0681/SH and a further study completed on behalf of KCC in 2007 all show that less than 50% of expenditure on convenience goods from the residents of Hythe is retained within Hythe stores. The majority of this leaked expenditure is being spent in Folkestone stores such as Tesco at Cheriton and Sainsbury's at Park Farm. These stores are essentially "Island" locations with little opportunity for linked trips to a town centre to occur, they also both sell as wide (if not a wider) a range of convenience and comparison goods to the proposed store under consideration and therefore are already providing direct competition with Hythe High Street for custom and have been for many years.
- 9.16 Paragraph 9.22 of the original report identifies that the proposed Sainsbury's store will gain the vast majority of its trade from customers of existing supermarkets. In Hythe, Waitrose is considered the greatest affected store (25% of turnover), with the Sainsbury's stores in Park Farm and New Romney and the Tesco in Cheriton all predicted to lose 17/18% of turnover to the proposed store. The Retail Impact Assessment identifies that the existing supermarkets within Hythe are overtrading above the company average, and therefore are likely to be able to absorb this reduction in turnover.
- 9.17 Given this background it is apparent that Hythe High Street is already competing with large supermarkets for convenience and comparison goods spend, both within Hythe (Waitrose) and outside (Folkestone and to a lesser extent Ashford and New Romney). The large supermarkets located outside of Hythe offer no opportunity for linked trips to Hythe High Street. Both recent academic research cited above and the Retail Impact Assessment have identified that consumers do often undertake a linked trip with their main food shopping. Because of this our own consultants RTP consider that the proposed development would be likely to lead to an increase in spin off trade to Hythe High Street. Firstly because the linkages between the proposal site and the town are potentially excellent, secondly because the household survey has indicated that 36% of people within the survey area already undertake a linked trip with their main food shopping. Taking these two factors together RTP consider that there is a strong possibility that the

proposed store would increase turnover of other businesses in the town centre, with the likelihood that new linked trips will at least counterbalance any potential loss of footfall due to impact on the town centre supermarkets, subject to satisfactory controls over the proportion of nonfood goods sold from the store.

9.18 The example of New Romney identifies that the provision of an edge of town centre supermarket does not necessarily lead to a detrimental impact on the High Street. Whilst the Sainsbury's store in New Romney is smaller than that proposed in Hythe, so is the population of New Romney and the number of units within the High Street. It is therefore considered the example of New Romney provides a good local comparison with Hythe for which the applicant has provided suitable data.

9.19 Given the above no evidence has been provided to suggest that the provision of a new supermarket within walking distance of the High Street will result in an unacceptable impact upon the High Street as a whole, indeed the independent assessment carried out on behalf of the Council by a highly respected retail planning consultancy suggests that the proposal could increase footfall and spin off trade currently lost from Hythe to other supermarkets, particularly when considering the package of improvements to be provided via the section 106 agreement to encourage linked trips and visits to the High Street.

10.0 Further breaks in the design of the proposed elevations.

10.1 A number of both positive and negative comments were made by Members of the Committee regarding the design of the proposed superstore. In resolving to defer the proposal the specific request was made to investigate further breaks in the design of the proposed elevations.

10.2 The applicant has proposed the following amendments to the Military Road frontage:

1. The introduction of high level glazing between the eaves and the cladding panels
2. The introduction of two additional sections of terracotta panelling to break up the elevations.
3. The further setting back of the service yard fencing.

10.3 These changes are included on the most up to date elevational plan CHQ.07.7495.004E and can be seen on the recently provided high quality computer generated graphics of the store, and it is considered that these measures provide further relief to this elevation. The applicant remains willing to discuss the detail of materials to be used with the Council in due course, pursuant to the proposed planning condition.

Officer Comment

10.4 As set out in section 12 of the original report the scheme has been significantly amended since first submission in order to reduce the bulk and the visual impact of the proposal when viewed from Military Road. The store frontage is set back from the pavement edge by 5 metres along its entire length, with the two storey element set further forward by 2 metres (3 metres from pavement edge) to provide some relief to the long elevation and the

pedestrian ramp and stair providing direct access to the store from Military Road. The service area of the store is located 6 metres from the pavement edge so as to reduce the impact on the adjacent Military Terrace. There is therefore considerable space along much of the store frontage with Military Road to allow for planting and to reduce the impact of the proposal upon the pedestrian environment, whilst the scheme retains all of the visually important trees present to the western end of Military Road to the south of the proposed car park.

10.5 The proposal is also significantly lower in height than the existing 1970's buildings at the site, with the majority of the building 8.4 metres above the pavement level, less than 2 metres higher than the existing single storey buildings at the site and considerably lower than the central and visually dominate four storey office block, despite the raising of the ground levels across the site. The design of the store incorporates a low profile flat roof so as to reduce the visual impact of the proposal. By incorporating increased glazing below the roof eaves and reducing the amount of metal panelling to the southern elevation it is considered that the further revisions do help break up the bulk of the southern elevation to Military Road and increases the use of natural materials to the prominent southern elevation.

10.6 A number of comments received relate to the footprint of the proposed building compared to that of the existing buildings on site. As set out in paragraph 1.4 of the original report, the existing buildings have a ground floor footprint of 4056 square metre, covering approximately 22% of the total site area. The proposed building, located to the eastern side of the site has a footprint of 4825 square metres, covering 26% of the site. The proposal therefore amounts to a 4% increase in building area coverage of the site, with the total floor area of the proposed building significantly lesser than the existing buildings on site due to the predominantly single storey nature of the superstore.

11.0 Conclusions/Summary

11.1 The proposal was originally reported to the 20th October 2009 Development Control Committee with a recommendation for approval, subject to the imposition of strict conditions and the signing of a s106 legal agreement. A full summary of the proposal is set out in section 18 of the original report. The s106 agreement seeks contributions for the following:

The sum of £200,000 to be provided to be used for Town Centre purposes to include:

1. The establishment of a fund to enable the holding of public events in Hythe Town Centre (such fund to be administered by Hythe Town Council and Shepway District Council) for a minimum period of 3 years.
2. Public realm improvements within Hythe Town Centre, to include road, pavement, street and decorative lighting, street furniture, public art and signage improvements.

11.2 For purposes of clarity the applicant has proposed the following changes since the committee meeting of the 20th October 2009:

- Funding double/secondary glazing to all windows and new front and rear doors to all 8 properties forming Military Terrace.

- Providing resurfacing of the road with a "quiet surface" on the widened section of Sir John Moore Avenue and Military Road along the frontage of Military Terrace.
- Further restrictions to service yard delivery times.
- Reductions in delivery hours on Sunday following further negotiation with neighbours.
- Raised the height of the acoustic fence separating Sir John Moore Avenue from the service yard,
- Relocation of the service yard wall further into the site and the provision of additional landscaping.
- Greater clarity on Service Yard Management Plan.
- Provision of dedicated staff car parking in the car park for 20 vehicles.
- Provision of 20 parking permits for staff in the long stay car parks in the town centre,
- A 30 minute increase for free parking in the store car park from 2½ to 3 hours.
- Introduction of high level glazing between the proposed eaves and cladding panels on the Military Road frontage.
- Two additional sections of terracotta panelling on the Military Road frontage.

11.3 In financial terms the applicant considers the package of measures equates to approximately £130,000, in addition to the £203,000 already committed to in the draft section 106 agreement for town centre improvements and the monitoring of the travel plan, giving a total package of around £333,000.

11.4 Following considerable debate Members sought to defer the proposal, pending further discussions with officers regarding the issues set out above. The applicants have responded with significant changes, further mitigation and considerable additional information regarding each of the issues raised by Members and consider that the further issues have been addressed. It is your Officer's opinion that the additional amendments, together with further information submitted have reinforced the suitability of the proposal, which, subject to the imposition of strict conditions to restrict and control the operation of the development (as set out below) and an appropriate legal agreement is considered to comply with development plan policy.

12.0 Human Rights

12.1 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

13.0 BACKGROUND DOCUMENTS

13.1 The consultation responses set out at Section 3.0 and any representations at Section 4.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION:

That the Head of Planning Services be given delegated authority to grant planning permission, subject to the completion of a legal agreement to secure improvements and funding to encourage linked trips to the High Street, provide a fund for double/secondary glazing and new doors to 3 to Military Terrace and provide off site staff parking. The permission to be subject to the conditions set out at the end of the report including any revisions or additions the Head of Planning Services may consider appropriate.

1. Standard 3 year condition.
2. Prior to the commencement of development details at a scale of 1:20 of all eaves treatments, the entrance canopy, windows, doors, external vents (including venting to roofs), ballustrading, railings, the plinth detail and other external fittings to the building shall be submitted to and approved in writing by the Local Planning Authority and no further alterations shall be made without subsequent prior approval.
3. All external Materials (including the submission of sample panels and a construction methodology for the Kentish ragstone wall)
4. BREEAM "very good" standard.
5. 10% energy generation from decentralized and renewable zero/low carbon sources.
6. No part of the foodstore hereby permitted shall be brought into first use unless and until a detailed Waste Management Plan (WMP) has been submitted to and approved by the Local Planning Authority. The detailed WMP shall cover the entire operation of the store and will include how the following matters are addressed:
 - i. Separation of waste
 - ii. Recycling of waste packaging
 - iii. Recycling of waste food stuffs

The approved details shall be implemented at the store hereby permitted and shall thereafter be maintained, unless otherwise agreed by the Local Planning Authority.

7. The foodstore hereby permitted shall not be open for trading outside the hours 0800 to 2200 Monday to Saturday and 1000 01600 on Sundays unless otherwise agreed by the Local Planning Authority.

8. No deliveries shall take place to the store between 2200 and 0800 Monday to Friday and outside of the hours 1000 0200 Saturdays and 1000 01700 on Sundays and Bank Holidays and no unloading activity shall occur within the service/delivery yard after 2240 hours Monday to Friday and 1740 on Saturdays, Sundays and Bank Holidays unless otherwise agreed by the Local Planning Authority in writing.
9. Prior to the commencement of development 1:50 drawings of any external trolley storage areas and shelters shall be submitted to and approved in writing by the LPA. All trolleys shall be stored within the approved locations which shall not be varied without the prior approval of the LPA.
10. Prior to the commencement of development details of all external lighting to the foodstore building and car park including hours of illumination shall be submitted to and approved in writing by the LPA, such scheme as approved to be implemented at the time of development and no additional lighting shall be installed at any time without the prior approval of the LPA.
11. Prior to the commencement of development a management plan for the operation of the car park to allow for its reasonable, uncharged short term use by the general public, for a minimum of 3 hours shall be submitted to and approved by the LPA, such measures as approved to be implemented at the time of the first opening of the premises to the general public and permanently retained thereafter.
12. Prior to the commencement of development, details of proposals for the provision of in-store information to members of the public regarding shopping opportunities in the High street shall be submitted to and approved in writing by the LPA, such measures as approved to be implemented at the time of the first opening of the premises to the general public and permanently retained thereafter.
13. Prior to the commencement of development, details of noise attenuation measures and management arrangements for the service yard, delivery vehicles and external plant and equipment shall be submitted to and approved in writing by the LPA, such measures as approved to be implemented prior to the first use and retained thereafter.
14. The net retail sales area of the foodstore hereby approved shall not exceed 3508 sq/m without the prior approval of the local planning authority.
15. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that Order) the foodstore hereby permitted shall be used primarily for the sale of convenience goods and at no time shall more than 20% of the net retail sales area hereby approved be used for the sale of comparison goods without the prior written approval of the LPA.
16. No part of the store hereby permitted shall be used as a café, coffee shop, restaurant, pharmacy or offer dry cleaning services, key cutting services, shoe repair, photographic services, opticians, or post office counter services without the prior written approval of the Local Planning Authority
17. Prior to the commencement of development details of secure, covered cycle parking facilities for staff and customers shall be submitted to and approved

by the Local Planning Authority in writing. The development shall thereafter be carried out in accordance with the approved details and the facilities provided shall be retained for cycle storage thereafter.

18. Prior to the commencement of development full details of acoustic enclosures for the air conditioning and condensing units shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first use of the retail unit and retained and maintained at all times.
19. No additional openings
20. Notwithstanding the provisions of the Town and Country Planning Control of Advertisement Regulations 1992 Schedule 3 part 1 Class J no advertisements shall be placed within 1 metres of any of the ground floor level windows to the foodstore contained within the south facing and south west facing "feature glazed corner" of the approved building and all glazing to such windows shall only be installed as clear glazing which shall thereafter be retained in perpetuity and shall not be obstructed at any time, unless otherwise agreed in writing by the LPA
21. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority including an implementation programme and maintenance schedule. The details submitted shall include indications of all existing trees on the land and details of any to be retained together with measures for their protection in the course of development. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.
22. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation and maintenance programme.
23. No development shall take place until full details of a biodiversity enhancement scheme have been submitted to and approved in writing by the Local Planning Authority including an implementation programme and maintenance schedule. The details submitted shall incorporate features which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The enhancement scheme shall be carried out in accordance with the approved details. The enhancement scheme shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
24. No development shall take place until the applicant, or their agents or successors in title, has secured the implantation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

25. No development shall take place until measures to prevent debris and spoil being deposited on the public highway have been submitted to and approved by the Local Planning Authority in writing and installed and maintained in a functioning condition in accordance with these approved measures during the construction works. Any spoil or debris deposited on the public highway shall be cleared by the applicants or contractors as soon as is reasonably practicable.
26. Details of acoustic fence and solid gates to be provided to service yard to be submitted to the LPA for approval prior to the commencement of development
27. Prior to works commencing full details of the demolition and construction works environmental management plan shall be submitted to the local planning authority for approval.
28. Prior to the first opening to the public of the superstore hereby approved the plaque commemorating the former musket school shall be relocated in a position of public prominence, the location of which shall first be submitted to and approved by the LPA in writing.
29. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority.
 1. A preliminary risk assessment which has identified:
 - All previous uses
 - Potential contaminants associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer term monitoring of pollutant images, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved

30. Prior to the first occupation of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "longterm monitoring and maintenance plan") for longerterm monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.
31. If, during development contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out on that part of the site affected by the newly found contamination until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
32. Root protection measures for trees to be retained on site
33. Foundation details of proposed retaining wall to military road frontage
34. no external storage outside of designated service yard
35. Details of any trolley lock or similar system to prevent trolleys being taken outside of the car park to be submitted and approved and implemented prior to first use.
36. Full details of the proposed surface water drainage, a surface water attenuation scheme and sewage disposal arrangements shall be submitted to and approved by the Local Planning Authority before the development commences. The approved scheme shall be carried out prior to the occupation of the buildings and maintained in a functional condition.
37. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.
38. The development hereby permitted shall be carried out in complete accordance with the details shown on the submitted plans, numbers:
 - 74950000 — Site location plan
 - 74950002 'd' — Proposed site plan
 - 74950003 'b' — Proposed store plan
 - 74950004 'e' — Proposed elevations
 - 74950005 'a' — Site sections
 - 74950006 'a' — Proposed roof plan
 - 74950008 — Topographical survey
 - 74950009 'a' — Stair, plinth and planter details
 - 74950010 'a' 0 Service yard and surrounding detail
39. Visibility splays to be agreed with KHS.

40. Before the new accesses are made available for use a scheme for the permanent closure of the existing accesses shall be submitted to and approved by the Local Planning Authority and the approved scheme shall be implemented before the new access is made available for use
41. Prior to the commencement of any work, including site clearance works, details of a method of construction, including times of working, siting of compounds, site personnel parking and lorry routing shall be submitted to and approved by the Local Planning Authority and the construction of the development shall not be carried out otherwise than in strict accordance with the approved details.
42. Prior to the first opening of the retail store hereby permitted, the provision of a pelican crossing across Military Road, located as shown on the approved plans shall be constructed and retained for use at all times. The details for the pelican crossing, including further traffic modelling shall be submitted to the Local Planning Authority for approval prior to the commencement of development, with all works carried out in accordance with the approved details.
43. Before any part of the development hereby permitted is occupied and/or first brought into use a Travel Plan indicating how it is intended to encourage and implement proposals at the site which will result in a reduction in the need for employees and customers to travel to and from the site by means of a private motor car shall have been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide for the monitoring and periodic review of the measures being implemented and the scheme shall be carried out and implemented in accordance with the approved details immediately upon first occupation/use of the development hereby approved and shall be retained thereafter incorporating the details as may be amended upon review with the agreement in writing of the Local Planning Authority.

Informative

1. The applicant is made aware that the detailed design of the feature canopy, required by condition 2 above should be of well considered, high quality design that gives some elegance to the building. It should be a strong feature demonstrating an imaginative use of materials and a considered application of structural principles.

In the view of the District Planning Authority, and having taken into account all material planning considerations; there is insufficient demonstrable harm or conflict with policy arising from the proposal to warrant withholding planning permission.

In coming to this decision, regard has been had to the following policies:

The following policies of the Shepway District Local Plan Review – SD1, S2, BE1, BE2, BE4, BE5, U2, U4, U10a, U15, TR5, TR6, TR11, TR12, TR13.,

The following policies of the South East Plan – SP3, CC1, CC2, CC4, CC6, T4, NRM1, NRM4, NRM11, BE1, BE4, BE6,

The following Supplementary Planning Documents and Government Guidance apply:

PPS1 – Creating Sustainable Communities

PPS1 Supplement – Planning for Climate Change

PPS6 – Planning for Town Centres

PPS9 – Biodiversity and Geological Conservation

PPG13 – Transport

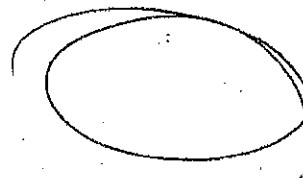
PPG15 – Planning and the Historic Environment

PPS22 – Renewable Energy

PPG24 – Planning and Noise, Planning for Town Centres – Good Practice Guide on Need, Impact and the Sequential Approach (living draft)

Draft PPS4 0Planning for Prosperous Economies

Decision of Committee



Annex 1 – Service Yard Management Plan

Site Conditions

- The Early Warning Tracker System will be used.
- Acoustic gates and fences will be provided.
- New signage within the yard and visible from the road will be introduced reminding drivers of the following requirements.
- An air curtain will be used to further reduce unloading noise.
- The metal bridging plates that rollcages cross between the wagon and the yard will be covered in acoustic resin.

Ongoing Management

- Regular training will be undertaken by Sainsbury's Management to drivers (Supply Chain) and night staff (Local Sainsbury's Store Management) to ensure that this Management Plan will be adhered to. This training is to be based on Sainsbury's 'Respecting our Neighbours' programme.
- Local Sainsbury's Store Management will undertake a minimum of weekly checks, to ensure that this Management Plan is being adhered to.
- Sainsbury's Regional management will undertake unannounced checks (in conjunction with their existing schedule of unannounced checks) to ensure that this Management Plan is being adhered to.
- Minimum of monthly servicing and maintenance checks by Sainsbury's management observed during use of yard, to check for the integrity of the yard and gate areas for potential gaps/noise from equipment etc that would be solved by servicing of equipment or replacement parts.
- Sainsbury's have a rapid response (maximum 4 hrs) for FM works which will ensure that any measures identified by the servicing and maintenance checks will be quickly actioned.
- Hotline (tel no. #####) to be made available and displayed at the front and rear of the store. Residents will be sent letters providing details of the hotline.
- 12 monthly reviews of the effectiveness of this management plan will be undertaken following liaison with local residents and Shepway Borough Council.
- During the initial 12 month period:
 - A meeting will take place between local residents, the Council EHO and Sainsbury's store management to address concerns.
 - Towards the end of the 12 month period, residential impact survey questionnaires shall be distributed to nearby residential properties and the responses provided to the Council for appropriate action.

Driver and Back Yard Staff Instructions - The Journey

- The Early Warning Tracker System is used to communicate with the store and give estimated time of arrival (ETA).
- The final approach to the store along Sir John Moore Avenue should be made with the minimum amount of noise.
- The vehicle will drive slowly into the yard minimising the use of excessive brakes. The engine will then be turned off after manoeuvring.
- When the vehicle is parked the gates (including flaps) will be shut and staff will return to the 'safe area'.

- Headlights and the radio should remain switched off when the vehicle is stationary (*between the hours of 07:30-09:00 and 19:00-22:00*)

Driver and Back Yard Staff Instructions - At the Store

- Once staff are in the safe area the vehicle will reverse into the bay.
- Unloading of goods only to take place in designated bays.
- Use lights when manoeuvring, but the minimum for safe movement (*between the hours of 07:30-09:00 and 19:00-22:00*)
- Manoeuvre into the loading bay with as little noise as possible.
- Engage gears quietly.
- Keep engine revs to a minimum.
- Close driver's door quietly (*between the hours of 07:30-09:00 and 19:00-22:00*)
- Shutter to only be opened when vehicle into position.

Driver and Back Yard Staff Instructions : Unloading/Re-loading

- Lower loading plate into position carefully
- Unload trolleys as quietly as possible with no banging.
- Try not to touch trailer walls with cages, lift guardrails, and other obstructions.
- Ensure other loading bay roller shutter doors are kept closed during unloading.

Driver and Back Yard Staff Instructions : The Return Journey

- Once the trailer has been unloaded, the gates will be opened as quietly as possible and staff to return to the 'safe area'.
- The vehicle will then pull away observing the following requirements as best as possible:
 - Don't slam the door when the driver gets into the cab (*between the hours of 07:30-09:00 and 19:00-22:00*)
 - Keep foot off the accelerator pedal when starting engine (*between the hours of 07:30-09:00 and 19:00-22:00*)
 - Engage gears quietly (*between the hours of 07:30-09:00 and 19:00-22:00*)
 - Keep engine revs to a minimum.
 - Apply brakes gently.
 - Remember to turn reversing alarms back on if required.

Date: 3 November 2009

Status: Draft