



RIDGE

STATEMENT OF CASE
APPEAL: APP/B1605/W/18/3200395
LAND AT GROVEFIELD WAY,
CHELtenham
July 2019

**STATEMENT OF CASE
LAND AT GROVFIELD WAY, CHELTENHAM
JULY 2019**

Prepared for

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1. INTRODUCTION

- 1.1. This Statement of Case (SoC) is submitted on behalf of Hinton Properties (Grovefield Way) Ltd in support of their re-determined appeal against the decision of Cheltenham Borough Council (CBC) to refuse a planning application comprising:

Hybrid application seeking detailed planning permission for a 5,034 sq.m of commercial office space (Use Class B1), 502 sq.m day nursery (Use Class D1), 1,742 sq.m supermarket food retail unit (Class A1), a 204 sq.m coffee shop retail unit and drive-thru (Use Classes A1 and A3), with associated parking, landscaping and infrastructure works.

Outline planning permission sought for the erection of 8,034 sq.m of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access)

- 1.2. This Statement should be read in conjunction with the accompanying draft Statement of Common Ground (SOCG). The SOCG, amongst other things, sets out the relevant planning policies from the Development Plan and the broad matters where agreement is anticipated between the Council and appellant. The appellant will seek to work with the LPA to agree a suitable list of draft planning conditions.

- 1.3. This appeal relates to a revised application which was validated on 10th December 2016 and assigned application reference number 16/02208/FUL. Contrary to officer's firm recommendation to permit, the application was refused by the Council's Planning Committee on 14th December 2018 for the reasons set out below:

1. *The site has extant consent for B1 office development and is allocated for employment use (specifically B class employment or Sui Generis uses that exhibit the characteristics of traditional B class uses) within the emerging Cheltenham Plan (Pre-submission version, December 2017).*

The application is for a mixed use development with a considerable and prominent part of the site being given over to non-B1 uses including a supermarket, "drive thru" coffee shop and day nursery.

The proposed non B1 uses will result in a reduction in the amount of the site available for B1 office development along with the high quality jobs this would provide. The amount of the site given over to non B1 uses in combination with the prominent position they would occupy on the site would result in a dilution of the character and function of the site as a business and represent in inappropriate balance between B1 and non B1 uses.

For these reasons the proposal is considered to be contrary to policy SD1 of the Joint Core Strategy, policy EM2 of the adopted Local Plan and emerging policy EM3 of the Cheltenham Plan (Pre-submission version, December 2017).

2. *Due to the mix of uses proposed, the development would result in an increase in traffic on the surrounding road network into the evenings and at weekends in addition to the AM and PM*

weekday peaks. This would have an unacceptable impact upon the local road network which is already heavily used. For these reasons the proposal is considered to be contrary to policy INF1 of the Joint Core Strategy.

3. *The proposed layout of the site results in a predominance of hardstanding and retaining structures which result a poor appearance and do not create an attractive streetscape or strong sense of place which responds to the character of this transitional location. The position of buildings including the 'Drive thru' coffee shop and supermarket, close to the edges of the site give the layout a cramped and contrived appearance exacerbated by exterior features such as the 'drive thru' lane and external yards. The proposal is therefore harmful to the surrounding area by reason of its visual impact and also fails to create a high quality business environment in this edge of town location. For these reasons the proposal is considered to be contrary to policy SD 4 of the Joint Core Strategy and CP7 of the Local Plan.*

- 1.4. Despite a highway reason for refusal being added, this was later withdrawn by the Council in July 2018.
- 1.5. A copy of the Officers' report to committee is attached as **Appendix 1**.
- 1.6. This statement sets out the principal elements of the appellants' case which will be expanded within its Hearing Statement/Proofs of Evidence (PoE). These will address fully those material changes in circumstances which have arisen since the original appeal decision was issued and specific issues upon which the original appeal decision was quashed.
- 1.7. It has been previously been confirmed to PINs that the appellant and Council are in agreement that this re-determined appeal should be dealt with by Informal Hearing procedure. We consider that those outstanding issues can be suitably addressed and considered through this procedure.
- 1.8. This Statement of Case reaffirms why planning permission should be granted and how this will be expanded upon through future submissions.
- 1.9. In assessing the planning considerations, the appeal proposal is assessed in the context of Section 38(6) of the Planning and Compulsory Purchase Act 2004, which says: "Where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise."
- 1.10. The appellants' case is set out at Section 5.0, having regard to relevant planning policy considerations contained within the adopted Development Plan and National Planning Policy Framework (the Framework), along with other relevant material considerations. Those material considerations include those changes that have arisen since the original appeal decision was issued.

2. SITE AND SURROUNDING AREA

- 2.1. A description of the site and surrounding area is contained in the accompanying draft SOCG and originally submitted Planning Statement.

3. THE APPEAL PROPOSAL

- 3.1. A full description of the appeal proposal is contained in the accompanying draft SoCG, Section 2.0 of the Planning Statement and the Design and Access Statement submitted with the planning application.
- 3.2. The appeal proposal consists a hybrid planning application split into two parts to reflect two development phases to allow for appropriate delivery timing and to take into account market factors and user requirements.
- 3.3. In terms of floorspace, 84% of the development would be in B1 office use. The development would also offer approximately 1,018 full time equivalent jobs and would provide a very significant contribution to employment in Cheltenham.

Planning History

- 3.4. Planning permission was allowed at appeal in May 2007 [PINS Reference: APP/B1605/A/06/2015866/NWF] on the wider site at Grovefield Way for B1 industrial uses and the extension of the Arle Court Park and Ride Facility; the application subject of that appeal [LPA Reference: 05/00799/OUT] was refused by Cheltenham Borough Council in March 2006.
- 3.5. Following the grant of outline planning permission 05/00799/OUT, Reserved Matters approval was granted in May 2009 [LPA Reference 09/00369/REM] for details of the access road, parking and siting of the proposed buildings. A subsequent Reserved Matters application was approved [LPA Reference: 09/00720/REM] in December 2009 including details of the proposed landscape scheme and management plan, the design and appearance of 'Phase 1' and a design handbook relating to design and appearance of remaining phases of development and boundary treatments. Further Reserved Matters approval [LPA Reference 10/00690/REM] was approved in July 2010 for the design, appearance and landscaping of 'Phase 2' of the development.
- 3.6. Notwithstanding the approval of the above reserved matters application, the proposed development has not been implemented.
- 3.7. Planning permission was subsequently granted [LPA Reference: 10/00468/TIME] by Cheltenham Borough Council for an extension of time for the implementation of outline planning permission [05/00799/OUT]; granted in June 2012.
- 3.8. Following the approval of the above extension of time application, leave was requested in November 2012 and July 2013 from the High Court to challenge the legality of the permission by way of Judicial Review. Leave was denied by the Courts and no challenge proceeded.
- 3.9. Further to the above extension of time application 10/00468/TIME, and the denial of a legal challenge, the LPA granted reserved matters approval 12/01086/REM for the remaining details required from the outline approval. That application was submitted in July 2012 and approval was issued 21st August 2013.

- 3.10. On 14th March 2014, full planning permission was granted [LPA Ref: 13/01101/FUL] for the erection of a flagship BMW, Mini and Motorrad dealership including vehicle sales and servicing facilities and includes the creation of an access from Grovefield Way. The proposal comprises some 7,595sqm of sui generis employment space. The application site comprised some 1.8Ha at the north east of the Grovefield Way site referenced above.
- 3.11. In April 2014, the applicant submitted a revised application proposal [LPA Ref: 14/00656/FUL] for the erection of a flagship BMW, Mini and Motorrad dealership including vehicle sales and servicing facilities. The scheme comprised of minor amendments to the original scheme to include a revised access ramp and an additional mezzanine level for car storage. This development has been completed and the business is fully operational, providing very significant employment for Cheltenham.
- 3.12. More recently, an application for outline planning permission (ref 14/01323/OUT) was granted by the LPA in December 2014 for the erection of up to 16,800 sq.m of B1 Office space on the application site.
- 3.13. The planning history at the site, in particular the existence of the extant outline planning permission 14/01323/OUT, is material to the consideration of this appeal.
- 3.14. Outline planning permission for the erection of 8,034 sq.m of commercial office space (use class B1) together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access).
- 3.15. As set out above, in 2016 (16/02208/FUL) a hybrid planning application was submitted for the development subject to this appeal. Despite an officer recommendation in support of the development, the application was refused at planning committee in December 2017. Those refusal reasons are listed above at paragraph 1.3. An appeal was then made against that decision in January 2018.
- 3.16. A revised application was then submitted which sought to address the concerns raised by the Council. The application was submitted in 2018 (18/01004/FUL) and, despite a firm recommendation from officers to permit the development, it was refused at planning committee in October 2018. Unlike the 2016 application however, that application was refused on one refusal reason which is set out below:
1. *The site has extant planning permission for B1 office development and is allocated for employment use (specifically B class employment or Sui Generis uses that exhibit the characteristics of traditional B class uses) within policy EM3 of the emerging Cheltenham Plan (Regulation 19 version, February 2018). The application is for a mixed use development with considerable and prominent parts of the site being given over to an A1 food retail store and a D1 day nursery. These proposed non-B1 uses will result in a reduction in the amount of the site available for B1 office development, for which this has been allocated, along with the high quality jobs this would provide. The amount of the site given over to non-B1 uses in combination with the prominent position they would occupy on the site would result in a dilution of the character*

and function of the site as an employment site and represent in inappropriate balance between B1 and non-B1 uses. For these reasons the proposal is considered to be contrary to policy SD1 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, policy EM2 of the adopted Cheltenham Borough Local Plan and policy EM3 of the emerging Cheltenham Plan (Regulation 19 version, February 2018).

- 3.17. The appellant appealed against the above decision and both the 2016 (known as 'Appeal A') and 2018 (known as 'Appeal B') applications were co-joined. The appeal was conducted as an Inquiry in January 2019.
- 3.18. The appeal decision was issued on 27th February 2019. The Inspector Jackson allowed Appeal B but dismissed Appeal A. A partial costs award was also ordered against the Council for unreasonable behaviour in respect of their handling of Appeal A. The original appeal decision is at **Appendix 2**.
- 3.19. The sole reason for dismissing the original appeal was in relation to the siting and appearance of the Costa coffee.
- 3.20. Following detailed review of the appeal decision letter, it was apparent that the Inspector had erred in law in not providing adequate reasons for rejecting the appellants secondary case which was that the Development Plan was out of date and 'tilted' planning balance within paragraph 11 (d) of the NPPF should be engaged. On that basis, the appeal decision was challenged pursuant to section S.288 of the Act. That Secretary of State conceded to judgment at the earliest available opportunity. A Consent Order was approved by the Court, whereby the decision in so far as it relates to Appeal B was not affected, whereas Appeal A was quashed. A copy of the approved Consent Order is attached at **Appendix 3**. Accordingly, the planning permission granted by Appeal B remains a relevant material consideration.

4. PLANNING POLICY

- 4.1. Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that, when making a determination on development proposals, the decision shall be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2. The Joint Core Strategy (JCS) has now been adopted by all three local authorities (Cheltenham, Tewkesbury and Gloucester).
- 4.3. Since its adoption in December 2017, the JCS Authorities are taking forward a review of the Plan, as directed by the examination Inspector in her final report. An 'Issues and Options' consultation for the JCS review took place between November 2018 and January 2019. In respect of economic development, the consultation reaffirmed the JCS employment strategy to deliver land and jobs in close proximity to the M5 corridor and noted that this supported the Strategic Economic Plan (SEP) prepared by the Local Enterprise Partnership (LEP). It also continues to note that the JCS requires the delivery of 192 hectares of employment land, both in main urban areas and as part of some strategic allocations.
- 4.4. As such, the Development Plan for Cheltenham now includes the Joint Core Strategy (December 2017) and the remaining saved policies of the Cheltenham Borough Local Plan (CBLP) (2006). The emerging Cheltenham Plan is still in its infancy and was only submitted for examination in October 2018.
- 4.5. Other relevant material considerations include:
- National Planning Policy Framework (NPPF)
 - National Planning Practice Guidance (PPG)
- 4.6. The full policy framework is set out in the accompanying Statement of Common Ground. However, key policies of relevance to this appeal are listed below as follows:

Joint Core Strategy, adopted December 2017

- Policy SD1: Employment – Except Retail Development
- Policy SD4 we were refused on
- Policy SD2: Retail and City/Town Centres

Saved policies of the Cheltenham Borough Local Plan (2006)

- 4.7. The Cheltenham Borough Local Plan was adopted in December 1997, and revised in June 2006. Several policies are still saved following adoption of the JCS until the Local Plan is replaced by policies in the new Cheltenham Plan. However, the Local Plan was prepared and adopted in accordance with the Planning and Compensation Act 1991 and not the Planning and Compulsory Purchase Act 2004. Paragraph 213 of the NPPF is therefore applicable and weight should be afforded

to the relevant policies according to their consistency with the Framework. The policies of relevance are as follows:

- Policy CP3: Sustainable Environment
- Policy CP6: Mixed use Development
- Policy EM2: Safeguarding Employment Land
- Policy RT1: Location of Retail Development

We were refused on CP7 so that must go into the list

Submission Cheltenham Plan 2018

4.8. The Cheltenham Plan is still in its infancy have only been submitted for examination in October 2018. In light of its emerging position, very limited weight should be applied to its relevant policies. EM3 is highlighted in the reason for refusal:

- Policy EM3: New Employment allocations

4.9. A series of examination hearings took place during February 2019 into the emerging Cheltenham Plan. During the session regarding the Council's economic policies, concerns were highlighting regarding the flexibility afforded by the wording of policy EM3 to other non-B class uses and accuracy of the areas set out in emerging policy EM3. Broader concerns were also highlighted in respect of the Council's ability to meet its employment land requirements given the limited number of sites proposed for allocation and fact not all sites set out within EM3 were 'new' sites. These concerns are recognised by the examination inspector and are set out in her 'post hearing' letter to the Council dated 9th April 2019.

5. THE APPELLANT'S CASE

- 5.1. This section analyses the reason for refusal within the context of Section 38(6) of the Planning and Compulsory Purchase Act 2004. The arguments set out below will be expanded upon in due course within the Hearing Statement/Proof of Evidence.
- 5.2. Planning permission has already been granted in respect to Appeal B. The only differences between Appeal A and Appeal B is that Appeal A has a Costa Coffee at the entrance to the Site. Accordingly, the only issue to be determined is whether this Costa Coffee is acceptable having regard to:
- i. the character and appearance of the area; and
 - ii. the balance between B1 office use and non-B1 uses including retail uses.

Issue 1: Balance between B1 office use and non-B1 uses

- 5.3. 84% of the floorspace pursuant to the proposed development would be for B-class employment use. Indeed, the principle of employment use at this location is established through the extant planning permission and the decision pertaining to Appeal B. Moreover, this provision of employment land would be entirely consistent with the development, including policies SP1 and SP2 of the JCS, which seek to provide 'at least' 192 hectares of B-class employment land.
- 5.4. The key issue, therefore, was not the principle of development but rather the introduction of non-B1 uses at the site, and whether these are acceptable given current Development Plan policy.
- 5.5. The original appeal decision states clearly that the development would provide a 'substantial boost to employment within Cheltenham including a very significant number of potential B1 jobs'. Furthermore, it was accepted that mixed uses are recognised as attractive in business parks and non-B1 jobs are important to overall economic growth. It was therefore concluded that the proposals would not conflict with the overall employment aims of Development Plan policies contained in the JCS or LP. It will also be confirmed that there are still unresolved objections to emerging policy EM3 of the yet to be adopted Cheltenham Plan.
- 5.6. In specific relevance to this re-determined appeal and the S.288 challenge, the appellant will again demonstrate that despite the original appeal decision concluding that the proposal was in accordance with the Development Plan's economic policies, those policies are in any case out of date in light of the Council's unmet employment land requirements. It will therefore be shown that, in accordance with paragraph 11 (d) of the NPPF, the 'tilted' planning balance should be applied which states that in this circumstance, permission should be granted unless any adverse impact of doing so would **significantly and demonstrably** outweigh the benefits, when assessed against the policies in the Framework as a whole.
- 5.7. Furthermore and alternatively, as recognised at paragraph 18 of the Inspector's decision letter, there is no JCS or LP policy that indicates whether business parks should be solely in office use or what proportion of non-B1 uses might be acceptable. Accordingly, there are no relevant development plan policies in this regard, which similarly engages the tilted balance.

- 5.8. It will also be demonstrated using evidence relating to site marketing, funding and the deliverability of employment led developments that the delivery of Appeal B is frustrated due to the wording of phasing Condition 24 which states that: *The A1 food retail unit shall not be occupied until b1 office units labelled 'office 1' and 'office 2' and 'office 5' have been constructed and are capable of occupation.* It will be shown that this material change in circumstance is preventing the delivery of the development and its attractiveness to the market.
- 5.9. Furthermore, it will be demonstrated that the Costa Coffee use is required to make the employment development attractive to the market and deliverable. In particular, it will be demonstrated that the delivery of the non-B1 uses in the first phase of delivery will make the development viable and allow for sufficient market interest to secure occupiers for the B1 office space.

Issue 2: Design and impact of Costa.

- 5.10. It is recognised that in determining the original appeal decision, the Inspector acknowledged that the agreed SoCG confirmed that both parties agreed that proposals would be of 'appropriate scale and character', an expression derived from paragraph (vi)(a) of JCS policy SD1.
- 5.11. It will be demonstrated throughout this re-determined appeal that it is the appellants' case that the proposed drive-thru Costa coffee would not result in harm to the character and appearance of the area or result in conflict with design policies SD4 or CP7. It will be demonstrated that when considered against the now allowed Aldi and Happy Day Nursery buildings, the Costa coffee, due to its size, scale and bespoke design, would not result in an adverse visual impact. It will be demonstrated that the development as a whole would be in accordance to policy SD4 of the JCS and policy CP7 of the Local Plan.
- 5.12. Importantly, it will also be demonstrated that if any adverse design impacts in relation to the Costa coffee building are identified, those impacts would not significantly and demonstrably outweigh the already accepted benefits arising from the development, when assessed against policies in the NPPF taken as a whole. In summary, it will be demonstrated that when the 'tilted' planning balance is applied, planning permission should be granted.

6. DOCUMENTS TO WHICH THE APPELLANT WILL REFER

6.1. In addition to relevant national planning policy and practice guidance the appellant will make reference to the following documents (in addition to those referred to above and in the decision notice):-

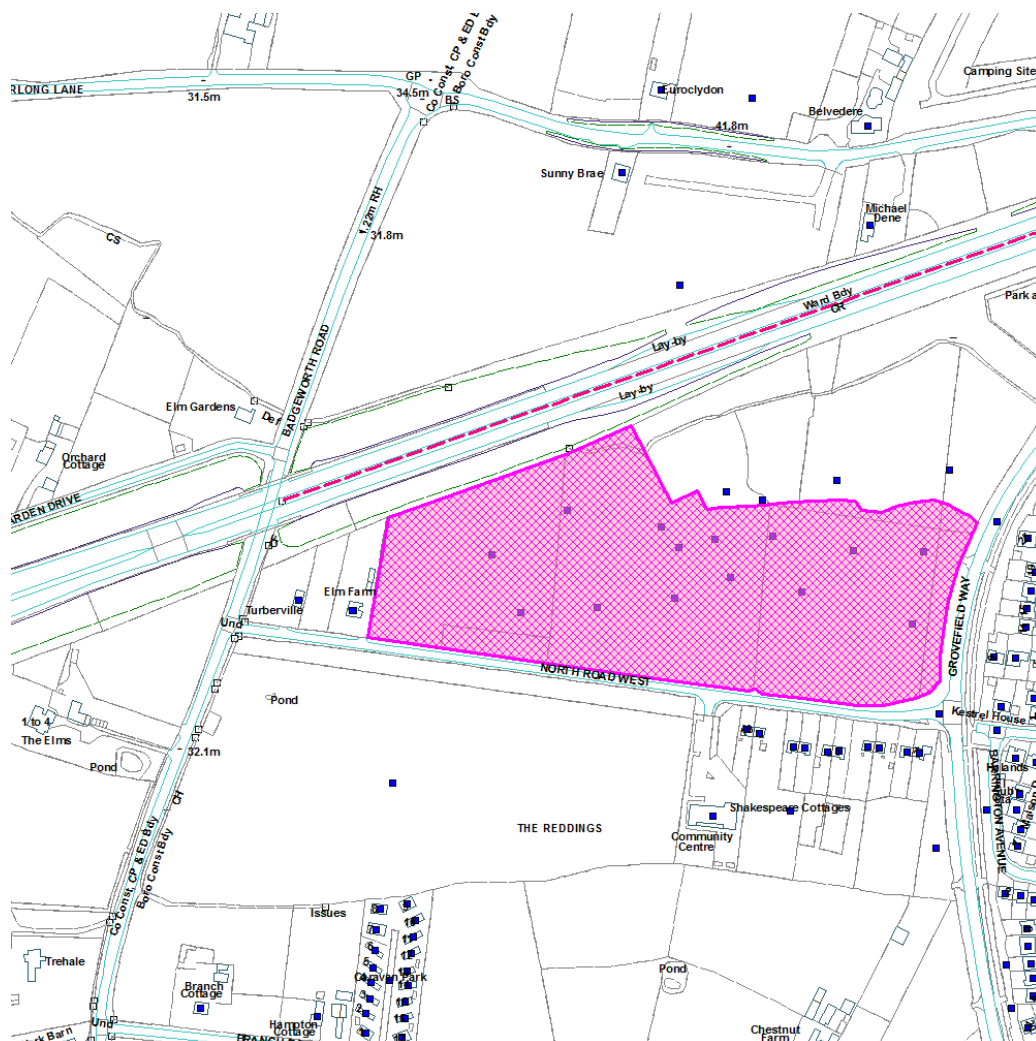
1. GFirst LEP Construction and Infrastructure Business Group Response 5th February 2019.
2. GFirst LEP Strategic Economic Plan for Gloucestershire 2.0, Update 2018.
3. Hearing Statement by Ridge and Partners on behalf of Hinton Properties (Grovefield Way) Ltd, Matter 2: Economic Development, January 2019.
4. Inspector's Post Hearing Advice into the soundness of the Cheltenham Plan (CP) 2011-2031, 9th April 2019.
5. The Assessment of Cheltenham, Gloucester and Tewkesbury Employment Land Reviews, Final Report, March 2011, prepared by Nathaniel Lichfield and Partners on behalf of Cheltenham Borough Council, Tewkesbury Borough Council and Gloucester City Council.
6. Employment Land Assessment Update October 2015, prepared by Nathaniel Lichfield and Partners on behalf of Cheltenham Borough Council, Tewkesbury Borough Council and Gloucester City Council.
7. Economy Background Paper to emerging The Cheltenham Plan 2011-2031, January 2018.
8. Appeal decision APP/B1605/A/06/2015866/NWF, pertaining the development of a proposed B1 office park and extension of the Arle Court Park and Ride facility.
9. Officer's report to committee for application 13/01101/FUL, pertaining the erection of a flagship BMW, Mini and Motorrad dealership including vehicle sales and servicing facilities and will include the creation of an access from Grovefield Way.
10. Officer's report to committee for application 16/02208/FUL, pertaining refused hybrid application for a mixed-use employment led development office and retail uses.
11. Original appeal decision APP/B1605/W/18/3200395 pertaining this appeal.
12. Update Statement by Paul Fong in Employment Land Matters
13. Update Statement by Stephen Tucker on Urban Design Matters
14. Update Statement by James Hinton on the Applicant's Position and Deliverability of the Development.
15. Update statement by Phil Pratt on Current Market Conditions
16. Update Statement by Ben Blackwall on Development Funding
17. All previous appeal submissions, including proofs of evidence pertaining the original appeal, APP/B1605/W/18/3200395

6.2. The appellant reserved the right to refer to documents in addition to the above as may be required during the appeal.

APPENDIX 1

APPLICATION NO: 16/02208/FUL	OFFICER: Mrs Emma Pickernell
DATE REGISTERED: 13th December 2016	DATE OF EXPIRY: 14th March 2017
WARD: Benhall/The Reddings	PARISH:
APPLICANT:	Hinton Properties (Grovefield Way) Ltd
AGENT:	Hunter Page Planning
LOCATION:	Land At North Road West And Grovefield Way, Cheltenham
PROPOSAL:	Hybrid application seeking detailed planning permission for a 5,034 sq.m of commercial office space (Use Class B1), 502 sq.m day nursery (Use Class D1), 1,742 sq.m supermarket food retail unit (Class A1), a 204 sq.m coffee shop retail unit and drive-thru (Use Classes A1 and A3), with associated parking, landscaping and infrastructure works. Outline planning permission sought for the erection of 8,034 sq.m of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access).

RECOMMENDATION: Permit subject to a 106 Obligation



1. DESCRIPTION OF SITE AND PROPOSAL

1.1.1 Description of site

1.1.2 The application site is a parcel of land extending to 4.15 ha located north of North Road West and west of Grovefield Way and immediately south of the A40. To the north is the recently opened BMW dealership and beyond that is the Park and Ride.

1.1.3 Residential properties adjoin the site to the south, east and west.

1.1.4 At the time of writing the report the site was in the Green Belt however it is proposed to be removed from the Green Belt through the adoption of the JCS which will be discussed further below.

1.1.5 Background

1.1.6 There is a significant and complex history of planning applications for this site as follows (Full list at section 2):

- Planning consent was originally given for the whole site (including the BMW site), on appeal in May 2007 following a public inquiry. The description of development was: *Outline planning permission for B1 industrial uses and the extension to the Arle Court Park and ride facility.*
- A reserved matters application was approved in relation to the layout of the access road and parking and the siting of the proposed buildings (May 2009)
- A reserved matters application was approved for landscaping masterplan, design code, boundary treatment, design and external appearance of phase 1, hard and soft landscaping for phase 1 and car parking provision. (December 2012)
- An extension of time application for the implementation of the original outline consent was granted in June 2012. A subsequent Judicial Review application was refused.
- In July 2010 a further reserved matters application was approved for phase 2 including the design and external appearance of buildings and hard and soft landscaping.
- In May 2011 a reserved matters application was made which sought to amend the design handbook however this was quashed following judicial review as it was brought outside the time limit specified in the outline consent.
- In August 2013 an application was made in respect of the reserved matters for the Extension of Time application.
- In March 2014 full planning permission was granted for *"flagship BMW, mini and motorrad dealership including vehicle sales and servicing facilities including creation of access form Grovefield Way"*
- Subsequent amendments to the above mentioned consent were approved during 2015 and 2016 and the scheme has now been implemented.
- In 2014 outline planning permission was granted for: *"Outline application for up to 16,800 sq.m. of B1 Employment Use (on part of site already having the benefit of an extant planning permission for 22,000 sq.m. of B1 Employment Use, granted permission under applications 05/00799/OUT and 10/00468/TIME)".* This permission is extant until October 2019.

1.1.7 Proposal

1.1.8 The current application is a 'hybrid' application meaning that some parts are in outline and some parts are full. The full application seeks consent of 5,034 sqm of commercial office space within two no. 3 storey flat roof buildings fronting the spine road, the elevations of which comprise a combination of glazing, grey cladding and stone. The scheme also provides for a, 502 sqm day nursery adjacent to the spine road in a single storey building the elevations of which would be white render a projecting grey aluminium roof and a pewter split face stone detail to the plinth. A 1,742 sqm food retail store (Aldi) is proposed adjacent to the southern boundary of the site which is a monopitched building the elevations of which comprise a mixture of render, silver and dark grey cladding with full height glazing on the east elevation and high level glazing on the north elevation. Finally a 204 sqm drive-thru coffee shop is proposed at the entrance to the site in the north eastern corner the elevations of which comprise pewter masonry, white render and a grey aluminium cladding. These 'full' elements of the proposal occupy the southern part of the site, adjacent to the BMW development and into the western portion of the site. The two office buildings are accessed off a spur into a 222 space car park and the supermarket, office and café are accessed off a spur into a 154 space car park.

1.1.9 The outline element of the proposal seeks consent for up to 8,034 sqm of commercial office space. The indicative plan suggests that this would be provided in two buildings located on the northern part of the site with parking around, however this is purely indicative at this stage.

1.1.10 Environmental Impact Assessment – Screening

1.1.11 The application site has a site area of 4.15 ha and therefore the development falls within category 10 (infrastructure projects) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is therefore necessary that the Local Planning Authority offers a screening opinion in relation to whether or not the development proposed will have significant effects on the environment. This opinion informs whether or not the proposed development required an Environmental Impact Assessment.

1.1.12 The merits of the development will be discussed in the report however the site is not so sensitive in nature or the development of such a scale that an EIA is considered necessary. The indicative threshold suggested in available guidance is 20ha.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Greenbelt

Relevant Planning History:

04/01790/OUT 15th December 2004 WDN

Outline application for B1 industrial uses

05/00799/OUT 29th March 2006 REF

Outline planning permission for B1 industrial uses and the extension to the Arle Court Park and ride facility

06/01427/OUT 5th September 2014 DISPOS

B1 Business Park, extension to the Arle Court Park and Ride facility, new access, and exit slip road to A40

*****PLEASE NOTE - THIS APPLICATION IS A NON-DETERMINATION PLANNING APPEAL*****

09/00720/REM 18th December 2009 APREM

Application for the approval of reserved matters following the grant of Outline Permission ref 05/00799/OUT dated 01.05.07:

1. The landscape master plan for the whole site along with a landscape management plan and schedule of landscape maintenance;
2. A design handbook prepared to provide guidance against which the design and external appearance of future phases of the development will be assessed;
3. Details of boundary treatment;
4. The design, external appearance of the buildings to be constructed in Phase 1;
5. Details of hard and soft landscape design for Phase 1.
6. The car parking provision for all phases of the development.

10/00468/TIME 22nd June 2012 PER

Extension of the time limit for implementation of planning permission reference 05/00799/OUT. (Outline planning permission for B1 industrial uses and the extension to the Arle Court Park and Ride facility)

12/01086/REM 21st August 2013 APREM

Reserved matters in connection with permission 10/00468/TIME. Details of the access, siting, design, external appearance of the buildings and the landscaping of the site. In addition details required by conditions 4,6, 7, 8, 11, 12,13, 15 and 16 (full details of both hard and soft landscape works including proposed finished levels; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures proposed; and existing functional services above and below ground; retained landscape features; surface water drainage works, incorporating sustainable drainage systems; the positions, design, materials and type of boundary treatment to be erected; landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas; schedule of landscape maintenance for a minimum period of 5 years; detailed waste management strategy for the treatment, recycling, and re-use of waste arising from the construction of the development; renewable energy plan to provide sufficient on site renewable energy to reduce carbon dioxide emissions by at least 10%; Car parking levels on the site overall and for each completed building; secure covered cycle parking).

13/01101/FUL 14th March 2014 OBL106

Proposed erection of a flagship BMW, Mini and Motorrad dealership including vehicle sales and servicing facilities and will include the creation of an access from Grovefield Way

14/00656/FUL 12th January 2015 PER

Erection of a flagship BMW, Mini and Motorrad Dealership including vehicle sales and servicing facilities including an access from Grovefield Way (Revision to scheme approved 14 March 2014 under reference 13/01101/FUL - 1.Raising height of building by 1 metre to allow adjustments in floor levels to provide a mezzanine floor below ground level: 2. Rotation of vehicle ramp to allow access: 3. Increase in Motorrad element from 160 sq m to 190 sq m: 4. Revised highway layout to relocate BMW customer access point to west of approved position)

14/01323/OUT 12th December 2014 PER

Outline application for up to 16,800 sq.m. of B1 Employment Use (on part of site already having the benefit of an extant planning permission for 22,000 sq.m. of B1 Employment Use, granted permission under applications 05/00799/OUT and 10/00468/TIME)

15/00788/AMEND 24th June 2015 PAMEND

Non material amendment to planning permission 14/00656/FUL - to update and amend the landscaping scheme

15/01848/FUL 4th March 2016 PER

Creation of attenuation pond for car showroom and erection of green 2.4m 358 type fence along the boundary of the A40

16/00061/ADV 22nd February 2016 GRANT

3no. fascia signs, 5no. projecting/hanging signs & 11no. various other signs

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 1 Sustainable development
CP 2 Sequential approach to location of development
CP 3 Sustainable environment
CP 4 Safe and sustainable living
CP 5 Sustainable transport
CP 6 Mixed use development
CP 7 Design
CP 8 Provision of necessary infrastructure and facilities
GE 5 Protection and replacement of trees
GE 6 Trees and development
GE 7 Accommodation and protection of natural features
CO 6 Development in the green belt
NE 1 Habitats of legally protected species
NE 4 Contaminated land
EM 1 Employment uses
EM 2 Safeguarding of employment land
RT 1 Location of retail development
RT 7 Retail development in out of centre locations
UI 2 Development and flooding
UI 3 Sustainable Drainage Systems
TP 1 Development and highway safety
TP 2 Highway Standards
TP 3 Servicing of shopping facilities
TP 6 Parking provision in development

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Planning Policy

19th January 2017

This is a hybrid application seeking detailed planning permission for:

- 5,034 sq.m of commercial office space (Use Class B1),
- a 502 sq.m day nursery (Use Class D1),
- a 1,742 sq.m supermarket food retail unit (Class A1),
- a 204 sq.m coffee shop retail unit and drive-thru (Use Classes A1 and A3), with associated parking, landscaping and infrastructure works.

And outline planning permission for:

- 8,034 sq.m of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access).

The site

The application site comprises approximately 4.15 hectares of land adjacent and to the north-west of Grovefield Way and to the south of the A40. It can currently best be described as vacant agricultural land.

The site falls within the Green Belt on the western edge of Cheltenham and is surrounded by a mix of residential, commercial and employment uses including Arle Court Park & Ride facility to the north east, commercial development including an ASDA Supermarket to the east, and residential development at the Reddings to the east and south east. A new BMW Dealership to the north east of the site is currently under construction and nearing completion.

The site already benefits from an extant planning permission for B1 employment use but according to the applicant, this revised application (which reflects two distinct development phases) is now necessary to allow a more flexible approach to the timing of development on the site.

Policy Framework

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be taken in accordance with the relevant adopted Development Plan unless material considerations dictate otherwise. Therefore, in determining this application, the following must be considered:

- The saved policies of the Cheltenham Borough Local Plan (CLP) Second Review 2006, which comprise the adopted development plan, and;
- Relevant material considerations which include:
 - National Planning Policy Framework (NPPF)
 - National Planning Practice Guidance (NPPG)
 - The emerging Joint Core Strategy (JCS) and its evidence base.
 - The emerging Cheltenham Plan (Part One) and its evidence base.

Core issues in this case

The following are considered to be core issues in relation to this proposal and are considered in turn in the pages that follow:

- The need for sustainable development;
- The loss of Green Belt land;
- Development of a retail establishment and coffee shop on an out-of-centre site;
- The site's retention solely for B1 uses as originally granted by planning permission in 2007.

The need for sustainable development

NPPF

Paragraphs 7-10 set out the definition of sustainable development highlighting and reinforcing the three dimensions - economic, social and environmental - and that new development should seek to achieve net gains across all three.

Paragraph 14 sets out that the 'golden thread' of future decision making is the presumption in favour of sustainable development. For plan making this requires LPAs to positively seek

opportunities to meet the development needs of their area. In meeting these needs, the Framework requires that LPAs should objectively assess their needs with sufficient flexibility to adapt to rapid change. For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

Paragraph 17 sets out the core planning principles that should underpin the planning system both in plan making and decision taking.

Paragraphs 18-21 seek to build a strong, competitive economy and re-iterate and expand on the core principles.

Cheltenham Borough Local Plan

Policy CP1 states that development will only be permitted where it takes account of the principles of sustainable development.

Policy CP3 seeks to promote a sustainable environment. It sets out that development will only be permitted where it would not harm the setting of Cheltenham, not harm the landscape, conserve or enhance the built environment, promote biodiversity and avoid pollution and flooding.

Policy CP5 relates to sustainable transport ensuring that new development is located and designed to minimise the need to travel.

The loss of Green Belt land

NPPF

Paragraph 79 states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts is their openness and their permanence.

Paragraph 80 sets out five purposes served by Green Belts:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 87 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 88 highlights that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Cheltenham Borough Local Plan

Although predating the NPPF, the approach of the adopted Cheltenham Borough Local Plan is entirely consistent. **Policy CO6** presumes against development in the Green Belt except in very special circumstances.

Development of a retail establishment and coffee shop on an out-of-centre site

NPPF

Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

Paragraph 26 states that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment subject to the proposal meeting a 2500m² floorspace threshold.

Cheltenham Borough Local Plan

Policy RT1 relates to the location of retail development and states:

Retail development will be permitted, subject to the availability of suitable sites or buildings suitable for conversion, which relate to the role and function of retailing centres and their catchments only in the following sequence of locations:

- a) the Central Shopping Area, subject to Policy RT 2;*
- b) the Montpellier Shopping Area or the High Street West End Shopping Area, subject to Policy RT 2;*
- c) elsewhere within the Core Commercial Area, subject to Policy RT 1;*
- d) district or neighbourhood shopping centres, subject to Policy RT 3;*
- e) out-of-centre sites which are accessible by a regular choice of means of transport, subject to Policies RT 7 and CP 5;*

In considering the location of retail development, developers and operators should demonstrate flexibility and realism in format, design, scale and car parking.

Policy RT7 states that, subject to Policy RT 1, retail development outside defined shopping areas

will be permitted only where:

- a) a need for the additional floorspace has been demonstrated, and the proposals*
- b) individually or in conjunction with other completed and permitted retail development, would not harm the vitality and viability of the town centre as a whole or of a district or neighbourhood centre.....*

The site's retention solely for B1 uses

NPPF

Paragraph 19 states that:

Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.

Cheltenham Borough Local Plan

Policy CP6 states that mixed use development will only be permitted on suitable sites that meet the following criteria:

- a) *where the uses are compatible with each other and adjoining land uses; and*
- b) *for schemes attracting a significant number of trips only in the Core Commercial Area;*
or
- c) *for other schemes, only in the Core Commercial Area, district or neighbourhood centres, or in locations which are highly accessible by a regular choice of means of transport, excluding the residential parts of the conservation areas.*

The policy also notes that where mixed uses are proposed on employment land, proposals will be subject to Policy EM2 (see below).

Policy EM1 is concerned with employment uses and states:

The development or change of use of land for employment use will be permitted where the development:

- a) *involves land already in employment use; or*
- b) *is on a land safeguarded for employment uses in this plan; or*
- c) *forms part of a mixed use development in accordance with Policy CP 6; and*
- d) *accords with Policies CP 4, BE 2, and HS 7.*

Policy EM2 seeks to retain land that is currently or was last in use for employment purposes (in the B classes) unless one of the listed exception tests are met. It goes on to state that mixed use development will be permitted on employment land provided that certain criteria are met, including:

- a) *'any loss of existing floorspace would be offset by a gain in the quality of provision through modernisation of the existing site. This should secure or create employment opportunities important to Cheltenham's local economy, and*
- b) *the loss of part of the site to other uses does not have a detrimental impact on the range of types and sizes of sites for business uses in the area nor the continuing operation of existing business sites; and*
- c) *the use is appropriate to the location and adds value to the local community and area.'*

Assessment

The need for sustainable development

The NPPF makes clear that the presumption in favour of sustainable development should underpin decision making and, in this instance, that can be interpreted as meaning granting planning permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or
- specific policies in the NPPF indicate development should be restricted.

The following matters should be considered in making an assessment of whether or not permission should be granted:

The loss of Green Belt land

The application site falls within the Green Belt and the proposed scheme when considered solely in Green Belt terms constitutes inappropriate development.

Inappropriate development is harmful by definition and the NPPF requires that when considering any planning application, substantial weight is given to harm to the Green Belt. In accord with the NPPF, it is therefore necessary to demonstrate that there are very special circumstances which clearly outweigh the harm to the Green Belt.

The applicant suggests that the submitted proposals embrace a number of beneficial factors, including helping to address the employment land deficit. The applicant also draws attention to the fact that in allowing the appeal for B1 uses at the site in 2007, the Inspector concluded the serious shortfall in local employment land provision up to 2011 at least constituted the very special circumstances that justified the use of the Green Belt site for B1 development at that time.

In the context of the current submission, the applicant considers the shortfall in the availability of employment land within the Borough today is equally as acute. In support of this, attention is drawn to the Joint Core Strategy Employment Land Review (ELR) 2011 which identified that the **B-class** employment land deficit increased since the time of the 2007 appeal.

The Planning Policy Team does not dispute the above and draws attention to the more recent NLP Employment Land Assessment update (October 2015) which has been undertaken to inform the contents of the emerging Cheltenham Plan. The Assessment confirms the continued dearth in **B-class** employment land supply compared to anticipated future needs and, as a consequence, the Cheltenham Plan is considering allocating the application site for B-class employment purposes as part of a wider policy response to employment land management.

Whilst the submitted proposals are not exclusively for B-class employment uses, it is accepted that overall, the proposal offers an opportunity for economic growth, which is a national objective and is an important material consideration set out in the NPPF.

Development of a retail establishment and coffee shop on an out-of-centre site

As the proposed development is located out of centre, the NPPF requires the applicant to demonstrate there are no suitable, available and viable sequentially preferable sites that could accommodate the proposed development.

A sequential test has therefore been undertaken and concludes that “whilst allowing for a reasonable degree of flexibility and the requirement for a site to be available immediately, no sites have been identified for the proposed development that are sequentially superior and capable of accommodating the proposed development.” The submission identifies that the application site is demonstrably the most appropriate location for the proposed development.

This is accepted and it is noted that several sites including 3 in the town centre have been discounted on the basis of a variety of constraints including the existence of existing permissions.

In this instance, the applicant is not required to undertake an impact assessment because the proposal is smaller than the default threshold of 2500m² (gross) stipulated in the NPPF. However, it is noted that an impact assessment has been undertaken to assist in the determination of the proposal and consider the effect on planned in-centre development and in-centre vitality and viability.

By way of the submission, it is demonstrated that the proposal will result in only a small increase in trade diversion from the town centre over and above that associated with existing commitments in the Borough. It is considered this will have an ‘imperceptible’ impact on the sustained vitality and viability of the town centre, which remains strong, popular and attractive. It is also identified that the proposal will not adversely affect any other policy-protected centre in Cheltenham.

The site's retention solely for B1 uses

The proposed development does not fall completely within the B1 use class of development which currently benefits from planning permission at the site. As such, a key consideration in determining the acceptability of the proposed development is whether or not the proposed uses (B1, D1, A1 and A3) sufficiently contribute to meeting the employment needs of the Borough such that the aforementioned very special circumstances can still be considered applicable to this application and therefore justify development within the Green Belt.

JCS Employment Land Review (2011)

There has been a policy shift in recent years in relation to what is considered to constitute employment development and what is now regarded as economic growth. The Cheltenham Borough Council Employment Land Review (ELR) 2011 notes (at paragraph 1.7) the shift in regional and national planning policy that has sought to no longer restrict the consideration of employment uses to B use classes only. Accordingly, other non-B Class employment generating uses were considered as part of the study.

The ELR also notes that the current key non-B Class sectors within the JCS area can be identified as retailing, health and social work and education and goes on to note that, in the light of the anticipated changes in employment levels in the various non B-Class sectors, the aforementioned sectors are likely to become more dominant by 2026.

The above is a factor that has been given due recognition in the new Cheltenham Plan particularly through the emerging policy framework which proposes allowing changes of use to other job generating uses on some of the Borough's existing B-class employment sites. However, it should also be noted that both the JCS and Cheltenham Plan are facilitating additional site provision to help address the identified shortfall in B-class employment land as part of a coordinated approach to employment land management in future.

Previous planning decisions

It is noted that the appeal inspector on the 2007 application did not seek to limit the permission to office development only, but considered the shortfall in local employment land provision amounted to the very special circumstances that justified the granting of permission for B1 use at that time. Given current, similar circumstances, it is not unreasonable to consider this stance is still valid today (although the aforementioned emerging plans are setting out to address this).

In determining the application for the aforementioned BMW scheme in 2014, the determining officer considered that approving the scheme would not undermine the Borough Local Plan's commitment to retain B-class uses under Local Plan Policy EM2 as the policy was of only limited relevance. Furthermore, that the loss of part of the Grovefield Way site to a Sui Generis Use which has some B-class characteristics would still generate much needed jobs.

The same can be said to be true today; EM2 is concerned with protecting existing or last employment uses rather than unimplemented planning consents and is therefore of little relevance. Whilst it is retail use (rather than Sui Generis use) that has caused a loss of B-class use within today's updated scheme, retail still contributes valuable employment opportunities and it is considered that the proportion of the floorspace proposed to be given over to retail (approximately 12%) is sufficiently small not to overly affect future prospects for B-class job provision at this location. It is also noted that the NPPF seeks to promote economic growth and does not distinguish between development that falls within B class uses or otherwise.

Miscellaneous

The site is situated within the Environment Agency's Flood Zone 1 posing a low risk to flooding. It is noted the planning application is therefore accompanied by a Flood Risk Assessment as necessary and appropriate.

The site will be accessed from Grovefield Way which runs between the A40 to the north east of the site, alongside the eastern site boundary and then southwards through the Reddings

towards Up Hatherley. The A40 provides access to the M5 Motorway some 2km to the west and Cheltenham town centre approximately 4km to the east. It is noted a Transport Assessment also accompanies the application and details impacts on the surrounding road network together with implications on walking, cycling and public transport.

Summary Conclusion

Taking all the above into account and on balance, the Planning Policy Team does not raise any objection to the principle of this scheme.

- Very special circumstances for developing in the Green Belt at this location were considered to exist by a planning inspector in 2007. Similar circumstances are considered still to exist today (as evidenced through the 2011 Employment Land Review / JCS process) and given the planning history of the site, the JCS Inspector has made clear there is no purpose in retaining this land as Green Belt.
- There remains a shortfall in B-class employment land across the Borough as evidenced by both the 2011 Employment Land Review (undertaken for the JCS), and the 2015 Economic Strategy (undertaken for the new Cheltenham Plan).
- The JCS and its evidence base recognise the overriding importance of B-class employment to the Borough whilst acknowledging that other uses may also have some employment generating characteristics.
- The retail element of the proposal equates to a very small amount (approximately 12%) of the overall floorspace to be provided, and this small amount is job generating.
- As it has not proved possible to identify sequentially superior sites at this time, it is accepted that the proposal offers conformity with the priorities of the NPPF (Para 24) and Policy RT1 of the adopted Cheltenham Borough Local Plan.
- Sufficient evidence has been provided to demonstrate limited impact on town centre and neighbourhood centre retailing arising from the scheme thus affording compliance with the NPPF (Para 26) and Policy RT7 of the adopted Cheltenham Borough Local Plan.
- The application site is situated within close proximity of a number of public transport routes, a number of shops and opportunities for employment, schools and hospitals. It is therefore situated within a sustainable location and conforms to the thrust of national planning policy embodied within the NPPF together with the spatial priorities of the adopted Cheltenham Borough Local Plan, including Policies CP1 and CP6.
- The Cheltenham Plan is considering this site for a B-class employment land allocation as means of helping to address the identified shortfall in that employment use category.

12th September 2017

In response to the further consultation on this application, the policy team has no additional comments to make other than to note the provision of an indicative site plan for the area which indicates the potential layout of the office / business park element of the scheme. Clarification of the fact that construction of Office 1 and its associated road infrastructure and parking will take place within 12 months from the date of non-office use occupation as specified in the draft Unilateral Undertaking is also noted.

In helping to convey the developer's intentions for the wider site, the additional information demonstrates the scheme's potential to help address the identified shortfall in B-class employment land across the Borough and help fulfil the emerging Cheltenham Plan's aspirations to develop the site for B-class employment in light of green belt proposals emanating from the JCS process.

Land Drainage Officer

20th January 2017

Given that the drainage strategy proposes the use of SuDS to attenuate flow up to the 1 in 100 year (+ 40% climate change) event and limits flow to no greater than green field scenarios; I raise no objection.

Detailed drainage design and layout including SuDS features should be submitted in the first instance to the Lead Local Flood Authority. Email: suds@gloucestershire.gov.uk

GCC Local Flood Authority (LLFA)

1st February 2017

I have reviewed the above planning application in relation to surface water drainage and flood risk. As this is a hybrid application I have separated my comments for Phase 2 & 3 as set out below.

Phase 2

The Lead Local Flood Authority (LLFA) has no objection to this application but recommends that any approval is dependant on the below described Conditions which take account of the following comments. The applicant has outlined a surface water drainage strategy for Phase 2 of this development which incorporates the balancing pond approved and constructed for Phase 1. Surface water runoff from roofs and impermeable areas will be managed via a combination of permeable paving and cellular storage with a controlled discharge through a balancing pond at the Phase 2 pre-development Greenfield QBar runoff rate. This rate is 8.4 l/s but will combine with the existing 1.8 l/s entering the balancing pond from the access road runoff (Phase 1) resulting in a controlled discharge of 10.2 l/s. Discharge is to the unnamed watercourse at the northern boundary of the site.

Please note that any related structures within this watercourse may require consent under the Land Drainage Act from Cheltenham Borough Council.

Whilst a quantity of 487m³ of attenuation is attributed to the site's permeable paving it is unclear whether this surface water is to be discharged via the balancing pond and to the watercourse or whether it is proposed to infiltrate directly to ground. If infiltration is proposed evidence is required how this will be achieved given the ground investigation results provided. Clarification will be required within the detailed design on these points.

Regarding the use of cellular storage, in addition to its inclusion in a detailed maintenance schedule the LLFA would wish to see details of how any proprietary system proposed can be effectively cleaned.

Phase 3

This is an outline application and the LLFA has no objection to the proposed drainage strategy of discharging the Phase 3 surface water runoff to the same watercourse as Phase 2. This is the natural catchment for the runoff and it is proposed to limit the discharge to the pre-development Greenfield QBar rate of 5.7 l/s. It is recommended that any approval is also dependant on the below described Conditions.

Conditions

Condition 1: No development approved by the permission shall be commenced until a detailed drainage strategy based upon the approved drainage strategy submitted for Phase 2 and 3, Coirinthian Park, Cheltenham, Reference 16-6953 has been submitted to and approved in writing by the Local Planning Authority. If an alternative strategy or amendments are required, it must be submitted to and approved by the LPA. The drainage scheme shall be carried out in accordance with the approved details.

Reason: To ensure the development is provided with a satisfactory means of drainage and

thereby preventing the risk of flooding. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage and water quality in the locality.

Condition 2: No development shall be put in to use/occupied until a SUDS maintenance plan for all SuDS/attenuation features and associated pipework has been submitted to and approved in writing by the Local Planning Authority. The approved SUDS maintenance plan shall be implemented in full in accordance with the agreed terms and conditions.

Reason: To ensure the continued operation and maintenance of drainage features serving the site and avoid flooding.

NOTE 1 : The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency

NOTE 2 : Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

29th August 2017

I have reviewed the additional drainage and Flood Risk Assessment documents dated 1/8/17 reference: Issue 2, FRA-16-6953.

The proposed discharge rates from Phases 2 & 3 remain as described in the applicant's first submission i.e. 10.2 l/s via the Highway pond for Phase 2 (and existing access road) and a proposed 5.7 l/s controlled by a separate device for Phase 3. Both Phases discharge to the watercourse on the site's northern boundary.

The additional information clarifies that infiltration will not be viable and therefore the proposed permeable paving will accommodate surface water for storage only. The remaining storage requirement will be held in geocellular crates with the final amount to be determined in the detailed design stage.

The LLFA therefore recommends that the Conditions suggested in correspondence dated 5 January 2017 remain valid.

NOTE 1 : The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency

NOTE 2 : Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

Thank you for your consultation on the above dated 21 December 2016 which was received by Natural England on 21 December 2016.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

Natural England has assessed this application using the Impact Risk Zones data (IRZs) and is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Badgeworth SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(l) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species.

Page 2 of 2

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

5th September 2017

Thank you for your consultation.

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 10 January 2017

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Urban Design

28th September 2017

Comments: Access and connectivity

Please integrate the scheme layout with existing developments and wider movement network within and beyond the site, as well as prioritise movement by sustainable transport modes.

Soft landscape

Planting layout details appear random & there is no evidence of a planting strategy to demonstrate any logic to the detail information. Please submit a planting strategy drawing.

Please submit a landscape management plan.

Please submit a drawing clearly indicating existing vegetation and proposed planting arrangements

Hard landscape

Please submit a drainage and water management plan incorporating sustainable design.

Please modify hard landscape proposal to facilitate pedestrian/cyclist access and reinforce a sense of place.

Contradictory/unclear information

- Unmatched legend/unexplained symbol in planting proposal and illustrative masterplan
- Spelling error with planting schedule
- East elevation of Office 1 didn't reflect the proposed design.

Architects Panel

6th February 2017

Design Concept

The Panel had no objection to the principle of the development on this site which had already received outline consent ref 14/01323/OUT. However, the panel had concerns that the quality of the architecture proposed was generally poor and a wasted opportunity for such a "gateway" site location on the edge of Cheltenham.

Design Detail

The panel felt the site layout of the approved Masterplan where the new buildings address the spine road was more successful than submitted scheme which is dominated by a sea of car-parks. The architecture is very bland and uninspiring.

The spaces around the buildings provide no amenity value and the panel questioned the suitability of a Nursery in the location proposed.

Recommendation

Not supported.

13th October 2017

Design Concept

The panel had already reviewed this application before. Revised drawings had been submitted which the panel thought was for a better scheme with improvements to the site layout and landscape treatment.

Design Detail

The panel remained concerned by the lack of external amenity spaces. The layout of the offices 2, 3 and 4 to the west of the site looked particularly cramped and could be improved.

Tree Officer

6th January 2017

The Tree Section does not object to this application providing various clarifications and adjustments can be made.

Ash T21-The Root Protection Area of this tree is within the proposed car park. As such a suitably sized 'no dig' construction must be undertaken for parking in this area.

T28 is recommended for re-coppicing back to the original coppice points. It may be more successful if the new coppice height can be changed to 1-1.5 metres.

Trees 1-9 have been subject to an altered (increased) ground level. Whilst soil has been taken away from the trunk area, all new soil needs to be removed if these trees are to continue to thrive. This needs to be undertaken as a matter of urgency-whether planning permission is granted or not.

All Tree Protective Fencing must be installed prior to the commencement of any on site-work. Trees within G38, 39, 40 +41 are primarily ash with an understory of hawthorn. It is important that this ash and hawthorn is retained and the proposed 'Buffer Mix' is acceptable. This should make this hedge line denser and act as a visual screen from/into properties along North Road West (Shakespeare Cottages) as it matures. Due to the native species nature of that proposed, this should also enhance local wildlife.

Similarly, the 'woodland' (G34) screening between this site and the A40 needs to be retained. It appears to have been already thinned of weaker specimens and no further thinning work is currently required. It is noted that new trees are to be planted within this area (or just south of it). Whilst the overall palette of trees is acceptable (native species), the Outline Landscape Masterplan does not specify which trees are to be planted where-this needs clarification. Similarly, the planting size of the proposed trees are very large. It may be more cost effective to plant more numerous smaller trees along the edges of woodlands (or where such tree planting are not to become landscape features). Any financial savings could be put towards enhanced aftercare and maintenance.

Similarly the Outline Landscape Masterplan needs clarification so it is clear where trees are to be planted. Given the apparent poor nature of the soil, planting pit details need to be submitted and agreed. Such planting pits should incorporate new soil as well as root barriers (where trees are to be planted near hard surfaces).

It was noted that the soil within the site is very heavy clay. Such clay soil can become desiccated and shrink through tree root action which can lead to building subsidence. As such tree planting species selection needs to be carefully made and suitable foundation depths and designs made so that and such future nuisance will be avoided.

13th September 2017

Given that the majority of trees are of low BS5837 (2012) category and are due to be retained as well as a high quality soft landscape proposal, the CBC Tree Section does not object to this application providing various clarifications can be made as a part of the application or agreed as Reserved Matters:

- 1) The proposed Aldi supermarket is to be adjacent to North Road west and opposite several private dwellings. The proposed Planting proposals drawing (no 07-sheet 2 of 3) of 23/6/17 shows boundary treatment planting of hedgerow species with several lime and pine oak and alder trees within metres of the side of this building. It is anticipated that if these trees are allowed to mature, they will be considered too close to this building and there will likely be pressure from the owners to remove them. Similarly, in winter months, such trees (other than the canopy of the pine) will not offer sufficient

screening to the residents of these properties. It may be better to choose evergreen species along this area. Holm oak (*Quercus robur*) is one such broadleaved evergreen which grows fast even in poor conditions and will also tolerate harsh pruning (away from the side of Aldi). It may be prudent to change the proposed *Tilia cordata* (lime) for shade tolerant hornbeam to grow adjacent as well as a high proportion of native holly within the hedgerow planting mix.

- 2) It is noted that there are many ash trees within this hedgerow along North Road West. Given that ash die-back has now reached Cheltenham, most ash trees are anticipated to have died within the next decade. As such new planting proposals along the whole of the boundary with North Road west should be reconsidered and significant numbers of proposed new alternative species should be proscribed. Alder trees may grow well and be suitable to this location.
- 3) The hedge line along North Road west is species rich and of significant ecological value, but requires maintenance. Details of all pruning/thinning should be agreed. This should also take account of the need to create space for new planting mix as recommended as well as proposed new trees.
- 4) There are also several 'stand alone' young ash trees along Grovefield Way which are shown as being retained. Such trees should now be removed and replaced. The planting of eg Japanese hornbeam (*Carpinus japonica*) may look well against the *Acer X freemanii* 'Autumn Blaze' in the autumn.
- 5) It is noted that there are many ash trees adjacent to but outside this site boundary adjacent to the A40. Unless new trees are planted now, this dual carriageway could be substantially denuded of trees and views into the site from the A40 will be most apparent. Similarly, noise from the A40 traffic will be perceived to be more noticeable within the site. The absorption of airborne particulates will decrease if such an existing boundary treatment all but disappears. Agreement should be made with the County Council (the owner) to replant and this area.
- 6) Experience has shown that the ground is composed of a high proportion of heavy clay. Similarly, clay was spread over the surface of this site from the adjacent BMW site 3-4 years ago. As such all buildings must take account of such ground conditions in the foundation design. Alternatively, if buildings beginning to subside, the removal of trees to reduce/remove such incidence of subsidence may become inevitable.
- 7) Root trainers must be inserted into all tree pits where such tree pits are within or adjacent to hard surfacing. Whilst such root directors have been described within car parking areas, there are many shallow rooted trees (alder, birch etc) recommended in other hard landscaped areas.
- 8) There are no planting details evident for the western most part of this site (ie the Elmfarm side of the site). It is assumed that this is an oversight.
- 9) T's 26+27 (a blackthorn and a crab apple are situated outside the site and within the garden of Elm farm. It is also noted that there is a proposed parking area designated. Whilst the parking bays themselves are outside the Root Protection Area of these trees, and given that the land slopes away in this corner of the site, it is important that land levels are not increased to the boundary. Any such levelling must finish outside the 4.7 metres RPA of the adjacent apple.

GCC Highways Planning Liaison Officer

24th October 2017

Please see letter appended to this report.

Environment Agency

22nd December 2016

Thank you for sending through this consultation. The checklist accompanying the consultation has ticked:

- (i) Development within 8m of Main River (red lined on GIS map);

However the watercourse at this location is an ordinary watercourse not a main river. As such the application does not feature in our checklist and we would refer you to our flood risk standing advice and advise you seek the advice of the Lead Local Flood Authority.

25th August 2017

We are in receipt of the additional information consultation for the above application. There was no checklist attached, however as advised at the time of the original application the development does not feature in our checklist for consultation and as such we would refer you to our Standing Advice and have no bespoke comments to make.

Parish Council

11th January 2017

I am writing on behalf of Up Hatherley Parish Council. At our most recent meeting, those present unanimously agreed to endorse the previous communications from Councillor Roger Whyborn, one of our own members as well as being a Borough Councillor (see below for his repeated comments).

In addition to our wish to protect the unique local Green Belt from further desecration (it is the only one in the country which actively separates two large towns), we are particularly concerned about how the proposed development will impact on both local roads and smaller businesses.

We also request sensible use of S106 money in order to develop a traffic scheme in the area which will work for everyone. We would also point out there appears to be a surfeit of vacant office space in Cheltenham so why build any more?

Gloucestershire Centre For Environmental Records

9th January 2017

Biodiversity Report available to view in on line.

Ward Councillors

21st September 2017

In my role as local ward councillor and a resident, having studied the revised plans and receiving much feedback from local residents I would like to confirm that I strongly oppose this application and my previous objections still stand.

There is extremely strong public opposition to the development which is supported by Alex Chalk, Cheltenham's MP and Martin Horwood the Lib Dem parliamentary candidate for Cheltenham. I have encouraged residents to forward their objections to you. Most repeat their existing objections on the basis that it still does not address the fundamental issues. In their view the proposal constitutes a real issue of overdevelopment and will have an adverse effect on the neighbourhood.

Residents' objections and concerns to this proposal are as follows in no particular order:

Greenbelt

The site is currently within the greenbelt for which the National Planning Policy Framework, is explicit in stating that Green Belt boundaries should only be altered in exceptional circumstances. This proposal is not an exceptional circumstance with absolutely no evidence of a need for additional retail outlets or a child nursery. Within a short distance of the proposed site there is already a supermarket and a drive-through coffee shop all available within maximum 5 minutes' walk. The area also has a great deal of existing childcare especially at The Reddings Community Centre adjacent to the site.

The application attempts to pre-empt the current process of consultation and refinement of the emerging Joint Core Strategy. The Reddings Residents Association have lodged new evidence to the inspector in regard of this location which was not placed before her when the draft proposal was prepared. Until the inspector's findings are published, I do not believe that there are any valid grounds to permit consideration of this application.

The proposal to remove greenbelt status from the site once developed will be 'the thin end of the wedge' Already, I am aware that Newland Homes are seeking to develop housing on the new "defensible" greenbelt boundary on the opposite side of North Road West, adjacent to the community centre. This is in spite of Cheltenham Borough Council having already made its strategic allocations for housing and the land having assessed as being undeliverable and unsustainable.

As mentioned there are no exceptional circumstances to permit this proposed A and D class development within the greenbelt. The developer has extant outline planning permission for B1 office development which he could and should progress with.

Flood risk.

The development site has historically acted as soakaway and in more recently a run off for Grovefield Way. Since the adjacent BMW development has taken place localised flooded has occurred on many occasions not just as a result of heavy rain storms.

The National Planning Policy Framework suggests that new developments should not pass on flooding to a neighbouring sites yet I am told by neighbouring homeowners that their properties did not flood before the BMW development. Since its existence neighbours have written complaining that because the drainage system is antiquated and generally combines foul and storm water even during moderate rainstorm, the manholes in North Road West regularly lift and local flooding occurs. The Reddings Community Association are of the belief that the existing drainage system does not have adequate capacity and should be assessed before permission is granted as any upgrade work required will be a taxpayers expense.

The revised drawings do include additional water storage but it does seem that the discharge rates to the brook are unchanged and do not take account of the discharge that is already being directed there by the BMW development. Furthermore there are no calculations to show that the existing ditch drainage system can support the total discharge from both developments. In the absence of any obvious allowance for the site to be able to deal with the excess storm runoff from the A40 and Grovefield Way it seems logical that either Severn Trent Water/Gloucestershire Highways will need to improve the drainage from Grovefield Way to stop it flooding the development site and neighbouring properties or, that the proposed site designs need to be re adjusted to accommodate it.

Traffic congestion.

The transport infrastructure in this area is already congested without adding further Heavy Goods Vehicle traffic. The traffic problems that would be created by the proposed development are very serious with implications for The Reddings and the surrounding area. Traffic will be vastly increased along The Reddings, Grovefield Way and Hatherley Lane. Grovefield way, which was constructed as a link road is already unable to deal with the existing volumes of traffic at peak times and will become chronic with this proposed

development opening. There has been a considerable amount of additional large local developments since the applicants submitted 2013 report which have not been taken into account. In addition, the bus route 99 which serves staff and patients of both Cheltenham General and Gloucester Royal hospitals now stops at the Park and Ride which will inevitably encourage more traffic into the area and will increase the requirement for parking in the Park and Ride again not included within the traffic modelling

A further important point picked up by The Residents' Association is that the applicant's transport statement reports that data was collected between 6 and 12 July 2016 and on Saturday 9 July. However, this is not a representative "neutral" month as set out in the Department of Transport's TAG Unit N.12 "Data sources and surveys" criteria. The transport statement report does not include consideration of servicing arrangements, or schedules, nor to undertake deliveries outside of normal opening hours although with the opening hours extending between 05:30 to 23:00, seven days per week, this would clearly be unpalatable in a largely residential area. This alone would be grounds to reject the application.

I am also aware as discussed at an earlier meeting the use of the JCS traffic evidence is limited and that further traffic surveys would be needed to verify the statements made

Residents have also raised concern about the Aldi service area, where delivery vehicles pulling into the supermarket car park will be close to the day care provision. The potential resulting conflict with users in particular the risk to the safety of children is considerable.

Traffic pollution.

The impact from the additional traffic created by the adjoining BMW showroom has been greater than anyone had envisaged. To increase it further would be disastrous. With the traffic becoming stationary with engines running, the pollution levels will inevitably increase. This is contrary to emerging evidence regarding pollution and health which is particularly detrimental on the physical and academic health of the very young.

As well as the pollution danger to residents, there is also a health risk to drivers and passengers inside vehicles. Tests have shown that the majority of pollutants inside a car originate from the vehicle immediately in front. The type of situation where vehicles queue nose to tail at an average gap of 3 to 4 metres between vehicles is particularly bad. Some vehicles, notably buses and heavy goods also ingest their own emissions and studies have shown that the worst pollution levels can be inside buses in a queue. Cyclists and motor cyclists would also experience high pollution levels.

Landscaping

It is acknowledged that the landscaping has been improved. However, the landscaping is still short of what is required. More tree screening is required along the whole boundary of the site especially with Grovefield Way and Shakespeare cottages to mitigate the light pollution from the development, as was the inspector's intention in 2007. Light pollution to neighbouring buildings and road users will be further aggravated by sun reflecting off the abundance of glazing and white render contained within the buildings.

Litter

As a result of the existing drive through a short distance away residents already have to clear up huge amounts of rubbish thrown out of cars ruining the appearance of residential roads and the surrounding area and impacting on the wildlife already struggling in the area. No additional bins have been suggested or clear up plan.

Damage to wildlife

The loss of natural habitat in the area will dramatically affect the wildlife.

Parking

There will be a further increase in parking in nearby roads from customers and employees of the new amenities. This has been proved by BMW staff not being allowed to park onsite and thereby parking in nearby residential areas. The applicant's intentions with regard how parking will be controlled is extremely worrying. As found with the 'Pure' office development insufficient parking provision was made as on any working day the nearby roads and pavements are clogged with parked vehicles. It is believed by residents that yet again the developer is being allowed to provide inadequate parking spaces and then just expecting neighbours and the Park and Ride to take the over spill. Currently neither Grovefield Way or the adjacent residual roads have any parking restrictions. Will a plan be developed to consider double yellow lining to avoid this potential issue before it even becomes a massive problem?.

Opening Times

The proposal to open between 05:30 to 23:00 hours, seven days per week, and 365 days of the year, is unacceptable it does not reflect any of the previous planning decisions and enforcements made upon other nearby similar businesses, and is entirely incompatible with a largely residential area.

A controversial development of this size, located on Green Belt land does not appear to be offering anything back to the community in terms of improved or additional amenities. The developer has gone against the clear indications of the inspector at the 2007 appeal in many ways. This behaviour would not be tolerated from domestic owners and a great many residents feel it unfair that different rules seem to be being applied. The residents of The Reddings are looking to the planning authority to fairly apply all of the planning regulations, the emerging JCS and local plans, properly assess the local development and erosion of the greenbelt and defend the main aim and ambitions of the area, which is to create well-paid, quality employment and not to throw precious sites away and exacerbate the existing challenges.

If local means local as the government have suggested then the community has spoken and their wishes and concerns should be listen to. For these reasons the application must be refused.

3rd January 2017

I have a number of concerns about application 16/02208/FUL in several areas, and this email should be reads as constituting an objection (unless my views change as a result of later argumentation):

- I share residents' concerns acutely about the effect of traffic in the approaches to the Grovefield Way (B&Q) roundabout, and knock-on effects to Arle Court, particularly in peak hours. It should be remembered that, at the time of writing, the BMW garage is not operational so the amount of traffic it will add is not yet being experienced; though I would agree with residents that it will likely be at the beginnings and ends of the day, where the roads in this area to and from Arle Court are already at saturation point.
- It also has the potential to push additional traffic through both Hatherley Lane and Hatherley Road, and the Reddings, in an attempt to avoid Grovefield Way. At the moment you will possibly be ware that GCC are holding ASDA S106 money for traffic calming, (let alone making the problem worse with this new development). This needs to be sorted out before proceeding. I would slightly clarify the position as raised by objectors from Springfield on this subject. The true problem was that GCC botched the consultation by not listening to the recommendations of councillors and residents, and this subject therefore needs to be revisited.

- The master plan gives every appearance of overdevelopment for the size of plot, and the infrastructure supporting it. I have concerns about the number of people who are going to be working and shopping on a relatively small site in relation to the number and size of businesses on it.
- Can you assure me that there will be an impact assessment on other businesses in the area, particularly given the proximity of both Asda and other day nurseries, also the "Springfield Stores" in The Reddings & the smaller shops in Hatherley. And question about Usage category/Green Belt.
- The Costa Coffee drive-thru application is concerning. Either it is serving Aldi and the nearby developments in which case it doesn't need to be drive through, or it is catching passing traffic in Grovefield Way, in which case we should be concerned about yet more traffic movements to/from Grovefield Way. The matter we should particularly worry about is users of the BMW garage who on being forced to wait at the garage, as people do for various reasons, may find the Costa fare (with some food?) more attractive than the single coffee provided by the garage; so an easy pedestrian access between the sites I see as important, which does not currently appear to be the case.

Environmental Health

22nd December 2016

I have reviewed this application and have no objections in principle, however further information will be required before the development can commence, hence I offer the following comments:

Noise:

The application includes an assessment of noise from the proposed development and how it will affect nearby noise-sensitive properties. The report has identified suitable limits for noise from a variety of sources including vehicle deliveries and fixed plant. I would therefore recommend that a condition is attached to any permission for this development that requires the detail of such plant to be approved before first use of the site. This condition is required to ensure there is no loss of amenity due to noise from these sources.

I would also recommend a condition is attached that requires details of a delivery plan for the supermarket unit to be agreed before first use. Such a plan should identify suitable precautions to ensure that noise from this activity is kept to a minimum, and in any case within the levels identified in the presented acoustic report.

Impact from construction

As with all large construction sites there is a potential for an impact on existing property, I would therefore request that a plan is produced for the control of noise, dust and other nuisances from work of demolition and construction. Such a plan is likely to include limits on the hours of this work. Currently, CBC recommends the following working hours:

- Monday - Friday 7:30AM - 6:00PM
- Saturdays 8:00AM - 1:00PM
- Sundays and Bank Holidays - No work producing noise audible beyond the site boundary, unless with prior approval.

If you have further queries, please let me know

23rd October 2017

With regard to this application I should like to see the inclusion of conditions reinforcing the applicant's recommendations in their Contaminated Land report.

Contaminated Land

1) Provide gas protection to CS2 of CIRIA C665. The type of building proposed is commercial and for this Table 8.6 of CIRIA 665 indicates that the following special protection measures are required in the new buildings.

- Reinforced cast in-situ floor slab with at least 1200 gauge DPM
- Beam block or precast concrete slab and at least 2000 gauge DPM/reinforced gas membrane
- Underfloor venting
- All joints and penetrations sealed

Underfloor venting is not required in large spaces such as warehouse but it is required where smaller rooms such as offices are present.

2) TP12 at 0.15 m showed elevated lead in the made ground. Therefore the made ground (0.3m thick) should be replaced in the vicinity of TP12 if soft landscaping is proposed in this area.

Historic England

5th January 2017

Thank you for your letter of 21 December 2016 notifying Historic England of the application for listed building consent/planning permission relating to the above site. On the basis of the information provided, we do not consider that it is necessary for this application to be notified to Historic England under the relevant statutory provisions, details of which are enclosed.

If you consider that this application does fall within one of the relevant categories, or if there are other reasons for seeking the advice of Historic England, we would be grateful if you could explain your request. Please do not hesitate to telephone me if you would like to discuss this application or the notification procedures in general.

We will retain the application for four weeks from the date of this letter. Thereafter we will dispose of the papers if we do not hear from you.

Severn Trent Water Ltd

26th January 2017

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

Waste Water Comments

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and

The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

Clean Water Comments

We have apparatus in the area of the planned development, the developer will need to contact Severn Trent Water, New Connections team as detailed below to assess their proposed plans for diversion requirements.

To request a water map please follow the link, , <https://www.stwater.co.uk/building-and-developing/estimators-and-maps/request-a-water-sewer-map/> select "Water and / or Sewer map request form" fill out the relevant details and fee payment and return to:

30th August 2017

Having received the consultation for the above planning application, I have the following comments to make.

The submitted Flood Risk Assessment states all foul sewage is proposed to discharge to the public foul sewer, and all surface water is proposed to discharge to balancing ponds and ditch course. Based upon these proposals I can confirm we have no objections to the discharge of the drainage related condition.

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contact our Development Services Team (Tel: 0800 707 6600).

I trust you find the above in order, however, if you have any further enquiries then please do not hesitate to contact us.

Cheltenham Civic Society

13th January 2017

We were not able to look at this in detail, as the papers were not available to us. But we oppose a development of this scale in the green belt. Nor are we convinced that a further supermarket is needed in this area. There is already substantial traffic congestion in this area, and the impact of such a proposal needs careful consideration.

21st September 2017

We are against development in the Green Belt when there are still several vacant sites and offices in the town centre; this type of development cannot be considered 'sustainable'. We question the impact on the local road network and query if there is sufficient parking. The development lacks any clear urban form and is relying on the landscaping to conceal an architecturally dull collection of buildings; the new BMW building presents a more refined example. This proposal is the type of development you would expect to see in North America not adjacent to the 'gateway' to a Regency town.

Highways England

6th February 2017

Letter appended to this report

The Reddings Residents Association

15th March 2017

Letter appended to this report

5. PUBLICITY AND REPRESENTATIONS

The application was publicised by way of letters to 60 nearby properties, site notices and a notice in the paper. Over 330 letters of objection were received as were 2 letters of support. A petition has also been submitted.

The comments made will be provided in full to members however to briefly summarise the main issues raised were as follows:

- More office space unnecessary in Cheltenham
- No need for additional supermarket.
- No need for a drive thru coffee shop
- Unsuitable location for a nursery. Impact on existing providers.
- Impact on congestion on local roads. Impact on Road Safety.
- Will lead to parking on nearby streets. Insufficient parking on site.
- Unacceptable to build on greenbelt
- Brownfield sites are available which should be developed first
- Noise, light and air pollution. Litter.
- Impact on neighbouring properties
- Cumulative impact with BMW
- Unacceptable visual appearance
- Impact on wildlife
- Increased flooding and run-off

6. OFFICER COMMENTS

6.1 Determining Issues

As mentioned at 1.1.6 there is an extant outline consent for B1 uses on this site. As such the principle of development upon this site has been established. This will be elaborated on further. The policy context will be outlined as will the greenbelt issue. The key aspects of the current application which will be considered are employment, retail impact, design and layout, impact on neighbouring properties, access and highways issues, flooding and drainage, trees and landscaping, wildlife and ecology.

6.2 Background

The planning history has been outlined above. The principle of developing the site was first established by the appeal decision in 2007. Although the site was in the Green Belt the Inspector found that there were very special circumstances due to the serious shortfall

in local employment land provision which justified the granting of permission of B1 uses on the site.

As outlined above the evolution of the site has moved away from purely B1 uses through the granting of the BMW dealership. It was considered that this was acceptable as the proposed use entailed some B class elements and also some sui generis elements which are akin to employment uses and often found on employment sites such as servicing. The decision also took account of the wider definition of employment uses, beyond traditional B1 uses used in emerging policy. The key issue in terms of the principle of the current proposal is the introduction of non B1 uses and whether these are acceptable.

6.3 Policy

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be taken in accordance with the relevant adopted Development Plan unless material considerations dictate otherwise. Therefore in determining this application the following must be considered:

- The saved policies of the Cheltenham Borough Local Plan (CLP) Second Review 2006, which comprises the adopted development plan, and;
- Relevant material consideration which include:
 - National Planning Policy Framework (NPPF)
 - National Planning Practice Guidance (NPPG)
 - The emerging Joint Core Strategy (JCS) and its evidence base
 - The emerging Cheltenham Plan (part one) and its evidence base.

6.5 Green Belt

6.5.1 NPPF

Paragraph 79 states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts is their openness and their permanence.

Paragraph 80 sets out five purposes served by Green Belts:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 87 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 88 highlights that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

6.5.2 Cheltenham Borough Local Plan

Although predating the NPPF, the approach of the adopted Cheltenham Borough Local Plan is entirely consistent. **Policy CO6** presumes against development in the Green Belt except in very special circumstances.

6.5.3 JCS

Policy SD5 of the JCS echoes the general aims of the NPPF. However the JCS proposes a change to the boundary of the Green Belt in the location of the proposed development in order to remove the parcel of land (including the BMW site) at Grovefield Way. The supporting text states “*a small change has been made to the Green Belt boundary in the area of the Reddings to provide a more appropriate boundary after an implemented permission at Grovefield Way*”.

In her report the Inspector states: *Two other relatively small areas are proposed for GB release, which are not identified within the Plan. One is located at Grovefield Way in the area of The Reddings where development is being built out. The other is in the area of the Old Gloucester Road and Arle Nurseries, which would provide a more appropriate GB boundary to the north of the West Cheltenham allocation and to the south of the North West Cheltenham allocation. Exceptional circumstances exist for both of these releases.*

- 6.5.4 As is clear from the above commentary the likelihood is that the site will be removed from the Green Belt, however at the time of writing it falls within this designation. In policy terms the proposal represents inappropriate development within green belt and therefore it is necessary to consider whether there are very special circumstances which clearly outweigh the harm to the green belt.
- 6.5.5 As mentioned above the site has extant consent for B1 purposes which followed on from an allowed appeal in 2007. In allowing that appeal the Inspector concluded that the serious shortfall in local employment land provision up to 2011 at least constituted the very special circumstances that justified the use of the Green Belt site for B1 development at that time
- 6.5.6 In the context of the current submission, the applicant argues that the shortfall in the availability of employment land within the Borough today is equally as acute. The Joint Core Strategy Employment Land Review (ELR) 2011 identified that the B-class employment land deficit increased since the time of the 2007 appeal. The more recent NLP Employment Land Assessment Update which is dated October 2015 and has been undertaken to inform the emerging Cheltenham Plan, confirms the continued dearth in B-class employment land supply compared to anticipated future needs and, as a consequence, the Cheltenham Plan is considering allocating the application site for B Class employment purposes as part of a wider policy response to employment land management.
- 6.5.7 Whilst the proposals are not exclusively for B-class employment uses, it is accepted that overall the proposal offers an opportunity for economic growth which is a national and local objective. The acceptability of the inclusion of non-B1 uses will be discussed below, however it is considered that the principle of developing the site for employment use has been established through the history of the site, including the original appeal decision and the extant consent and its impending removal from the green belt.

6.6 **Employment**

6.6.1 NPPF

Paragraph 19 states that:

Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.

6.6.2 Cheltenham Borough Local Plan

Policy CP6 states that mixed use development will only be permitted on suitable sites that meet the following criteria:

- a) where the uses are compatible with each other and adjoining land uses; and
- b) for schemes attracting a significant number of trips only in the Core Commercial Area; or
- c) for other schemes, only in the Core Commercial Area, district or neighbourhood centres, or in locations which are highly accessible by a regular choice of means of transport, excluding the residential parts of the conservation areas.

The policy also notes that where mixed uses are proposed on employment land, proposals will be subject to Policy EM2 (see below).

Policy EM1 is concerned with employment uses and states:

The development or change of use of land for employment use will be permitted where the development:

- a) involves land already in employment use; or
- b) is on a land safeguarded for employment uses in this plan; or
- c) forms part of a mixed use development in accordance with Policy CP 6; and
- d) accords with Policies CP 4, BE 2, and HS 7.

Policy EM2 seeks to retain land that is currently or was last in use for employment purposes (in the B classes) unless one of the listed exception tests are met. It goes on to state that mixed use development will be permitted on employment land provided that certain criteria are met, including:

- a) 'any loss of existing floorspace would be offset by a gain in the quality of provision through modernisation of the existing site. This should secure or create employment opportunities important to Cheltenham's local economy, and
- b) the loss of part of the site to other uses does not have a detrimental impact on the range of types and sizes of sites for business uses in the area nor the continuing operation of existing business sites; and
- c) the use is appropriate to the location and adds value to the local community and area.'

6.6.3 JCS

Policy SD1 of the emerging JCS relates to employment (except retail development). In the preamble it states that In the NPPF, employment is considered in a wider sense than the traditional industrial, office and warehousing (B1, B2 and B8 uses). For example, uses such as retail hotels tourism, leisure facilities, education, health services and residential care, can also be large employment providers.

6.6.4 The policy states that employment related development will be supported at strategic allocations, at locations allocated for employment within the development plan, for the redevelopment of land already in employment use and for the development of new employment land within the PUA of Cheltenham.

6.6.5 Emerging Cheltenham Plan

The LPA is intending to commence public consultation on the Cheltenham Plan on 11th December. It is proposed to allocate the site in question as an employment site. The draft policy states: *"Proposals for traditional B class employment uses or sui generis uses that exhibit the characteristics of traditional B class employment will be supported at these locations subject to being in accord with other relevant policies embodied within this plan"*. The preamble to this policy states that the allocation provides an opportunity for the establishment of a modern business environment at an important gateway location. The Principal Urban Area is being amended to accommodate this allocation.

- 6.6.6 The proposed development does not fall completely within the B1 use class of development for which the site currently benefits. As such a key consideration in determining the acceptability of the proposed development is whether or not the proposed uses (B1, D1, A1 and A3) sufficiently contribute to meeting the employment needs of the Borough.
- 6.6.7 In terms of employment creation the documents submitted with the application suggest that the proposed development would generate 1,018 full time equivalent jobs. 26 of these would be within the supermarket, 20 would be within the coffee shop, 25 would be within the nursery. The remainder would be within the B1 uses; 365 within the buildings proposed as part of the full application and 582 within the buildings proposed in outline.
- 6.6.8 The applicant considers that the non-B1 elements, in addition to providing some contribution to employment in their own right, also complement and facilitate the provision of traditional B1 employment on the site. They draw attention to the Employment Land Review (mentioned at 6.5.6) which highlights that a mix of employment uses on a site can encourage the provision of office based businesses, using the example of a hotel, restaurant or gym on a business park which can assist in making it a desirable location. They highlight the fact that no B1 office development has materialised due to market issues.
- 6.6.9 Officers accept the principle that some non-B1 uses within a business park environment can make it more attractive to businesses who are considering potential locations for office accommodation, thereby facilitating economic development. However the amount and prominence of the non-B1 uses needs to be carefully considered in order to ensure that the site still primarily performs as a business park. It is also considered that the phasing of development is crucial to ensure that the assertions regarding the delivery of B1 office become a reality.
- 6.6.10 Officers had expressed concerns that within the proposed layout the non-B1 uses are occupying the most prominent portion of the site when viewed from the entrance to the site off Grovefield Way. Whilst alterations have been made to the layout of the site, in essence the locations of the supermarket, coffee shop and nursery are broadly similar to those originally proposed. This appears to primarily be driven by the proposed operators in terms of access, visibility and operational requirements.
- 6.6.11 Whilst the distribution of the uses on the site has not significantly altered, the overall quality of the scheme in terms of how the buildings address the street, the spaces between them and the landscape approach has improved since the submission of the proposal (this will be discussed further below). This helps to ensure that the business park has an 'identity' which is apparent from the entrance to the site to its furthest extent. As such whilst the non-B1 uses still occupy the eastern-most part of the site it is now considered that they will not appear as a separate parcel of commercial uses but will be integrated into the language of the site.
- 6.6.12 In terms of the floorspace provided the A1 (retail) element equates to 12% of the overall floorspace. This is a relatively small amount and in itself does generate some jobs.
- 6.6.13 Bearing all of the above in mind officers do not consider that the inclusion of the non-B1 uses proposed dilutes the primary function of it as an employment site to an unacceptable degree.
- 6.6.14 Through the course of the application officers have sought to negotiate commitments as to the delivery of the B1 office units and the phasing of development. There is a risk that if they are not delivered concurrently with the non-B1 uses there may be a significant period of time during which the eastern portion of the site is operational without any offices having been constructed on the site.

- 6.6.15 To this end the developer has agreed to construct and fit out office buildings 1 and 2 prior to the first occupation of any other units on site.
- 6.6.16 S.106 agreement
- 6.6.17 The above commitments would be secured via a s.106 agreement to which the developers have agreed to sign up. Officers consider that this provides sufficient reassurance that the retail and other non B1 uses proposed would not be able to operate until such time as the office buildings were ready to occupy.
- 6.6.18 The NPPF states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
- 6.6.19 With this in mind, it is beholden upon the LPA to facilitate sustainable economic growth wherever possible. The approach to delivery agreed through this s.106 provides a way to allow permission to be granted for the uses proposed, in the confidence that it will facilitate genuine economic development.

6.7 Retail Impact

6.7.1 NPPF

Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

Paragraph 26 states that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment subject to the proposal meeting a 2500m² floorspace threshold.

6.7.2 Cheltenham Borough Local Plan

Policy RT1 relates to the location of retail development and states:

Retail development will be permitted, subject to the availability of suitable sites or buildings suitable for conversion, which relate to the role and function of retailing centres and their catchments only in the following sequence of locations:

- a) the Central Shopping Area, subject to Policy RT 2;
- b) the Montpellier Shopping Area or the High Street West End Shopping Area, subject to Policy RT 2;
- c) elsewhere within the Core Commercial Area, subject to Policy RT 1;
- d) district or neighbourhood shopping centres, subject to Policy RT 3;
- e) out-of-centre sites which are accessible by a regular choice of means of transport, subject to Policies RT 7 and CP 5;

In considering the location of retail development, developers and operators should demonstrate flexibility and realism in format, design, scale and car parking.

Policy RT7 states that, subject to Policy RT 1, retail development outside defined shopping areas will be permitted only where:

- a) a need for the additional floorspace has been demonstrated, and the proposals
- b) individually or in conjunction with other completed and permitted retail development, would not harm the vitality and viability of the town centre as a whole or of a district or neighbourhood centre.....

6.7.3 As the proposed development is located out of centre, the NPPF requires the applicant to demonstrate that there are no suitable, available and viable sequentially preferable sites that could accommodate the proposed development.

6.7.4 A sequential test has therefore been undertaken and concludes that “whilst allowing for a reasonable degree of flexibility and the requirement for a site to be available immediately, no sites have been identified for the proposed development that are sequentially superior and capable of accommodating the proposed development”. The submission identifies that the application site is demonstrably the most appropriate location for the proposed development.

6.7.5 In this instance the applicant is not required to undertake an impact assessment because the proposal is smaller than the default threshold of 2,500m² (gross) stipulated in the NPPF. However, an impact assessment has been undertaken to assist in the determination of the proposal and consider the effect on planned in-centre development and in-centre vitality and viability.

6.7.6 The Local Planning Authority has commissioned an independent assessment of the Retail Impact Assessment. The assessment agrees that subject to the Council’s own knowledge of the North Place site and the proposed relocation of the Council offices from the Promenade there are no suitable sites available in sequentially preferred locations and therefore the test is met.

6.7.7 The approved scheme at North Place was for:

Erection of a mixed use development comprising; 5,792sqm (gross external floor space) of class A1 food store, 739sqm (gross) of class A1 shops and 19sqm (gross) of class A2 within atrium space and 336sqm (gross) of class A3 (customer restaurant); multi-storey car park providing 634 spaces over 5 floors (300 spaces for public use and 334 spaces for food store customers); 143 no. residential units within a mix of 1, 2, 3, and 4 bedroom houses and flats, (57 units to be affordable) with associated 143 car parking spaces at ground and basement level; creation of new public open spaces; provision of new parking bays for buses and erection of a passenger information kiosk and waiting room; associated other operations to facilitate the mixed use development including alterations to and from the existing highway for vehicular, pedestrian and cycle access. All following the demolition of existing buildings and other built structures on the site.

6.7.8 Officers are aware that this scheme will not be going ahead in its current form and that Morrisons are no longer involved in the site. As such it seems likely that an alternative proposal will come forward for this site, however it is not clear at this stage what form this will take or what mix of uses it will entail. In officer’s view the applicant are in a position where it is more or less impossible for them to pass the sequential test because of the lack of information over the intentions for North Place. However not passing the sequential test is not an adequate reason for refusal in its own right. It is necessary to consider whether the proposal would have any unacceptable retail impacts. These matters are discussed below.

6.7.9 The assessment goes on to consider the retail impact of the proposal. It concludes that the impact on the town centre would not be significant. Caernarvon Road is a designated centre and the impact is material consideration. The centre comprises largely the Morrison store. The assessment concludes that there is no realistic risk of its closure as a result if the

proposals. It also concludes that the trade diversion from Bath Road would be very small. The assessment also concludes that there might be a small amount of trade diversion from Coronation Square however it could not be concluded to be a significant adverse impact. The impact tests are therefore passed.

6.7.10 The overall conclusion of the assessment is *“that the proposal is in accordance with national and local policy for retail development. In relation to the restaurant development, the proposal would serve a largely local need and the sequential test would be of little assistance in determining the application.”*

6.7.11 Officers have no reason to conclude differently and as such it is considered that in terms of retail impact the development of a supermarket in this location is acceptable.

6.4 Design and Layout

6.4.1 The NPPF states that good design is a key aspect of sustainable development. It asks that LPAs do not impose architectural styles or stifle innovation, however it does confirm that it is proper to seek to promote or reinforce local distinctiveness.

6.4.2 Policy CP7 of the Local Plan states that development will only be permitted where it is of a high standard of architectural design, adequately reflects principles of urban design, complements and respects neighbouring development and the character of the locality and/or landscape.

6.4.3 The existing planning permission for the site was in outline, however it was accompanied by indicative plans which suggested that the business park would be formed of a series of buildings which would be front onto a central spine road which led into the site. The scheme was intended to be ‘landscape led’.

6.4.4 The current application moves away from this approach in that the Supermarket is pushed back from the spine road. The proposals have undergone a number of revisions following on from officer feedback.

6.4.5 Officers initially had a number of concerns about the design and layout as follows:

- It was considered that the initial drawings did not adequately demonstrate the change in levels across the site and how the buildings relate to one another, existing properties and the BMW building
- In relation to the coffee shop there was concerns that there was a lack of landscaping around this building and that the parking spaces and drive thru lane were overly prominent. In combination with the retaining structures it was considered that this created a stark appearance and created a poor entrance to the site.
- In relation to the supermarket it was again considered that there was a lack of landscaping around this building particularly between the rear of the building and North Road West. The building and car parking did not appear to respond to the change in levels adequately. There was also a general concern regarding the positioning of this building on this site with the car park in front which resulted in a lack of presence on the spine road and a visual dominance to the car park.
- In relation to the nursery there was a concern that this was an uninteresting building which turned its back on the spine road and was set above the road with retaining structures dominating the back edge of the pavement. Its positioning on the site also

served to sever the commercial and B1 uses, exacerbating the concerns that officers had about the lack of integration.

- There was a general concern across the site that the buildings did not adequately address the street, did not have sufficient landscaping and did not respond sufficiently to the change in levels resulting in large and unsightly retaining structures,

6.5.6 In response to the feedback a revised set of drawings was submitted and the consultation process was repeated. The key changes made were as follows:

- An increased amount of illustrative material was submitted including a number of cross sections, a 'fly through' video of the site and 3D visualisations
- In relation to the coffee shop an increased patio area has been added and the landscaping has been increased. The drive thru lane is in the same location, however some of the parking spaces have been relocated to allow the landscape buffer to be increased to create a better sense of arrival into the site.
- In relation to the supermarket, it is still in the same location, however the rear yard has been relocated in order to allow an increased landscape buffer at the rear. Views of the supermarket across the site have been softened by the increasing of the landscaping with a pedestrian route through having been designed.
- Furthermore the Happy Days Nursery has been rotated through 90 degrees so that it addresses the street and the building has been redesigned so that it incorporates more glazing in order to enliven the elevations.
- The proposed position of the building also aligns it with office buildings 1 and 2 and has allowed the car park to be redesigned to allow a flow between the uses and uses ramps and pedestrian steps to provide links through and to straddle the levels in a softer way than was originally envisaged.
- Office buildings 3 and 4 are still indicative however the revised drawings indicate them in revised locations which would give them more presence within the site, concealing some of the parking and having a better relationship with the residential neighbours to the west.

6.5.7 Officers now consider that the most serious shortcomings in the layout have been overcome. Whilst the indicative layout within the outline application did embody more of the ideals of urban design, it was purely indicative at that stage and the LPA are not able to resist realistic alternative designs where they reach an acceptable standard. The majority of the buildings (except the supermarket) do now front the spine road and the quality of the landscaping, the layout of the car park and the quality of the public spaces have been significantly improved.

6.5.8 It is considered that the relationship between offices 2 and 3 is a little cramped, however office 3 is within the outline element of the proposal and therefore there is scope to negotiate further on this part of the layout through the submission of reserved matters. It is considered prudent to add an informative to that effect to inform the design work going forward.

6.5.9 In terms of the layout of the site, officers consider this to be acceptable.

6.5.10 Turning now to the individual buildings. It is fair to say that the supermarket and coffee shop are of a relatively standardised design. However it is clear that all of the buildings which form part of the 'full' application use a similar architectural language and a similar palette of

materials. This has also been designed to pick up on the language, material and colours utilised within the BMW building. The nursery building is relatively simple in design, however as mentioned above it has been improved since submission and again uses features such as grey framing and projecting eaves to continue the narrative of the group of buildings. The office buildings present largely glazed elevations to the spine road which adds a sense of vibrancy and activity to the site. The other elevations are simpler with smaller windows and an undercroft area at ground floor. The buildings have been designed to be simple and flexible to allow for the requirements of different occupiers.

6.5.11 In the view of officers the standard of design of the individual buildings is acceptable and appropriate for a modern business park. It is considered that the buildings will appear as a family of buildings which is important in giving the site an identity as a high quality business park.

6.5.12 Turning now to the height of the buildings. The nursery and coffee shop are single storey, the supermarket is 1 – 2 storeys (with a mono-pitched roof and mezzanine and the office buildings are three storeys in height. However as mentioned above there is a change in levels across the site and the site is surrounded on three sides by highway and on three sides by residential properties. There is also an existing building on the site, BMW, which has a relatively powerful presence on the site and which has been mentioned in a high number of the objections which has been received. As such the LPA asked for a number of sections to be submitted to demonstrate how the proposed buildings fit into this context. These will be available for members to view however there are some considerations which arise from these:

- At the eastern end of the supermarket the eaves line is approximately 300mm lower than that of the adjacent dwelling in North Road West and the buildings are 36.7m apart at that point.
- The BMW building is approximately 8m higher than the highest parts of both the supermarket and the coffee shop.
- The BMW building is approximately 5m higher than office 1.

6.5.13 These dimensions relate to comparisons from a fixed datum. The heights of the individual buildings themselves are as follows:

- Coffee shop – 6.6m
- Supermarket – 5.5 - 9.1
- Nursery – 5.6m
- Office 1 – 13m
- Office 2 – 13m

6.5.14 The commercial uses at the eastern end of the site are relatively low with the height increasing towards the western end. None of the buildings proposed are as high as BMW and this will remain the most visually prominent element on the wider site. The office blocks are relatively tall however they require a presence within the street scene and if they were too diminutive they would not provide the focus or draw through to the rear of the site which it is hoped they will achieve.

6.5.15 Officers therefore are satisfied that the proposal is acceptable in terms of layout, the design of the buildings and their size and height.

6.6 Impact on neighbouring properties

- 6.6.1 The NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 6.6.2 Local Plan policy CP4 states that development will only be permitted where it should not cause unacceptable harm to the amenity of adjoining land users and the locality.
- 6.6.3 As mentioned above planning permission exists on this site and the impact of the previous proposals upon neighbours will have been fully assessed. However the mix and distribution of development now proposed is markedly different and has the potential to have more of an impact upon neighbour amenity in terms of the presence of the buildings, their construction, servicing and on-going operation. As such it is important that all these aspects are carefully considered
- 6.6.4 In terms of the physical presence of the buildings the shortest distances between the proposed buildings and their nearest residential neighbour are as follows:
- Coffee shop – 44m
- Supermarket – 36m
- Nursery – 88m
- Office 1 – 82m
- Office 2 – 103m
- 6.6.5 The positions of offices 3 and 4 are indicative but indicate approximately 55m from the nearest property.
- 6.6.6 The closest relationship is that of the properties of north road west and the supermarket. However bearing in mind the distances involved, the fact that the building slopes down towards the boundary and the landscape buffer that it is proposed it is not considered that the physical presence of the building would have a significantly harmful impact on amenity in terms of loss of light, privacy or overbearing impact.
- 6.6.7 With regards to construction, any problems which might arise can be dealt with separate legislation, however the Environmental Health officer has suggested that a condition is attached requiring a plan for the control of noise, dust and other nuisances which would include limits on the hours of work. CBC currently recommends the following working hours:
Monday - Friday 7:30AM - 6:00PM
Saturdays 8:00AM - 1:00PM
Sundays and Bank Holidays - No work producing noise audible beyond the site boundary, unless with prior approval.
- 6.6.8 There is also the potential for deliveries to the supermarket to result in disturbance to the neighbouring properties. The loading bay has been located away from the most sensitive location, However the Environmental Health Officer has recommended that a delivery management plan be submitted and this will be required by condition.
- 6.6.9 The requested opening hours are as follows:
- Supermarket – Monday – Saturday – 08:00 – 22:00
Sunday – 10:00- 18:00
 - Coffee shop – Monday – Sunday – 05:30 – 23:00

- Nursery – Monday – Friday 07:00 – 19:00

The Office hours are not yet known, however given the quiet nature of the use these are not normally controlled through the planning process.

- 6.6.9 An acoustic report has been carried out which concludes that the impact on neighbours would be acceptable and the Environmental Health Officer does not disagree with its findings or take issue with the proposed opening hours.
- 6.6.10 Details of a lighting scheme have been submitted with the application which indicate lux levels for the Full element of the proposals. The light spillage is shown to be minimal with a level of 0 at all neighbouring properties with a level of 1 clipping the front gardens of 9 and 10 Grovefield Way. This is well within acceptable levels and should not have an adverse impact upon neighbour amenity. A condition will be required to ensure a similar level of detail is provided for the outline elements of the scheme.
- 6.6.11 As such, subject to the proposed conditions mentioned above officers consider that the impact of the proposal on neighbour amenity would be acceptable.

6.7 Access and Highways Issues

- 6.7.1 Chapter 4 of the NPPF relates to promoting sustainable transport. It says that decisions should take account of whether; the opportunities for sustainable transport modes have been taken up, safe and suitable access to the site can be achieved for all people and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.7.2 Policy TP1 of the Local Plan states that development will not be permitted where it would endanger highway safety.
- 6.7.3 Policy INF1 of the JCS relates to the transport network. It states that developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. It states that planning permission will be granted only where the impact of development is not considered to be severe.
- 6.7.4 The planning application was accompanied by a Transport Assessment, Delivery Management Plan and Framework Travel Plan. These have been scrutinised by Highways England and the Local Highway Authority. The comments provided by both organisation will be reproduced in full for members however the main issues raised will be discussed below.
- 6.7.5 Highways England confirm that they have no objection to the proposal, following confirmation of proposed floorspace figures from the applicant. They accept the trip generation figures which have been provided. They confirm that under planning permission 14/01323/OUT the site has an extant 'trip envelope' for 441 and 460 two-way vehicle trips in the AM and PM peak respectively. These can be 'netted off' against the development proposals resulting in an additional impact of 18 and 16 additional two way vehicle trips in the AM and PM peak hours respectively. Based on the level of development trips anticipated to impact on M5 J11, taking into consideration extant peak hour trips Highways England accepts that the proposals do not constitute a severe impact on the SRN.

6.7.6 The County Highways Officer has also provided detailed comments. The main points arising from these are:

- Sustainable travel services and opportunities are available on Grovefield Way to the south of the site, A40 east and west bound carriageways to the north east and Hatherley Lane, opposite ASDA to the east. There is a network of footpaths and cycleways servicing the site
- There are bus services available at the stops located 350m to the south of the development site on Grovefield Way and 550m east on Hatherley lane. There are further stops on the A40 750m north east of the site. These services provide a reliable sustainable transport alternative to that of the private motor car and have the potential to encourage modal shift. A desirable distance to a bus stop is 500m, with up to 1000m being regarded as acceptable. Therefore the site is sustainably located and accessible via a number of non-car based alternative transport methods.
- There is a new footway on the western side of Grovefield Way which was granted permission as part of the access arrangements for the BMW car sales garage.
- over a 5 year period from January 2012 there were 13 recorded personal injury collisions of which 9 were recorded as slight injury and 4 were recorded as serious injury. The reports attributed the causation as driver error or misjudgement rather than blame upon the highway and its layout. Therefore there are no highway safety deficiencies.
- The proposal makes use of the existing access constructed for BMW which is suitable for the expected levels and type of traffic. The internal junctions provide adequate emerging visibility splays. Vehicle tracking drawings have been provided for each element which demonstrates that they can be accessed by suitable delivery and refuse vehicles. Delivery management plans for the Supermarket, coffee shop and nursery will be secured via condition.
- Gloucestershire no longer has parking standards. Parking provision should be determined using the methodology set out in the NPPF. Office blocks 1 and 2 have parking provision of 222 spaces. The accumulation study determined a weekday peak demand of 22 spaces. The site is accessible to sustainable transport opportunities and regular bus services available within a reasonable walking distance. The site provides cycle parking and links with the cycle facilities. There would be a travel plan to encourage and support alternative means of travel.
- The supermarket, coffee shop and nursery provide 154 spaces. The weekday peak demand was established as 69 spaces and the max weekend demand was recorded at 109 spaces. The development provides adequate levels of parking in accordance with the NPPF.
- The outline element of the application provides access via a continuation of the main access road from Grovefield Way to a car park at the south western point of the development. This provides suitable access.
- In terms of trip generation the proposed development will generate an additional 18 vehicle trips in the AM (to 459) and an additional 16 trips in the PM (to 476) weekday peaks compared to the extant permission. The impact is

being considered in the weekday peaks due to the background traffic that occurs at weekends being lower.

- Surveys have demonstrated that vehicle flow is high within the Local Highway Network. The additional vehicle trips mentioned above on top of the base flow and previously consented trips would not be regarded as a significant increase given the high levels of background flow. The previous planning history cannot be ignored and the sites extant permission will generate additional vehicle movements within the Grovefield Area. The impact of the previous proposals was considered to be acceptable and the current proposals do not result in significant levels of additional trips.
- The concluding remarks are as follows:

“Grovefield Way and the local network to Arle Court Roundabout are constrained with high traffic flow and queues/delays at peak times. This may make the additional vehicle traffic generated by this development seem significant when assessed or viewed in isolation, however the previous extant permission carries significant weight in planning terms and must be considered when assessing the current proposal. Although each application has to be assessed on their own merits, this site has previously been deemed acceptable for development in planning terms for B1 Office Use. The number of additional trips generated by this current application compared to the extant permission, which can be implemented at any time, is not significant. There have also been no material changes in national and local planning policy since the previous applications permission was granted. It is for that reason that the highway authority finds no reasonable grounds for the refusal of permission to this application.”

6.7.7 The extant consent for the site was subject to the following condition (Condition 4):

6.7.8 *The B1 Employment Use development hereby granted Outline Planning Permission shall not be occupied until such time as the contributions specified in the Section 106 Agreement completed in respect of Planning Permission reference **13/0110/FUL**, granted 14 March 2014, for the erection of a flagship BMW, Mini and Motorrad dealership (or any subsequent planning permission(s) on the same land and subject to a similar Agreement) are triggered OR a separate Agreement under S106 is entered into to secure the delivery of the site-wide sustainable transport contributions on occupation of the B1 scheme hereby granted permission and the adoption of the Joint Core Strategy. Reason: To ensure that the development is not carried out and occupied in the absence of any guarantee that the consequential site-wide sustainable transport contributions are delivered.*

6.7.9 The decision referred to in that condition was: *Proposed erection of a flagship BMW, Mini and Motorrad dealership including vehicle sales and servicing facilities and will include the creation of an access from Grovefield Way.*

6.7.10 This was granted subject to a s.106. It involved a contribution of £503,000 to be used towards improvements to the South West Cheltenham Corridor. This was due in three equal instalments, the first of which is due on the date which the JCS is adopted or on occupation of the development (Development is already occupied).

6.7.11 A revised scheme was made for the BMW site as follows: **14/00656/FUL (Granted 21/1/15)** : *Erection of a flagship BMW, Mini and Motorrad Dealership including vehicle sales and servicing facilities including an access from Grovefield Way (Revision to scheme approved 14 March 2014 under reference 13/01101/FUL - 1.Raising height of building by 1 metre to allow adjustments in floor levels to provide a mezzanine floor below ground level: 2. Rotation of vehicle ramp to allow access: 3. Increase in*

Motorrad element from 160 sq m to 190 sq m: 4. Revised highway layout to relocate BMW customer access point to west of approved position)

- 6.7.12 This was granted subject to a s.106 which is attached to this email. This repeated the requirement for £503,000 to be used towards improvements to the South West Cheltenham Corridor.
- 6.7.13 The legal agreement defines the South West Transport Corridor as The transport corridors in and out of Cheltenham including:
- a) The A40 west of the M5
 - b) Grovefield Way
 - c) Up Hatherley Way
 - d) Hatherley Way
 - e) Hatherley Road
 - f) The Reddings
 - g) Reddings Road and
 - h) Extension of the Park and Ride.
- 6.7.14 Given that the extant consent against which this application is being compared in transport terms was subject to these contributions, it is considered that the current application needs to be linked also. The applicant is in agreement to this. Given that the first instalment falls due upon adoption of the JCS with the second and third instalments in the future legal advice is being sought as to the appropriate mechanism to secure this and this matter will be updated.
- 6.7.15 It is acknowledged that the proposal will have an impact upon the road work however it has been demonstrated that the additional impact over and above that of the consented scheme is insignificant. The proposal meets all the technical requirements of new development, provides sufficient parking and provides options for sustainable travel. For these reasons the proposal is considered to be acceptable in terms of traffic, transport and accessibility.

6.8 Flooding and Drainage

- 6.8.1 The NPPF states that when determining planning applications local planning authorities should ensure flood risk is not increased elsewhere.
- 6.8.2 Policy UI2 states that development will only be permitted where it would not increase the quantity or rate of surface water run-off.
- 6.8.3 The planning application was accompanied by a Flood Risk Assessment (FRA) and surface water drainage strategy. The surface water drainage strategy for the full elements of the proposal incorporates the balancing pond approved and constructed for the BMW development. Surface water runoff from roofs and impermeable areas will be managed via a combination of permeable paving and cellular storage with a controlled discharge through a balancing pond at the pre-development greenfield runoff rate.
- 6.8.4 Detailed comments have been provided by the Local Lead Flood Authority (LLFA). They have confirmed that the proposed discharge of 8.4 l/s, which will combine with the 1.8 l/s entering the balance pond from BMW is acceptable. Discharge is to the unnamed watercourse at the northern boundary of the site.
- 6.8.5 The proposed permeable paving will accommodate surface water for storage only. The remaining storage requirement will be held in geocellular crates with the final amount to be determined in the detailed design stage.

- 6.8.6 The outline element of the proposal is subject to a strategy of discharging surface water at the pre-development greenfield rate. Again further information would be required by condition.
- 6.8.7 It is normal with large scale proposals for the detailed design of drainage strategies to be submitted via conditions when the technical construction designs are prepared. However it is necessary to set out a strategy which confirms that the proposal is capable of adequately handling surface water runoff. In this instance the LLFA have confirmed that this is the case.
- 6.8.8 As such it is considered that the scheme is compliant with the technical requirements and as such is acceptable in terms of flooding and drainage.

6.9 Trees and Landscaping

- 6.9.1 Policy GE5 of the Local Plan states that the LPA will resist the unnecessary felling of trees on private land.
- 6.9.2 Policy CP3 states that development should conserve or enhance the best of the built and natural environments.
- 6.9.3 The tree officer has confirmed that the majority of the trees are of a low category and are also proposed to be retained as part of the soft landscaping proposal.
- 6.9.4 The soft landscaping proposals are generally considered to be of a high quality however there are certain areas where inappropriate species are proposed and/or further details are required in relation to maintenance and planting as outlined in the comments above. It is considered that these matters can be dealt with appropriately through conditions.

6.10 Wildlife and Ecology

- 6.10.1 Policies NE1 and NE2 of the Local Plan relate to ecology and states that development which would harm protected species or a designated conservation site will not be permitted unless safeguarding measures can be put in place or other material factors override nature conservation considerations.
- 6.10.2 The NPPF states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of the development in that location clearly outweigh the loss.
- 6.10.3 The proposal was accompanied by an ecological assessment. The site was originally surveyed in 2006 and updated surveys were carried out in 2011, 2013 and 2016. Specific bat and badger surveys were also carried out. The report concludes that there are no overriding constraints to development. However it is proper to provide habitat opportunities and as such bat and bird boxes will be secured through the development and required by condition. Native planting will also be used within the landscaping scheme to provide enhancement in these areas.

7 CONCLUSION AND RECOMMENDATION

- 7.1 It is acknowledged that this is a controversial application which has attracted a high level of objection, not least from the Reddings Residents Association who have set out their concerns in detail. However a decision must be made on planning merits bearing in mind the relevant policies as set out above and the fall back position of the applicant in terms of the extant outline consent for B1 development on the site.

7.2 As mentioned above the NPPF makes it clear that the presumption in favour of sustainable development should underpin decision making and, in this instance that can be interpreted as meaning that planning permission should be granted unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole; or
- Specific policies in the NPPF indicate development should be restricted.

As mentioned at 6.6.18 the NPPF identifies a key role for the planning system in contributing to building a strong, responsive and competitive economy.

7.3 As such the determination of this application comes down to considering the planning balance. Given that the site is to be removed from the Green Belt and has extant consent the key issues upon which this application turn are considered to be the inclusion of non B1 uses in principle, the implications of retail on the site and the acceptability of the individual buildings and layout.

7.4 It has been demonstrated that the provision of a retail use in this location would not have an adverse impact in terms of retail impact. The application has been the subject of a significant amount of negotiation in terms of the layout which has resulted in a much improved scheme which officers support. The inclusion of non B1 uses on the site, through the provisions of the s.106, will facilitate the provision of employment provision on the site, do not dilute the principle purpose of the site to an unacceptable degree and in themselves provide employment opportunities.

7.5 As such it must be concluded that there are no over-riding concerns in terms of the uses proposed or in the technical considerations which warrant the refusal of the application.

7.6 Therefore the recommendation is to permit the application subject to conditions and the signing of a s.106 agreement.

8 CONDITIONS / INFORMATIVES

To follow as an update.

APPENDIX 2



Appeal Decision

The Inquiry opened on 8 January 2019 and sat for 5 days

Site visit made on 15 January 2019

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 27 February 2019

Appeal A: APP/B1605/W/18/3200395

Appeal B: APP/B1605/W/18/3214761

Land at Grovefield Way, The Reddings, Cheltenham GL51 6RF

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full and outline planning permission.
 - The appeals are made by Hinton Properties (Grovefield Way) Ltd against the decision of Cheltenham Borough Council.
 - The application Ref 16/02208/FUL, dated 8 December 2016, was refused by notice dated 14 December 2017 (appeal A).
 - The undated application Ref 18/01004/FUL, was refused by notice dated 18 October 2018 (appeal B).
 - The developments proposed are hybrid applications seeking full and outline planning permission for:
 - (A) 5,034 square metres (sqm) of commercial office space (Use Class B1), 502 sqm day nursery (Use Class D1), 1,742 sqm Aldi food retail unit (Class A1), a 204 sqm Costa Coffee retail unit and drive-thru (Use Classes A1 and A3), with associated parking, landscaping and infrastructure works. Outline planning permission sought for the erection of 8,034 sqm of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access);
 - (B) 5,034 sqm of commercial office space (Use Class B1), 502 sqm day nursery (Use Class D1), 1,742 sqm Aldi food retail unit (Class A1), a 204 sqm Costa Coffee retail unit and drive-thru (Use Classes A1 and A3), with associated parking, landscaping and infrastructure works. Outline planning permission sought for the erection of 8,034 sqm of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access).
-

Decisions

1. Appeal A is dismissed.
 2. Appeal B is allowed and planning permission is granted for 5,914 sqm of commercial office space (Use Class B1), 502 sqm day nursery (Use Class D1) and 1,742 sqm Aldi food retail unit (Class A1), with associated parking, landscaping and infrastructure works. Outline planning permission is granted for the erection of 8,034 sqm of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access) on land at Grovefield Way, The Reddings, Cheltenham GL51 6RF in accordance with the terms of the application Ref 18/01004/FUL, and the plans submitted with it (except in
-

respect of those matters reserved for later approval), subject to the schedule of conditions at the end of this decision letter.

Preliminary matters

3. The applications were worded as set out above. Subsequent to the application subject of appeal B, the description of development was revised to '*5,914 sqm of commercial office space (Use Class B1), 502 sqm day nursery (Use Class D1) and 1,742 sqm Aldi food retail unit (Class A1), with associated parking, landscaping and infrastructure works. Outline planning permission sought for the erection of 8,034 sqm of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access)*'. The description omits the Costa (A1 and A3) and substitutes an additional office building. The Council considered it on this basis and I have considered the appeal similarly.
4. Prior to the Inquiry, the Council withdrew reason for refusal No. 2 in appeal A relating to traffic congestion. Representations on this issue were made by others at the Inquiry.
5. Prior to the Inquiry, the appellant confirmed that financial viability formed no part of its case. I have considered the appeals on this basis.
6. The Reddings Residents Association felt that insufficient time had been provided for full consultation with local residents on Appeal B. However, a large number of written representations were received from individuals and the Association took the opportunity to present their case fully to the Council and at the Inquiry. No prejudice to any party has arisen.

Application for costs

7. An application for costs in respect of both appeals was made by Hinton Properties (Grovefield Way) Ltd against Cheltenham Borough Council. This application is the subject of a separate Decision.

Main Issues

8. The main issues are as follows:

In both appeals:

Whether the balance between B1 office use and non-B1 uses including retail would be acceptable, having regard to the development plan;

And additionally, in appeal A:

The effect on the character and appearance of the area.

Reasons

The site and its surroundings

9. The site comprises around 4.15 hectares (ha) of former agricultural land about 4.4 kilometres (km) west of the centre of Cheltenham and on the edge of the built-up area of the town. The A40 dual carriageway lies to the north of the site and is connected to Grovefield Way through nearby roundabouts. A country lane, North Road West lies to the south. Several dwellings lie on the south side of this road facing the site. A dwelling, Elm Farm, borders the

western end of the site. Grovefield Way forms the boundary to the east. Access to the developments would be from Grovefield Way using an existing turnout provided for a recently completed prestige BMW showroom and vehicle maintenance building. On the opposite side of Grovefield Way is The Reddings, a residential area consisting mainly of 2 storey detached houses.

Background

10. Planning permission was granted at appeal in 2007 for 'B1 industrial use' across a wider area which included the (now) BMW site and an extension to the adjacent Arle Court park & ride facility. This permission was extended in 2012. The BMW facility, which replaced 3 separate sites in the centre of Cheltenham, was granted planning permission in 2015. In December 2014, outline planning permission was granted for up to 16800 sqm of B1 Employment Use and this permission is extant until the end of 2019¹. It is agreed between the parties that the absence of a condition removing permitted development rights means that up to 500 sqm of each B1 unit could be changed to a B8 (storage/distribution) use. No application for approval of any reserved matters has since been made.

The proposed developments

11. A central spine road forms part of both proposals. The Aldi retail outlet with associated parking would occupy the southern part of the site in both. Apart from these common features, there are considerable differences between the schemes subject to appeal (referred to henceforth as A and B). The siting of the nursery and arrangement of parking differs in scheme B, where the building is proposed to be sited more or less parallel to the spine road. In both schemes, outline B1 accommodation is planned for the western area (blocks O3 and O4) near the A40 which in this area is raised on an embankment, but the indicative plans show very different configurations of buildings and parking. Three storey office blocks O1 and O2, the subject of detailed applications, would lie south of the spine road between the Aldi building and blocks O3 and O4, but their siting in scheme B would reflect the curve in the access road. The Costa coffee drive-thru in scheme A would be situated immediately on the corner of the access road where it meets Grovefield Way. In scheme B this building is replaced with a 5th 2 storey office block designated O5.

Policy

12. The development plan for the area consists of the overarching Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) adopted in December 2017 and saved policies of the Cheltenham Borough Local Plan Second Review of 2006 (LP). Following the grants of planning permission in 2007, 2014 and 2015, the site was removed from the Gloucester and Cheltenham Green Belt through the examination of the JCS. It is now recognised as an employment site in the emerging Cheltenham Plan, (eCP) which was submitted for examination to the Secretary of State in October 2018.
13. There remain outstanding objections to the submission version of policy EM3 of the eCP (referred to in the reasons for refusal in both appeals) as the

¹ Known as Corinthian Way

wording did not change after the pre-submission version was consulted on. At present this policy attracts only moderate weight.

14. The revised National Planning Policy Framework (NPPF) was issued in July 2018 and further revised in February 2019. The parties took this into account in their evidence and the proposals fall to be considered under the revised guidance.

The balance between B1 office use and non-B1 uses (Appeals A and B)

15. Much of the existing B1 office floorspace in Cheltenham is in older buildings, often of heritage significance with disadvantages in terms of layout and flexibility. Businesses that wish to expand within the town encounter difficulty finding suitable contemporary open plan accommodation. There is also a persistent shortage of development sites due to the constraints of the surrounding Green Belt and the flood plain, amongst other things. The long-standing need is reflected in development plan policies over the years that seek to encourage B1 office employment. The JCS recognises the need for new peripheral business park development around Cheltenham and the appeal site is allocated as a location for new employment development in draft policy EM3 of the eCP². The Cheltenham Economic Strategy: Developing Cheltenham as a Business Location, prepared by Athey Consulting, notes in Appendix B that the appeal site needs to be maximised as a short term opportunity for a business park environment to meet business needs, but is vulnerable to change of use from retail and sui-generis uses.
16. The rate of job growth has exceeded the national average, and both economic and job growth are forecast to be strong over the next 20 years.³ The JCS seeks a minimum of 192 hectares of B-class employment land in policies SP1 and SP2, updated in paragraph 3.2.21 to 195 ha. This includes existing capacity of 63 ha, based on the JCS Economic Update Note of February 2016. Now almost 3 years old, the appellant's evidence is that less than a third of that 63 ha is currently available because of alternative schemes coming forward for other purposes including retail and residential. This has not been replaced. The 2006 LP notes at paragraph 9.11 that redevelopment of employment sites for other uses was leading to a reduction in available employment land at that time. The 2007 permission granted on appeal relating to this site and its subsequent removal from the Green Belt, occurred largely because of the scale and urgency of the need for modern business accommodation. There is a critical shortage of B1 space and a pressing need now in Cheltenham.
17. In terms of floorspace, 84% of scheme A would be in B1 office use and in scheme B 86%. Using site area as a measure, scheme A would be 67% B1 and scheme B 74%. The important factor is the number of higher value B1 jobs created, which is the main objective of adopted and emerging policy. Scheme A would offer approximately 1018 FTE⁴ jobs of which 71 would be in retail or nursery activity (non-B1). Scheme B would provide about 1040 jobs of which 52 would be in non-B1. I conclude that both schemes A and B could provide a very significant contribution to employment generally and B1 office

² The text requires B1 uses or 'sui generis' uses that exhibit the characteristics of traditional B1 use

³ Cheltenham Economic Strategy: Developing Cheltenham as a Business Location (January 2015) by Athey Consulting

⁴ Full Time Equivalent

employment in particular. In comparison, the permitted all B1 scheme would, in theory, provide 1217 jobs overall. The difference should be seen in the context of strategic development plan policy that expects uses outside the 'B-Classes' to provide over two-thirds of the projected job growth across the area⁵.

18. There is no JCS or LP policy that indicates whether business parks should be solely in office use or what proportion of non-B1 uses might be acceptable. The eCP objective that uses should be B1 or 'exhibiting the characteristics of traditional B1 use' is the subject of objections from the Local Enterprise Partnership for Gloucestershire (LEP)⁶ on the basis that this precludes non-B1 uses. Paragraph 118a of the NPPF advises that policies should encourage multiple benefits from both urban and rural land, including through mixed use schemes. The Cheltenham Borough Council Employment Land Review (ELR) of 2011 notes at paragraph 1.7 the shift in regional and national planning policy that has sought to no longer restrict the consideration of employment uses to B use classes only. The appellant provided evidence from developers and agents that business occupiers prefer some non-B1 uses on or near offices for reasons of convenience. This was not seriously questioned by the Council, which acknowledged in the Statement of Common Ground (SOCG) that some ancillary uses on an employment site can be acceptable and desirable in planning terms⁷. The LEP specifically make the point that non-B class uses are required to secure the delivery of B class uses. Moreover, there are examples of non-B1 use on other current developments. The only B1 development without any non-B1 on site, at Hatherley Place, benefits from a neighbouring ASDA and numerous other facilities very close by.
19. In contrast, the appeal site is around 870 metres (m) from ASDA, 782m from the local KFC and 816m from a Harvester restaurant.⁸ None of the local facilities are in close proximity. Whilst not great distances, walking there and back in a lunchtime would not be an attractive prospect for many. This lends weight to the argument that a lack of non-B1 ancillary uses on site has made the development less attractive to occupiers.
20. Turning to the detail of the relevant policies, the proposals would meet the relevant criteria listed in JCS policy SD1. The land is not already in employment use: no application has been made for discharge of any pre-commencement conditions. The site should be regarded as being in the 'wider countryside', where criteria (vi) indicates employment related development will be supported adjacent to a settlement. Seen in the context of the existing BMW building, the developments would be of an appropriate scale.
21. With regard to the LP, no change of use from any existing employment use would be taking place. This is resisted by the first limb of LP policy EM 2, the overall aim of which is to safeguard existing employment land. There is no current employment use. To address the Council's point that the B1 allocation and existing permissions must be relevant, the second limb advises that mixed use development will be permitted providing that (g) the loss of part of

⁵ JCS para 4.1.15

⁶ Set up by central government in 2011 to create opportunities and led by the business community, in partnership with voluntary, education and public sectors, to help Gloucestershire realise its economic potential

⁷ List of non-B1 uses as part of other Business Parks at Doc 8

⁸ See Docs 5 and 14. Doc 14 figures measured from centre of site

the site to other uses does not have a detrimental impact on the range of types and sizes of sites for business uses in the area...; and (h) the use is appropriate to the location and adds value to the local community and area. It is retail use that has reduced the amount of B-class use within the scheme, but retail still contributes valuable employment opportunities. The proportion of the floorspace allocated to retail is sufficiently small to not overwhelm the prospects for future B class jobs.

22. The appeal schemes would generate about 200 fewer jobs compared to the permitted scheme (marginally less in scheme B) but the overall benefit of bringing forward a large mixed use scheme where there is currently no employment at all is persuasive. It is understood that local residents may not appreciate the appropriateness or the value of an Aldi supermarket and nursery where the land was previously used for agriculture, but in scheme B, these uses would be noticeably subservient to the predominant office use, which is supported locally. I deal with the issue of character separately.
23. The schemes would meet the requirements of emerging policy EM3 in that they would be predominantly B class employment. The proposed non-B1 uses would not be sui-generis or exhibit the characteristics of traditional B class employment but would facilitate the development of this important gateway site which is sufficiently far away from local facilities as to deter potential occupiers. In considering this matter I have taken account of the existing nursery facilities at the Reddings Community Centre in North Road West and others nearby which already serve the local community. No firm evidence has been provided to suggest that existing facilities would be able to accommodate demand from the new employment site or, conversely, that they would be under threat from new competition. This issue is neutral in the overall balance.
24. It is unclear why no marketing information has been provided to demonstrate any effort put into attracting business occupiers to the 2007 scheme allowed at appeal or the smaller 2014 outline scheme. However, the investment climate was poor in the years after 2008 due to recession and the preferences of business users has since evolved. The appellant has succeeded in attracting firm offers for occupation of two of the B1 office buildings with the proposed mixed use approach. The site lies in a sustainable location adjacent to Gloucestershire's park and ride facility and is extremely well connected to the strategic highway network.
25. I conclude on this issue that both schemes A and B would provide a substantial boost to employment within Cheltenham including a very significant number of potential B1 jobs. Mixed uses are recognised as attractive in business parks and non-B1 jobs are important to overall economic growth. The proposals would not conflict with the overall employment aims of development plan policies set out in JCS policy SD1 or LP policy EM 2. The conflict with eCP policy EM3 attracts only moderate weight whilst specific objections remain on the need for wholly B class employment or uses that demonstrate B class characteristics.

The effect on character and appearance (Appeal A)

26. The SOCG says at paragraph 6.11 that the parties agree that the proposals would be of 'appropriate scale and character', an expression derived from paragraph (vi)(a) of JCS policy SD1. I have considered appeal A on the basis

that reason for refusal 3 relates to visual impact and the quality of the business environment under policies JCS SD4 and LP CP 7.

27. Seen from the A40, the character of both schemes would be of a business park, similar to the permitted proposal. The Aldi, Costa and nursery would not be prominent features. It would serve the desired purpose of being a 'gateway' development for motorists entering Cheltenham by this route. The existing 4 storey BMW development is particularly prominent and the intention to carry across some design characteristics and materials into the appeal schemes would give the whole area a consistent appearance.
28. Seen from North Road West, there would be a change of levels across the site which would be ameliorated by landscaping, in time. The Aldi roof would be relatively low and would not be unacceptably out of character with the other buildings, if it also has some common materials and design detailing. The materials and detailed design could be controlled by condition.
29. From Grovefield Way, the BMW building dominates the street scene. In scheme A, this, together with the addition of the drive-thru Costa and the Aldi building would present an overwhelmingly retail character. This would send a confusing message as to the purpose of the development, in other words, the development would lack legibility. Whilst the business park part of the development would be visible, the office buildings would be too far away from the access to define the character of the eastern part of the site or to create a distinctive identity. Moreover, the siting of the Costa building would appear cramped beside the main entrance in comparison to the spacious setting of the BMW building. It would be a poor corner feature at the key 'gateway' entrance to the business park. The fact that it might allow visual permeability across the Aldi car park does not compensate for the disadvantages of the siting on a prominent corner.
30. By contrast, its replacement with an office (O5) in scheme B would be of sufficient bulk and height to define the entrance to the business park, which is the main purpose and function of the development. It would be more appropriate seen on this important corner opposite the BMW building. It would be visually related to the office buildings at O1 and O2 further along the spine access road and linked to them through the siting of the nursery which would also share a common palette of detailing and materials. The layout would be easier to understand and navigate. Additionally, the layout of O1, O2 and the nursery along the spine road would reinforce the identity of the business park and create an attractive vista for pedestrians and people in vehicles.
31. The uncertain nature of the development in scheme A would lead to a poor sense of place. This would not be helped by the moving queue of traffic around the perimeter of the Costa coffee outlet (including a large binstore attached to the building) with little in the way of a landscape buffer along Grovefield Way. Given the drive-thru use and the adjacent footways, planting here is likely to be vulnerable.
32. I have taken account of the suggestion that the drive-thru Costa would be used by business park occupiers for meetings. Whilst this might occur, its convenient location does not outweigh the detrimental consequences of the chosen site in terms of functioning well and adding to the overall quality of the area. I conclude that scheme A would fall short of the design quality aims of JCS policy SD4 and LP policy CP 7.

Other matters

33. I have taken account of the objections made by third parties and the detailed response contained in Technical Note no. 2 by Transport Planning Associates. Whilst I recognise the concerns of local occupiers and there is no doubt that traffic levels would increase, as they would in connection with the existing permission, there is no indication that the effects would be unacceptable. Paragraph 109 of the NPPF indicates that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. That is not the case in respect of the appeal schemes.
34. I have also taken account of local residents' concerns with regard to the internal layout of the car parking relative to the nursery and HGV delivery and reversing areas. However there is no evidence that the proposals would lead to unacceptable or unsafe manoeuvring, providing a delivery and servicing arrangements are subject to a Delivery Management Plan which could be assured by condition.
35. With regard to flooding, it is understood that water flows off the site have changed since regrading took place. Local occupiers and farmers are concerned that the drainage system will not be able to cope with the anticipated flow from new buildings and hardstandings. However, the permanent drainage solution for the developments, which would follow the principle of a sustainable urban drainage system (SUDS) would incorporate storage in the existing balancing pond and cellular storage structures under the car parking areas with controlled release⁹. There is no evidence that this would not be effective in preventing local flooding. I appreciate that there are obstructions further along in the system which have not been cleared, but this is the responsibility of others including Highways England. These difficulties do not constitute a reason to refuse planning permission.
36. A signed and dated Section 106 Unilateral Undertaking (UU) has been submitted which sets out the functional and aesthetic objectives of the landscape scheme and how the landscaping, car parking and planting will be maintained. The UU refers to the Council approving these plans, which a UU is unable to assure. The Street and Car Park Management and Maintenance Plan and the Landscape Management Plan are therefore also made the subject of a condition. With that proviso, the UU is directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make it acceptable. It meets the tests set out in paragraph 56 of the NPPF and Regulation 122 of the CIL Regulations. As such I give it significant weight.

The overall balance

37. New business park development is a longstanding important objective in Cheltenham. Given the ongoing failure to attract occupiers for the permitted outline scheme and the evidence that an element of non-B1 is attractive to occupiers, I find that the proposed proportion of non-B1 use in either scheme does not conflict with the adopted development plan policy aim to promote employment in general and B1 office jobs in particular. The proposals would

⁹ A new system based on the same principles would be provided for the outline portion (offices O2 and O3)

not conflict with JCS policy SD1 or LP policy EM 2. The conflict with emerging policy EM3 attracts only limited weight at this time.

38. The siting and appearance of the Costa coffee drive-thru in appeal A would define the site as being primarily retail seen from its only access and would seriously diminish the perception of the business park for its prime purpose. It would also appear cramped and would be out of keeping seen in the same context as the existing BMW building. For this reason, scheme A would not meet the design quality aims of JCS policy SD4 and LP policy CP 7. There would also be less B class employment opportunities provided in scheme A, but the disadvantage of the siting of the Costa building is decisive. Appeal B complies with development plan policy.

Conditions

39. A list of conditions was agreed between the parties and was discussed at the Inquiry and adjustments made in the interests of precision and enforceability. The appellants submitted their agreement to the agreed pre-commencement conditions (or conditions which need to be discharged before starting a particular section of work). Pre-commencement conditions are necessary in respect of: a construction management plan in the interests of local amenity; the provision of a pedestrian road crossing; the provision of fire hydrants, details of all fixed plant and equipment for reasons of noise emissions; foul and surface water drainage; external and roofing materials, landscaping and external lighting in the interests of the character of the development; and phasing, in view of the hybrid nature of the scheme. The latter condition includes the requirement that the office buildings designated O1, O2 and O5 should be capable of occupation before the retail element comes into operation. This is to ensure that the prime purpose of the business park is achieved. The measures required in the Construction Method Statement include the need to prevent flooding of Elm Farm and North Road West. As referred to above, the Street and Car Park Management and Maintenance Plan and the Landscape Management Plan are to be approved before any occupation takes place, to ensure that common areas are maintained in the long term.
40. Arrangements need to be made in advance to deal with contamination that may be present. Having regard to policies of the development plan, other conditions are necessary at this stage to control the hours that the retail use is open to customers, ecological enhancement, car parking management, completion of the carriageways; and the provision of a delivery management plan for the A1 store. A Travel Plan is necessary to encourage, incentivise and monitor use of public transport. A BREEAM rating of at least 'very good' is necessary in the interests of sustainable construction and energy conservation. A restriction is placed on the use of the food store as a food supermarket operator because of the highways implications of including other purposes such as a pharmacy or post office. A restriction on permitted development is placed on the office buildings to prevent them becoming for purposes other than for office use (B1a and B1b). This is in recognition of the prime purpose of the development as office employment in accordance with the longstanding aim of the development plan. A design code is to be submitted and agreed with the aim of ensuring a high quality development.

Conclusions

41. For all the above reasons, appeal A should be dismissed and appeal B should be allowed.

Paul Jackson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Gary Grant	Of Counsel, instructed by the Solicitor to the Council
He called	
Dr Glenn Athey PhD BA (Hons)	Athey Consulting Ltd (trading as My Local Economy)
Wilf Tomaney BA(Hons) DipUD MRTPI	
Philip Staddon BSc DTP MBA MRTPI	PJS Development Solutions Ltd

FOR THE APPELLANT:

Killian Garvey	Of Counsel, instructed by Ridge and Partners
He called	
Stuart Hardisty BSc(Hons) MIED	Hardisty Jones Associates
Paul Fong BA(Hons) MRTPI	Ridge and Partners
Michael Davies BA(Hons) DipLA CMLI	Davies Landscape Architects
Stephen Tucker BA(Hons)	Barton Willmore
Philip Pratt BSc MRICS	Alder King
James Griffin MA MRTPI	Ridge and Partners

INTERESTED PERSONS:

Ben Pullen	Local resident
Gary Fulford	The Reddings Residents' Association
Peter Swales	Local resident
Lorraine Fulford	Local resident
Rosemary Bubb	Local resident
Ken Pollock	Local resident

DOCUMENTS

- 1 Copy of Mr Fulford's submissions
- 2 Copy of Marketing information for Hatherley Place, supplied by the Council
- 3 Drawings 178-25 Revisions D and H, 178-27 Revision B, 178-32 Revision E showing evolution of the design of the Costa unit
- 4 Design and Access Statement Addendum
- 5 Distances and locations of sites pertinent to Corinthian Way development, submitted by Mr Fulford
- 6 2007 outline plan and photographs of site prior to topsoil removal, submitted by Mr Fulford
- 7 Email correspondence regarding Gloucester Business Park, submitted by the appellant
- 8 Table of amenities on other business parks, submitted by the Council
- 9 Delegated Officer Report for development at Jessop Avenue, Cheltenham, submitted by the Council

- 10 Delegated Officer Report for development at Hatherley Lane Cheltenham, submitted by the Council
- 11 Comments on draft schedule of conditions, submitted by Mr Fulford
- 12 Photograph of the BMW building at night, supplied by Mrs Bubb
- 13 Copy of Mr Fulford's final remarks
- 14 Appellant's estimate of distances to local facilities from the centre of the site
- 15 Statement by Mr Pollock

Schedule of conditions

1. Any development comprising the full application (5,914 sqm of B1 office, 502 sqm D1 day nursery, 1,742 sqm A1 food retail unit and associated works) shall commence no later than three years from the date of this decision.
2. Applications for approval of the reserved matters relating to the outline part of the application shall be made to the Local Planning Authority not later than three years from the date of this permission.
3. Prior to the commencement of any development associated with the outline application (8,034 sqm B1 office and associated works) details of appearance, landscaping, layout and scale ('the reserved matters') must be submitted to and approved in writing by the Local Planning Authority. The development associated with the outline application shall be carried out as approved.
4. The non-B1 class uses hereby permitted shall not be open to customers outside the following hours:
 - A1 retail food store Monday to Saturday: 0800 – 2200 hrs.
For no more than 6 continuous hours
between 1000 – 1800 hrs on Sundays and
Bank Holidays.
 - D1 nursery Monday to Friday: 0700 – 1900 hrs.
5. The food store hereby permitted shall only be used by a food supermarket operator and for no other purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification). The following services shall not be open for customers at the food supermarket:
 - Banking facilities (excluding ATM);

- Dispensing Pharmacy;
 - Dry cleaning or Post Office service;
 - Photographic shop or booth;
 - Café / restaurant;
 - Sales of cigarettes or tobacco
6. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details throughout the construction period. The Statement shall contain:
- i. Details of the on-site parking arrangements for contractors, other operatives and visitors;
 - ii. Proposals to minimise harm and disruption to the adjacent local area due to ground works, construction noise and site traffic; and protecting North Road West and Elm Farm from flooding during construction;
 - iii. Details of routes that delivery and muck away vehicles serving the development will take and how they will be loaded and unloaded;
 - iv. Details of measures to avoid dust and discharges into watercourses or ditches;
 - v. Details of the arrangements for the loading and unloading of plant and materials;
 - vi. Details of the storage of plant and material used in constructing the development;
 - vii. Details of the provision for wheel washing facilities to control the emission of dirt or dust; and
 - viii. Complaints and complaints response procedures.
7. Prior to first occupation of any building, a car parking management plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be managed in accordance with the approved plan.
8. The development hereby permitted shall not commence until details of the detailed design, implementation, maintenance and management of a foul and surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the NPPF and PPG, and the results of the assessment provided to the local planning authority in writing. The submitted details shall be in accordance with the Flood Risk

Assessment & Surface Water Management Plan issue 5 ref 16-6953 dated September 2018 and shall provide:

- (i) Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/ or surface water;
- (ii) Details of a management and maintenance plan for the lifetime of the development;
- (iii) A timetable for the provision of the surface water drainage scheme;
- (iv) The means by which the drainage systems are to be effectively cleaned.

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

- 9. If during the course of development, contamination 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 until the developer has submitted and obtained written approval from the local planning authority for a remediation strategy detailing how the contamination shall be dealt with including a timetable. The remediation strategy shall be implemented as approved.
- 10. Prior to commencement of the development, a scheme for a pedestrian road crossing of Grovefield Way shall be submitted to and approved by the Local Highway Authority. The development shall be carried out in accordance with the approved scheme before any occupation takes place.
- 11. Prior to first occupation of any building, the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that building shall be fully completed.
- 12. Prior to occupation of the A1 use, a Delivery Management Plan for the A1 food retail use shall be submitted to and approved in writing by the Local Planning Authority. All deliveries pertaining the A1 food retail shall then be managed in accordance with the approved management plan.
- 13. Prior to occupation of any part of the development a scheme for the provision of fire hydrants (served by mains water) shall be submitted to and agreed in writing by the Local Planning Authority. The proposed scheme shall then be implemented in accordance with the approved details before the relevant part of the development is occupied..

14. Prior to commencement of development, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, setting out the following:
- i. objectives and targets for promoting sustainable travel;
 - ii. appointment and funding of a travel plan co-ordinator;
 - iii. details of an annual monitoring and review process;
 - iv. means of funding of the travel plan, and;
 - v. an implementation timetable including the responsible body for each action.

The approved Travel Plan and any associated site/use specific Travel Plans shall then be implemented in accordance with the details and timetable therein.

15. The development shall be carried out in strict accordance with the recommendations and requirements of the Ecological Survey Report dated March 2018 (ref: 4087.EcoAss.vf2) submitted with the planning application.
16. Prior to commencement of development, full details of all fixed plant and equipment on site, including details to demonstrate that noise levels will be at least 5 decibels below the existing background noise level when measured from the nearest receptor, shall be submitted to and approved in writing by the Local Planning Authority. The assessment must be carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS4142: 2014 - methods for rating and assessing industrial and commercial.
17. The office and retail elements of the development hereby permitted shall be constructed to achieve not less than BREEAM 'Very Good' in accordance with the relevant BRE standards (or the equivalent standard in such measure of sustainability for non-residential building design which may replace that scheme). The Developer shall within six months of occupation of the office and retail floorspace submit final certification to the local planning authority demonstrating that not less than 'Very Good' has been achieved.
18. Prior to commencement of the development, full details of both hard and soft landscape proposals shall be submitted to and approved by the Local Planning Authority. These details shall include, as appropriate:

Hard Landscaping

- Earthwork section, ground, finished and slab levels
- Means of enclosure

- Car parking layouts, surface materials and kerbs
- Finished heights of retaining walls (including gaps or breaks in retaining walls to facilitate pedestrian access)
- Step and ramp details including surface materials
- Other pedestrian access and circulation areas to facilitate safe and direct means of access to each building from within and adjacent to the site
- Hard surfacing materials of footpaths, cycle ways and public realm areas including how inspection covers are to be incorporated
- Refuse or other storage units, signs, lighting.

Soft landscaping:

- Planting plans
- Written specifications (including cultivation and other operations associated with plant and grass establishment)
- Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
- Implementation timetables.
- Tree, hedge(s) or hedgerow(s) heights (including any breaks in hedges/hedgerows to facilitate pedestrian accesses)

All hard and soft landscape works shall be carried out in accordance with the approved details.

19. Prior to commencement of the development, details pertaining to the following elements of the scheme shall be submitted to and approved in writing by the Local Planning Authority:
- Windows and external doors (including details of materials, colour, finish, cill, reveal, opening mechanism and glazing)
 - Roof overhang/coping detail
 - Roof plant, lift overrun and other enclosures
 - Roof plant louvres
 - Covered and secure refuse and cycle stores

The development shall then be implemented in accordance with the approved details.

20. Prior to commencement of the development, details of the external facing and roofing materials shall be submitted to and approved by the Local Planning Authority. The details shall include a written specification of the materials.

The development shall then be implemented in accordance with the approved details.

21. Prior to commencement of the development a full external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall then be implemented in accordance with the approved details before occupation and maintained as such thereafter.
22. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification) the five buildings proposed for office use as shown on drawings 178 - 96 B and DLA.1755.L.09 D shall only be used for office use as defined by Use Classes B1a and B1b of the Town and Country Planning (Use Classes) Order 1987 (as amended).
23. As part of the reserved matters submitted pursuant to condition 3, a document setting out the design principles (hereafter referred to as a 'Design Code') for the development hereby approved shall be submitted to the Local Planning Authority for written approval. The Design Code shall set out how the principles and objectives of the Design and Access Statement by Design Development Partnership (including office building 05 in place of the Costa building referred to therein) shall be met by the development hereby approved and shall include the following matters:
 - (i) The design, form and general arrangement of external architectural features of buildings including the walls, roofs and fenestration;
 - (ii) The hierarchy for roads and public spaces;
 - (iii) The colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
 - (iv) The design of the public realm to include the colour, texture and quality of surfacing of footpaths, streets, parking areas and other shared surfaces;
 - (v) The design and layout of street furniture.
 - (vi) Waste and refuse bin storage arrangementsThe development shall be carried out in accordance with the approved Design Code.
24. The A1 food retail unit shall not be occupied until B1 office units labelled 'office 1' and 'office 2' and 'office 5' have been constructed and are capable of occupation.
25. No occupation of the development hereby approved shall take place until a Street and Car Park Management and Maintenance Plan and a Landscape Management Plan have been submitted to and approved in writing by the Local Planning Authority. The approved Street and Car

Park Management and Maintenance Plan and the Landscape Management Plan shall be implemented thereafter.

26. Except where varied by other conditions above, the planning permission hereby granted shall be carried out in accordance with the following approved plans:

178 – 70 Rev A Site Location Plan
178 – 71 Rev B Existing Site Plan
178 – 96 Rev B Proposed Block Plan
DLA.1755.L.09 Rev E Illustrative Masterplan

178 – 86 Rev H Site Section A-A, B-B
178 – 88 Rev C Site Section C-C
178 – 89 Rev C Site Section D-D
178 – 90 Rev C Site Section E-E
178 – 91 Rev C Site Section F-F
178 – 97 Rev B Site Section G-G
178 – 98 Rev B Site Section H-H
178 – 99 Rev B Site Section J-J

1605-13_SK01 – A Access Visibility

178 – 34 Rev F Aldi Proposed Elevations
178 – 33 Rev D Aldi Proposed Floor Plans
178 – 65 Rev A Aldi Proposed Sections
178 – 59 Rev D Aldi Proposed HGV Tracking

178 – 27 Rev J Nursery Proposed Elevations
178 – 26 Rev F Nursery Proposed Floor Plans
178 – 66 Rev C Nursery Proposed Sections
178 – 60 Rev E Nursery Proposed Refuse Tracking

178 – 20 Rev F Office 1 Proposed Elevations
178 – 19 Rev F Office 1 Proposed Floor Plans
178 – 68 Rev A Office 1 Proposed Sections
178 – 63 Rev G Office Proposed Refuse Tracking

178 – 42 Rev D Office 2 Proposed Elevations
178 – 41 Rev D Office 2 Proposed Floor Plans
178 – 69 Rev A Office 2 Proposed Sections

178 – 95 Rev A Office 3 Indicative Elevations
178 – 94 Office 3 Indicative Floor Plans

178 – 92 Rev A Office 4 Indicative Elevations
178 – 93 Office 4 Indicative Floor Plans

178 – 113 Rev C Office 5 Proposed Elevations
178 – 114 Rev B Office 5 Proposed Floor Plans

178 – 115 Rev A Office 5 Proposed Sections
178 – 116 Office 5 Proposed Refuse Tracking

DLA-1755-L-03 Rev D Hard Landscaping 1 of 3
DLA-1755-L-04 Rev D Hard Landscaping 2 of 3
DLA-1755-L-05 Rev E Hard Landscaping 3 of 3

DLA-1755-L-06 Rev E Soft Landscaping 1 of 3
DLA-1755-L-07 Rev E Soft Landscaping 2 of 3
DLA-1755-L-08 Rev D Soft Landscaping 3 of 3

DLA-1755-L-10 Rev B Landscape Sections
DLA-1755-L-11 Rev B Landscape Sections
DLA-1755-L-12 Rev B Landscape Sections
DLA-1755-L-13 Rev B Landscape Sections

DLA-1755-L-14 Tree Pit Detail
DLA-1755-L-15 Tree Pit Detail
DLA-1755-L-16 Rev A Tree Pit Detail

APPENDIX 3



**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO/1439/2019



IN AN APPLICATION FOR LEAVE UNDER S.288 OF THE TOWN AND
COUNTRY PLANNING ACT 1990

The Queen on the application of HINTON PROPERTIES (GROVEFIELD
WAY) LIMITED

and

- 1) SECRETARY OF STATE FOR HOUSING COMMUNITIES AND LOCAL
GOVERNMENT
- 2) CHELTENHAM BOROUGH COUNCIL

CONSENT ORDER

UPON the parties agreeing that the claim should be allowed for the reasons in the statement of reasons below and upon permission having been granted by order of His Honour Judge Worster on 22nd May 2019, it is ordered with the consent of the parties that:

1. The claim is allowed
2. The planning Inspector's decision (dated 27th February 2019) to refuse planning permission in respect to Appeal A (Appeal Reference APP/B1605/W/18/3200395) is quashed, and the appeal is remitted to the First Defendant for redetermination.
3. The First defendant to pay the Claimant's costs, to be subject to detailed assessment if not agreed.

Signed His Honour Judge Cooke

Dated this 5th day of June 2019

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT

Claim No. CO/1439/2019

**IN AN APPLICATION FOR LEAVE UNDER S.288 OF THE TOWN AND
COUNTRY PLANNING ACT 1990**

BETWEEN:

HINTON PROPERTIES (GROVEFIELD WAY) LIMITED

Claimant

and

**(1) SECRETARY OF STATE FOR HOUSING,
COMMUNITIES AND LOCAL GOVERNMENT
(2) CHELTENHAM BOROUGH COUNCIL**

Defendants

CONSENT ORDER

UPON the parties agreeing that the claim should be allowed for the reasons in the statement of reasons below, it is ordered with the consent of the parties that:

- 1. Permission is granted and the claim is allowed.**
- 2. The planning Inspector's decision (dated 27th February 2019) to refuse planning permission in respect to Appeal A (Appeal Reference APP/B1605/W/18/3200395) is quashed, and the appeal is remitted to the First Defendant for redetermination.**

3. The First Defendant to pay the Claimant's costs, to be subject to detailed assessment if not agreed.

Date this day of _____ 2019

We the parties consent to an order in the above terms:

Signed: Anna Carberry

Position: Photographer, Shoosmiths LLP

Date 22nd May 2019

For and on behalf of the Claimant

We the parties consent to an order in the above terms:

Signed: Tracy Soliman

Position: LAW/602

Date 22/5/19

For and on behalf of the First Defendant

We the parties consent to an order in the above terms:

Signed: 30 Dec

Position: Borough Solicitor + Monitoring Officer

Date 29th May 2019

For and on behalf of the Second Defendant

STATEMENT OF REASONS

1. These proceedings concern an application brought pursuant to section 288 of the Town and Country Planning Act 1990 against the decision (dated 27 February 2019) of an Inspector appointed by the First Defendant to determine a planning appeal.¹ The decision being challenged has appeal reference APP/B1605/W/18/3200395 and the application reference was 16/02208/FUL. The Inspector referred to the decision as 'Appeal A'.
2. Appeal A related to land at Grovefield Way, the Reddings, Cheltenham GL51 6RF ('the Site'). It was for a hybrid planning application seeking full and outline planning permission for the following description of development ('the Proposed Development'):

(A) 5,034 square metres (sqm) of commercial office space (Use Class B1), 502 sqm day nursery (Use Class D1), 1,742 sqm Aldi food retail unit (Class A1), a 204 sqm Costa Coffee retail unit and drive-thru (Use Classes A1 and A3), with associated parking, landscaping and infrastructure works. Outline planning permission sought for the erection of 8,034 sqm of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access);
3. Having carefully considered the challenge the Defendants agree that the Claimant's secondary case was a 'principal important controversial issue' (per *South Buckinghamshire DC v Porter (No.2)* [2004] 1 WLR 1953 at 53). The first defendant further agrees that the Inspector failed to provide adequate reasons for rejecting this secondary case, and that on that basis the decision in Appeal A should be quashed and remitted for re-determination.
4. For the avoidance of doubt, the Inspector's decision letter is only quashed insofar as it relates to Appeal A. The Inspector's decision to grant planning permission in respect to Appeal B remains unaffected by this claim/Order and thus the permission related to Appeal B still stands/remains extant. Appeal B

¹ Pursuant to section 78 of the Town and Country Planning Act 1990

was made pursuant to Appeal Reference APP/B1605/W/18/3214761 and application reference 18/01004/FUL. It related to the following description of development:

(B) 5,914sqm of commercial office space (Use Class B1), 502 sqm day nursery (Use Class D1), 1,742 sqm Aldi food retail unit (Class A1), with associated parking, landscaping and infrastructure works. Outline planning permission sought for the erection of 8,034 sqm of commercial office space (Use Class B1), together with associated car parking, landscaping and infrastructure works, with all matters reserved (except access).

5. For the avoidance of doubt, the Inspector's Costs Decision remains unaffected by this claim/Order. Thus, the Inspector's decision to award Costs to the Claimant remains enforceable as against the Second Defendant.