

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:	Mr James Griffin	
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).	

Update to Officer Report

1. OFFICER COMMENTS

- 1.1 The purpose of this update is to update some of the matters raised in the original report and to provide the recommended conditions.
- 1.2 **Environmental Impact Assessment**
- 1.2.1 Paragraphs 1.1.10 – 1.1.12 of the Officer Report relate to the requirement for an Environmental Impact Assessment. For clarification purposes Officers wish to make it clear that the Council have carried out a screening exercise for this application and did not regard there to be likely significant effects of the development on the environment, having regard to the selection criteria within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and thus an Environmental Impact Assessment was not required.
- 1.3 **Green Belt**
- 1.3.1 Members will be aware that the JCS has now been adopted and therefore the site is no longer within the Green Belt.
- 1.4 **Transport Contributions**
- 1.4.1 At para 6.7.14 Officers stated that advice was being sought as to the most appropriate mechanism to 'roll forward' the contributions which were linked to the extant consent. Legal advice has been obtained that this should be within the s.106 agreement.
- 1.5 **Retail Impact**
- 1.5.1 At Section 6.7 of the report Officers outline the issues in relation to the retail impact of the proposal, in particular the process of sequential tests. The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision taking. In applying the sequential test, the Council must be satisfied that there are no suitable, available and viable sequentially preferable sites that could accommodate the proposed development.
- 1.5.2 'Suitable' means suitable for the broad type of development which is proposed in the application by approximate size, type and range of goods. Whilst there is a need for realism

and flexibility, the test is not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site. 'Available' does not have to be 'immediately available' for the purposes of assessment. 'Viable' is not a free standing criterion of the sequential test but is usually taken as part of the suitability of a site. Suitability and availability are matters of planning judgement. Pragmatism is called for in the sequential test.

- 1.5.3 The Officer report is inconclusive on whether the sequential test had been passed or not. This is due to the lack of information surrounding the North Place site and whether, for the purposes of the sequential test, it can be considered to be suitable or available. It is considered that further clarification and amplification of this matter will be helpful to members in determining this application.
- 1.5.4 Further information has now been received from the applicant in relation to the availability of North Place. A letter has been received from a land and property agent who act on behalf of developers, end users and investors throughout the UK. They state that they have been monitoring the North Place site for a considerable time. They state that during the last 6 months they have been aware that the site has not been actively marketed. They are acting on behalf of a range of retailers including food who are interested in this site and despite numerous requests to the land owner and their agent, no response has been forthcoming or any particulars produced. They therefore conclude that the current owners do not wish to develop or sell the site for redevelopment purposes at this time.
- 1.5.5 Officers are aware, however that there is no signed contract to develop the site and as such it is possible to come to a contrary view on the basis that it could be considered available until such time as a contract is signed for the development of the land.
- 1.5.6 Therefore Officers are still of the view that it is not possible to be totally conclusive regarding the availability of North Place and therefore whether the sequential test has been passed. Although it is clear that investigatory inquiries have been made.
- 1.5.7 Para 27 of the NPPF states that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused.
- 1.5.8 However it is a matter of planning judgement as to what weight the LPA gives the sequential test. Whilst the provisions of para 27 are an important consideration they are only one part of the NPPF.
- 1.5.9 The retail element of the proposal is a relatively small part of the scheme and it has been shown through the impact assessment that it will not have an unacceptable impact on investment or town centre vitality and viability.
- 1.5.10 In the absence of an identified harmful retail impact, Officers are of the view that there are material considerations which would suggest that less weight should be attached to para 27 than might otherwise be the case. The delivery of employment land and the associated economic benefits derived from this are considered to hold more weight in the planning balance. As such Officers do not consider that the application should be refused due to the uncertainties over the availability of North Place and the consequential ambiguities over the sequential test.
- 1.5.11 Importantly, given the limited impact of the development, Officers would be of the same view even if it were concluded that North Place were 'available' and that the sequential test was therefore not passed.

2. CONCLUSION AND RECOMMENDATION

- 2.1. The Conclusion remains unchanged. Officers consider that the proposal conforms to the development plan, in particular the policies of the JCS which has now been adopted. However it is accepted that this application is not straightforward and does require a careful balancing of the issues in order to come to a determination. Officers are confident that this mixed use development will help to secure sustainable economic development in this area subject to the s.106 agreement as detailed in the Officer report and the conditions which are listed below. Please note that as this application is a hybrid application, conditions which relate to both the outline and full application are required.

- 2.2. The recommendation therefore remains to permit the application subject to a s.106 agreement in relation to phasing and transport contributions.

3. CONDITIONS

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

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be begun not later than whichever is the later of the following:

- (a) the expiration of three years from the date of this permission; or
- (b) the expiration of two years from the date of approval of the final reserved matters;

Reason: As required by Section 92 of the Town and Country Planning Act 1990.

- 3 Application/s for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 4 The development hereby permitted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

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

- 5 The non- B1 uses hereby permitted shall not operate outside of the following hours:

- A1 retail store - Monday to Saturday - 08:00 - 22:00
- Sundays and Bank Holidays - 10:00 - 18:00
- A3 coffee shop - Monday - Sunday - 05:30 - 23:00
- D1 Nursery - Monday - Friday - 07:00 - 19:00

Reason: To avoid undue disturbance to neighbouring properties, in accordance with policy CP4 of the Local Plan.

- 6 No more than 20% of the total net sales area of 1,946 sqm shall be used for the sale of comparison goods within the discount food store hereby permitted.

Reason: To control the mix of convenience and comparison goods sold within the retail space thereby managing the impact on the town centre in accordance with the advice set out within the NPPF.

- 7 The food store hereby permitted shall only be used by a discount 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 service shall not be operated from the discount food supermarket:

1. Banking Facilities (excluding ATM),
2. Dispensing Pharmacy,
3. Dry cleaning or Post Office Service,
4. Photographic shop or booth,
5. Café / restaurant,
6. Sales of cigarettes or tobacco.

Reason: To ensure that safe and suitable access to the site can be achieved for all people and that a safe and secure layout which minimises conflict between traffic and cyclists or pedestrians can be provided in accordance with Section 4 of the NPPF.

- 8 Prior to the installation of any lighting scheme, full details shall be submitted to and approved in writing by the Local Planning Authority to provide that

- Light into neighbouring residential windows generated from the floodlights shall not exceed 5 Ev (lux) (vertical illuminance in lux).
- Each lighting unit must be aligned to ensure that the upper limit of the main beam does not exceed 70 degrees from its downward vertical.
- The lighting shall be designed and operated to have full horizontal cut-off and such that the Upward Waste Light Ratio does not exceed 2.5%.

The submitted scheme shall include an isolux diagram showing the predicted illuminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent properties.

The approved scheme shall be implemented prior to first use of the lighting and be permanently maintained in that state thereafter.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected in accordance with policy CP4 of the Local Plan.

- 9 No development shall take place, including any works of demolition, until a construction method statement has

been submitted to, and approved in writing by, the local planning authority. The approved statement shall be

adhered to throughout the construction period. The Statement shall:

- i. specify the type and number of vehicles;
- ii. Provide for the parking of vehicles of site operatives and visitors;
- iii. Provide for the loading and unloading of plant and materials;
- iv. Provide for the storage of plant and material used in constructing the development;
- v. provide for wheel washing facilities to control the emission of dirt or dust;
- vi. Provide the intended hours of operations;
- vii. Provide a plan of the site compound.

Reason: To reduce the potential impact on the public highway and accommodate the efficient delivery of goods and supplies in accordance with Section 4 of the NPPF.

- 10 Prior to beneficial occupation of the proposed development, the car parking, turning, loading and unloading

facilities shall be provided in accordance with the approved plan and shall be maintained available for that purpose thereafter.

Reason: To reduce potential highway impact by ensuring that vehicles do not have to park on the highway resulting in a severe impact contrary to Section 4 of the NPPF.

- 11 Upon beneficial occupation of the development, the submitted Coffee shop Delivery Management Plan shall be

- adhered to in all respects unless amendments to the plan have first been agreed in writing by the Local Planning Authority.
Reason: To minimise hazards and inconvenience for users of the development by ensuring a safe and secure layout that minimises conflict between traffic, cyclists and pedestrians in accordance with Section 4 of the NPPF.
- 12 Upon beneficial occupation of the development, the submitted supermarket Delivery Management Plan shall be adhered to in all respects unless amendments to the plan have first been agreed in writing by the Local Planning Authority.
Reason: To minimise hazards and inconvenience for users of the development by ensuring a safe and secure layout that minimises conflict between traffic, cyclists and pedestrians in accordance with Section 4 of the NPPF.
- 13 Upon beneficial occupation of the development, the submitted Happy Days Nursery Delivery Management Plan shall be adhered to in all respects unless amendments to the plan have first been agreed in writing by the Local Planning Authority.
Reason: To minimise hazards and inconvenience for users of the development by ensuring a safe and secure layout that minimises conflict between traffic, cyclists and pedestrians in accordance with Section 4 of the NPPF.
- 14 Prior to beneficial occupation of the proposed development, the cycle parking/storage facilities shall be provided in accordance with the approved plan and shall be maintained available for that purpose thereafter.
Reason: To reduce potential highway impact by ensuring that vehicles do not have to park on the highway resulting in a severe impact contrary to Section 4 of the NPPF.
- 15 Details of a car parking management scheme to limit office employment parking occurring within the retail element of the development during Office opening hours shall be submitted to and approved in writing by the Local Planning Authority. The approved plans shall then be implemented on first occupation of any B1 Office block and adhered to in all respects unless amendments to the plan have first been agreed in writing by the Local Planning Authority.
Reason: To ensure that adequate parking provision is provided in order to minimise any potential highway safety implications of displaced parking and to minimise conflict between traffic, cyclists or pedestrians in accordance with Section 4 of the NPPF.
- 16 The approved Travel Plan and any associated site/use specific Travel Plans shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the opportunities for sustainable transport modes are taken up in accordance with paragraphs 32 and 36 of the NPPF.

- 17 Prior to works commencing on the development hereby permitted, details of pedestrian dropped kerb tactile crossing points across Grovefield Way in the proximity of the bus stops south of the development site shall be submitted to and agreed in writing by the Local Planning Authority, the works shall then be constructed in accordance with the approved plan and made available for public use prior to first occupation of the buildings hereby permitted.
Reason: To ensure that the priority is given to pedestrian and cycle movements and that a safe and secure layout that minimises conflict can be created in accordance with Paragraph 35 of the NPPF.
- 18 No building on the development shall be occupied until 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(s) have been completed to at least binder course level and the footway(s) to surface course level.
Reason: To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians in accordance with Section 4 of the NPPF.
- 19 Details of the layout and access, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out in accordance with the approved plans. No building on the development shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public Highway to that dwelling have been completed to at least binder course level and the footway(s) to surface course level.
Reason: To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians in accordance with Section 4 of the NPPF.
- 20 No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.
Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises

the conflict between traffic and cyclists and pedestrians in accordance with the National Planning Policy Framework and to establish and maintain a strong sense of place to create attractive and comfortable places to live, work and visit as required by paragraph 58 of the NPPF.

- 21 The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 43m distant in both directions (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.6m and 2.0m at the Y point above the adjacent carriageway level.
Reason: To reduce potential highway impact by ensuring that adequate visibility is provided and maintained and to ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with Section 4 of the NPPF.
- 22 The details to be submitted for the approval of reserved matters shall include vehicular parking and turning and loading/unloading facilities within the site, and the building(s) hereby permitted shall not be occupied until those facilities have been provided in accordance with the approved plans and shall be maintained available for those purposes for the duration of the development.
Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians is provided in accordance with Section 4 of the NPPF.
- 23 The development hereby permitted shall not be occupied until details of secure and covered cycle storage facilities have been made available in accordance with details to be submitted to and approved in writing by the LPA.
Reason: To ensure that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with paragraph 32 of the National Planning Policy Framework.
- 24 No development shall commence on site until a scheme has been submitted to, and agreed in writing by the council, for the provision of fire hydrants (served by mains water) and no dwelling shall be occupied until the hydrant serving that property has been provided to the satisfaction of the council.
Reason: To ensure adequate water infrastructure is made on site for the local fire service to tackle any property fire in accordance with Paragraphs 32 & 35 of the NPPF.

- 25 No works shall commence on the development hereby permitted until a Travel Plan has been submitted to and agreed in writing by the Local Planning Authority, setting out;
- i. objectives and targets for promoting sustainable travel,
 - ii. appointment and funding of a travel plan coordinator,
 - 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 be implemented in accordance with the details and timetable therein, and shall be continued thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- Reason: To ensure that the opportunities for sustainable transport modes are taken up in accordance with paragraphs 32 and 36 of the NPPF.
- Statement of
- 26 The development shall be carried out in strict accordance with the recommendations and requirements of the ecological survey report dated November 2016 submitted with the planning application.
- Reason: To safeguard ecological species, having regard to Policies NE1 and NE 3 of the Cheltenham Borough Local Plan (2006).
- 27 Prior to its installation, full details of all fixed plant on the site and details of its noise emissions shall be submitted to and approved in writing.
- Reason: To safeguard the amenity of adjoining properties and the general locality, having regard to Policy CP4 of the Cheltenham Borough Local Plan (2006).
- 28 Prior to the commencement of development, other than that necessary to comply with the requirements of this condition, the approved remediation scheme necessary to bring the site to a condition suitable for the intended use shall be implemented in full. In addition this shall provide for the following:
- 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.

Following the completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Local Plan Policy NE4 relating to development on contaminated land.

- 29 Prior to the implementation of any landscaping, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences, other boundary treatment and finished ground levels; details of the hard surface treatment of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include [species, size, position and method of planting of all new trees and shrubs]; and a programme of implementation.

All hard and/or soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Please note that the landscaping scheme which has been submitted previously is largely acceptable but requires amendments in accordance with the comments of the Tree Officer dated 13th September 2017.

Reason: In the interests of the character and appearance of the area, having regard to Policies CP1 and CP7 of the Cheltenham Borough Local Plan (adopted 2006). Approval is required upfront because the landscaping is an integral part of the development and its acceptability.

- 30 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.

- 31 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.

