

**SITE AT McMULLEN'S BREWERY,**  
**HARTHAM LANE, HERTFORD**

**CLOSING SUBMISSIONS**  
**ON BEHALF OF**  
**HERTFORDSHIRE COUNTY COUNCIL**

1. HCC's case is that the application should be refused planning permission because the proposed development would have an unacceptable adverse impact on highway congestion at the junctions of Old Cross and Cowbridge/ Hartham Lane. Further, the s.106 obligation makes inadequate provision to mitigate the impact of the proposed development.
2. HCC also objected to the proposed development on the basis of a material adverse impact on highway safety, by virtue of the proposed access arrangements for articulated HGVs. However, on the first day of the Inquiry, SSL proposed an alternative arrangement, which would restrict the size of articulated HGVs accessing the Site to 13.5m in length. New swept path drawings were produced that show that the revised proposed access arrangements would be accommodated safely. Accordingly, the matter has now been resolved to the satisfaction of HCC, subject to the imposition of a suitably worded condition limiting the size of vehicle.
3. Although the members of the EHDC Development Control Committee resolved to approve the proposed scheme, it did so contrary to the clear recommendation of EHDC's planning officers as set out in the Report to Committee [CD23] after careful consideration of the proposal and appropriate consultation, including consultation with HCC, as Highway Authority. For the reasons explained by RJ in his written evidence and in EC and XX, HCC considers that the adverse impact that would be caused at Old Cross and the Cowbridge/ Hartham Lane junction justifies the refusal of planning permission.

4. However, as made clear in Opening, HCC's concerns relate only to the highway aspects of the application and HCC does not therefore seek to balance the clear adverse highways impact of the scheme with any of the claimed benefits of the proposal, such as the regeneration of the area, retail need and the restoration of the listed brewery building.

### **Highways Impact**

5. The traffic generation resulting from the nature and scale of the proposed development and its servicing requirements, exceed the capacity of the local road network at Old Cross and the Cowbridge / Hartham Lane junction.
6. In particular, increased traffic volumes attracted by the proposed development through the Old Cross junction will increase congestion and traffic queues and will lead to peak hour spreading. As a result, the junction will operate over capacity for longer periods. The most significant adverse impact would occur in the PM and Saturday peak hours. As RJ explains at para 6.4.6 (p40-41), the implications of increased queuing and peak hour spreading at Old Cross would include increased delay, journey time and disruption, adverse impact upon the reliability of the bus services, an increased risk of accidents caused by possible vehicular conflicts and driver frustration and an increase in rat running through residential areas.
7. Old Cross is already a congested junction at certain times of the day. In the AM, PM and Saturday peak hours, some arms of the junction work at capacity (and certainly in excess of the 90% Degree of Saturation ("DoS") level over which a junction becomes overloaded) or over capacity – see SoCG 4 Tables 3,5 and 6. For the Friday PM peak, the development proposals would increase on St. Andrew Street from 108% to 117% DoS and the queue would extend from 41 vehicles to 63. On Old Cross, the DoS would increase from 100% to 128% and the queue from 22 to 84 vehicles [RJ Table 6.3 p37].

8. In the Saturday peak, the development proposals would increase the DoS on St. Andrew Street from 108% to 123%, and the queue would extend from 27 vehicles to 50. On Old Cross the DoS would increase from 105% to 116% and the queue from 33 to 62 vehicles [RJ Table 6.5 p39].

#### Assessment Methodology

9. The methodology in the Transport Assessment and the evidence presented on behalf of SSL by JF, paints an overly optimistic picture of the impact on the local highway network caused by the development. As to trip rates, whether the proposed scheme is assessed on the basis of average trip rates (see paras 7 and 8 above), or average trip rates reduced by 15% (as advocated by SSL and see RJ Tables 6.2 and 6.4 p37 and 39), the resulting traffic impact would be significant and adverse.
10. The approach set out in paras 4.60-4.61 of the DfT Guidance on Transport Assessments [CD A17] is that “typically” trip generation assessments are based on identification of suitable trip rates having regard to industry standard databases such as TRICS and that it is expected that in all cases the analysis of development-related trips should be carried out by using an appropriate database or that an alternative methodology should be agreed with the relevant authorities. However, JF’s alternative view that the trip generation figure should be reduced by 15% was not agreed and is considered to be inappropriate. As is clear from XX, the reduction is based on JF’s judgment, but has no empirical justification or identifiable means of verification.
11. JF’s approach to assessment is therefore based on an unjustified percentage reduction, which departs from the robust approach expected. It underestimates trip generation compared to normal method of average trip rate assessment.
12. JF relies upon the location of the site and the parking availability as the two main reasons why the 15% reduction is appropriate. (JF also takes a different approach to

growth, but the effect of that difference is reduced since the revised TEMPRO growth figures were agreed in August.)

13. It is clear from RJ's table 5.3 p21 and App 3 on parking accumulation, that while trip rates are higher during the PM peak, overall parking is lower than throughout the day. For example, to achieve the average Friday PM trip rates, parking would only amount to 170 spaces (much lower than the 232 proposed). There would be a significant number of vacant spaces at the store, which would provide the opportunity for the development to attract more vehicles than JF predicts.
14. It is also relevant to note that parking demand at the Tesco store in Hertford (RJ App 3) exceeded supply on a Saturday. Although the Tesco data also shows overall parking accumulation is lower during the PM peak, it is plainly the case that many people choose to shop in the PM peak.
15. Therefore, the provision of 232 parking spaces would not operate as a restraint in the PM and Saturday peaks and does not justify JF's 15% reduction.
16. Further, SSL cannot fully manage the available parking provision. There are two existing car parks in close proximity to the proposed store accessed from Hartham Lane. Although JF considers (5.48 p34 and XX) that it is very unlikely that those visiting the store will park outside the development, both the car parks are close by if the SSL car park became full and they could be utilised by shoppers.
17. To further bolster the argument for a 15% reduction, JF introduced some data from four SSL stores [p37]. JF's adopted trip rates (with 15% reduction) do fall within the range set out (which is based on both the TRICS data and the new SSL data), but (i) are towards the low end and (ii) all the PM peak TRICS trip rates are higher than the SSL adopted figure, as are most of the Saturday peak figures (see RJ Rebuttal at Table 4.1). Further, as to the four additional SSL stores relied upon, Lancaster and Liphook all exceed the adopted trip rates, Beckenham is lower in the PM peak, but is a Greater London store and should be approached with some caution, because of the

influence of London travel patterns and the fact that the TA excludes Greater London sites because transport links are better in London and London sites are generally excluded from TRICS comparisons for Hertfordshire due to different characteristics (see XX of JF). The Nuneaton store data is lower than the adopted figures and even though JF explained in XX that the store had been extended and the parking reduced since the TRICS data was compiled, JF accepted that trip rates for a different date in September 2009 (19<sup>th</sup>) previously sent to RJ, indicated higher trip rates for Nuneaton which were also in excess of the adopted rates at p 37.

18. JF (XX) is sceptical that growth will occur – because of the congestion that already exists on the local highway network. However, growth is assessed to enable the transport impacts of development to be accurately applied in the context of other committed developments. The National Traffic Model and TEMPRO provide for growth prediction and enables an independent methodology to be used in all cases (see RJ at 5.3.4 and JF in XX). Revised growth figures have been agreed between HCC and SSL [RJ p26] – which are much lower than when the TA was produced. But it is clear that growth remains likely to occur in the area; 17% between 2003 to 2017 (see RJ 5.3.8 p26) and EHDC has a strategic housing requirement to 2021 of 12,000 dwellings (with 2,140 provided as at 2006). Even if growth is restricted in the peak periods, because of congestion, full growth could still occur in the off peak/ at weekend.

19. Although JF has assessed both the average trip rate and 15% reduction scenarios, he considers that the 15% reduction Scenario is to be preferred. JF's approach relies upon a number of optimistic assumptions. First, the development has been assessed on the basis of high pass by/diverted trip distribution percentages<sup>1</sup> (so minimising new traffic in the immediate vicinity of the site). The location of the Site and the highway network constraints are taken account of in the higher percentage distributions of primary and pass-by trips predicted in the TA [paras 5.19-27].

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<sup>1</sup> The pass by/ diverted trip rates set out at p40 of JF were agreed on the basis of average trip rates, but not with the 15% reduction advocated by JF – see RJ at para 5.2.18 p23.

20. Second, lower trip attraction rates have been used (so minimising traffic attracted to the App site). Third, future growth is excluded, (so minimising flows on highway network). Whilst some of these elements may be present at times, as RJ explains [para 5.5.3 p29], it is unrealistic to assume all three reduced circumstances will occur regularly.

#### Peak Hour Spreading

21. RJ's evidence (see p31) shows that the traffic levels which occur during the PM peak hour (5-6pm) will spread to approx 3-7pm. (The morning peak would be extended for about 30 minutes.) JF does not accept that the peak hour will spread in the way predicted by RJ. However, he accepted (XX) that if congestion in fact extended to that extent, there would be a significant adverse impact on traffic movements in Hertford.

22. JF considers that RJ's approach is bold and simplistic (see Rebuttal and XX). There is no dispute that there would be more traffic passing through the Old Cross Junction in the peak hours as result of the development, but JF considers that MOVA will adjust itself to cope with the increased flows such that there would not be an extension of the period of congestion.

#### Optimisation

23. A key difference between RJ and JF is JF's heavy reliance on the optimisation of the TRANSYT modelling for the Old Cross junction, to predict reduced queues at the junction.

24. Optimisation was not discussed at the pre-application discussions or addressed in the TA. Optimisation was an afterthought considered once the effect of the trip generation of the proposal (average and with 15% reduction) revealed the material adverse impact on the junction.

25. It is common ground (see XX of FJ) that MOVA is a sophisticated device using microprocessors to assess the best signals timings given the physical layout of the junction, the signals stages available and the traffic conditions at the time. It is extremely flexible and the signals timings can vary widely as traffic conditions change. MOVA generates its own timings cycle by cycle, which vary according to traffic conditions, over both the short and long term. During oversaturated periods, MOVA monitors the conditions and selects and enforces the cycle time where appropriate, to maximise capacity.
26. As explained in the MOVA Guidance at p5 (JF Rebuttal App A), heavily loaded congested junctions offer the best return on the costs of *installing* MOVA and should be considered first as prime sites for conversion. As JF agreed in XX, MOVA was no doubt installed because Old Cross was considered to be a heavily loaded congested junction.
27. Unlike TRANSYT, which does not model the effect of bus priority or “exit blocking” (and so continues to discharge traffic even if there is nowhere for it to go in reality), MOVA reacts to bus priority and exit blocking situations by limiting or extending green times where necessary and it can also react to local traffic incidents (unexpected flow increases etc). As JF accepted in XX, real traffic conditions therefore may in fact mean that it is not practicable to run a higher cycletime.
28. JF’s position (see p47, EC and XX) is that he anticipates that the MOVA controller would adapt the precise signal timings to react to prevailing traffic conditions (post development) and somehow make the junction work more efficiently, once the development flows are added. But as JF’s Table 5.5 p47 clearly shows, the junction is over capacity now.
29. As RJ explained in his proof and in XX, if MOVA could adapt the signals to make the junction work more efficiently, it would be doing so now. For example, the current green time thresholds for the PM and Saturday peaks would allow the

cycletime to be extended, *if* that would be the most efficient way of handling the existing congestion.

30. The Old Cross junction is already in congestion mode (with some arms operating at over 100% DoS during peak periods) and MOVA is reacting flexibly and doing what it can do – hence the different existing cycle times in the different peak periods. At over 100% saturation and with extended observed queues on some arms, the situation is clearly poor enough for MOVA to react to instigate changes to ameliorate the congestion, if it could do so.
31. The observed 15 minute Friday PM queue lengths referred to by JF in XX and RX (App B of the TA), do not necessarily demonstrate that MOVA was operating the junction efficiently between 5-6pm, as it would be necessary to consider the corresponding flows through the junction over the relevant 15 minute segments and whether any obstructions etc occurred to ascertain how the junction performed. In any event MOVA operated the junction with a queue of between 39-56 vehicles throughout the peak hour.
32. IN EC and XX, JF was keen to point out that the flows in the SoCG Tables included more than the vehicles passing through the junction. HCC and SSL agreed the correct flow to be modeled and the figures in the SoCG tables are “demand flows”. That is because it is necessary to model the flow through the junction and the traffic queuing, (to reflect the demand). The agreed modeling takes account of (i) vehicles that actually went through the junction and (ii) vehicles that were waiting to go through the junction. (Calibration was then used to ensure that the model reflected the queues actually observed.)
33. The DfT MOVA Guidance [JF App A], plainly considers that MOVA might not simply work as a magic wand, resolving or coping with whatever congestion might arise, but might need to be upgraded to provide adequate control: “Once installed and operational, very little further attention is required until traffic conditions change so much that new stages, increased number of lanes etc are required ...” [p7]. However,

as JF accepted in XX, in the present case, no physical changes are proposed to be made and JF does not suggest that there is any need for software updates etc. Therefore there is no evidence to suggest that there is any scope for upgrading or improving MOVA at the Old Cross junction to enable the controller to manage the congestion better than it does at present.

34. Old Cross in the AM peak is at 141% saturation and HCC does not object to the proposed development on the basis of that figure rising to 142% post development in the 2010 AM peak hour. On that basis, JF was asked (EC) that “if” 142% is taken as the benchmark of acceptability of congestion, what should the outcome here be? JF’s answer was that “...congestion should not be an issue.” However, the point is that there is almost no change caused by the development in the AM peak over the existing situation in terms of the saturation at Old Cross. By contrast, in both the PM and Saturday peaks, the change post development is materially worse.
35. JF accepts that the effect of optimization in the AM peak hour (see RJ Table 6.1 p33), which would reduce the AM peak queue along Cowbridge/ Old Cross from 170 to 55 (but the queue on St Andrew St would approximately double and would rise to 2.5 times the observed queue on Mill Bridge), would not in fact occur, because the cycletime is already extended to 132 seconds (see JF Rebuttal at 2.8 p3).
36. The changes that would result in the PM and Saturday peaks are referred to above and would be material and adverse. The queues along St Andrews Street would increase by between 19 (Scenario 1) to 22 (Scenario 2) vehicles (estimated by RJ to equate to c126m) and on Old Cross would increase by between 52 to 62 vehicles (c342m). The DoS at Old Cross would increase by approximately 25% (see para 6.4.2(iv) on p38).
37. Even when optimized, the queue along Old Cross is predicted to almost double in both scenarios and increase by over 50% on both other arms (see RJ Table 6.3 on p37). The corresponding figures for the Saturday peak are set out at RJ p39-40. It is clear that the impact on congestion will be significant and adverse in either scenario.

38. JF's approach is to rely upon a theoretical extension of the cycle time (see Rebuttal at para 2.11 p5) for both the PM and Saturday peaks, but there is no certainty that his theoretical optimised cycle time could in fact occur, or that it would mean that the junction would operate more efficiently.
39. RJ's assessment based on existing cycle times is appropriate, realistic and robust. His clear evidence is that MOVA alone cannot adequately mitigate the impact of development.
40. As to delay, JF's position is that the development of a new Sainsbury's supermarket will result in only a marginal change in average delay in the AM peak and weekday off peak and *reductions* in delay in the PM and Saturday peaks at Old Cross.
41. RJ has taken JF's figures and compared them with the effects of the development on the basis of HCC's assessment using average trip rates and growth (see RJ rebuttal Table 6.1). The impact of the proposed development is clear. There would be a significantly adverse impact on St. Andrew Street and Old Cross.

#### Hartham Lane

42. It is accepted by JF that on the revised TRANSYT analysis carried out by HCC, the right turn queue from Cowbridge into Hartham Lane increases the mean maximum queue ("MMQ") from 7 vehicles to 14 (for both scenarios in the PM peak) [RJ Rebuttal 6.7-6.11].
43. TRANSYT cannot model blocking back; it just hypothetically stacks vehicles vertically. So if a queue extends through a nearby junction, the model does not register any negative effect. TRANSYT allows for vehicle turns to be made through gaps, but on that basis shows a MMQ of 14.
44. On the basis of the DMRB, RJ in his Rebuttal, has taken a pcu length of 5.75m. JF has applied a figure of 5.42m (or c5.5m – see XX) per vehicle. He calculated the queue length at 65m (JF at 5.99 p53) on the basis of 12 vehicles. On JF's figures, a 14 car MMQ would extend to 75.9-77.0m. RJ calculates a 14 vehicle MMQ as extending

80.5m. The distance between the Hartham Lane junction and the Old Cross junction is 83m.

45. A 14 vehicle MMQ makes it even more likely that vehicles would block back along Cowbridge to the Old Cross junction. RJ's evidence is that when the junction becomes congested, motorists will be queuing southbound along Cowbridge, waiting for the lights to turn at Old Cross and in such conditions they will be likely to try to push onwards and get across the junction and would be less likely to allow cars waiting to turn right to cross the advisory keep clear box.
46. JF's approach is to trust in the courtesy of motorists, which would allow traffic to turn right and that therefore he does not consider that queues of 14 would actually transpire. As RJ explained (see Proof, Rebuttal, EC and XX), the figure of 14 is a mean maximum figure (an average value which will be exceeded 50% of the time) and it would only need one more car, or the presence of a lorry, before traffic would block back to the Old Cross junction.

### **Planning Policy**

47. The proposed development would make this specific site a destination, in a location where part of the local highway network – Old Cross - already operates over capacity on some arms in the AM, PM and Saturday peaks, before the addition of the trips, servicing and employment that the development will attract. The material additional congestion that would be caused by the development in the PM and Saturday peaks at Old Cross, means that the proposal would conflict with both national and Development Plan policies.
48. National policy seeks, inter alia, to reduce the need to travel, especially by car [PPG13para 4] (see RJ p7 and JF p12). More particularly, national policy does address the issue of congestion as one of several priorities. For example, PPS6 focuses (inter alia) on the need for local planning authorities in assessing new developments to consider accessibility by a choice of means of transport (para 3.25)

and the impact of development on car use, traffic and congestion (para 3.27 and see RJ p9). Consultation Draft PPS4 at policy EC10, advises lpas, in the context of setting parking standards, to take into account the need to tackle congestion.

49. In relation to the Development Plan, SMcG considers (p65) that the policy framework does not lend support to "...opposing applications because of traffic generation..."

50. However, it is clear that congestion is a key transport policy priority of the East of England Plan [CD B1]. Policy T1 sets out four "objectives" which give a clear priority to increase passenger and freight movement by more sustainable modes. The first objective is "...to manage travel behaviour and the demand for transport to reduce the rate of road traffic growth...". The Policy then states that the successful achievement of the objectives will lead to a specified number of "outcomes". The first outcome is "... improved journey reliability as a result of tackling congestion...". Policy T8 relates to local roads and states that local authorities should manage the local road network in accordance with their local transport plan objectives to complement the aims of policies T2 to T7 with four specified priorities. The first priority is "...tackling congestion and its environmental impacts...".

51. As to the East Hertfordshire Local Plan Second Review 2007 [CD B6], policy TR1 requires developments generating additional traffic to incorporate measures commensurate with the scale of additional traffic generated, to ensure alternative transport options to the private motor car are available to users of the site. Policy TR2 provides that highway proposals in association with new development will be assessed against the standards set out in HCC's "Roads in Hertfordshire 2001" [CD B4]. Policy TR3 states that developments that are likely to generate significant movement and travel demand will require the submission of a TA which should meet the criteria of the Roads in Hertfordshire guide. The supporting text at para 5.91 states that developments should demonstrate "... the ability of the existing infrastructure and services to accommodate this demand in conjunction with proposals to ameliorate those impacts and achieve modal shift to more sustainable transport modes.

52. Policy STC1 addresses development in town centres and edge of centre sites and provides that new retail development will be permitted where all of 4 criteria are met. Criterion (d) states “parking provision, access, and traffic generation are satisfactory, in accordance with the Council’s adopted standards.” SMcG (p38 and XX) considers that as EHDC does not have any adopted traffic generation standards against which proposals can be assessed (eg a standard or a test that says more than 10% increase in traffic generation is unacceptable), he sees no conflict with STC1(d).
53. HCC does not seek to argue that STC1 is a finely crafted policy. SMcG acknowledged in XX that it was unusually drafted and that he could not think of another Development Plan that did include such a traffic generation test or standard. HCC’s position is that it would be surprising if the Local Plan did include such a standard or test. (The Local Plan does contain, as is usual, parking standards).
54. As SMcG agreed in XX, it is plainly necessary to assess the traffic generation, capacity and congestion issues of a particular development on the basis of the relevant facts and circumstances. The absence of a “traffic generation standard” should not somehow render criterion (d) meaningless. It is, as SMcG accepted in XX, plainly necessary to assess whether the access and traffic generation of the scheme is satisfactory.
55. It is also important to note that one of the Local Plan’s objectives for Hertford (see Chapter 12 at p134/5 is “To continue to address the problems of traffic congestion in the town, through encouraging travel by means other than the car.”
56. In particular, for the reasons explained by RJ in his evidence, the access and traffic generation issues arising in relation to the proposed development are not satisfactory, because the development would cause material additional congestion, contrary to policy STC1 and indeed one of the specific LP objectives for Hertford.
57. Furthermore, in relation to the proper application of Development Plan policy, RJ’s assessment that there would be material adverse impact, when judged against the

relevant Local Plan policies, was shared by DC officers (see Report to Committee [CD C23]).

58. Finally, the Local Transport Plan 2006/7-2010/11 [CD B2] identifies congestion as a key issue for the people of Hertfordshire (see para 3.1 and section 6 and see JF at p9). As RJ explained in XX, HCC is developing an Urban Transport Plan, carrying out PARAMICS modeling and investing in measures through the LTP, including carrying out works around Hertford.

59. It is important to note that EHDC accepts that the proposed development would result in some material adverse traffic impact, but that EHDC considers that the benefits outweigh that impact (see EHDC Opening para 13 and 17).

#### **Alternative Site Uses**

60. Two alternative scenarios were considered in the TA: (i) a 13000 sqm office only scheme and (ii) a mixed use scheme for 40 dwelling units, 1000m<sup>2</sup> retail and 5000m<sup>2</sup> offices. JF considers a different second scenario in his proof (p55); 36 dwelling units, 5,388sqm of office and no retail.

61. JF's Table 5.14 (p56) shows his scenario 2 has a better impact on Hartham Lane, other than the AM peak, where only 11 more trips would be generated than the supermarket in AM peak. At Old Cross the mixed use scenario would generate more trips in the AM peak (Table 5.15 p57). Whilst office and residential elements would attract more new trips, it is clear (see RJ p60) that the supermarket generates a significantly higher flow and a flow throughout the day.

62. Further, as JF acknowledges (para 5.112 and XX), any particular scheme coming forward would need to be assessed for general acceptability and trip generation necessarily depends upon a variety of matters such as scale, type and density of development. Supermarkets have a very high car mode share. As set out in the TA at para 4.48 (p30), the average for English edge of centre sites is 71% trips by car on a weekday and 81% at the weekend. As RJ explains in his evidence (section 9), there

would be a greater potential to achieve a higher sustainable transport mode share with alternative site uses and in particular there would be more opportunity for reducing car parking or requiring car free development with office and residential development.

### **Accessibility**

63. The site has limited accessibility by public transport. The bus station is approximately 440m from the proposed store entrance and even the nearest bus stops are a considerable distance from the entrance (approximately 290m) for people carrying any heavy amounts of shopping.
  
64. The HCC Bus Strategy [RJ App 2] has adopted the objective that the bus network should minimise walking distances from home or key travel attractors and be as comprehensive as possible. The maximum acceptable walking distances of 200m in town centres and 400m in urban residential areas will be used to determine the comprehensiveness and accessibility of the bus network (see RJ at 4.7 and App 2). The 400m distance is a relevant criterion and is sought not just because of an estimated walk time, but also taking account of the ability of a range of people to walk the distance.
  
65. A number of the services into the bus station are only 1-2 hourly (see RJ p51 and JF's note on bus services dated 29/9/09). On Mill Bridge, the nearest bus stops are about 325-345m from the store entrance. Approximately eight regular services operate on this route.
  
66. As to the nearest bus stops from the proposed store (approximately 290m along Cowbridge), only one service uses this route - the 333 (Hertford – Bengeo). The service only operates Monday to Saturday, finishing around 1830hrs. Therefore, no public transport serves the Bengeo area in the evenings or on Sundays, (when the proposed store would be trading). Indeed, it is striking how limited the public

transport provision is generally to and from the town centre in both the evenings and on Sundays – see the Table put in by JF dated 29/9/09 [SS17].

### **S.106 Obligation**

67. HCC acknowledges that the proposed scheme would result in a number of positive highways and public transport enhancements, secured by the s.106 Agreement. There is no issue between HCC and SSL that the highway and transport obligations are necessary and required to mitigate the impact of the development, if permission is to be granted, and that the obligations accord with Circular 05/05.
  
68. HCC considers that the s.106 Agreement is inadequate in two material respects. Firstly, the provision for the payment of further sums of £50,000 per year for five years (up to £250,000 in total), if reduced trip rates are exceeded, should be paid without the proviso of future monitoring. Secondly, a further contribution of £200,000 should be provided to improve evening and Sunday bus services, in order to maximise non-car accessibility and minimise private car use.
  
69. As to the sum of £250,000, the s.106 Agreement makes provision for further possible payments towards the Sustainable Transport Contribution of £50,000pa over a 5 year period (payable for each year an exceedence over the reduced trip rates occurs). The total payable could therefore amount to £250,000.
  
70. As RJ explained (in his proof and in XX), the proposed development will still have an adverse impact even if the 15% reduced trip rates did materialize, constituting a clear and material detrimental impact. The result will be increased queues, congestion and peak hour spreading. Therefore it is necessary for the £250,000 to be provided without the proviso for future monitoring.
  
71. HCC seeks £200,000 for the improvement or extension of bus services. There is no issue that the Sustainable Transport Contribution includes necessary and appropriate improvements of infrastructure at the Bus Station and at local bus stops, but the proposed development does not seek or promote the improvement of any bus service.

72. JF considers that the site is “amply accessible” by public transport [para 5.131 p60] and that current services offer “sufficient flexibility”, in terms of when bus users are able to travel. However, as set out above, the 333 (Hertford–Bengeo) service only operates Monday to Saturday, finishing around 1830hrs. Therefore there is no public transport serving the Bengeo area in the evenings or on Sundays. Few of the other services to and from the Bus Station operate late in the evening or on Sundays (see the Table put in by JF dated 29/9/09 [SS17]). Although Cllr. Ashley considered that it would be “nice” and a “great idea” to improve the bus service, his evidence (in XX) was that such improvement would not be necessary. HCC invites the Inspector and the Secretary of State to prefer the evidence of RJ as to the need for such improved service provision. There is a clear need, in accordance with Policy TR1(c), to improve the bus service if the development is to be properly accessible by means other than the private car.

73. The improvements sought by RJ (para 10.2.15 p73) to evening and Sunday bus provision for 5 years has been costed at £200,000. (Although it is clear that SSL takes issue in principle that such a sum should be paid, RJ was not challenged over the appropriateness of the figure sought, if such an obligation were to be required). The improvement to bus services sought by RJ, should not be seen as some sort of possible alternative to the necessary improvements to the Bus Station and bus stop infrastructure. Improvements to bus services would assist in maximising non car accessibility and minimising car use and would encourage users of the store to use buses and so mitigate the impact of the development.

### **Conclusion**

74. The TA acknowledges that the proposed development “...raises difficult transport issues... [which] relate overwhelmingly to car borne access to the scheme” but claims that a package of measures to maximize the benefits of the location and the opportunities for non car access to the store will reduce reliance on car borne access, and provide a suitable balance (TA at paras 4.1-4.2).

75. On the basis of a realistic and robust assessment, HCC has clearly justified concerns as to the material adverse highways impact that would occur. By contrast, JF's approach to try to overcome those difficult transport issues, relies upon several unwarranted optimistic foundations, which are individually and cumulatively unreliable.

76. Therefore, for the reasons summarised above and explained in detail in the evidence of RJ, the proposed development would have a material and adverse highways impact and would conflict with both national and Development Plan policies, in particular Policies STC1, TR1 and TR2. The proposed development further conflicts with the objectives of the Local Transport Plan.

77. Accordingly, HCC requests that the Secretary of State refuses planning permission.

Graeme Keen  
Landmark Chambers  
30<sup>th</sup> September 2009