



Report to the Secretary of State for Communities and Local Government

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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION BY SAINSBURY'S SUPERMARKETS LIMITED

TO

EAST HERTFORDSHIRE DISTRICT COUNCIL

FOR

**MIXED USE REDEVELOPMENT OF PART OF MCMULLEN'S BREWERY SITE,
HARTHAM LANE, HERTFORD**

Inquiry held between 22 and 30 September 2009

McMullen's Brewery site, Hartham Lane, Hertford, Hertfordshire SG14 1QN

File Ref: APP/J1915/V/09/2101286

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McMullen's Brewery site, Hartham Lane, Hertford, Herts SG14 1QN

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 25 March 2009 and clarified on 29 March 2009.
- The application is made by Sainsbury's Supermarkets Limited to East Hertfordshire District Council.
- The application Ref 3/08/1528/FP is dated 22 August 2008.
- The development proposed is a mixed use redevelopment of part of the McMullen's Brewery site, comprising a foodstore and conversion of the former brewery building to provide elements of the foodstore including the café, offices and commercial space, community space, associated car parking and landscaping, riverside walk, re-naturalisation of the river bank, bridge link to the town centre, re-routing of Hartham Lane and associated provision of new access and servicing points.
- The reason given for making the direction was that the Secretary of State is of the opinion that the application is one that he ought to decide himself due to conflict with policy on important matters.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 - i) The extent to which the proposed development is in accordance with the development plan for the area, having particular regard to the policies in the *Regional Spatial Strategy for the East of England (RSS)*, the *East Herts Local Plan Second Review April 2007 (LP)* and *Local Transport Plan (LTP)*;
 - ii) Whether the scheme would secure a high quality of design, and its effect on the character of the area, having regard to the advice in paragraphs 33 to 39 of *Planning Policy Statement 1: Delivering Sustainable Development (PPS1)*;
 - iii) The extent to which the proposal is consistent with advice in *Planning Policy Statement 6: Planning for Town Centres (PPS6)*, to promote the vitality and viability of the town centre by supporting efficient, competitive and innovative retail, leisure, tourism and other sectors, with improving productivity; and improving accessibility, ensuring that existing or new development is, or will be, accessible and well-served by a choice of means of transport;
 - iv) The extent to which the proposed development/works are consistent with advice in *Planning Policy Guidance Note 15: Planning and the Historic Environment (PPG15)* with particular regard to:
 - a) the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
 - b) the need for the scale and type of development/works proposed at this location to secure the future of the listed building.
 - v) The extent to which the proposed development/works are consistent with advice in *Planning Policy Guidance Note 16: Archaeology and Planning (PPG16)* for the protection, enhancement and preservation of sites of archaeological interest and of their settings;
 - vi) The extent to which the proposed development is consistent with the advice contained in *Planning Policy Statement 25: Development and Flood Risk (PPS25)*, to ensure that all planning applications in flood risk areas be accompanied by a flood risk assessment;
 - vii) Whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take, having regard to the advice in DOE *Circular 11/95*, and in particular the tests in paragraph 14 of the Annex;

- viii) Whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable; and
- ix) Any other matters that the Inspector considers relevant.

Summary of Recommendation: The application be allowed, and planning permission granted subject to conditions and a Section 106 Obligation.

1.0 Procedural Matters

- 1.1. A Pre-Inquiry Meeting (PIM) was held on 7 July 2009 to set out administrative arrangements for the Inquiry. The called-in Sainsbury's proposal was originally linked to an appeal by Tesco for a new, larger store at its site at Ware Road in Hertford. Just prior to the PIM, Tesco withdrew its appeal but has subsequently made an application for an extension to its store which, at the time of the inquiry, the local planning authority (LPA) had not yet consulted on.¹
- 1.2. The Inquiry sat for 6 days closing on 30 September 2009. Unaccompanied visits were made to Hertford, Ware and Hoddesdon town centres, to view traffic in both peak and off-peak periods at the Mill Bridge/ Old Cross/ St Andrew Street and the Cowbridge/ Old Cross/ Hartham Lane junctions, at the roundabout at North Road/ Cross Lane, and through the Bengoe 'rat run' on 19, 20 and 21 September. An accompanied visit to the listed Victorian Brewery buildings on the site and to the surrounding area within the brewery was made on 30 September.
- 1.3. Subsequent to Sainsbury's application, additional and amended information was submitted following discussions with the LPA. This information was considered by the Council's Development Control Committee on 14 January and 11 February 2009 when it resolved that it would grant planning permission, subject to appropriate conditions and a Section 106 Agreement.²
- 1.4. To overcome some concerns on transport matters it was proposed, during the course of the Inquiry, to limit the size of lorries delivering to the proposed development. This would improve the entry and exit manoeuvring space and increase forward visibility by slightly altering the position of the wall around part of the delivery area. I do not consider that anyone would be disadvantaged by considering these very minor alterations, the provision of which could be achieved by conditions attached to any grant of planning permission.³
- 1.5. This report and recommendation is based on the following documents and drawings:

Planning Statement, Environmental Statement including a Non-technical Summary, Design and Access Statement, Transport Assessment, Retail Statement, Supplementary Retail Statement (November 2008), Statement of Public Consultation, Employment Land Study, Sustainability Statement,

¹ E5, XE Mr Sangster by Sainsbury's Day 1

² SOCG1 3.4-3.8, 3.10-12

³ SS/9, SS/10, Mr Foot IC Day 3

Revised Sustainability Statement (Rev A), Tree Condition Survey, Tree Root Survey, Construction Method Statement, Flood Risk Assessment, Chetwoods drawings nos 2500 PL (2) 000A, 100A, 427A, 500B, 2500 SK 1005A, 1007A, 1008A, Henry Riley drawing 35406W, TLP drawings nos 06055/26D, 27D, 28D, 29C, 30K, 31B, 32A, GGA drawings nos 19391 SK 102 P6, SK104 P3, Acanthus drawings nos 3912 41, 42, 43, 63A, 64, 67A, 71B, 72C, 73B, 74, 75, 76, 82A, 83A, 84A, 85A, 86A, 87A, 101, 102, 103, 104, 105, 106, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136.⁴

- 1.6. This report includes a description of the site and its surroundings, a summary of the planning policy background, the gist of representations made at the Inquiry, and in writing, and my conclusions and recommendation. Lists of appearances, documents, and site visits, a schedule of conditions to be attached if planning permission were to be granted, and a glossary of abbreviations, are attached as appendices.

2.0 The Site and Its Surroundings

- 2.1. The application site, which has an area of approximately 2.36 hectares, lies to the north-west of Hertford town centre within the Hartham sub-area of the Hertford Conservation Area. The site is within a defined Employment Area, partly within an Area of Archaeological Interest, and partly within the indicative floodplain of the River Lea. Most of the site was formerly used by McMullen's Brewery and comprises car parking and vehicle turning areas, outdoor storage areas, the 1984 "Lager Building", the derelict former Unicorn Public House and adjacent cottages, and a Grade II listed Victorian Brewery as well as undeveloped land. The site boundary extends along highway areas up to Cowbridge and includes a small riverside area in the ownership of the District Council which would be the landing point of a proposed bridge and pedestrian/cycleway link from the store to the town centre.⁵
- 2.2. To the north of the site is the open space of Hartham Common including the Hartham Leisure complex and swimming pool, skateboard park, children's playgrounds and play areas, as well as car parking for 204 vehicles. The site is bounded to the west and south by commercial and industrial areas including the retained McMullen's brewing operations. The Grade II listed Ekins Building Contractors Offices lies on the opposite side of Railway Approach to the west. The River Lea lies between the site and the residential area of Folly Island to the east and a recent terrace of dwellings lies on the opposite side of the River to the proposed store car park and riverside path.⁶
- 2.3. Recreational visitors, businesses and employees use the main vehicular access into Hartham Common along Hartham Lane from Cowbridge, although there is a separate road access to part of the Hartham Lane car park from Port Hill to the west. The Common is also accessible via

⁴ C1, SS/14, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11, C12, C17, C18, C21

⁵ B9, SOCG1 2.1-2.2 & 2.7

⁶ SOCG1 2.3-2.5

connecting public footpaths and the River Lea recreational cycleway which links Hertford with Ware and the Lee Valley Regional Park.⁷

3.0 Planning Policy⁸

- 3.1. The development plan for the locality includes the RSS and the LP. Of the policies most relevant to the proposal RSS Policy SS1 and LP Policy SD1 generally seek to achieve sustainable development reflecting national policy in PPS1. LP Policy HE8 indicates that the defined Employment Area will be primarily reserved for industry comprising Classes B1 Business and B2 General Industrial uses.
- 3.2. RSS Policy SS6 seeks to protect and enhance town centres whilst LP Policy STC1 indicates that the preferred location for retail development and other key town centre uses will be town centres followed by edge of centre sites in line with the sequential approach outlines in PPS6. The other tests set out in PPS6, of need, appropriate scale, no unacceptable impact and accessibility, are also reflected in LP Policy STC1.
- 3.3. High quality design is sought by PPS1, RSS Policy ENV7 and LP Policy ENV1. The statutory duties imposed by Sections 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and preserving or enhancing the character or appearance of a Conservation Area, are echoed in PPG15, RSS Policy ENV6, and LP Policies BH6, BH10 and BH11. LP Policy BH3 and PPG16 both indicate that development on sites containing archaeological remains will be subject to conditions and/or formal agreements requiring appropriate excavation and recording in advance of development.
- 3.4. RSS Policies T1 and T4 and LP Policy TR1 set out the objective, amongst others, of managing travel behaviour by encouraging a shift from the use of the car by improving reliability through tackling congestion and facilitating non-car modes of travel. Similar aims are set out in RSS Policy T8 specifically in relation to local roads. LP Policy TR2 indicates that proposals will be assessed against the standards set out in Hertfordshire County Council's (HCC) *Roads in Hertfordshire – Design Guide*. A Travel Plan is required by LP Policy TR4 together with a Section 106 Agreement to ensure that it is fully implemented.⁹
- 3.5. The thrust of RSS Policy WAT4 and LP Policy ENV19 reflects national policy in PPS25 by seeking to ensure the effectiveness of flood plains and to protect development and its occupiers from the risk of flooding.

4.0 The Case for Sainsbury's Supermarkets Limited (SSL)

4.1. Introduction

- 4.1.1. The proposal is a comprehensive scheme for the regeneration of a large and mostly derelict site in the middle of Hertford. The level of detail is an

⁷ SOCG1 2.6

⁸ A1, A5, A8, A9, A10, B1, B6

⁹ B4

expression of SSL's commitment to bringing the site back into beneficial use and securing the wider enhancement of the environment and economy of Hertford.¹⁰

- 4.1.2. SSL and the LPA have reached substantial consensus and have produced three *Statements of Common Ground*, one on general planning matters and two on retail planning issues. There is no disagreement between those two parties on any of the matters on which the Secretary of State has asked to be informed. Whilst there is not full agreement on transport matters, there is accord between SSL and HCC as the highway authority on many of the factual and technical considerations and this is set out in two transport *Statements of Common Ground*.¹¹
- 4.1.3. Listed building and conservation area consents were granted on 14 January 2009 for "alterations to accommodate ancillary elements of the proposed foodstore, business/office space and community space, including an interpretation centre" within the Grade II listed Victorian Brewery building, and for demolition of buildings including the "Lager Building", a derelict public house and cottages and the truncation of a warehouse, subject in both cases to conditions. Members resolved to grant planning permission in principle, subject to a further report on a Section 106 Agreement and conditions. This is the democratically accountable view at local level.¹²

4.2. Retail Matters

Existing Situation

- 4.2.1. Hertford's core shopping area is sandwiched between the River Lea and the A414 trunk road, Gascoyne Way, although there is a further concentration of specialist retailing and services running west from Old Cross along St Andrews Street. Its most important positive feature is its attractive historic character but the downside to this is the scarcity of good-sized, well configured shops that conform to modern retailing requirements. This will not change significantly as Conservation Area status rightly prevents major redevelopment.¹³
- 4.2.2. The *Retail and Town Centres Study* confirms Hertford to be vital and viable according to the measures in Section 4 of PPS6. The vacancy rate has increased but is still below the national average. There is no substantial store attraction and the anchor role depends on the combination of Waitrose, Boots and WH Smith. There is a limited shopping offer, particularly in the multiples sector and there are relatively few independents that could be described as key attractions drawing shoppers in significant numbers. In the face of competition from stronger towns, Hertford will struggle to maintain its position and be vulnerable to relative decline.¹⁴
- 4.2.3. The existing Tesco and Madford Retail Park both lie to the east of the town centre. The latter was built as a single DIY store but has been split into two equal units housing Focus and Matalan. The Tesco store is considered to be

¹⁰ SS/19 Paras 3 & 4,

¹¹ SS/19 Paras 8-10, SOCG1, SOCG2, SOCG3, SOCG4 & SOCG5

¹² SOCG1 3.13, C24, C25. SS/19 Para 8

¹³ SS/7/A Sect 3

¹⁴ SOCG2 Paras 2.29-2.30, SS/7/A Sect 4

out of town, but close enough to form links with the centre. However, the two hour parking limit, whilst not precluding visits to the town centre, does impose a constraint. The store does not, therefore, act as an anchor but functions largely as a one-stop destination.¹⁵

- 4.2.4. Non-food retailing in the town centre as it stands is not capable of attracting new investment to a degree that would materially enhance the range of shopping facilities as there is adequate representation nearby. Whilst Hertford is not fundamentally weak, the retail function is static and there is a risk of further erosion of its modest position.¹⁶

The Proposal

- 4.2.5. The store would have a gross floor area of 4,872m² and a net sales area of 2,328m² of which 1,862m² would be convenience and 466m² comparison floorspace. The convenience turnover of the proposed store in 2011 would be within the range £19.19 million and £19.82 million with a comparison goods turnover of some £2.29 million giving a total turnover of £21.48 million to £22.11 million. There is substantial accord between the various experts who have assessed the need for the proposed store and its impact on the economic health of Hertford and other town centres. This has effectively been corroborated by the assessment undertaken by G L Hearn for the now withdrawn appeal for a superstore to replace the existing Tesco at Ware Road in Hertford, and in the retail 'proof of evidence' on behalf of Tesco.¹⁷

Catchment

- 4.2.6. Tesco questions the catchment area defined in the August 2008 *Retail Assessment*, which covered: Zone 1 Welwyn Garden City; Zone 2 Hatfield; Zone 3 Hoddesdon; Zone 4 Ware; and Zone 5 Hertford. However, a *Supplementary Retail Statement* was produced in November 2008 identifying a Primary Catchment Area (PCA) comprising Zones 4 and 5 only of the original catchment area. This closely relates to the catchment area adopted in the retail assessment supporting the Tesco store application. Tesco confirms that Zones 4 and 5 would be a "more appropriate and realistic food shopping catchment for Hertford" and the acceptability of this PCA is agreed by Chase and Partners on behalf of the LPA. Whilst 2011 has been used as the design year throughout the evidence it is now accepted that the earliest design year (second full year of trading) would be 2013.¹⁸

Need

- 4.2.7. The amount of comparison goods floorspace would be limited by condition. It is agreed between SSL and the LPA that the growth in comparison goods expenditure between 2007 and 2011 in the PCA would be £40.3 million. The turnover of the comparison goods element of the proposed store would be £2.29 million which equates to just 5.7% of the growth in comparison goods expenditure within the PCA.¹⁹

¹⁵ SS/7/A Sect 4

¹⁶ SS/7/A Paras 6.10-6.23

¹⁷ SS/19 Para 79, D4, TS/3A, SOCG2 Para 2.7 & 2.13-2.15

¹⁸ TS/3/A Paras 6.24-6.38, C6, SS/3/D Paras 2.2-2.5, C21, SOCG2 2.8 & 2.9, 2.20, 2.21 & App1

¹⁹ SOCG2 Paras 2.23-2.24

- 4.2.8. SSL and the LPA agree that the convenience goods expenditure in Zones 4 and 5 in 2011 would be £105.4 million and that, based on the growth rate in *Experian Retail Planner Briefing Note 5.1*, it would have grown by £5 million between 2007 and 2011. A sensitivity test has been carried out using the long term trend figure of £4.6 million and the forecast figure of £2.59 million from *Experian Retail Planner Briefing Note 7.1*. Even on the most cautious view there would be at least £2.73 million of residual convenience capacity after allowing for the proposed store's turnover of £19.19-£19.82 million. If the design year of 2013 were to be used instead of 2011 this would increase to around £5.65 million. In any event, decisions by Inspectors and the Secretary of State have accepted that a deficiency in quantitative need is not necessarily a reason to refuse planning permission.²⁰
- 4.2.9. Although Zones 4 and 5 are the natural catchment area for Hertford, expenditure generated within it is leaking outside that catchment. Tesco estimates that around 70% of expenditure generated within the PCA is retained. This indicates that there are some unsustainable shopping trips to facilities outside the PCA. It is estimated that the proposed store would claw back approximately £3.84 million assuming that 50% of the expenditure leaking to Sainsbury's stores elsewhere, and 20% of the expenditure leaking from Zone 5 to all other stores elsewhere, would be retained. To be robust, only the potential claw back of leakage from Zone 5 has been assessed.²¹
- 4.2.10. The claw back would only be 28% of the £13.7 million leakage to stores outside Zone 5 and there is a further £10 million leaking from Zone 4. The estimated claw back would only represent around 16% of the total expenditure leakage from the PCA. Some £10 million of expenditure from the PCA leaks to other SSL stores at Hoddesdon, Welwyn Garden City and Stevenage which collectively are estimated to be overtrading in the order of £17 million. The collective overtrading in all other stores within Zones 1-3 is estimated to be approximately £27 million. To put the matter of claw back in context, the retail assessment that accompanied the Tesco application for a new store indicated a claw back of £2.92 million. Given that this proposal would provide a new convenience retail choice, of a size that would meet weekly bulk shopping needs, in a modern environment, and provide genuine competition to Tesco, the estimate of claw back is considered reasonable and conservative. It would increase trade retention from 70% to 73%, not 86% as Tesco maintain, which would be realistic and beneficial.²²
- 4.2.11. There are many reasons why expenditure might inflow to an area, such as shopping linked to trips to visit family and friends, to access a larger centre with a wider range of goods, tourism or leisure visits, or proximity to a place of work. An on-street survey indicated that over 25% of people within Hertford town centre lived outside the wider catchment area. On that basis it is estimated that some 10% of the proposed stores turnover would be derived from inflow expenditure from beyond the wider catchment.²³

²⁰ C11 Paras 2.8-2.10, SOCG2 Paras 2.10 & 2.12, SOCG5 Paras 2.3-2.7, SS/16

²¹ SS/15, SS/3/D Paras 2.22-2.24 & 2.29, TS/3/A Paras 6.51-6.59

²² SS/15 SS/3/D Paras 2.30-2.31

²³ SS/15

- 4.2.12. Tesco questions the amount of overtrading identified in the *Supplementary Retail Statement*. However, if the results of the household surveys on behalf of SSL, Tesco and East Hertfordshire District Council (EHDC) are compared, the study areas are closely related. Although there are minor differences between the individual turnover figures, the total convenience turnover is similar ranging between £78.4 million and £82.3 million and the benchmark turnovers are very similar. In fact, Tesco identified £5 million more overtrading at the same stores than SSL. The survey revealed that the Tesco store in Hertford is drawing 14% of its turnover from Zones 1-3. It would, therefore, be incorrect to ignore turnover from outside the PCA. When a like for like comparison is made the overtrading from within the PCA is £12.4 million rather than the £7.7 million Tesco calculates. When this is added to the overtrading of £1.8 million being drawn from outside the PCA the total overtrading equates to £14.2 million, the figure used in the *Statement*.²⁴
- 4.2.13. The analysis to support the latest application for an extension to the Tesco store confirms that it is overtrading by £10 million. Moreover, the Tesco analysis identifies total overtrading of £22.4 million within a slightly larger catchment area that includes Hoddesdon with growth in convenience expenditure of £10.16 million to give a convenience capacity of £32.57 million in 2012. This compares with the capacity of £24.96 million at 2013 identified by SSL. Although Tesco might not agree on the methodology used, its own assessment reaches the same conclusion that there is significant overtrading and significant convenience capacity in the PCA.²⁵
- 4.2.14. In summary, the position is that at 2011 there would be a total residual convenience capacity of some £24.96 million of which the proposed store would absorb up to £19.82 million. This would leave a residue of £5.14 million for others to claim. There is, therefore, a clear quantitative need for the proposed foodstore.²⁶
- 4.2.15. The deficiency in existing major foodstore provision places a strain on the Tesco store in Ware Road. This 20 year old store accounts for 40% of the money spent in foodstores in Zone 5, over 2.5 times the trade of Waitrose in the town centre, and is trading at 150% of Tesco's company average. This degree of overtrading indicates a strong qualitative need to improve provision and competition in Hertford. The proposal would improve the range and choice of weekly grocery goods, promote competition between existing foodstores catering for comprehensive weekly shopping needs, improve the environment in the existing Tesco by reducing overtrading, regenerate a redundant site and refurbish a listed building and stimulate investor confidence. There is, therefore, also a qualitative need for the proposal.²⁷
- 4.2.16. A considerable benefit of the proposed store is that it would increase competition and choice by removing the dominance of Tesco. Even Tesco's loyal customers would benefit from reduced overtrading at its existing store. The proposal would address the lack of an "efficient, competitive and

²⁴ SS/3/D Paras 2.6-2.16

²⁵ SS/3/D Paras 2.17-2.20

²⁶ SS/3/A Paras 7.14-7.21 & Table 7.1

²⁷ SS/3/A 7.22-7.33

innovative" convenience goods retail sector in Hertford which is an aim of Government policy in PPS6 but is given renewed emphasis in the consultation draft *Planning Policy Statement 4: Planning for Prosperous Economies* (draft PPS4).²⁸

Sequential Test and Scale

- 4.2.17. The only alternative site, suggested by Hertford Civic Society (HCS), is the unit in Maidenhead Street formerly occupied by Woolworths. Whilst the desirability of early permanent occupation of this unit is recognised, it only has a floor area of 467m² and is too small to accommodate the retail offer needed. The area is pedestrianised and customers could not stop off outside. In any event, Tesco has generous parking, stays open 24 hours except Sundays, and would have a wider range. The hard discounters such as Lidl, Aldi or Netto require larger, evenly configured, spaces. It is not, therefore, a relevant alternative in terms of the sequential approach. EHDC and SSL agree that the application site is an edge of centre location as defined in PPS6 and also "that there are no other sequentially more suitable sites or any units currently available within Hertford town centre either for the development as proposed or if disaggregated". It is also agreed that "the proposed foodstore is of an appropriate scale to Hertford". It needs to be of a size to compete with the Tesco store. If it were smaller it would not claw back trade but would compete with the Waitrose and M&S Simply Food stores in the town centre for the top-up trade.²⁹

Linked Trips

- 4.2.18. The *Retail Assessment* supporting the replacement Tesco store in Hertford claims that 44% of Tesco shoppers linked their food shopping with trips into the town centre. A household survey and an on-street survey confirm that there is a pattern of linkage between food shopping provision and town centre facilities although they indicate the level of linkage for the Tesco store is more likely to be between 22% and 29%. The proposal has the potential to improve on Tesco's rate of linkage and to increase the overall number of linked trips. Increased footfall would lead to other investment and create a virtuous circle.³⁰
- 4.2.19. The reasons for this are obvious on the ground. The application site is closer than Tesco's to many of the places in the town centre that people want to go to. A 400m walk from the proposed store would reach the defined primary shopping frontage on Mill Bridge, Maidenhead Street, Salisbury Square and in the Bircherley Green shopping centre. The same distance from the Tesco store entrance, even going through the Bluecoats site which is not a public right of way and could be closed, would only reach the primary frontage on Railway Street. In addition, the walk from Tesco's would involve crossing the busy Mill Road compared to the riverside walk and footbridge over the river on the route from the proposed SSL store. There is no reason why the linkage diverted from Tesco's to SSL would not continue to be undertaken and loyal Tesco customers would continue to make linked trips from that store to the town centre. Moreover, if the new

²⁸ SS/3/A Para 7.23-7.27, SS/19 Paras 93-94, A5 Para 1.4, A4 Para 6

²⁹ SOCG2 Para 2.42-2.45, SS/7/D 2.1-2.2, Mr McGrath IC Day 3

³⁰ Mr Shearman IC Day5, D4 Para 7.23, SS/3/A Paras 7.36-7.39

store substantially adds to the number of people visiting Hertford for food shopping, as the consensus of judgement and common sense suggests, there would be increased linkage.³¹

- 4.2.20. The relationship of the site on the edge of the town centre with improved accessibility for pedestrians and cyclists could be recognised in the future by the extension of the town centre boundary to include the site through the LDF process. This potential has been recognised by Chase and Partners in their *Retail and Town Centre Study* for EHDC.³²

Impact

- 4.2.21. Hertford's potential is constrained by the proximity of four much larger towns and by the Brookfield complex at Cheshunt all of which are within 15-20 minutes drive of Hertford and easily accessible by car. Stevenage and Harlow both have M&S, Bhs and Primark, Welwyn Garden City has M&S and John Lewis, whilst Bishop's Stortford has M&S and Pearson's department store. The prime Zone A rental value in Hertford, at around £50 per ft², is only around half that in the nearby centres which range from £95 to £110 per ft². Brookfield's popularity is demonstrated by its status as the second highest rented such scheme in Britain. These centres would not suffer any material impact as a result of the proposal.³³
- 4.2.22. Hertford's nearest neighbours are Ware and Hoddesdon where Zone A rentals are £40-45 and £35 per ft² respectively. Hoddesdon's shopping area has three elements. The High Street has a twice weekly market and there is a Tesco Express. Peacocks, New Look, Boots and Clintons represent the multiples. The 40 year old Tower Centre contains Argos and Superdrug but is otherwise almost empty. There are also a larger Sainsbury's than that proposed at Hertford, as well as Iceland, Aldi and Netto all on edge of centre sites. There would be little impact on this centre. Ware town centre is convenience based with a 2,200m² Tesco in the core shopping area. Multiples are represented by Boots, Martins, Clintons and Peacocks and there is a weekly market. SSL and the Council agree that the Tesco store in Ware, the closest centre, is very successful and would suffer no significant trade diversion such as to undermine the vitality and viability of Ware town centre as a whole.³⁴
- 4.2.23. Turning to Hertford itself, the proposed store would take some 57% of its trade from the Tesco store on Ware Road but this is not in the town centre and so is not a planning issue. Trade diversion from Waitrose in the Bircherley Green shopping centre is forecast to amount to an impact of around 10%. Although it is a less successful branch of the chain, its floorspace means that it is not conducive to bulk shopping which generates high turnover and it has only recently introduced Sunday trading. That does not mean it is not profitable. It competes with Tesco, although its turnover fell by around a third when Tesco opened. The store serves mainly 'top-up' or 'basket' shoppers and functions in a different market to that of the proposed SSL store. There is no suggestion that it would close and Waitrose

³¹ SS/7/A Sect 8, SS/7/C Plan A & Table 1, SS/3/C App 8, SS/18, SS/19 Paras 99-107

³² B11, SS/3/A Paras 7.34-7.35

³³ SS/7/A Sects 5 & 6

³⁴ SS/7/A Sect 6, SOCG Para 2.34

has not objected to the proposal. Indeed, the owner of the Bircherley Green shopping centre has indicated that an extension to the store is being contemplated. M&S Simply Food also operates in a niche market towards the edge of the town centre and competes with the nearby Tesco.³⁵

- 4.2.24. The impact on the vitality and viability of Hertford town centre would be acceptable. Indeed, the proposal would benefit the town centre due to its proximity and the additional trade that would be generated by additional linked trips. The proposal would be in accordance with the objectives of PPS6, RSS Policy SS6, and LP Policy STC1.³⁶

4.3. Design and Heritage Matters

Design

- 4.3.1. The proposed store has, from the beginning, been a bespoke design rather than a standard format. The layout of the proposed store responds to, and integrates with, the existing listed Brewery buildings on the site and would safeguard their future. The store would be separated from the listed building by a glazed link. By locating the store adjacent to the listed building, the floor level would be above the designed flood level and an existing sewer in Hartham Lane would be avoided. Service access would be from Railway Approach away from the residential development on Folly Island and would allow the River Lea to be opened up for public enjoyment. The store elevations would be of brickwork with frameless glazing and the pitched roofs would be tiled with sheeting to the flat roofs. Materials would be of a similar quality to the listed building.³⁷
- 4.3.2. The store has been designed to obtain at least 10% of its energy use from local renewable sources. Natural light would be provided, together with the use of light and reflective materials for the sales floor. The roof lights would allow natural ventilation. Existing boreholes on the site, used by the brewery, would be used for washing and drinking water, and rainwater harvesting would provide grey water for the warehouse facilities. A biomass boiler would also be provided.³⁸
- 4.3.3. The design has been informed by feedback from a public exhibition in June 2007 and from various statutory consultees. English Heritage (EH) offered constructive criticism, which has been addressed in amendments to the design reducing its bulk, remodelling of the east and north elevations, and the refined form of the canopy. Although HCS considers that more gables should be included this would make the elevation busy and compete with the listed building. EHDC's conservation officers, the local Architect Advisory Panel and HCS have all commented. The design was praised by the Panel in March 2008 and there was no criticism of the design by HCS in minutes of its meetings in February and July 2008 or in its letter of 3 October 2008.³⁹

³⁵ SOCG2 Para 2.32, SS/7/A Para 8.6, SS/7/D, F3 Letter from Diageo Pension Trust

³⁶ SOCG2 Para 2.35, SS/19 Para 117,

³⁷ SS/5/A Sect 4, SS/19 Paras 42-43

³⁸ SS/5/A Para 4.17

³⁹ Mr White IC Day 4, SS/5/A Sect 3, SS/5/C Apps 3A, 3B, 3C & 3D, SS/19 Paras 46-48

- 4.3.4. The design has also been assessed against the advice and guidance in *By Design: Urban Design in the Planning System – Towards Better Practice, Building in Context, and Going to Town – Improving Town Centre Access*. The objectives of PPS1 for sustainable and high quality design would be more than met, connections between the residential areas, the town centre, the Hartham industrial area, Hartham Common and the riverside would be strengthened. The proposal would integrate into the grain and urban form of Hertford improving the built and natural environment. The listed Brewery building would be repaired and made accessible to the public and the modern 'Lager Building' would be removed. Meetings have also been held with the local crime prevention officer, and the police architectural liaison officer to ensure the store would contribute to a safe inclusive town.⁴⁰
- 4.3.5. Whilst the HCS now criticises the level of detail provided, neither the EHDC nor EH asked for further detail and the information provided was considered adequate to grant listed building and conservation area consents. The subjective views of HCS's witness, whilst sincere, would not justify refusing the application.⁴¹

Listed Building

- 4.3.6. Use of the Grade II listed Brewery building ceased in 1997 and, although it has been secured, no regular maintenance has since been carried out and the fabric is deteriorating due to damp and pigeon infestation, vandalism and theft of the roofing lead. The products of the brewing industry and the chemicals used to clean the equipment have also contaminated the fabric of the walls and floors, and corrosion and physical damage have affected the extensive wrought and cast iron architectural elements that give the brewery much of its character. The works would cost around £2.3 million.⁴²
- 4.3.7. The narrow plan and tapering section of the northern building is characteristic of tower breweries. All the upper floors are well lit but have relatively small inflexible floor areas for which it is difficult to identify new uses. The floor areas in the southern building are larger, albeit at varying levels, but are poorly lit. The height in the basement is relatively low and, although large, its use would be compromised by a grid of closely spaced iron columns and 13 large modern tanks.⁴³
- 4.3.8. The amount of work required to bring the building back into use, and the difficulty of adapting it for new functions, means that it is unlikely any new uses would, in themselves, be sufficient to ensure their future viability. This would depend on appropriate new development across the rest of the site. HCS's doubts about the viability of the proposal are not well founded. A *Lettings Strategy* by Colliers CRE indicates that, once repaired and adapted, the listed buildings would be expected to generate a gross rental income of £250,000 pa from which annual maintenance costs of £45,000 and management fees of £37,500 should be deducted leaving a net income of £167,500 pa. To achieve this, capital expenditure of slightly more than

⁴⁰ A1, A15, A16, SS/5/A Sect 5, SS/19 Paras 57-65

⁴¹ SS/19 Paras 48-50

⁴² Mr Westerdale IC Day 5, SS/6/A Para 3.4

⁴³ SS/6/A Para 3.5

£370,000 would be necessary to create business units in a condition ready for tenants' occupation.⁴⁴

- 4.3.9. Investment in this historic asset, which is a striking symbol of Victorian industrial vigour and one of the most familiar buildings in central Hertford, should carry significant weight. The likelihood of some other philanthropic intervention if the proposal is not approved seems extremely remote. If planning permission is not granted the likelihood is that the building would continue to decline for at least the next five years and possibly longer.⁴⁵
- 4.3.10. An analysis of the special interest of the building informed the design proposals and the interface between the proposed store and the listed building. Specialist brewing equipment would be retained on display in the communal areas, and the industrial character of the building preserved. A 1930s link block between the north and south buildings would be demolished and the elevations revealed restored to their original appearance. SSL would use much of the ground floor of the northern building with a coffee shop on two floors. There would also be a reception for the business uses. The south building would be adapted for workshop, studio, gallery or community spaces. As more light would be required, rooflights would be inserted in the internal slopes of the roof out of sight. The repairs and adaptations have received the support of EH in a letter dated 17 December 2008.⁴⁶
- 4.3.11. The outcome would be a landmark building brought back to life as a new source of activity in the Conservation Area. Public access would be provided and there would be greater visibility of the listed building from Folly Island and Hartham Common.⁴⁷

Conservation Area

- 4.3.12. The context for the proposal is the Hertford Conservation Area, in particular the Hartham Sub-area identified in the Council's *Conservation Area Character Statement* as "dictated mainly by the McMullen Brewery complex which has two dominant buildings – the original building which is red brick and flamboyant, but compatible in scale and proportion with the town, and the modern 'Lager building' red brick with grey metal roofing and of large bulky proportion totally out of scale with everything else around". Commenting on Hartham Common the *Statement* says "on the industrial southern boundary, the buildings seen from the park, with the exception of the Lager building, still retain the scale of the town although the original 19th century brewery building is higher than its neighbours". The removal of the Lager building and its replacement with a building of appropriate size, scale and materials should be welcomed in principle, and the adaptation and re-use of the listed building would not merely preserve but enhance the character and appearance of the Conservation Area.⁴⁸
- 4.3.13. Not only would the listed building be renewed to the benefit of the special interest of the Conservation Area as a whole, and to the setting of the listed

⁴⁴ SS/6/A Para 3.5, SS/6/D

⁴⁵ SS/19 Paras 69-70

⁴⁶ SS/6/A Sect 4, SS/6/C App G

⁴⁷ SS/14 Acanthus Dwg's 123 and 121, SS/19 Para 76

⁴⁸ B9 Pages 29-33

Ekins building on the opposite side of Railway Approach, but the permeability of the Conservation Area would be improved with new routes threaded through the area for pedestrians and cyclists. The River Lea would be made less of a barrier to movement with a new bridge across to Folly Island and access to the riverside would be provided where it is not currently available. Planting and landscaping would assist in integrating the regenerated land and buildings into the town.⁴⁹

Archaeology

- 4.3.14. The County Archaeologist advised that the site is adjacent to the probable site of the northern of two Saxon burghs and potentially has significant remains. A condition to secure a programme of archaeological works was recommended and could be attached to any grant of planning permission. The proposal would therefore accord with LP Policy BH3 which reflects the advice in PPG16.⁵⁰

4.4. Transportation Matters

- 4.4.1. Although safety concerns were raised at the Inquiry, HCC, as the highway authority, is more concerned with congestion. However, HCC accepts that it has not carried out a balancing exercise to consider whether its concern about congestion might be outweighed by other material considerations.⁵¹
- 4.4.2. Whilst several planning policies refer to the desirability of 'tackling' congestion there is no policy at any level that stipulates any specific saturation level for a junction or an unacceptable increment in congestion. Judgement has to be applied. No-one disputes that the application site is in need of regeneration. However, any redevelopment of the site would generate additional vehicular, cyclist and pedestrian traffic in this historic town where there is little opportunity to improve the local road network. In the case of the proposed store, customers would already be on the wider highway network as they already have to shop and so would not be new trips generated. Rather they would be trips diverted to the application site and so would have an effect on the local road network.⁵²
- 4.4.3. Two alternative use scenarios have been considered. Firstly an office development of around 13,000m², and secondly, a mixed use development of 36 residential units and 5,388m² of office space. Trip rates based on TRICS information provided by HCC gives an indication of trip attraction for these alternative uses. Whilst the level of car parking would influence trip rates there is no evidence that a car free scheme would be economically viable in this location. It is most relevant to consider the commuter peaks as the offices would generate few trips at the weekend. The resulting flows indicate that in the more sensitive AM peak there would be more traffic at both the Hartham Lane and Old Cross junctions in both alternative scenarios than there would be from the proposed store. Alternative uses could, therefore, have a materially greater impact on traffic.⁵³

⁴⁹ SS/19 Paras 30-41

⁵⁰ SS/3/A Paras 9.18-9.20, SOCG1 Apps 2 & 4, C23 Report to January Committee Para 3.14

⁵¹ EHDC2 Para 4, SS/4/A Paras 5.4-5.12 & 5.141-5.160, SS/19 Paras 120-125

⁵² Mr Foot IC Day 3, SS/19 Paras 126 & 130

⁵³ SS/4/A Paras 5.104-5.113 & Tables 5.14 & 5.15, SS/19 Para 127

- 4.4.4. If town centre uses, including retail, are to be located in or on the edge of towns, and full and effective use is to be made of urban land, it is likely that new traffic would be added to the town centre road network. The application site is derelict land on the edge of the town centre close to bus stops and the bus station. There are numerous bus services and a financial contribution would go, in part, towards improving facilities at the bus station. For those walking or cycling, the accessibility of the town centre, the riverside and Hartham Common would be enhanced. A new path with public rights of way would be provided on the eastern side of the site adjacent to the river with a bridge across to Folly Island linking to the town centre. Hartham Lane would be stopped up and restricted to use by pedestrians, cyclists, and vehicles serving the operation of the brewery. These measures would reduce the need to travel by car and the offer of a home delivery service would further reduce trips. Contributions would also be made for enhancements of existing infrastructure including assisting delivery of another footbridge at Dolphin Yard, improvements to cycle and pedestrian facilities, a crossing at Port Hill, amendments to parking arrangements in the vicinity of the site, a residents parking scheme in the Port Vale area, and addressing 'rat-running' through Bengeo. Production of a Travel Plan, monitoring of traffic flows and management of the car parking would also be covered by a Section 106 Agreement. A new road would be provided connecting Station Approach to the existing car parks by the Common and would also serve the customer car park and servicing yard of the proposed store.⁵⁴
- 4.4.5. There would be space for three taxi stand spaces by the door to the store. A customer car park for 232 vehicles would be provided with 14 spaces for disabled customers and 10 for parents with small children. This translates to 1 space for every 21m² gross compared to PPG13 which permits a maximum of 1 space for every 14m². This is less than other SSL stores, and is more restrained than the Tesco store on Ware Road. A Car Park Management Plan would be produced to provide short stay parking and discourage long stay parking. The short stay period is anticipated to be 3 hours to allow linked trips before the parking rate would step up considerably. HCC accepts that, due to its proximity to the town centre and the likelihood of linked trips, the proposed level of parking would be appropriate.⁵⁵
- 4.4.6. Traffic conditions on the local highway network are typical of many historic market towns with congestion during peak periods and free-flowing conditions at other times. Three junctions, North Road/Cross Lane, Cowbridge Road/Hartham Lane, and Old Cross/Mill Bridge/St Andrews Street, were surveyed in the weekday AM & PM peaks and at midday and on the Saturday peak. Modelling indicates that there would be no noticeable changes at the former junction and it has not been considered further. Long queues were observed on the Old Cross/Cowbridge approach in the AM peak and on the St Andrews Street approach in the PM peak. The longest queues are in the AM peak on the Old Cross/Cowbridge approach, which is a time when supermarket traffic is not generally a concern. There is longstanding

⁵⁴ SS/4/A Paras 4.12-32, 4.53-4.56, 5.19-5.39, 5.101-5.103, 5.121-5.131, SS/4/C Figs JF2, JF5 & JF8, SS/17, SS/19 Paras 131-132, 134-136

⁵⁵ SS/4/A Paras 4.7-4.11, SS/19 Para 136

public concern about the congestion. The Old Cross junction is characterised by long all-red periods when pedestrians cross all arms of the junction.⁵⁶

- 4.4.7. Trip rates have been taken from the TRICS database for stores without petrol filling stations but with retail areas between 1,750m² and 4,250m² in edge of centre or suburban locations in England. It is considered that Hertford would have a lower trip rate and so a 15% reduction has been applied. The restrained parking would also have an effect. Whilst HCC has placed little reliance on this to be 'robust' it is considered that the HCC approach is overly pessimistic. Tesco have questioned the trip rates as those at its store are significantly higher. However, it is acknowledged that the Tesco store is significantly overtrading. Moreover, Sainsbury's would draw approximately 50% of its trade from Tesco reducing its trip rate to a similar level to that assumed for the Sainsbury's store. Whilst growth rates have been applied, it is not considered that the forecast growth would materialise, particularly during the commuter peaks when the network is busy.⁵⁷
- 4.4.8. Looking at the Old Cross junction, the traffic lights incorporate the MOVA signal control system that generates its own signal timings, cycle by cycle, varying continuously with traffic conditions to maximise the capacity of the junction. MOVA is already addressing the problem in the AM peak by extending the cycle time to 132 seconds, half as long again as in the PM peak when the cycle is 88 seconds. The system is already doing its job in the AM peak and there is no reason to think it would not do what it is meant to in the PM peak if the store were to open.⁵⁸
- 4.4.9. Notwithstanding the existing conditions, HCC is unreasonably pessimistic about the impact of the proposal. In the AM peak the degree of saturation (DOS) on the Old Cross arm of the junction is over capacity at 141% with queues of up to 170 vehicles. This is not claimed to be unsupportable. The impact of the proposal would be to increase the DOS to 142% with around 5 additional vehicles added to the queue and HCC does not claim that this would be unacceptable.⁵⁹
- 4.4.10. In the PM peak the existing DOS on the St Andrews Street, Old Cross and Mill Bridge right turn arms is 107%, 99% and 106% respectively. It is considered that if the store were allowed, and assuming growth and average rather than reduced trip rates, MOVA would reduce the DOS to 103%, 103% and 107%. This would be less than in the AM peak and queues would be less than 40 vehicles, between a third and a quarter of the AM peak queue lengths. Even if MOVA did not optimise the junction capacity, the DOS would be 117%, 128% and 110% with queues not exceeding 84 vehicles. Still less than the upper end of the existing AM peak range. On Saturdays the DOS is 107%, 104% and 107% with queues of up to 24, 30 and 23 vehicles. After the opening of the proposed store, and assuming growth and average trip rates, MOVA would reduce these to 92%, 96%, and 95% with queues of up to 19, 29 and 16 vehicles. Even if MOVA did not optimise the

⁵⁶ SS/4/A Paras 5.76-5.80 & Table 5.4, SS/19 137-141

⁵⁷ SS/4/A 5.55-5.60, 5.81-5.82, SS/4/D Paras 3.1-3.6

⁵⁸ SS/4/D App 1, SS/19 Paras 153-156

⁵⁹ SOCG4 Table 3, SS/19 Paras 142-146

capacity as expected, the DOS would be 123%, 116%, and 104% with queues of 50, 62 and 19 vehicles. This would be less than in the AM peak, which is not considered to be unacceptable. There is no fair objection on congestion grounds.⁶⁰

- 4.4.11. Turning to the Hartham Lane/Cowbridge junction, there would be no noticeable change in the AM peak. There would be increased queues on Hartham Lane but the junction would operate within capacity. The important question is whether the queue waiting to turn right into Hartham Lane would actually exceed 14 vehicles, therefore extending back into, and blocking, the Old Cross junction. At present there is an advisory 'Keep Clear' on the road at the junction and observations indicate that in practice drivers show courtesy and allow vehicles to turn in. There is no reason why this should alter. A queue of 14 or more vehicles would not occur in practice.⁶¹
- 4.4.12. HCC, and Tesco, raised safety concerns about the servicing arrangements for the proposed store. However, the Hartham area is a defined Employment Area that also has an established history of commercial vehicle movements using the existing road network. Whilst the existing footpaths are not ideal, there is no reason to believe that there would be an increased danger to pedestrian safety. Accident figures were submitted in the original *Transport Assessment* covering the period 1 August 2003 to 31 July 2006 and records for 1 June 2006 to 31 May 2009 have also now been provided. Over this period of nearly 6 years there has been steady use of the site by commercial vehicles, including articulated vehicles serving the brewery, but there have been no accidents involving heavy goods vehicles.⁶²
- 4.4.13. Following discussion with HCC during the Inquiry, additional swept path analysis, and entry and exit manoeuvres indicating 20mph forward visibility splays were submitted. These are based on a 13.5 metre vehicle, the size currently used by McMullens, and indicate a slight realignment of the wall around the servicing yard. It is agreed between SSL and HCC that if the size of delivery vehicle were to be restricted by condition to 13.5 metres, and the provision of visibility splays required, then the safety concerns would be adequately addressed. Moreover, there would be no need to restrict delivery hours.⁶³
- 4.4.14. As the Lower Bengoe Residents' Association (LoBRA) accepts, 'rat-running' in Bengoe has persisted for a long time. A study in 2006 indicated 153 southbound vehicles in the AM peak and 43 northbound vehicles in the PM peak. However, the data indicates that 64% of the traffic in the AM, and 89% in the PM, peaks originate in the Bengoe area and so may not be 'rats' at all. Various solutions have been suggested, an obvious one being to close Bye Street. HCC is constructing a PARAMICS model of Hertford to include the A414 and this will consider signalisation of junctions on the A414 with the aim of reducing the potential for long distance 'rat-running' through Bengoe and Hertford. In any event, the proposed store would not have a

⁶⁰ SS/4/A Paras 5.85-5.93, SOCG4 Tables 5 & 6, SS/19 Paras 147-148

⁶¹ SS/4/A 5.94-5.100, SS/19 Paras 157-159

⁶² SS/4/D Paras 2.32, 2.42-2.43 & 2.58, App D

⁶³ Mr Foot IC Day 3, Mr Jepson IC Day 2, SS/4/D Paras 2.31-2.60, SS/10, SS/11, EHDC/7/A Suggested conditions 23, 25 & 35

noticeable impact in the AM peak and so not influence the probability of 'rat-running'. In the PM peak, although the queues on St Andrews Street are predicted to increase, the average delay per vehicle is predicted to decrease. This would also be the case in the Saturday peak. The proposal would not therefore increase the propensity to 'rat-run'.⁶⁴

4.5. Flood Risk Matters

- 4.5.1. A *Flood Risk Assessment* was submitted with the application. The floor level of the proposed store would be set above the design flood level and the Environment Agency (EA) is satisfied that the development would be acceptable, subject to conditions that could be attached to any grant of planning permission. The proposal would comply with the aims of policy in PPS25, RSS Policy WAT4 and LP Policy ENV19.⁶⁵

4.6. Other Matters

- 4.6.1. The application site lies within an area designated as Employment Land under LP Policies EDE1 and HE8. Policy HE8 reserves the area 'primarily' for Class B1 and B2 uses but does not preclude other uses, still less other employment-generating uses. Even if the store were to be built, around 61% of the defined Employment Land would remain in B1 and B2 use. In any event, an *Employment Report* submitted with the application indicates that there is a plentiful supply of office space in the Hertford area and a similar surplus in the industrial sector. The proposal would itself generate a significant number of jobs, around 330 to 380, within the store and the listed building which could provide 'starter' type accommodation for new businesses. It is therefore considered that there is no conflict with LP Policy HE8.⁶⁶
- 4.6.2. Noise and disturbance, light pollution, air quality, antisocial behaviour, the effect on wildlife, and energy and waste management have been raised by local residents. An Environmental Statement (ES) submitted with the application concludes that acoustic screens would be necessary to mitigate noise during construction and a condition would require a piling method statement and details of noise emissions to be approved. There would be some additional vehicular noise, but in an urban location, and car park noise predictions indicate only a minor effect. In addition McMullen's yard used by forklifts would be removed. No mitigation is therefore proposed. The design of the lighting and its specification would comply with the standards set out in the Institute of Lighting Engineers 2005 Guidance Notes for the Reduction of Obtrusive Light and in any event the store opening hours, limited by condition, would also limit the impact of lighting on sensitive receptors. An ES relating to an earlier proposal on the site concluded there would be a negligible effect on air quality and so this is not included in the ES for this proposal. The ES also identifies that whilst there are some records of notable species within 1 kilometre of the site there are none on the site itself. Conditions would ensure that site clearance did not take place within the breeding season and make provision for the protection of bats. A Section 106 Agreement would make provision for an extension of

⁶⁴ SS/4/D Paras 2.28-2.30, SS/19 Paras 160-163

⁶⁵ C17, SS/3/A Paras 9.21-9.22, SOCG1 App3

⁶⁶ C8, SS/3/A Paras 6.25-6.33, SS/19 Paras 23-24

the existing alcohol ban area to prevent any displacement of antisocial behaviour. Energy and Waste Management are considered in a Sustainability Statement and a revised Sustainability Statement submitted with the application and would be ensured by condition.⁶⁷

4.7. Section 106 and Conditions

- 4.7.1. A Section 106 Agreement has been signed by the LPA, HCC, SSL and McMullen & Sons Limited. The weight to be attached to each provision is a matter for the Secretary of State. There is a relationship between the development and the objective of improving the public realm in areas where there would be increased pedestrian movements so contributions towards a design competition and implementation of the selected scheme would be material whilst a pedestrian bridge at Dolphin Yard could provide an additional route between the development and the town centre. The store would sell alcohol and the current alcohol ban area ends at the site boundary. Funding an extension of the ban area would help prevent any displacement of anti-social behaviour. Funding for a public arts project at the entrance to Hartham Common would be in accordance with LP Policy LRC4 and would enhance the development whilst a scheme for the maintenance and management of the community space for the first 5 years would ensure the spaces within the listed building were established initially, although several organisations have expressed an interest in taking this space over.⁶⁸
- 4.7.2. The transportation impact of the proposal means that there are a number of necessary measures relating to mitigation of the effects. These include, the provision of non-vehicular rights of way on the new riverside route, a contribution towards sustainable transport measures, the provision of a Travel Plan, management of the pricing of the car park to match adjacent car parks, funding for a new crossing of Port Hill, funding of traffic regulation orders related to parking around the site and residents parking in the wider Port Vale area, and a contribution towards a scheme to address increased 'rat running' through Lower Bengoe.
- 4.7.3. A number of planning conditions would be necessary to make the proposal acceptable and a list has been agreed with EHDC. These have been drafted in the context of the tests set out in *Circular 11/95*.⁶⁹

4.8. Conclusion

- 4.8.1. The decision by the democratically elected Members of the Council's Development Control Committee in February 2009, having thoroughly considered all the representations submitted, was that none of the objections could justify turning this project away. Knowing the town as well as they do, the Members recognised that this is the right development, at the right time, in the right place.⁷⁰

⁶⁷ Mr White IC Day 4, C3, C9, C18, EHDC/7/A

⁶⁸ SS/3/A Paras 8.1-8.4, SS/13/A

⁶⁹ SS/3/A Paras 9.23-9.24, EHDC/7/A

⁷⁰ SS/2 Para 27, SS/19 Para 168

5.0 The Case for East Hertfordshire District Council

5.1. Introduction⁷¹

5.1.1. The site is embedded in, and should be making a positive contribution to, the character of historic Hertford. However, since the rationalisation of brewery operations in the mid 1990s the site has been redundant and the listed Victorian Brewery building has been vacant. The reality is that without some wider redevelopment to fund the repair and restoration of the listed building the present detrimental impact on the character and appearance of the Conservation Area will continue. Whilst EHDC notes that HCC considers that there would be detrimental impacts on traffic, this has to be balanced against the benefits of the scheme. The application provides an opportunity to arrest the process of decline and should be taken.

5.2. Retail Matters

5.2.1. The retail experts who gave evidence at the Inquiry agree that there is a quantitative and qualitative need for both the convenience and comparison elements of retail floorspace, made up of the conventional elements of expenditure growth, reduced overtrading, and the clawback of leakage.⁷²

5.2.2. There is little scope for dispute about the level of expenditure growth, £5 million by 2011 within the PCA. HCS's concern that the short term consequences of the recession will limit the prospects for expenditure growth overlooks the derivation of the growth projections from long term past trends, including past recessions. Sensitivity testing shows the robustness of the projections, and further comfort is provided by the fact that the design year is now likely to be 2013 rather than 2011.⁷³

5.2.3. Tesco acknowledges the practical problems its customers in Hertford experience due to overtrading. Whilst it might prefer to solve those problems itself, and has submitted an application for an extension, applications are not commitments and extensions of non-town centre stores are treated in retail policy terms the same way as any other non-town centre retail development. The concern that overtrading derived from the benchmark of company averages should not be taken as an indicator might carry some weight if the overtrading were modest and there was no evidence of it causing detriment. Here the overall level of overtrading just at stores within the PCA is substantial at £14 million in 2011. Some £11.6 million of it occurs at Tesco in Hertford. Even if overtrading is limited to that derived from PCA residents' expenditure in PCA stores, it remains substantial at £12.4 million, of which Tesco still accounts for £10 million.⁷⁴

5.2.4. Food shoppers in the PCA are limited to a choice of only one full sized food store and the limited, albeit quality, range offered by Waitrose and M&S Simply Food. There is, therefore, a high level of leakage as shoppers seek a wider choice. The assessment of clawback is very conservative. It is limited

⁷¹ EHDC/2

⁷² EHDC/5/A 3.2-3.6, EHDC10 Paras 17-18

⁷³ EHDC/10 Para19

⁷⁴ A5 Para 3.1, D4 Paras 5.40, 5.42 & 5.68, SOCG2 Para 2.18, EHDC/5/D Paras 8-10, EHDC/10 Paras 21-21, SS/3/D Table 1

to Zone 5, recognises the presence of larger stores in the wider area, allows for 1 in every 2 of those shopping at SSL elsewhere, and for 4 in every 5 of those shopping at other operators' stores elsewhere, to continue to do so. There is no need for an explicit sensitivity test as even if the clawback figure is halved a comfortable margin of available expenditure would remain and no account has been taken of any clawback attributable to Zone 4 residents' who may be attracted to a SSL in Hertford closer than their existing store. There is, therefore, a quantitative need. The quantitative need for the comparison goods element of the floorspace has not been disputed by anyone.⁷⁵

- 5.2.5. Although HCS questions why need has been accepted now when the *Retail and Town Centres Study* didn't identify a need in 2008, Chase and Partners explained that the purpose of the *Study* was to inform the preparation of the Local Development Framework (LDF). It assumed that the market share of centres would be maintained and made no allowance for overtrading or clawback.⁷⁶
- 5.2.6. Given the need, a materially smaller store would be inadequate to provide a foodstore with a full range of goods. A small format store would not satisfy the needs of main food shoppers who either use the overtrading Tesco store or unsustainably travel further afield. The former Woolworth store would not be large enough and there is no sequentially preferable site within the town centre. Although the store would be larger than the minimum necessary to provide a full grocery offer it would also meet the requirements of online shopping that is sourced from the shop floor. A smaller store would also be unable to compete effectively with the Tesco at Ware Road.⁷⁷
- 5.2.7. A series of sites around the town were identified in the *Retail and Town Centres Study*, including the application site. Each was considered in the *Retail Assessment* that accompanied the application and it is agreed that only the brewery site would be appropriate. Indeed, the *Retail Study* recognised the potential of the site for retail development, provided that links from the site to the town's primary retailing area were provided. Sub-division of the proposal to allow them to be accommodated in existing units in the centre or in one or more central sites would, in this instance, be completely arbitrary and inconsistent with the advice in paragraph 3.18 of PPS6.⁷⁸
- 5.2.8. The location of the proposed store on the edge of the town centre, management of its car parking and the provision of an attractive, new pedestrian and cycle link from the store to the town centre would enable linked trips.⁷⁹
- 5.2.9. The deliverability of the Folly Island footpath/cycle link has been questioned, on the basis of an intervening land ownership. However, Land Registry plans do not record whether individual ownerships include any highways land. Where it does, the surface, including as much of the soil below the

⁷⁵ EHDC/5/A 3.7-3.9, EHDC/10 Paras 22-24 & 26

⁷⁶ B9, EHDC/5/D, EHDC/10 Paras 23-25

⁷⁷ EHDC/5/A Paras 3.10-3.14, EHDC/10 Para 27

⁷⁸ A5, B11, C6, EHDC/5/A Paras 3.15-3.23

⁷⁹ EHDC/4/A Paras 2.7-2.8, EHDC/10 Para 28

surface as the highway authority reasonably requires in order to discharge its functions, is vested in the highway authority. HCC's records show that the maintainable highway extends from the footway at the north west corner of Bull Plain, across the land that may be in an intervening ownership and then onto EHDC's land at Little Hartham. When EHDC's land is added to the highway land there is sufficient available to provide the proposed bridge, although there may be a need to adjust the precise alignment at the Bull Plain end. This is catered for by a Section 106 Agreement and conditions. Schedule 6 of the Section 106 Agreement requires the delivery of the link in order to benefit from the planning permission.⁸⁰

- 5.2.10. The provision of the link from Old Cross to Dolphin Yard via another bridge is necessary to maximise the opportunities to link the site with the town centre and St Andrew's Street. A contribution is sought in recognition of the wider benefits this would bring. The link is a desirable planning objective, although issues raised by the residents of Old Library Lane would need to be examined in the context of a planning application.⁸¹
- 5.2.11. The application site is accessible by a choice of means of transport including car, public transport, bicycle and foot. Measures proposed in a Section 106 Agreement would further enhance the accessibility of the site.⁸²
- 5.2.12. The proposal would take some trade from the town centre, primarily from the existing Waitrose. Whilst there might be less linked trips from the Tesco store due to the transfer of trade to the proposed store, there is no reason to think there would not be at least an equivalent number of linked trips from the Sainsbury's store. Moreover, those shoppers clawed back to Hertford from elsewhere would provide a further pool of linked trips. Policy does not seek to prevent change, but to safeguard the vitality and viability of town centres. The proposal would not harm the town centre, where even since the economic downturn the vacancy rate is below the national average, but would improve the overall attractiveness of Hertford as a place to shop. Given the lack of investment in the town centre in the recent past, the relative weakening of the overall offer compared to nearby centres, and the constraints of the historic centre, the proposal provides the best practical opportunity for Hertford to keep pace with the world at large.⁸³
- 5.2.13. The site is not allocated for comparison shopping and the Council's retail advisors did not suggest it should be allocated. The realism of any suggestion that comparison retailing should be provided in preference to the proposed store must be questioned given the absence of any evidence to show there is developer interest in such an option.⁸⁴
- 5.2.14. There would be no material impact on other centres and ASDA's tentative aspirations at Ware cannot carry any weight at this stage.⁸⁵

⁸⁰ HCC/5, EHDC/10 Paras 53-59

⁸¹ EHDC/10 Paras 60-62

⁸² EHDC/5/A Paras 3.32-3.33

⁸³ B11 Para 6.9, SS/7/A, F6, EHDC/5/A Paras 3.24-3.31, EHDC/10 Paras 20-31

⁸⁴ Mr Williams XE by HCS Day 5

⁸⁵ SOCG2 Para 2.34, F10, EHDC/4/A Para 3.3

5.3. Planning Matters

- 5.3.1. There is a difference of opinion between the highway experts on a number of technical matters. However, in the light of minor changes in the proposed servicing arrangements HCC no longer suggests that the scheme would result in unsafe highway conditions. All parties agree that the site needs to be regenerated and it is unrealistic to suggest that this could happen without some additional traffic generation or attraction. There has been no meaningful assessment of the traffic implications of any alternative development. Moreover, suggested alternatives have not been demonstrated to be viable in the current conditions, much less capable of funding the repair and reuse of the listed building.⁸⁶
- 5.3.2. Whilst there would be some increased congestion at peak periods, HCC does not object to the effects in the AM peak or suggest that there should be an embargo on all traffic generating development. The conditions that would result in the PM and Saturday peaks would, even on HCC's preferred assumptions, be materially less congested than in the AM peak. The Bengoe 'rat run' is a real concern to local residents for which no real solution has been proposed. Any connection between the proposed development and 'rat running' relates to the length of queues in the AM peak and this is not an HCC concern. In any event, HCC has not sought to bring the harm in terms of congestion into an overall planning balance.⁸⁷
- 5.3.3. Turning to character and appearance, any assessment has to start with a clear appraisal of what exists. The Hartham sub-area of the Hertford Conservation Area contains the historic McMullen's Brewery building. The River Lea is a key feature but is generally hidden from view as there is minimal access to its banks within the built-up part of the town. Hartham Common is also a principal feature being the largest green space within the Conservation Area and a focus for recreational activities. The characteristics are described in the LPA's *Conservation Area Character Assessment*.⁸⁸
- 5.3.4. HCS's criticism of the *Assessment* for not mentioning the Ekins & Co office is of no consequence as the listed Ekins building is visually subservient in scale to the Brewery and no-one has suggested that the proposal would have any effect on it or its setting. In any event, the effect on the Ekins building is assessed in the ES. The *Assessment* notes the detrimental impact of the Lager building and the distinction between the industrial character of the developed area and the open character of the Common. The listed Brewery building is in need of repair, and redundant operational buildings and the former public house and empty cottages contribute to a derelict appearance which has existed since Brewery operations ceased in 1997. Even in a benign economic climate the site remained unused. There is no evidence of deliberate neglect but without a beneficial use deterioration is an unfortunate but inevitable consequence. The heritage assets on the site are being wasted and the impact on the surroundings is negative.⁸⁹

⁸⁶ Mr Jepson IC Day 2, EHDC/10 Paras 36-37, 39-41

⁸⁷ Mr Jepson XE by EHDC Day 2, EHDC/10 Paras 38 & 42-43

⁸⁸ B9 Pages 32-33, EHDC/10 Paras 4-7

⁸⁹ C3 Volume 2 Paras 6.30-6.31 & 6.81, EHDC/10 Paras 7-9

- 5.3.5. There is a compelling need for regeneration. The proposal would repair and adapt the listed building, remove unsightly later buildings and replace them with a new building respectful in scale and form to the listed Brewery. The new use would generate activity. The riverside would be opened up and at least one new link to the town centre would be provided. Listed building consent and conservation area consent have already been secured. EH has been consulted and, following various changes to the proposal, has no outstanding matters of objection. Notwithstanding HCS's concerns there is adequate information to assess the merits of the design. The proposal would enhance the character and appearance of the Conservation Area and secure the future of the listed Brewery. These gains are a substantial benefit.⁹⁰
- 5.3.6. An initial archaeological appraisal was reported in the ES and HCC as the responsible authority is content that archaeological interests can be secured by a condition requiring a scheme of investigation and a programme of archaeological work prior to any development.⁹¹
- 5.3.7. The site is part of an Employment Area subject to LP Policy HE8. However, the Policy does not preclude other uses within a mixed development. The proposal would substantially increase the amount of A1 employment, which would be an economic benefit. Given the retail need and the lack of allocated sites to meet it, it is almost inevitable that a sequentially suitable site close to the town centre would be allocated for some other use. Even if there is not strict compliance with Policy HE8 there would be no detriment to the objective of the policy to secure the provision of employment. The application was supported by a *Flood Risk Assessment* which has been appraised by the EA and it is agreed that any risk can be addressed by conditions.⁹²
- 5.3.8. The balancing of competing considerations is a task that can properly, and competently, be undertaken by a democratically accountable Committee. Although Members reached a different conclusion to that advised by Officers, there is little evidence that the decision was made without an awareness of material considerations or influence by immaterial ones. Minutes of the Committee for 14 January 2009 show there was a full debate and HCC confirms that it clearly advised Members that the traffic issues were likely to be intractable. Members were not 'bounced' by an unexpected turn of events. The site has been unused since 1997 and Members were aware of the circumstances. SSL's aspirations for the site have been known since at least 2007. It is misconceived to complain that Members were wrongly influenced by the fact that SSL has the resources to regenerate the site. The realism of the delivery of any regeneration package is a material consideration, particularly where there is a pressing need because of the state of the heritage asset.⁹³
- 5.3.9. The report to Committee on 14 January 2009 notes that the proposal would meet the 10% renewable energy requirement in the RSS. Although concerns have been expressed by local residents, the report notes that the

⁹⁰ EHDC/4/A Paras 3.10-3.14, EHDC/10 Paras 11-15

⁹¹ C3 Volume 2 Section 7, EHDC/10 Para 16

⁹² EHDC/4/A Paras 3.6-3.7, EHDC/10 Paras 33-35 & 49

⁹³ EHDC/10 Paras 44-47

main impacts would be noise and air pollution due to traffic congestion. The report acknowledges neighbour concerns about loss of privacy and amenity, and a fear that the proposed bridge would lead to antisocial behaviour, but concludes that the routes would be well designed and overlooked and that the dwellings are in a town centre location, which already allows public access to the riverside supported by LP Policy ENV17 and providing a public benefit for the town. Antisocial behaviour already occurs and is considered to be a matter of management and policing but the car park would be closed off when the store was closed and a Section 106 Agreement would provide for an alcohol ban area to be extended.⁹⁴

5.4. Section 106 and Conditions

- 5.4.1. A planning obligation has been agreed between SSL, EHDC and HCC, on a without prejudice basis and its provisions meet the tests set out in *Circular 05/2005*. Whilst HCC as highway authority would wish to see greater provision for increasing bus services, this does not detract from the efficacy of the Agreement which EHDC considers adequate.⁹⁵
- 5.4.2. A design competition for the Old Cross/Bull Plain area would promote pedestrian links and the environment as well as mitigate traffic congestion impacts of the proposal within the town and Conservation Area, a concern of many objectors. A bridge at Dolphin Yard would improve connections with the Old Cross and St Andrew's Street area. A contribution towards its provision is necessary to integrate the proposal into the town centre and so would be directly, fairly and reasonably related to the proposal. The proposed bridge to Folly Island would integrate the development into the town centre and encourage linked trips and securing public rights of way for pedestrians and cyclists across the bridge is therefore necessary.⁹⁶
- 5.4.3. An existing alcohol ban extends to the southern edge of the Common. As the store would be on the edge of the current ban area and sell alcohol an extension of the ban would mitigate any displacement of anti-social behaviour. Management of the spaces within the listed Brewery building would secure its re-use in the long term and also secure wider social and economic benefits through its use by arts and community groups. A high quality of design is required by national and local plan policies, although there is no local plan policy that would specifically require the provision of public art. However, the site lies at the entrance to the Hartham Common area and a public arts scheme would enhance the quality of the completed design.⁹⁷
- 5.4.4. Whilst transport measures within the Section 106 Agreement are justified by HCC, EHDC supports the provisions. Funding would be provided for sustainable transport measures and a green travel plan would be required. The management and pricing structure of the car park would be controlled, a new crossing of Port Hill funded, together with a residents' parking scheme for nearby residential roads and traffic regulation orders to address

⁹⁴ C23 Paras 7.67-7.71

⁹⁵ EHDC/6/A Para 3.1, EHDC/10 Para 50

⁹⁶ EHDC/6/A Paras 3.3-3.29

⁹⁷ EHDC/6/A Paras 3.31-3.37 & 3.59-3.61

parking close to the site. Funding would also be provided towards a traffic management scheme in the Bengoe area.⁹⁸

- 5.4.5. Agreement has also been reached between SSL, HCC and EHDC on the terms of appropriate conditions. EHDC considers that those conditions meet the tests set out in *Circular 11/95*. Amongst other matters these would address the concern of some residents about wildlife, and particularly bats.⁹⁹

5.5. Conclusion

- 5.5.1. The evidence makes it clear that the balance drawn by the Members was the correct one. There is a real need to resolve the future of the site and bring it back into use for the good of the town. The benefits that would be delivered are considerable in both heritage and retail terms not to mention wider environmental improvements. There would be a substantial package of mitigation measures to ameliorate the highway effects of the additional traffic on the local network. The balance strongly favours the grant of planning permission.¹⁰⁰

6.0 The Case for Hertfordshire County Council

6.1. Introduction

- 6.1.1. The application should be refused planning permission as the proposed development would have an unacceptable adverse impact on congestion. Moreover, the Section 106 Agreement would make inadequate provision to mitigate the impact of the proposal. HCC's concerns relate only to highway aspects of the application and it does not, therefore, seek to balance the clear adverse highways impacts against any of the claimed benefits of the scheme. However, the highway objections raised justify the refusal of planning permission.¹⁰¹

6.2. Transportation Matters

- 6.2.1. National policy, in PPG13, PPS6 and the consultation draft PPS4, seeks to reduce the need to travel, particularly by car and addresses the issue of congestion as one of several priorities.¹⁰²
- 6.2.2. In terms of the development plan, congestion is a key policy objective of the RSS. Policy T1 sets out 4 objectives including "to manage travel behaviour and the demand for transport to reduce the rate of road traffic growth". Achieving these objectives would lead to specified outcomes one of which is "improved journey reliability as a result of tackling congestion". Policy T8 states that local authorities should manage the local road network in accordance with their local transport plan objectives with a priority of "tackling congestion and its environmental impacts".¹⁰³

⁹⁸ EHDC/6/A Paras 3.38-3.57 & 3.62-3.63

⁹⁹ EHDC/10 Para 51

¹⁰⁰ EHDC/10 Para 48

¹⁰¹ HCC/2 Paras 1 & 4

¹⁰² A7 Para 4, A5 Paras 3.25 & 3.27, A4 Policy EC10, HCC/3/A Paras 3.2-3.12, HCC/6 Para 47

¹⁰³ B1, HCC/3/A Paras 3.13-3.15, HCC/6 Para 50

- 6.2.3. LP Policies TR1, TR2 and TR3 require the submission of a Transport Assessment where there would be significant movement and travel demand, and refer to guidance in *Roads in Hertfordshire 2001* that indicates that development 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”. LP Policy STC1 concerns town centre and edge of centre sites and sets out 4 criteria including “parking provision, access, and traffic generation are satisfactory, in accordance with the Council’s adopted standards”. Whilst the LP contains parking standards, there is no standard for traffic generation. None of the experts could think of a Plan that did include such a standard and it was accepted that it was plainly necessary to assess whether the traffic generation of the scheme was satisfactory. An objective of the LP for Hertford is “to continue to address the problems of traffic congestion in the town, through encouraging travel by means other than the car”.¹⁰⁴
- 6.2.4. The *Local Transport Plan 2006/7-2010/11* identifies congestion as a key issue in Hertfordshire. HCC is developing an *Urban Transport Plan*, carrying out PARAMICS modelling and investing in measures including works around Hertford. EHDC accepts that the proposal would have some adverse traffic impact, albeit that EHDC considers that the benefits would outweigh that impact.¹⁰⁵
- 6.2.5. The methodology in the *Transport Assessment*, and in the evidence on behalf of the applicant, is overly optimistic. Traffic would be attracted to the local network by the development and its servicing requirements. As a result, the Old Cross and Cowbridge/Hartham Lane junctions would operate over capacity for longer periods than already occurs. This would increase congestion and traffic queues and lead to peak hour spreading. EHDC’s Development Control Committee resolved to approve the scheme against the clear recommendation of Officers.¹⁰⁶
- 6.2.6. DfT *Guidance on Transport Assessments* indicates that trip rates should be derived from an appropriate database, such as TRICS, or an alternative methodology agreed with the relevant authorities. SSL’s view that trip generation figures should be reduced by 15% has not been agreed and is inappropriate. It has no empirical justification or means of verification and is based solely on judgement.¹⁰⁷
- 6.2.7. The main reasons put forward to justify the 15% reduction are the location of the site, parking constraints, and restricted growth. Trip rate data from four SSL stores was introduced to bolster the 15% reduction argument. The reduced trip rates adopted fall within the range based on TRICS and the four stores, but are towards the lower end. Moreover, all the PM peak TRICS rates are higher than the adopted trip rate, as are most of the Saturday peak figures. Of the four stores introduced, Lancaster and Liphook all exceed the adopted trip rates, and whilst Beckenham is lower in the PM

¹⁰⁴ B6, B4, Mr McGrath XE by HCC Day 3, HCC/3/A Paras 3.16-3.25, HCC/6/Paras 51-57

¹⁰⁵ B2 Para 3.1 & Sect 6, SS/4/A Para 3.31-3.32, HCC/3/A Paras 3.26-3.32, Mr Jepson XE by Sainsburys Day 2, HCC/6 Paras 58-59

¹⁰⁶ HCC/6 Paras 3, 5-6 & 9

¹⁰⁷ A17 Paras 4.60-4.61, Mr Foot XE by HCC Day 3, HCC/6 Paras 9-11

peak it is a Greater London store influenced by London travel patterns. The *Transport Assessment* excludes Greater London sites, and they are generally excluded from TRICS comparisons for Hertfordshire as they have different characteristics due to better transport links in London. The Nuneaton store data is lower than that adopted but survey data for that store on a different date was in excess of the adopted rate.¹⁰⁸

- 6.2.8. Turning to parking, whilst trip rates would be higher during the PM peak, overall parking would be lower than during the day. With average Friday PM trip rates the accumulated parking would only amount to 170, less than the 232 spaces proposed. Parking demand at the existing Tesco store exceeds supply on a Saturday but the overall parking accumulation is lower during the PM peak. In any event, SSL could not fully manage parking provision due to the two car parks close to the store. Whilst SSL does not consider it likely that customers would park outside the development the nearby car parks could be used if the SSL car park became full. Parking would not, therefore, operate as a constraint in the PM and Saturday peaks.¹⁰⁹
- 6.2.9. The applicant is sceptical that growth will occur due to existing network congestion. However, the National Traffic Model and TEMPRO provide growth predictions that enable an independent methodology to be used in all cases. Revised growth figures have been agreed between HCC and SSL that are much lower than when the *Transport Assessment* was produced. However, it is clear that growth of 17% between 2003 and 2017 remains likely in the area, 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 peak periods due to congestion, full growth could still occur in the off-peak period and at weekends.¹¹⁰
- 6.2.10. The 15% reduction approach relies on a number of optimistic assumptions. High pass by/diverted trip distribution percentages minimise new traffic in the immediate vicinity and the higher distribution of primary and pass by trips takes account of the site's location. Future growth is excluded minimising flows on the network. Whilst some elements may be present at times it is unrealistic to assume that all three reduced circumstances would occur regularly.¹¹¹
- 6.2.11. A key difference is SSL's reliance on optimisation of the TRANSYT modelling of the Old Cross junction to predict queues. This was not discussed pre-application or addressed in the *Transport Assessment* but appears to be an afterthought to tackle the material adverse impact on the junction. The traffic lights at the junction are controlled by a MOVA system that monitors conditions and selects the cycle time to maximise the capacity of the junction. The MOVA guidance indicates that it gives the best return on costs when installed on heavily loaded and congested junctions. It is accepted that this is probably the reason it was installed at Old Cross. The guidance accepts that there could come a time when conditions change so much that

¹⁰⁸ Mr Foot XE by HCC Day 3, SS/4/A Table 5.2 & Paras 5.58-5.59, HCC/6 Paras 12 & 16-17

¹⁰⁹ HCC/3/A Table 5.3 & App 3, Mr Foot XE HCC Day 3, HCC/6 Paras 13-16

¹¹⁰ HCC/3/A 5.3.4-5.3.13, HCC/6 Paras 12 & 18

¹¹¹ C5 Paras 5.19-5.27, HCC/3/A Para 5.5.3, HCC/6 Paras 19-20

physical changes to the junction would be necessary but that is not possible in this case.¹¹²

- 6.2.12. MOVA reacts to bus priority and exit blocking, neither of which are modelled by TRANSYT. The applicant anticipates that MOVA would adapt the signal timings to make the junction work more efficiently when flows resulting from the store are added. However, the junction is over capacity now and it was accepted that it may not be practicable to run a higher cycle time. If MOVA could make the junction work more efficiently it would be doing so now. It is doing what it can, as demonstrated by the different cycle times in the different peak periods.¹¹³
- 6.2.13. In the AM peak the Old Cross junction is already at 141% saturation but would only rise to 142% post the proposed development. Although Sainsbury's considers that congestion should not be a problem if this is taken as a 'benchmark', this slight change in the AM peak contrasts with the significant change that would occur in the PM and Saturday peaks. Moreover, it was accepted that the optimised effect in the AM peak of reducing the queue along Cowbridge/Old Cross from 170 to 55 would not occur as the cycle time is already extended to 132 seconds. In the PM and Saturday peaks the queues along St Andrew's Street would increase by between 19 to 22 vehicles and on Old Cross by 52 to 62 vehicles. The degree of saturation at Old Cross would increase by around 25%. Even when optimised the queue along Old Cross is predicted to almost double and increase by over 50% on both other arms. The impact on congestion would be significant and adverse.¹¹⁴
- 6.2.14. Considering the Hartham Lane junction, TRANSYT allows for vehicle turns to be made through gaps in the traffic but cannot model blocking back. It hypothetically stacks vehicles vertically so if a queue extends through a nearby junction no negative effect is registered. It is accepted that on the revised analysis carried out by HCC using PICADY input the average right turn queue from Cowbridge into Hartham Lane would increase to 14. On the basis of *Design Manual for Roads and Bridges* a car unit length is 5.75 metres and a 14 vehicle queue would therefore extend 80.5 metres. This average is likely to be exceeded 50% of the time and, as the Old Cross junction is only some 83 metres from Hartham Lane, the queue would block back into that junction. Whilst motorists presently act courteously and allow cars to turn across the advisory keep clear box, greater congestion would make them less likely to allow cars to turn right into Hartham Lane.¹¹⁵
- 6.2.15. SSL's approach relies on a theoretical extension of cycle time for both PM and Saturday peaks but there is no certainty this could occur or that it would mean the junction would operate more efficiently. HCC's assessment based on existing cycle times is appropriate, realistic and robust. When assessed using average trip rates, and allowing for growth, the impact of the proposal on St Andrew's Street and Old Cross would be significantly adverse.¹¹⁶

¹¹² SS/4/D App A, Mr Foot XE HCC Day 3, HCC/6 Paras 23-26 & 33

¹¹³ HCC/3/A Paras 6.2.1-6.2.13, HCC/6 Paras 27-30

¹¹⁴ SS/4/D Para 2.8, Mr Foot IC Day 3, HCC/3/A 6.4.2(iv) & Tables 6.1, 6.3, 6.4 & 6.5, HCC/6 Paras 34-37

¹¹⁵ HCC/3/CParas 6.7-6.11, HCC/6 Paras 42-46

¹¹⁶ HCC/3/C Paras 6.1-6.2 & Table 6.1, HCC/6 Paras 38-41

- 6.2.16. As a result traffic levels that currently occur during the PM peak of 17:00 to 18:00 hours would spread to around 15:00 to 19:00 with the AM peak extending by approximately 30 minutes. Although the applicant does not agree the peak will spread in that way, considering instead that MOVA would adjust to cope with the increased flows, SSL does accept that if it did there would be a significant adverse impact on traffic movements.¹¹⁷
- 6.2.17. The *Transport Assessment* considered two alternative use scenarios: a 13,000m² office scheme; and, a mixed use scheme for 40 dwellings, 1,000m² retail and 5,000m² offices. A variation on scenario 2, 36 dwellings, 5,388m² offices and no retail, was presented in Sainsbury's evidence. The latter would have a better impact on Hartham Lane, other than in the AM peak when it would only generate 11 more trips than the proposed store. At Old Cross the mixed use would generate more trips in the AM peak. However, the proposed store would generate a significantly higher flow throughout the day. Supermarkets have a very high car mode share. The average for English edge of centre sites is 71% trips by car in the week and 81% at weekends. There would be a greater potential to achieve a higher sustainable transport mode share with alternative site uses with an opportunity to reduce parking or require car free development.¹¹⁸

6.3. Section 106 and Conditions

- 6.3.1. A Section 106 Agreement would secure a number of positive highways and public transport enhancements necessary to mitigate the impact of the development should permission be granted. These obligations accord with *Circular 05/2005*. LP Policy HE9 indicates that measures will be sought to develop a more sustainable transport system in Hertford in accordance with Policy IMP1. LP Policy IMP1, which states that "As part of development schemes, developers will be required to make appropriate provision for...sustainable transport modes, highway improvements...and other infrastructure improvements", is supported by a *Planning Obligations Supplementary Planning Document (SPD)*.¹¹⁹
- 6.3.2. Measures include improvements to Hertford bus station, which has inadequate waiting and information facilities. There are no specific shelters for passengers or departure screens with future real time information. Given the trip generation, impact, and need to promote bus use, a proportional payment would be fairly and reasonably related to the proposal. Upgrading bus stops in the vicinity of the scheme would ensure the development was accessible and protect the stops from an increased risk of vehicles parking in them.¹²⁰
- 6.3.3. The *Transport Assessment* proposes a new crossing of Port Hill, a bridge link directly to Folly Island and the town centre, and assistance towards another bridge at Dolphin Yard. These are necessary to promote pedestrian links and mitigate traffic impacts. Similarly, a proportion of the sustainable transport contribution would be used to improve cycle links. Proposals to address congestion by the signalisation of the A414 Gascoyne

¹¹⁷ HCC/3/A Paras 6.1.1-6.1.8, Mr Foot XE by HCC Day 3, SS/4/D Paras 2.17-2.24, HCC/6 Paras 21-22

¹¹⁸ C5, HCC/3/A Sect 9, HCC/6 Paras 63-66, SS/4/A 5.104-5.113, Tables 5.14 & 5.15

¹¹⁹ B8, HCC/3/A Paras 3.23-3.25, HCC/6/Para 67

¹²⁰ HCC/3/A Para 10.2.19 a., & b.

Way/Parliament Square roundabout are being explored through the *Hertford Transport Plan* and a PARAMICS model. The roundabout, if signalised, could be linked with other signalised junctions around the town by a SCOOT system and a proportion of the sustainable transport contribution would be reasonable and justified. Physical improvements are not possible and, as the *Transport Plan* is not finalised and the SCOOT system has not been proved feasible, it would be appropriate for any contribution to be used flexibly.¹²¹

- 6.3.4. However, the Section 106 Agreement is considered inadequate in two material respects. Firstly, there would be provision for the payment of £50,000 a year for 5 years if reduced trip rates are exceeded. However, there would still be an adverse impact even if a 15% reduction in trip rates did materialise. The additional sum of £250,000 should, therefore, be provided without the need for further monitoring.¹²²
- 6.3.5. Secondly, the proposal would not promote the improvement of any bus service. HCC's *Bus Strategy* seeks to minimise walking distances from home or key attractors and sets maximum acceptable distances of 200 metres in town centres and 400 metres in urban residential areas. The bus station is approximately 440 metres, and the nearest bus stops some 290 metres, from the proposed store entrance. Even the latter is a considerable distance for people carrying heavy shopping. In any event, those stops are only served by the 333 Hertford-Bengeo service that does not operate after 18:30 or at any time on a Sunday. The nearest bus stops on other routes, 8 regular services, are on Mill Bridge about 325-345 metres from the store entrance and a number of services into the bus station are only 1-2 hourly.¹²³
- 6.3.6. Improvements sought by HCC have been costed at around £200,000 and this figure has not been challenged. There is a clear need, in accordance with LP Policy TR1(c) to improve bus services if the development is to be properly accessible by means other than the private car. This is in addition to, and not an alternative to, improvements to the bus station and bus stop infrastructure.¹²⁴
- 6.3.7. The proposal would include the construction of a footpath/cycleway and bridge link to connect the development site to Bull Plain via a three metre wide route along the bank of the River Lea and across onto land at Little Hartham, Folly Island. The ability to provide this has been questioned. HCC maintains records of the extent of public highways, including public rights of way as recorded on the Definitive Map, and these show that the highway in this location includes land at Little Hartham, Folly Island. HCC supports the provision of this route should the development be permitted but acknowledges that there is a 'pinch point' of 2.96 metres where the route would connect with the footway of the existing highway. If the owner of the land does not consent to the dedication of part of the land for the purposes

¹²¹ HCC/3/A Para 10.2.19 c., d., & e.

¹²² HCC/3/A Paras 10.2.3-10.2.5, 10.2.8, HCC/6/Paras 67-70

¹²³ HCC/3/A 4.7-4.10, 8.1.6 & App 2, SS/17, HCC/6 Paras 63-66

¹²⁴ HCC/3/A Paras 10.2.13-10.2.17, HCC/6 Paras 71-73

of allowing the 3 metre wide access then HCC agrees that a reduction to 2.96 metres would be acceptable.¹²⁵

- 6.3.8. HCC originally objected to the scheme as it would have an adverse impact on highway safety due to the proposed access arrangements for HGVs. However, on the first day of the Inquiry the applicant proposed an alternative arrangement, including restricting the size of articulated lorries accessing the site to 13.5 metres in length. New swept path diagrams showed that the revised arrangements could be accommodated safely. Subject to the imposition of a suitably worded condition limiting the size of vehicle the matter is now resolved to the satisfaction of HCC and deliveries would not need to be restricted to certain times.¹²⁶

6.4. Conclusion

- 6.4.1. The applicant's *Transport Assessment* acknowledges that the proposal "raises difficult transport issues...[which] relate overwhelmingly to car borne access to the scheme", although it claims that a package of measures to maximise the benefits of the location and opportunities for non-car access to the store would reduce reliance on car-borne access and provide a suitable balance. HCC's concerns are based on a realistic and robust assessment whilst the applicant relies on several unwarranted and optimistic assumptions. The proposal would have a material and adverse highways impact and would conflict with both national and development plan policies and the objectives of the *Local Transport Plan*. The application should be refused.¹²⁷

7.0 The Case for Hertford Civic Society

7.1. Introduction

- 7.1.1. A survey of HCS members indicated around 60% opposition to the SSL store. HCS is opposed to the scheme for three reasons; firstly, the need for the store and its impact on the town centre; secondly, the unacceptable levels of traffic congestion and its negative impact on walking, cycling and bus travel; and thirdly, the external appearance of the store and the impact on the Conservation Area. HCS is content to rely on the evidence of HCC on traffic congestion.¹²⁸

7.2. Retail Matters

- 7.2.1. PPS6 sets out Government retail policy and requires applicants to demonstrate a need for retail development outside town centres. The need assessment in this case considers a number of contributory factors but there is an estimate or forecast in respect of each leading to uncertainties.¹²⁹
- 7.2.2. Population growth is envisaged in the RSS not just to meet local needs but also movement into the area. However, the collapse in the rate of house building, and challenges to the RSS in the Courts, would suggest that delivery of the planned growth will be at least delayed. This is not

¹²⁵ HCC/5

¹²⁶ HCC/6 Para 2

¹²⁷ HCC/6 Paras 74-77

¹²⁸ HCS/2, HCS/3/A Para 2.2, HCS/7 Para 25

¹²⁹ HCS/7 Paras 10 & 11

addressed in the assessment of need. Secondly, it is accepted that the rate of growth of expenditure per head immediately after a recession is exceptionally difficult to predict. Despite this, the applicant's forecasts only incorporated a 'most probable' figure prior to the Inquiry. Thirdly, world food prices are rising in real terms and are likely to continue to do so. This needs to be built into the equation. If a commodity doubles in price, twice the money would be needed to buy it but it would still take up the same floorspace. The turnover per square metre of floorspace would therefore increase. Finally, forecasts of clawback, inflow and overtrading are all based on professional judgement and given as single 'best estimate' figures.¹³⁰

- 7.2.3. In many types of business it is common to submit estimates and forecasts to sensitivity testing to enable decision makers to understand the range of outcomes realistically possible. It was accepted that no sensitivity testing was carried out in this case. HCS does not have the expertise to say the estimate of need is wrong but as each component is surrounded by uncertainties the need can only be regarded as unproven.¹³¹
- 7.2.4. It is estimated that 57% of the proposed store's turnover, some £11 million, would be taken from Tesco on Ware Road. This is about the amount that that store is assumed to be overtrading. Leaving aside the arcane definition of overtrading, there is no reason to suppose that this would all automatically transfer to the new SSL store. It would depend on the individual decisions of thousands of shoppers and could be higher or lower. It is a matter of informed judgement, but if there was a lower trade draw from Tesco it would increase the pressure on Waitrose and/or lead to SSL seeking to provide more comparison goods floorspace. Whilst this would be limited by condition, these can be varied or removed. EHDC might find it difficult to refuse a variation sought by what would by then be an important established retailer in the town.¹³²
- 7.2.5. Waitrose is the 'anchor store' of the town centre. £1.4 million of trade is estimated to be drawn from it, about 12% of its turnover. Waitrose has had competitive success recently, with the introduction of its essentials range, and so would be unlikely to close but the risk is there. Waitrose would pull out of Hertford if that was the right commercial thing to do. It was agreed that this would have a serious effect on older and less mobile people who access the town by bus as the walk from the bus station would be too far.¹³³
- 7.2.6. The *Retail and Town Centres Study* 2008 identified the need for 782m² gross additional convenience retail floorspace. The ideal position would be in the town centre and such a location exists in the former Woolworths building on Maidenhead Street which has 467m² at ground floor with a first floor over it. A small format version of one of the supermarkets not already present in the town could use this and although servicing would have to be from the street at the front this is established practice. This would introduce choice and competition whilst enhancing the vitality and viability of the town

¹³⁰ HCS/3/A Para 3.2, HCS/7 Paras 11-14

¹³¹ HCS/7 Para 15

¹³² HCS/3/A Para 3.3 & 4.2, HCS/7 Para 26

¹³³ HCS/3/A Para 4.1, HCS/7 Para 27

centre avoiding damage to existing comparison goods trade. Examples exist in other market towns with numerous independent retailers.¹³⁴

7.2.7. The propensity of SSL's customers to make linked trips to the town centre would govern the impact on other traders in the town. The route would not be long and would be relatively attractive and it is therefore probable that the percentage making linked trips would be similar to the percentage that makes linked trips from the existing Tesco. HCS's observations indicate this to be around 35%. Whilst SSL, and some locals, consider that customers would flock into the centre setting a virtuous circle of investment into motion, the alternative is that customers would do their grocery shopping and drive off. A decline in town centre footfall, or the turnover of some of the more marginal traders could trigger a spiral of decline. The matter is one of judgement and the outcome uncertain.¹³⁵

7.2.8. The impact on the town centre is highly uncertain. Whilst there could be increased footfall in the town centre it could also go into permanent decline as trade is siphoned off by major supermarkets on its eastern and western edges. In the light of this uncertainty a precautionary approach should be taken.¹³⁶

7.3. Transportation Matters

7.3.1. Although no evidence was presented on motor traffic, it is at the core of HCS's objection. The impact on congestion would be totally unacceptable and HCC's case is fully supported. Whilst the existing level of congestion is tolerated, it is not acceptable. The inappropriate use of residential streets for 'rat-running', suffered by the Bengeo residents, is largely caused by the existing congestion at Old Cross and is far from acceptable. The expert evidence about the MOVA system is contradictory but the onus is on the applicant to demonstrate that the scheme would work. In the absence of any examples of where it has resolved congestion problems elsewhere the evidence of HCC, which would be left 'holding the baby', should not be rejected lightly.¹³⁷

7.3.2. Turning to alternatives to the car, SSL's case rests on two factors: the potential for use of alternative modes such as walking, cycling and bus travel; and the fact that the location of the store would be more easily in reach of people from some parts of the town. However, this is not backed up by hard information. There is no mention of quality issues such as the perception of danger for walkers and cyclists from increased traffic, and the lack of integration of bus travel and delays to services. Nor is there mention of those heading for the town centre along Cowbridge and St Andrew's Street who may be deterred by increased traffic.¹³⁸

7.3.3. Descriptions of modes other than the car are limited and it is difficult to see how the pedestrian and cycle links, and the other Section 106 measures, would lessen the impact on the Cowbridge/Old Cross area. People might be unhappy to have a shared pedestrian/cycle route and the route might not be

¹³⁴ HCS/3/A Para 5

¹³⁵ HCS/3/A Paras 4.2-4.3, HCS/7 Paras 28-29

¹³⁶ HCS/7 Para 30

¹³⁷ HCS/7 Paras 31-32

¹³⁸ HCS/4/A Paras 4.1.1-4.1.2 & Sects 5-8, HCS/7 Paras 34-35

one people want to travel. Bus users would have better information, and shelter from bad weather, but might not want to walk nearly half a kilometre with heavy shopping in bad weather to find their bus delayed due to increased congestion. There has been no attempt to measure actual impact. Whilst the store may be more accessible for some, particularly those living in Bengoe and Port Vale, it would be further from others and those from the south and east of the town might well continue to use Tesco or Waitrose.¹³⁹

- 7.3.4. Understanding and assessing non-car modes is essential in this case and strongly recommended by Government *Guidance on Transport Assessments*. The extent to which people in Hertford would gain is not known as techniques and data to assess the overall balance have not been used. The lack of such evidence is worrying.¹⁴⁰
- 7.3.5. LP Policy STC1 supports retail development on edge of centre sites where parking provision, access and traffic generation are satisfactory in accordance with EHDC's adopted standards. As there is no standard for traffic generation it is argued that the policy does not apply. However, the policy also requires traffic generation to be satisfactory. Moreover, the explanatory text makes clear the objective is to reduce traffic generated by development as far as is possible. In this case the impact of traffic generation is not satisfactory and the proposal would not, therefore, be in accordance with LP Policy STC1.¹⁴¹

7.4. Design and Heritage Matters

- 7.4.1. The starting point is PPS1 which states that "Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted". The quality of the surrounding Conservation Area has not been adequately considered and important features such as the listed Ekins Building have not been mentioned. The Conservation Area does not solely involve the listed Brewery with only surgical demolition required to improve it. As a result the proposed store would be out of character with the scale and texture of nearby buildings whether it be the new bridge to Folly Island and the town centre or along Hartham Lane past the McMullen's offices and into town via Old Cross.¹⁴²
- 7.4.2. An example is the widely spaced pediments with heavy stone surrounds which do not continue the rhythm of the Brewery building. This would be emphasised by the glass canopy that would disrupt the rhythm and intrude on the pediments through glitter and reflection. Windows are drawn as single lines and there is insufficient detail to justify planning permission. Despite the presence of the so-called atrium there is little detail of how the store would abut the listed brewery and no indication of how hygienic food cabinets would relate to the old brickwork.¹⁴³

¹³⁹ HCS/4/A Sects 5-8, HCS/7 Paras 36-39

¹⁴⁰ HCS/4/A Paras 3.3.4-3.3.5, HCS/7 Paras 39-40

¹⁴¹ HCS/7 Paras 8-9

¹⁴² HCS/5/A Paras 3.1-3.2, 4.3-4.10, & 4.21, HCS/7 Paras 41-42

¹⁴³ HCS/5/A Paras 4.16-4.17, 4.22-4.28, HCS/7 Paras 44-45

- 7.4.3. Works to the listed brewery have focused on its restoration to a structurally sound condition. However, only a superficial study of the wrought iron beams and concrete vaults has been carried out. Investigation of web corrosion of beams, corrosion of concrete reinforcement, and concrete cancer due to water, aggressive cleaning fluids and even horse urine have been left for later. Reliance has also been placed on building inspectors waiving modern structural requirements in relation to the listed building. Perspective sketches of the brewery courtyard were prepared before the appointment of the historic building specialists and did not include any detail. There are discrepancies between the sketches and the drawings, a 'kiosk' was added at a late date and is not shown on the sketches or landscape drawings, and may not even have been on the application drawings. It is not clear whether the listed building would be subsidised by SSL, put to a viable use by them, or whether it would be a profitable development exercise in itself. Floor areas in a *Lettings Strategy* do not reflect those on the drawings and a single rental figure has been assumed although it is accepted that the basement could only be used for storage. The viability of the scheme has not been proven. These matters could have misled members of the Development Control Committee.¹⁴⁴
- 7.4.4. The car park with evenly spaced trees and minimal screening would not improve the view from Folly Island. It is doubtful that there would be less noise from the McMullen's site but noise and lights from the car park from early morning to 22:00 hours would be detrimental to the living conditions of Folly Island residents. Whilst the preservation of Hartham Lane for pedestrians is emphasised, the first section would be dominated by the same McMullen's traffic that uses it now and, after a token barrier, Hartham Lane would become part of the store's car park. The footway in front of the store would be dominated by trolleys and there would be no benefit to the Conservation Area.¹⁴⁵
- 7.4.5. There is no overall view of the development from either Hartham or the Folly and the effect of exposing the 11 metre high wall of the retained brewery building on the southern edge of the car park has not been made clear. The overall effects of the disparate elements of the scheme have not been presented adequately. Overall, Officers were right to recommend refusal on design grounds.¹⁴⁶

7.5. Other Matters

- 7.5.1. The starting point is the development plan and its policies should be read in a common sense way in the context of the document as a whole. The site is within a designated Employment Area. On a fair reading of LP Policy HE8 it is clear that most of the development in the Employment Area should be for Use Classes B1 and B2. Other forms of development should be minor or exceptional. Although retail development also generates employment, it inevitably has extensive and important consequences for the functioning of the town, and the flow of traffic. If the authors of the Plan had intended to include retail in the range of employment generating uses encompassed by

¹⁴⁴ HCS/5/A Paras 4.11-4.15, HCS/7 Paras 48-50

¹⁴⁵ HCS/7 Paras 43 & 46

¹⁴⁶ HCS/5/A Paras 4.18, 4.19-4.21, HCS/7 Paras 47 & 51

HE8 they would have clearly said so. On that basis, the proposal is not in accordance with LP Policy HE8.¹⁴⁷

- 7.5.2. It is accepted that in deciding whether permission should be granted it is appropriate to weigh benefits that would, or might, flow from the scheme against the adverse effects. Whilst the works to the listed building are welcomed, there is concern about its viability given the sums which voluntary groups or small commercial users might be able to pay. The lettings agents appear to have estimated income based on twice the floor area shown on the drawings and have assumed a rental of over £13ft² for the whole although it is accepted that the basement would be difficult to use for anything other than storage.¹⁴⁸
- 7.5.3. Although the store would promote competition, it would be between two supermarkets of similar size selling a similar range of goods; hardly a real choice. Moreover smaller shops could close limiting choice. Whilst the new store might not lead to immediate job losses elsewhere, it is unbelievable that in the long term there would be a larger number of full time equivalent jobs in the industry as a whole. Employers are under pressure to maximise productivity to remain competitive. Any increase in jobs should be seen as temporary and heavily discounted. The provision of more parking spaces relatively close to the town centre is welcomed. However, the problem in Hertford is not availability but that the charging system is not user friendly. An overstay of a few minutes leads to a swingeing fine whilst in nearby towns it simply means paying pro rata for the additional time. If the SSL car park uses the same system the benefit would be slight.¹⁴⁹
- 7.5.4. Regeneration is another claimed benefit and it is agreed this is needed. HCS has referred to the development it would prefer to see but has not worked up a scheme. It is the responsibility of the planning authority to be pro-active in attempting to secure redevelopment in areas such as this. EHDC's stance is that the proposal should be welcomed as it offers to rescue the area but it should have engaged with the land owner when it became known that the land would become redundant. EHDC was unable to refer to any steps it had taken to examine other possibilities. Although the proposal would regenerate the area there is no evidence that it is the only, or best, way of achieving that end. It would be wrong to foreclose options that have not been explored by granting permission for the present proposal.¹⁵⁰

7.6. Conclusion

- 7.6.1. For the reasons set out HCS maintains its view that the proposal should not be granted planning permission.¹⁵¹

8.0 The Cases for Local Bodies and Residents

8.1. Supporters

¹⁴⁷ HCS/3/A Sect 4.5, HCS/7 Paras 2-7

¹⁴⁸ HCS/7 Paras 16-17

¹⁴⁹ HCS/3/A Para 4.4, HCS/7 Paras 18-20

¹⁵⁰ HCS/7 Paras 21-24

¹⁵¹ HCS/7 Para 1

- 8.1.1. **Mr Barber** was Town Centre Manager until 2008. Hertford is the County Town and the brewery site is the centre of the town's origins. The site is derelict and only large scale investment will revitalise it. There are only 6 key attractors in the town which is becoming over reliant on the service sector, largely at the expense of the clothing sector. Traders perceive that there has been a significant drop in footfall. Waitrose, now 27 years old, would not be able to cope with shoppers from the new housing proposed in the area and Tesco has been overtrading since it opened. Whilst everyone would like a return to the high street butcher and baker it is not going to happen in the short to medium term. Office space is not being taken up due to the lack of town centre parking spaces.
- 8.1.2. SSL, on its own, would not reverse this trend but a strong retailer on the edge of town working with town centre agencies would generate interest in visiting Hertford and increased footfall would attract more established High Street names. SSL must be required to encourage shoppers to visit the town centre by the proposed new bridge, signage, parking allowances, and cycle and footpaths. The extension of the town's CCTV system should also be required and measures provided to eradicate anti-social behaviour. Traffic in the town snarls up in the rush hour as you would expect. Traffic flows on the major routes have a knock on effect locally but are a matter for HCC on a more universal scale. Hertford is an ancient market town and if some local disruption is not accepted there will be no progress.¹⁵²
- 8.1.3. **Mr Brown** runs an interior design business on St Andrew's Street and has lived and worked in Hertford for 30 years. Whilst there has been housing growth recently, the town centre has not kept up. The town centre is strangled by roads and the river and there has been little development since the war. More choice and variety is needed, but there are not enough large space units. The centre needs to cross the river and SSL would be a catalyst. Although change is hard to accept, the proposal would be a bonus for the town centre and St Andrew's Street.¹⁵³

8.2. Objectors

- 8.2.1. **Lower Bengeo Residents' Association** (LoBRA) was constituted in 2005 after a resident was knocked down by a 'hit and run' driver. Congestion at Old Cross causes a proportion of traffic to divert through the narrow Victorian and Edwardian residential streets of Lower Bengeo. Since the introduction of a time limited right turn restriction into Cross Road the 'rat run' has extended north with access at The Avenue. 'Rat running' has been a growing problem since the late 70s when Port Vale was closed as a through route. Despite discussions with the highway authority there has been no positive outcome.
- 8.2.2. A questionnaire circulated to 400 households in the area brought 143 replies. Whilst 45% would like to see a SSL store if there were no traffic problems, 93% expect added congestion at Old Cross. Even without an increase in traffic on the 'rat run' the situation for residents is intolerable. LoBRA does not comment on the compliance or otherwise of the proposed store with national and development plan policies but they include

¹⁵² F6

¹⁵³ IC Day 5, F9

objectives that raise the expectations of residents. If the proposals are permitted, congestion at Old Cross will cause traffic to divert through the residential streets preventing HCC meeting the aspirations of central Government and its own commitments in the *Local Transport Plan*.

- 8.2.3. Traffic congestion and infrastructure could not have been considered properly at the Development Control Committee in January 2009 as they are not listed as main planning considerations. Transport issues should not be ignored just because a major company is prepared to take on a derelict site. The site is only detrimental to the appearance of the Conservation Area as the brewery has been allowed to run it down. Financial contributions to sustainable transport are to be applauded but will not have much impact on the increased congestion. Walking and cycling are not compatible with a large weekly shop at a supermarket. There should be sufficient monies to provide an effective solution that brings about a permanent change to the situation but the sum in the Section 106 Agreement would be insufficient to make a real difference in Bengeo. A condition should also be attached to any permission requiring a solution to the 'rat run' before development commences.¹⁵⁴
- 8.2.4. **Hertford Town Council** relies on the expertise of EHDC and HCC. It recognises the potential benefits that development on this site could bring. However, traffic movements due to the proposal would have a damaging impact on the quality of the town centre environment for traders and pedestrians. Any attempts to increase the capacity of the Hartham Lane junction must be resisted to preserve the historic built environment and the use of Station Approach to form the access to the store would appear awkward. Concerns remain about the safety of the pedestrian route along the line of the existing Hartham Lane. Light pollution from the site would adversely affect the character of the green swathe of Hartham and The Warren and there is concern about the conservation of the River Lea where it passes the site. The development would not preserve or enhance the character of the Victorian housing quarter on Folly Island and increased footfall due to the proposed bridge would bring risk of late night disturbance, vandalism and crime requiring extra policing.
- 8.2.5. Although change could bring benefits, the town's qualities derive from 'in scale' change and gentle evolution. There have been few exceptions to this for several centuries. The size and scale of the proposal would be inappropriate for the community spoiling the economic balance. The traffic it would attract would damage the quality of people's lives in Bengeo and the town centre. The proposal would not add to the special landscape quality of Hartham and would have a negative effect on the Conservation Area. The scheme would be detrimental to the Market Town culture, particularly the smaller shops, which the Town Council and residents have fought hard to keep.¹⁵⁵

9.0 Written Representations

9.1. Supporters

¹⁵⁴ IC Day 2, F4

¹⁵⁵ IC Day 2, F5

- 9.1.1. Competition is needed and the proposal could right the balance in the town drawing back trade that currently leaks to nearby centres.¹⁵⁶
- 9.1.2. There is a fear of congestion but there are a number of possible solutions to alleviate problems in the town centre, and in Bengoe. Alternative uses would only generate more traffic at peak times whilst traffic using the store could avoid such times. The proposal would provide additional parking for the town and the new bridge across the river would give access to the town centre. Cycle stand provision and cover, links to Sustrans route 61, a crossing of Port Hill and a riverside walkway and bridge to Folly Island would be appreciated by walkers and cyclists and could be guaranteed by a Section 106 Agreement.¹⁵⁷
- 9.1.3. The listed brewery buildings would be preserved and the area tidied up and regenerated. If development does not take place quickly the buildings will deteriorate beyond repair. The use of the buildings as galleries, workshops and artisans studios is to be welcomed and would enhance the culture of the town.¹⁵⁸

9.2. Objectors

- 9.2.1. Whilst Tesco was granted Rule 6 status, it decided not to appear at the Inquiry and its proofs of evidence stand as written representations. Tesco's main concerns are about retail matters and transportation. Tesco has traded from its 2,126m² edge of centre store at Ware Road since November 1988. It is easily accessible being adjacent to Hertford East Station, has a bus stop outside the store, and has strong pedestrian links to the town centre. Two hours free parking encourages linked trips.¹⁵⁹
- 9.2.2. Tesco has been looking to extend the store due to its success, and a significant identified shortfall in comparison shopping provision in Hertford. An application for a new 4,348m² store was refused in September 2008 and an application for a 351m² extension, which with internal reconfiguration would provide 588m² additional net floorspace, was submitted in August 2009. There is no net sales restriction on the existing permissions for the site and increased sales areas could be delivered without LPA approval.¹⁶⁰
- 9.2.3. The *Retail Assessment* and the *Retail Statement of Common Ground* suggest that Hertford town centre is vital and viable despite the downturn. However, this does not recognise the recent move towards service uses at the expense of comparison goods shopping. The retail offer for a centre of Hertford's size is very disappointing. EHDC's *Retail and Town Centres Study*, and the Officer's report to committee, identify the lack of comparison shopping as a weakness. Hertford is not well served by national multiple traders and is underpinned by its convenience goods shopping stores. Tesco's store feeds shoppers into the town through linked trips. Access from the store to the town is well established via a number of routes including the informal route through Bluecoats and surveys indicate that between 44%

¹⁵⁶ F1, F8,

¹⁵⁷ F1, F8,

¹⁵⁸ F1, F8,

¹⁵⁹ TS/3/A Paras 2.1-2.4

¹⁶⁰ TS/3/A Paras 2.5-2.10

and 53% of customers also visit the town centre. Sainsbury's claim that only 22% of Tesco customers make linked trips is not accepted.¹⁶¹

- 9.2.4. The only potential for improving Hertford's vitality and viability would be a comparison based shopping scheme to give the centre a critical mass. Although this prospect is dismissed by SSL due to there being no site and such a scheme being unviable, this overlooks the brewery site which the *Retail and Town Centre Study* recommended for a comparison shopping led mixed development. Moreover there is no substantive evidence to support the lack of viability. Allowing the proposal would remove the prospect of any significant uplift in comparison goods shopping or improvement in Hertford's vitality and viability.¹⁶²
- 9.2.5. A number of matters agreed in the *Statement of Common Ground* do not reflect the content of the *Retail and Town Centres Study* evidence base nor the history of advice provided to EHDC. The *Study* raised issues about the brewery site's relationship with the town centre and its potential for linked trips. Indeed, it expressed a preference for comparison goods led development on the site. The accessibility of the site is not as good as Tesco's site and there is no rationale that the SSL proposal could deliver anything like the level of linked trips as the Tesco store. Congestion leaving the proposed store would be a disincentive to making linked trips and if Sainsbury's customers avoided peak periods when shops would normally be open town centre traders would be even more unlikely to derive any benefits. As an edge of centre site not in accordance with the development plan the proposal must be subject to the rigours of national retail policy tests.¹⁶³
- 9.2.6. Whilst the Tesco store is not within the town centre and impact on it is a matter of competition, it is a key attractor to Hertford and impact on it would affect the number of linked trips and footfall in the town and the health of the centre as a whole. This has not been recognised. A diversion from Tesco of 57% of SSL's turnover would result in a 29% impact (£10.9 million trade diversion), would reduce the number of linked trips, and have a knock on effect on the town centre. The proposed store would not deliver a comparable level of linked trips not least as the route would involve crossing two bridges, is not yet established, might not be capable of being provided due to intervening land ownership, would be long and arrive at a secondary shopping street, and would not establish a 'retail circuit'. A further bridge between Dolphin Yard and Maidenhead Yard would offer little potential for linked trips to the town centre as it would be an even less direct route.¹⁶⁴
- 9.2.7. The original study area adopted to support the SSL's store was too large. Indeed, Tesco's household survey indicates that its store draws 85% of its trade from Zones 4 and 5. This is a more realistic catchment area. Stores within this catchment retain approximately 70% of convenience goods spending. Assuming that SSL drew 90% of its turnover from Zones 4 and 5 trade retention in the catchment would rise to 86% which is considered

¹⁶¹ C6, SOCG2, B11 Paras 5.37-5.39, TS/3/A Paras 5.1-5.23, TS/3/C Paras 3.1-3.5, 3.17-3.19

¹⁶² TS/3/C Paras 3.6-3.10

¹⁶³ TS/3/A Paras 3.13, 6.18-6.23, & 7.1-7.2

¹⁶⁴ TS/3/A Paras 4.9-4.15 & 6.4-6.15, TS/3/C Paras 3.13, 3.15-3.16, 3.22-3.30, TS/4/A Paras 2.18-2.22

unattainable. Hertford is a commuter town and an appreciable level of local expenditure will be spent elsewhere.¹⁶⁵

- 9.2.8. Reworking SSL's figures to reflect the smaller catchment area leads to a figure of £7.7 million overtrading in the catchment rather than the £14.2 million stated in support of the proposal. Overtrading at the Tesco store could be addressed by its proposed extension rather than a new store elsewhere. SSL suggests 10% of its convenience goods turnover would be drawn from beyond the wider (Zones 1 to 5) catchment. 5% is considered to be more likely. A 20% draw from outside the Zones 4 and 5 catchment is also unlikely. If this was the case only £15.35 million of the turnover would be from within the PCA. Need has not been properly assessed, which casts doubt on the impact conclusions.¹⁶⁶
- 9.2.9. Tesco's store, even if extended would be directly comparable to SSL's, albeit with slightly less convenience goods, and marginally more comparison shopping floorspace and SSL's offer would be similar to the Waitrose in the town centre. The catchment area of the proposed store retains 70% of convenience expenditure. To achieve any meaningful clawback a much larger store, similar to Tesco's refused proposal for its existing site, would be necessary. Tesco's replacement store was estimated to claw back £2.8 million but the Sainsbury's store is estimated to claw back £3.8 million despite only being half the size. Little evidence has been adduced to support SSL's claim. Given the availability, and relative accessibility, of larger stores surrounding the catchment the modestly sized proposal would not achieve any meaningful clawback of trade but rather cannibalise existing trade within the town and adversely impact on established businesses.¹⁶⁷
- 9.2.10. Very little traffic associated with the proposed store would be new on the wider network. However, there would be increased traffic at the Old Cross junction, which is already operating at over capacity leading to queues and delays at peak periods. The size of the store has been reduced by 12% since the original *Transport Assessment* leading to a 27% reduction in flows. It is now proposed to further reduce trips by an arbitrary 15%. TRICS is used due to its large database and a 15% reduction would distort this and not be in accordance with normal practice. Parking provision has only reduced from 240 to 232 spaces despite the reduced store area and would not suppress trip rates. Indeed, parking accumulation figures indicate that there would be empty spaces demonstrating there would be no restraint. Whilst it is suggested that 25% of the users of the listed building element of the development would park to the south of the town, in practice they would be likely to visit the site first to see if parking was available. All these trips should therefore be distributed via Hartham Lane to be robust.¹⁶⁸
- 9.2.11. Traffic growth might be limited by a congested network, but Tesco was required to apply growth in relation to its proposed redevelopment despite the local network being constrained. The growth rates approved by HCC for the Tesco scheme are significantly higher than those proposed by SSL, which underestimate the level of traffic on the local network. The traffic

¹⁶⁵ TS/3/A Paras 6.24-6.39

¹⁶⁶ TS/3/A Paras 6.40-6.50

¹⁶⁷ D4, TS3/A Paras 4.1-4.8, & 6.51-6.59, TS/3/C Paras 3.11-3.14, 3.31-3.36

¹⁶⁸ TS/4/A Paras 3.1-3.27, TS/4/B Paras 2.10-2.11, 3.3-3.4 & 4.2

distribution for the proposed store is too simplistic and should be based on the trade draw and catchment area. When traffic is distributed in a similar way to Tesco's Retail Impact Assessment, 25% would arrive from the north-west via Cowbridge with the remaining 75% passing through the Old Cross junction. SSL assumes a 50/50 split underplaying the impact on that junction.¹⁶⁹

- 9.2.12. The Old Cross and Hartham Lane junctions have been modelled using TRANSYT rather than a microsimulation model such as VISSIM which would be normal on a congested town centre network. TRANSYT cannot model MOVA or bus priority measures and the model does not include a fourth arm serving a small residential development. The existing network already operates at capacity during peak periods and traffic associated with Sainsbury's proposal would make the situation worse in a location where it cannot be mitigated. Underestimation of growth, together with an arbitrary 15% reduction in trip rates, gives an optimistic view of the number of vehicles that would be on the network. When the favourable trip distribution is added it is clear that the assessment is not robust but considers the most beneficial conditions possible. Even with these favourable assumptions the network still could not cope with the impact of the development. The junction that would be most affected is already at capacity. The proposal would be contrary to the aims of LP Policy STC1 and the *Local Transport Plan* and should be refused.¹⁷⁰
- 9.2.13. Alternative uses for the site have been raised. Employment or residential schemes close to the town centre could have restricted parking, would be likely to give rise to much lower traffic movements than the proposed store, and would result in considerably less parking on site. Sainsbury's argues that customers would avoid the peak periods but this is not borne out by traffic visiting the Tesco site in peak periods.¹⁷¹
- 9.2.14. The site layout raises safety concerns. Customers exiting the car park would skirt round the outside of the service yard and the level of visibility would be very poor. Goods vehicles turning into the service yard would not be able to see cars coming around the bend until the last moment and on leaving would be unable to see cars approaching around the bend when they had to decide to pull out. The rate of acceleration of lorries is low and cars would have a high chance of meeting a slow moving lorry.¹⁷²
- 9.2.15. The gist of other written representations made at both application and Inquiry stages is that there is adequate provision in the town and the retail capacity in the wider area is overloaded with large stores. There is no retail need. The store would be an inappropriate size for the town and there is no robust evidence that sequentially preferable sites are not suitable. Small entrepreneurs are needed to regenerate the heart of the town rather than a proposal that would be an overpowering competitive threat to the existing retail and market traders. Waitrose anchors the town centre and a 12% impact on it might affect its future investment decisions. A proposal to extend the existing Waitrose has been informally discussed with EHDC but

¹⁶⁹ TS/4/A Paras 3.28-3.50, TS/4/B Para 3.5-3.6

¹⁷⁰ TS/4/A Sect 4, TS/4/B Paras 2.12-2.16, 3.7-3.9 & 3.11

¹⁷¹ TS/4/B Paras 2.1-2.9 & 3.12

¹⁷² TS/4/B Sect 4

has not been taken into account in the applicant's retail case. The town is in the middle of a war between supermarkets and the Secretary of State should carefully consider the recent Competition Commission review.¹⁷³

- 9.2.16. The roads in the area are already overloaded and the Old Cross junction frequently blocked, which causes 'rat running' in the Bengoe area. Unlike the area around the Tesco store, there is no room to make improvements to the road network. The increased congestion would cause people to not visit the town. Gravel extraction at Bengoe has led to a 7.5 T weight restriction on roads there and so all commercial traffic to the proposed store would have to pass through the Old Cross junction. Although smaller lorries might be used that would mean more of them. There would be clashes with delivery lorries serving the units on Hartham Lane, some of which already park on the road. The increased number of vehicles at the Hartham Lane junction would conflict with pedestrian movements affecting safety.¹⁷⁴
- 9.2.17. Existing parking in the town is time limited and at a premium so the inadequate new parking would not attract new visitors. In any event, many of the 300 new employees would need to park all day. On-street parking in Hartham Lane would be lost.¹⁷⁵
- 9.2.18. A delicatessen and café in store would prevent people making linked trips. The new footbridge to Folly Island would not improve access but only duplicate an existing access via Thornton Street. The bridge would also be close to the rear of properties and would affect the living conditions of residents due to noise and disturbance, security and antisocial behaviour concerns. An electricity substation in the car park would produce strong electric fields that could affect health. The value and saleability of these properties would be adversely affected. The bridge would siphon footfall away from St Andrew's Street and The Wash. There is a healthy wildlife population in the area, including protected bats, which would be unacceptably impacted and a mature willow would have to be removed.¹⁷⁶
- 9.2.19. The use of Section 106 provisions to generate an unrelated planning application for a second bridge to Maidenhead Yard has been challenged by locals. The bridge is not essential and so fails the tests in *Circular 05/2005*. It would isolate footfall from the town centre. It would be a waste of money with no benefit and would not be acceptable to the EA or the Inland Waterways Association. An opportunity has been missed to experiment with a bus connecting major employers, schools, bus station and railway stations. This could be linked with management of the car park.¹⁷⁷
- 9.2.20. The East Herts Crime Reduction Partnership reports an increased fear of crime in the area and no consideration has been given to the increased opportunity for alcohol related anti-social behaviour. The existing car parks are used as a racetrack and loud music disturbs local residents. Additional parking would only make matters worse.¹⁷⁸

¹⁷³ F3, F11

¹⁷⁴ F1, F7, F11

¹⁷⁵ F1, F11

¹⁷⁶ F1, F11

¹⁷⁷ F1, F3, F11

¹⁷⁸ F11

- 9.2.21. The site is an opportunity to enhance the historic and natural environment and provide a transition from the green of the Lea Valley to the historic centre of Hertford but the proposal would destroy that opportunity and provide an appalling legacy for future generations. There is likely to be increased litter and an increased risk of flooding and aquifer damage. The proposal to demolish a former Victorian public house and cottages is cavalier and shows no regard for the Conservation Area. The architectural scale of the buildings would not harmonise with the surroundings. Offices and commercial units would place pressure on local landlords and their viability has not been proved. The proposal would be an overdevelopment of the site that would neither preserve nor enhance the character or appearance of the Conservation Area. The historic market town character of Hertford would be harmed. Residents on Folly Island would only have a view of a car park across the river and suffer from reduced air quality and noise and light pollution.¹⁷⁹
- 9.2.22. Energy saving and waste management proposals do not go far enough. Making 'green noises' and saying measures will be considered is not sufficient.¹⁸⁰
- 9.2.23. ASDA has a proposal for a store in Ware which is predicated on clawback and redistribution, as is the Sainsbury's in Hertford. Whilst not formally objecting to the Sainsbury proposal the Secretary of State is requested to be mindful of the ASDA scheme in reaching a decision on the proposed store.¹⁸¹

¹⁷⁹ F1, F3, F11

¹⁸⁰ F1

¹⁸¹ F10

10.0 Inspector's Conclusions

[The references in square brackets are to earlier paragraphs in this report]

10.1. Introduction

10.1.1. The proposal would involve the regeneration of a large, and mostly derelict, site near the centre of Hertford that has been redundant since the mid 1990s. The site lies within the Hartham sub-area of the Hertford Conservation Area and includes a Grade II listed Victorian Brewery building. Listed building and conservation area consents have been granted for "alterations to accommodate ancillary elements of the proposed foodstore, business/office space and community space, including an interpretation centre" within the Grade II listed Victorian Brewery building, and for demolition of buildings including the "Lager Building", a derelict public house and cottages and the truncation of a warehouse, subject in both cases to conditions. [2.1, 4.1.1, 4.1.3, 5.1.1]

10.2. Retail Matters

Statement of Matters i) & iii)

- 10.2.1. The background against which this retail proposal has to be considered is that, despite being vital and viable when assessed against the criteria in PPS6, and having less than the national average of vacant units, Hertford is a town vulnerable to decline. The historic town centre is sandwiched between the River Lea and the A414 trunk road. There are few national multiples represented in the town, which is becoming over reliant on service uses. There is a scarcity of good-sized well configured shops, and there are relatively few independents that could be described as key attractions to draw people into the town centre. Moreover, Hertford is surrounded by towns that have strong centres with good attractors. [4.2.1, 4.2.2, 4.2.4, 4.2.21, 8.1.1, 9.2.3]
- 10.2.2. Whilst the initial *Retail Assessment* identified a catchment area covering 5 Zones, I consider that Zones 4 and 5 would be the PCA from which the proposed store would be likely to draw the majority of its trade. This is similar to the catchment area adopted by Tesco in a retail assessment to support its application for a new store. Indeed, Tesco confirms that 85% of the trade at its existing store is drawn from Zones 4 and 5, which would therefore be a more appropriate and realistic catchment for Hertford. [4.2.6, 9.2.7]
- 10.2.3. The appeal site is in an edge of centre location where PPS6 requires the need for the development to be demonstrated. Whilst the lack of sensitivity testing has been criticised, alternative assumptions were considered during the course of the Inquiry. In terms of comparison goods, the turnover of the proposed store would be £2.29 million. The growth in comparison goods expenditure in the PCA between 2007 and 2011 would be approximately £40.3 million and the store would only account for some 5.7% of that growth. There is, therefore, a need for the comparison element of the proposal which could be limited by condition. Although a variation could be sought in the future EHDC would be have control. [4.2.5, 4.2.7, 7.2.1, 7.2.2, 7.2.3, 7.2.4]
- 10.2.4. The convenience goods turnover of the proposed store would be in the range £19.19 million to £19.82 million. Based on forecasts in *Experian*

Retail Planner Briefing Note 5.1, growth between 2007 and 2011 would be some £5 million leading to convenience goods expenditure within the PCA of £105.4 million. In my view, concerns that the level of growth would be limited by factors such as the collapse in house building, and rising world food prices overlook the fact that the accepted methodology of assessing growth is based on long term past trends that include past recessions. If the long term trend figure of £4.6 million or the forecast figure of £2.59 million from *Experian Retail Planner Briefing Note 7.1* are used instead, there would still be at least £2.73 million of residual convenience spending after allowing for the turnover of the proposed store. In addition to this, the design year was originally stated to be 2011 but is now likely to be 2013 leading to an additional increase in growth in the region of £5.65 million. [4.2.6, 4.2.8, 5.2.2, 7.2.2]

- 10.2.5. Hertford is a commuter town and some local expenditure will be spent elsewhere. It is estimated that approximately 70% of convenience goods spending is retained in the PCA indicating a significant level of unsustainable trips to shop outside the PCA. Consideration has only been given to leakage from Zone 5, Hertford itself, to ensure a robust assessment. Moreover, it has been assumed that only half of those who visit a SSL store elsewhere, which are collectively overtrading in the order of £17 million, and only 20% of those who visit other operators' stores elsewhere, would be retained. On this basis some £3.84 million would be clawed back. I accept that this is more than the £2.28 million that Tesco considered would be clawed back by its proposed larger store at Ware Road. However, it would only equate to 28% of the £13.7 million leaking to stores outside Zone 5 and there is a further £10 million leaking from Zone 4 that has not been considered. I therefore consider the assumption reasonable and attainable even though the proposed store would only be a comparable size to the existing Tesco store, if extended. Trade retention within the PCA would be increased from 70% to 73%, not 86% as Tesco maintains. [4.2.9, 4.2.10, 5.2.4, 9.2.7, 9.2.9]
- 10.2.6. A survey of people within Hertford town centre indicates that some 25% live outside the wider Zones 1-5 catchment and there might be a number of reasons why some of these people might shop in Hertford. Although Tesco considers it unlikely that 20% of turnover at the proposed store would come from inflow expenditure from outside Zones 4-5, including 10% from outside Zones 1-5, its store at Ware Road draws 15% of its trade from outside Zones 4 and 5. As that store is acknowledged to be significantly overtrading, with consequent difficulties that might put some customers off shopping there, I do not consider SS's assumptions to be significantly unrealistic. [4.2.11, 9.2.7, 9.2.8]
- 10.2.7. Surveys undertaken for EHDC, SSL and Tesco have similar study areas and, although individual turnover figures differ slightly the total convenience turnover only varies from £78.4 million to £82.3 million. When like for like comparisons are made, the overtrading from within the PCA is £12.4 million and there is £1.8 million of overtrading being drawn from outside the PCA giving a total of £14.2 million. Tesco's analysis, to support its latest application, confirms its store is overtrading by around £10 million and identifies total overtrading of some £22.4 million, albeit in a slightly larger catchment area. Whilst the methodology might not be agreed, both Tesco's and SSL's assessments reach the conclusion that there is significant

overtrading. In the light of this HCS's concern about the way overtrading is derived from company average benchmarks, albeit a common method of assessing overtrading, carries little weight in my view. Tesco identifies convenience capacity of £32.57 million in 2012 compared to SSL's identified capacity of £24.96 million in 2013.[4.2.12, 4.2.13, 5.2.3, 7.2.4, 9.2.8]

- 10.2.8. The Tesco store at Ware Road accounts for 40% of the money spent in Zone 5 food stores, more than 2.5 times the trade of the town centre Waitrose store, and trades at 150% of Tesco's company average. The problems this causes for customers is acknowledged by Tesco, which has been looking to extend its store due to its success, and indicates a qualitative need in Hertford. Whilst the proposal would introduce a new convenience retailer into the town increasing competition it would, in my view, stock a similar range of goods to the Tesco store and so range and choice would not be significantly increased. However, the proposal would also have the benefits of re-using a redundant site and refurbishing a listed building.[4.2.15, 4.2.16, 5.2.3, 9.1.1, 9.2.2]
- 10.2.9. EHDC's *Retail and Town Centres Study* does not identify the need for a new convenience store. However, the *Study* was undertaken to inform the emerging LDF and assumed that the market share of centres would be maintained and made no allowance for overtrading. I conclude, as did the retail experts who gave evidence at the Inquiry, that there is both a quantitative and qualitative need for the convenience and comparison goods elements of the proposal.[4.2.5, 4.2.14, 5.2.1, 5.2.5]
- 10.2.10. In terms of scale, I note the Town Council's view that the town has benefited from gentle 'in scale' evolution over centuries. However, a materially smaller store would not be able to stock a full range of goods and so compete with the existing Tesco store, and although the store would be larger than the minimum necessary to provide a full grocery offer, it would also meet the requirement for on-line shopping that is serviced from the shop floor. A smaller store would not be able to claw back an appreciable amount of trade and would only provide for top-up shopping and so compete with the town centre Waitrose and M&S Simply Food stores. In my opinion, the store would be an appropriate scale for Hertford.[4.2.17, 5.2.6, 8.2.5, 9.2.15]
- 10.2.11. Turning to the sequential test, it has been suggested that the town centre boundary might be extended to include the application site but this is merely speculation at present. The *Retail and Town Centres Study* identified a number of sites around the town and each has been considered in the *Retail Assessment* that accompanied the application. Only the brewery site would be appropriate and the *Study* recognised that this would be suitable for a retail use, provided links with the town centre were improved. The site is not allocated for comparison shopping and such an allocation has not been suggested. Whilst there is no evidence that a comparison led mixed use development would not be viable, no such proposal has come forward for consideration, even though the site has been disused since the 1990s. In this case sub-division of the proposal to accommodate different functions in different existing units would be arbitrary and not in line with advice in PPS6. The former Woolworth store would, with a ground floor area of 467m², be too small to compete with the existing Tesco store. The latter has ample parking whilst the Woolworth store fronts a pedestrianised area

and so could not easily cater for pass-by trade. The likes of Aldi, Lidl and Netto require larger, evenly configured spaces. I conclude that there are no sequentially preferable sites or units available within the town centre. [4.2.17, 4.2.20, 5.1.1, 5.2.6, 5.2.7, 5.2.13, 9.2.4, 9.2.5]

- 10.2.12. The likelihood of customers making linked trips to the town centre from the proposed store would be a major factor in its impact on the town centre. Regardless of whether the Tesco store is considered edge or out of town centre it is close enough to establish links with the centre. A survey for Tesco indicates that between 44% and 53% of its customers also visit the town centre via a number of established routes, including through the Bluecoats development that is not a public right of way and could be closed at any time. HCS estimate the percentage of linked trips is about 35% whilst SSL considers that only around 22% of Tesco customers also visit the town centre, the number is significant in providing footfall for town centre traders. In my view, the position of the Tesco store on a busy road with a 2 hour parking constraint would be as likely to preclude linked trips as would congestion on the roads surrounding the proposed Sainsbury's which would have a 3 hour parking constraint. [4.2.3, 4.2.18, 7.2.4, 7.2.7, 9.2.3, 9.2.5]
- 10.2.13. Whilst the route from Tesco would involve crossing a busy road and would arrive at the primary shopping frontage in Railway Street, the route from the SSL's store, albeit not yet established, would cross the river and arrive fairly quickly in the centre of town at Salisbury Square or in the Bircherley Green shopping centre. I consider that the route would be more attractive to pedestrians and cyclists than the route from Tesco and would therefore attract more, linked trips increasing footfall in the town centre which would lead to further investment. I do not consider that SSL's deriving 57%, around £10.9 million, of its turnover from Tesco creating a 29% impact on that store would have any significant knock on effect on the footfall in the town centre. [4.2.18, 4.2.19, 5.2.8, 7.2.7, 9.2.6]
- 10.2.14. Whilst the deliverability of the proposed footpath/cycle bridge link to Folly Island has been questioned, when EHDC's land is added to highway land there is sufficient to provide the bridge. There might be a need for a slight realignment at the Bull Plain end and there would be a pinch point of 2.96 metres on the 3 metre route but this would be acceptable to HCC. On this basis I consider that the link could be provided. [5.2.9, 6.3.7, 9.2.6]
- 10.2.15. Whilst EHDC favours an additional bridge to Dolphin Yard, some local residents object. Such a bridge might increase permeability in the area but it would not provide such a direct route to the town centre as the bridge to Folly Island. In my view, it would be unlikely to encourage many additional linked trips and I do not consider that this additional bridge is necessary to make the proposal acceptable. [5.2.10, 9.2.6, 9.2.19]
- 10.2.16. Welwyn Garden City, Stevenage, Harlow and Bishop's Stortford are larger towns and have better attractors in the likes of John Lewis, M&S, Bhs and Primark. Rental values in these towns indicate their strength. Hoddesdon and Ware are the nearest neighbours. Whilst rental values are slightly lower than in Hertford, the latter has a larger SSL store than that proposed, as well as Iceland, Aldi and Netto on the edge of the town. Ware town centre is convenience based with a Tesco in the town centre as well as a good representation of multiples. ASDA's proposal for a new store at Ware is at

an early stage and carries little weight. In my view, none of these centres would suffer any unacceptable impact as a result of the proposal. [4.2.21, 4.2.22, 5.2.14, 9.2.23]

10.2.17. Considering Hertford itself, I consider that the town centre is anchored by the Bircherley Green shopping centre which includes Waitrose, Boots and WH Smith's. Although Waitrose operates in a different market catering more for top-up shoppers, it would suffer an impact of around 10% or around £1.4 million. If it were to close it would have a disproportionate impact on older and less mobile people who access the town centre by bus. However, there is no suggestion that it would close and it has not objected to the proposal. Indeed, it has just started trading on a Sunday and the owner of the shopping centre has indicated that an extension is contemplated. SSL is anticipated to draw 57% of its turnover from Tesco resulting in a 29% impact on the store. However, it is not in the town centre, and has no policy protection. It would be a matter of competition. Although Tesco generates a significant number of linked trips, as noted above, I consider that the proposal would have the potential to generate more and there would not be a detrimental impact on footfall in the town centre. [4.2.2, 4.2.23, 5.2.12, 7.2.4, 7.2.5, 7.2.7, 7.2.8, 8.1.2, 9.2.6, 9.2.15]

10.2.18. Whilst the site would be accessible by a choice of means of transport, it would be less accessible than Tesco, which is close to Hertford East railway station and has a bus stop right outside. However, conditions and a Section 106 Agreement would provide for improvements to public transport, cycling and pedestrian routes. I consider that the site would comply with paragraph 3.4 e) of PPS6. [5.2.11, 9.2.5]

10.2.19. I conclude that the proposal would accord with the objectives of PPS6, RSS Policy SS6 and LP Policy STC1. It would meet an identified need, would not have an adverse impact on nearby centres or Hertford itself despite introducing an element of competition. Indeed, it would have the potential to increase footfall in the town centre to the benefit of the town as a whole.

10.3. Design and Heritage Matters

Statement of Matters i), ii), iv) & v)

10.3.1. PPS1 requires that "Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted". The proposed store would abut the listed brewery building and would be separated from it by a glazed link. Service access would be from Railway Approach, away from residential development on Folly Island. The design has been informed by feedback from a public exhibition, and comments from EH, the Council's Conservation Officers, the local Architect Advisory Panel and HCS. The design has been assessed against the guidance in *By Design, Building in Context* and *Going to Town* and meetings have been held with the crime prevention officer and the police architectural liaison officer. [4.3.1, 4.3.3, 4.3.4, 7.4.1]

10.3.2. The Officer's report to committee identified some concerns about the extent of parking and the elevation to Hartham Common. The HCS minutes of February and July 2008 and its letter of 3 October 2008 do not criticise the design or question the level of detail. Whilst HCS does now criticise the

design, the Advisory Panel praised it and the level of detail has not been raised by anyone else, including EH. In my view, the level of detail is adequate. Whilst a 'kiosk' or 'pavilion' was a late addition to the design, it is shown on application drawings 2500 SK 1007A and 1008A, albeit not on the landscape plan. However, landscaping could be the subject of a condition. Whilst the windows are drawn as single lines they would be frameless glazing and the drawings are therefore correct. In my view, the design would reflect elements of the listed building, such as the gables, without being busy and competing with it. I do not consider that the glazed canopy running across the front of some of the gables would detract from this. The height of the building would be less than the existing Lager building allowing views of the listed tower brewery from Hartham Common to the north.^[4.3.1, 4.3.3, 4.3.5, 7.4.2, 7.4.3, 7.4.5]

- 10.3.3. The listed Brewery has not been used since 1997 and is deteriorating due to damp, pigeon infestation, vandalism and theft. In addition, chemicals used to clean the brewing equipment have contaminated the fabric of the building leading to corrosion of the wrought and cast iron structure which contributes to the architectural and historic interest of the building. There is some evidence of preliminary investigation but in my experience it is not unusual that a detailed intrusive investigation has not been carried out at this stage. The upper floors of the northern building are small but well lit whilst the floor areas in the southern building are larger but poorly lit. The basement has a relatively low ceiling and although large there is a grid of closely spaced iron columns. In my view, the building would be difficult to adapt for new functions and, due to the amount of work required, any new uses would be unlikely, in themselves, to be viable. Indeed, even in a more favourable economic climate there has been no proposal for re-use of the building^[4.3.6, 4.3.7, 4.3.8, 5.3.4, 7.4.3]
- 10.3.4. The proposed store would subsidise the £2.3 million repairs and adaptation works to the listed building, although capital expenditure in the region of £370,000 would also be necessary to create units ready for tenant occupation. The architectural and historic interest of the building has informed the design and specialist brewing equipment would be retained on display. The industrial character of the building would be preserved. Part of the northern building would be utilised as a coffee shop attached to the store and it would also include a reception for other uses. The southern building would be adapted for workshop, studio, gallery and community use with new rooflights on internal roof slopes out of sight. The repairs and adaptations are supported by EH. Although a *Lettings Strategy* has been criticised in terms of floor areas and rental values that might be obtained, the estimated outcome in terms of running costs is a net income of £167,500 pa. Even if the assumed rental income were halved there would still be a net income of £42,500 pa.^[4.3.6, 4.3.8, 4.3.10, 7.4.3]
- 10.3.5. In my view, the use of the repaired and adapted listed building would only be sufficient to cover future ongoing costs and the repairs and adaptations would not in themselves be affordable without enabling development such as the store. Little criticism has been made of the works to the listed buildings in themselves and, in my view, the proposal would bring a local landmark building back into beneficial use and preserve its special architectural and historic interest.^[4.3.9, 4.3.11, 5.3.5, 9.1.3]

- 10.3.6. Although HCS has criticised the assessment of the Conservation Area, in particular the lack of consideration of the listed Ekins building, I consider that the character and appearance of the Hartham sub-area is clearly identified in the Council's *Conservation Area Character Statement* as "dictated mainly by the McMullen Brewery complex which has two dominant buildings – the original building which is red brick and flamboyant, but compatible in scale and proportion with the town, and the modern 'Lager building' red brick with grey metal roofing and of large bulky proportion totally out of scale with everything else around". The Common is a principal feature and in respect of views from it the *Statement* says "on the industrial southern boundary, the buildings seen from the park, with the exception of the Lager building, still retain the scale of the town although the original 19th century brewery building is higher than its neighbours". Although the *Statement* does not refer to the Ekins building, it is considered in the ES and I consider that an adequate assessment of the conservation area has been made.^[4.3.12, 5.3.3, 5.3.4, 7.4.1]
- 10.3.7. The proposal would involve the demolition of the Lager building and a former public house and cottages. In my view, the latter add to the appearance of dereliction and make little contribution to the character and appearance of the overall area, whilst the removal of the former would be a benefit to be welcomed. The listed brewery would be repaired and brought back into use and although the proposed store would have a large footprint, it would respect the design of the listed building and be lower than the Lager building allowing views of the listed brewery from the Common. In addition, the permeability of this part of the Conservation Area, including the historic housing nearby, would be improved by the new bridge to Folly Island and the riverbank would be naturalised and opened up to the public. Planting and landscaping could be required by condition to help integrate the proposal into the surrounding area. The southern end of Hartham Lane would still be used by traffic from the brewery but it would cease to be a through route. However, its line would be maintained through the use of hard and soft landscaping and although the footway past the store might be adjacent to trolleys, I do not consider that this would materially detract from the beneficial effect the proposal would have on the overall character and appearance of the area.^[4.3.13, 5.3.4, 5.3.5, 7.4.1, 7.4.4, 8.2.4, 8.2.5, 9.2.21]
- 10.3.8. I conclude that the design of the store would be acceptable and that the repairs and adaptations would preserve the architectural and historic interest of the listed brewery. The proposal as a whole would, in my view, enhance the character and appearance of the Conservation Area and would therefore accord with the objectives of PPS1, PPG15, RSS Policies ENV6 and ENV7 and LP Policies ENV1, BH6, BH10, and BH11.
- 10.3.9. The application site lies partly within an Area of Archaeological Interest. An initial archaeological appraisal is reported in the ES and HCC as the responsible authority recommends that archaeological interests can be secured by a condition requiring a scheme of investigation and a programme of archaeological work prior to any development. With that safeguard, the proposal would reflect the advice in PPG16 and comply with LP Policy BH3.^[2.1, 4.3.14, 5.3.6]

10.4. Transportation Matters

Statement of Matters i) & ix)

- 10.4.1. Traffic conditions are similar to those in many small towns, with congestion in the peak periods and more free flowing conditions at other times. Despite the existing congestion, it is generally accepted that the site needs to be redeveloped and, whilst policies seek to reduce congestion where possible, HCC as the highway authority does not suggest that there should be no development on the site. However, any redevelopment making full and effective use of the previously developed site on the edge of the town centre would generate additional traffic movements on the local network.^[4.4.2, 4.4.4, 4.4.6, 5.3.1, 6.2.1, 6.2.2, 6.2.3, 6.2.4, 7.3.5]
- 10.4.2. There is longstanding public concern about congestion, although due to the historic nature of the surroundings physical improvements would not be possible. There is a 7.5 T weight restriction on roads in Bengeo so all commercial traffic to the store would have to pass through the Old Cross junction, which is characterised by long all red traffic light periods when pedestrians cross all arms of the junction. Surveys show long queues on the Cowbridge approach to Old Cross in the AM peak and on the St Andrew's Street approach to the same junction in the PM peak.^[4.4.6, 4.4.9, 5.3.2, 7.3.1, 8.2.4, 9.1.2, 9.2.10, 9.2.16]
- 10.4.3. The highway experts disagree on a number of assumptions. Whilst the store would not generate new trips on the wider network, as people already shop somewhere, it would attract additional vehicles onto the local network. The size of the store has been reduced since the original *Transport Assessment* reducing flows by 27%. *DfT Guidance on Transport Assessments* indicates that trip rates should be derived from an appropriate database such as TRICS, or an alternative methodology agreed. SSL now considers that trip rates could be reduced by a further 15% based solely on professional judgement which is not agreed.^[4.4.7, 4.4.9, 5.3.1, 6.2.5, 6.2.6, 9.2.10]
- 10.4.4. Trip rates have been taken from TRICS for stores without petrol filling stations but with retail areas between 1,750m² and 4,250m² in edge of centre or suburban locations. Greater London sites were excluded as they have different characteristics due to better transport links. All the PM peak and most of the Saturday peak trip rates from TRICS are higher than SSL's adopted trip rate. Data relating to 4 Sainsbury's stores was introduced to support the 15% reduction but Lancaster and Liphook exceed the adopted trip rate, Beckenham is lower in the PM peak but is a Greater London store, and although data for Nuneaton is lower, survey data for that store on another day is in excess of the adopted rate. Whilst trip rates at the existing Tesco store are significantly higher than the adopted trip rates it is significantly overtrading and as Sainsbury's would draw around 50% of its trade from Tesco the trip rate there would drop towards a similar level to the SSL store.^[4.4.7, 6.2.7]
- 10.4.5. Another factor prayed in aid of the 15% reduction is that predicted growth rates would not be realised, particularly during commuter peaks when the network is busy. I accept that this might be the case, and note that revised growth figures have been agreed between Sainsbury's and HCC that are much lower than in the *Transport Assessment*. However, I consider that

growth of around 17% between 2003 and 2017 would be likely in the area as EHDC has a strategic housing requirement to 2021 of 12,000 dwellings of which 2,140 had been provided as at 2006. Whilst growth in the peaks might be suppressed to some extent by congestion, full growth could occur off-peak and at weekends and could spread the peak. It is anticipated that 25% of those using the listed building part of the development would park to the south of the town. Realistically I consider that they would at least try and park as close to the site as possible and so visit the site first to see if there was a space. This would add trips on the local network. [4.4.7, 6.2.9, 6.2.16, 9.2.10, 9.2.11]

- 10.4.6. It is claimed that restrained parking would also suppress trip rates. There would be 232 parking spaces giving 1 space for every 21m² compared to PPG13 which permits a maximum of 1 space for every 14m². This is less than other Sainsbury's stores and more restrained than the Tesco on Ware Road. A Car Park Management Plan would provide short stay parking of up to 3 hours and discourage long stay parking. However, whilst trip rates would be higher in the PM peak, the accumulated parking would be lower than during the day. Accumulated parking would only be 170 vehicles with average Friday PM trip rates. Even if the car park became full there are others very near by that could be used. I do not consider that parking would act as a restraint to suppress trip rates. [4.4.5, 4.4.7, 6.2.8, 9.2.10]
- 10.4.7. Another criticism levelled at SSL's traffic modelling is that a simplistic traffic distribution has been used and that rather than a 50/50 split of traffic only 25% would arrive at the store from the north-west via Cowbridge with 75% passing through the Old Cross junction underplaying the impact. In my view, it is unlikely that all the favourable assumptions would occur together and I do not consider that a 15% reduced trip rate has been justified. [6.2.5, 6.2.10, 9.2.11]
- 10.4.8. The traffic lights at the Old Cross junction incorporate a MOVA signal control system that maximises capacity in response to changing circumstances. MOVA is addressing congestion in the AM peak by extending the cycle time to 132 seconds compared to 88 seconds in the PM peak. Whilst SSL considers that MOVA would react to increased congestion in the PM peak HCC believes that MOVA may not be able to react further. Both the Old Cross and Hartham Lane junctions have been modelled using TRANSYT rather than a microsimulation model but TRANSYT does not model bus priority or exit blocking although MOVA reacts to them. [4.4.8, 6.2.11, 6.2.12, 6.2.15, 9.2.12]
- 10.4.9. HCC does not object to the increase in the AM peak where the DOS would increase from 141% to 142% with about 5 vehicles added to the queue of up to 170. In the PM peak the existing DOS on the St Andrews Street, Old Cross and Mill Bridge right turn arms is 107%, 99% and 106% respectively. With the store and assuming growth and average, rather than reduced, trip rates MOVA is anticipated to optimise the DOS to 103%, 103% and 107%. This would be less than in the AM peak with queues of between a third and a quarter of the AM peak queue lengths. Even if MOVA was unable to optimise the junction capacity, the DOS would be 117%, 128% and 110% with queues not exceeding 84 vehicles: still less than the upper end of the existing AM peak range. On Saturdays the DOS is 107%, 104% and 107% with queues of up to 24, 30 and 23 vehicles. After the opening of the

proposed store, and assuming growth and average trip rates, MOVA would reduce these to 92%, 96%, and 95% with queues of up to 19, 29 and 16 vehicles. Even if MOVA did not optimise the capacity the DOS would be 123%, 116%, and 104% with queues of 50, 62 and 19 vehicles. This would be less than in the AM peak to which there is no objection. [4.4.9, 4.4.10, 6.2.13]

10.4.10. Despite increased queues at the Hartham Lane junction in the AM peak it would operate within capacity and there would be no noticeable change. TRANSYT allows for vehicles to right turn through gaps in the traffic but cannot model blocking back into a nearby junction. It hypothetically stacks vehicles vertically and does not register a negative effect. At present the advisory 'Keep Clear' on the road at the junction is observed and drivers courteously allow vehicles to turn right into Hartham Lane. I see no reason why this should change, as congestion would not be greater than it already is in the AM peak. It would, therefore, be unlikely in practice for a queue of 14 or more vehicles to block back into the Old Cross junction. [4.4.11, 6.2.14]

10.4.11. Whilst the *Transport Assessment* deals more fully with vehicular movements than with other modes I do not consider this surprising. As HCS notes, people may not wish to walk in bad weather with heavy shopping either to the bus station or to home. The same would apply, although possibly to a lesser extent, to cyclists. I consider that most people doing a weekly shop are likely to use a car. Those living to the south and east of the town might still use the Tesco store but the proposal would be nearer than Tesco for those on the north and west sides of Hertford reducing trip lengths. A home delivery service would also reduce trips by car. Notwithstanding that, a Section 106 Agreement would provide for improvements at the bus station in the form of shelter from bad weather and real time information, and for improvements to bus stops in the locality. New public rights of way would be provided with a bridge to Folly Island, stopping up of Hartham Lane, links to SUSTRANS route 61, and a crossing of Port Hill benefiting pedestrians and cyclists. There would be amendments to on-street parking in the area and a residents parking scheme in the Port Vale area. I accept that some people might be deterred by the perception of danger due to increased traffic on local roads, but I consider that the proposal does make provision for use of modes of travel other than by car. [4.4.4, 7.3.2, 7.3.3, 7.3.4, 9.1.2]

10.4.12. Three alternative scenarios to the proposed store have been considered: a 13,000m² office scheme; a mixed use scheme for 40 dwellings, 1,000m² retail and 5,000m² offices; and, a variation on scenario 2 of 36 dwellings, 5,388m² offices and no retail. I accept that supermarkets have a high car mode share and that alternative uses might have a greater potential to achieve a higher sustainable transport mode share. However, in the sensitive AM peak there would be more traffic at both the Hartham Lane and Old Cross junctions with any of the alternatives than there would be with the proposed store creating a greater impact on traffic at the busiest times. Although SSL claims that customers could avoid the busiest traffic periods, surveys at the existing Tesco store indicate that they don't. Although the store would generate higher flows at other times during the day I consider these to be less critical. Car free development has been suggested but there is no evidence that any alternative scheme would be viable in the current economic climate, much less be capable of funding the repair of the listed brewery. [4.4.3, 5.3.1, 6.2.17, 9.1.2, 9.2.13]

10.4.13. Congestion at the Old Cross junction already causes 'rat running' through the residential streets in the Lower Bengeo area, and residents are concerned that increased congestion would make it worse. However, the proposed store would not have a significant impact in the AM peak when the problem is at its worst and although queues are predicted to increase in the PM peak, the average delay per vehicle is predicted to decrease. In my view the proposal would not materially increase 'rat running' and it would be disproportionate to require the proposal to completely solve this existing problem, never mind solve it before any development commences, as LoBRA would like. Any slight impact the proposal might have could be addressed by a Section 106 contribution towards measures to prevent 'rat running'.

[4.4.4, 4.4.14, 5.3.2, 7.3.1, 8.2.1, 8.2.2, 8.2.3, 9.2.16]

10.4.14. At the Inquiry, HCC withdrew its objections on safety grounds on the basis of revised access arrangements to the service yard improving visibility to an acceptable level, and a maximum lorry length of 13.5 metres. These measures could be ensured by conditions. Residents are concerned that additional traffic would clash with pedestrians crossing the end of Hartham Lane, and that smaller vehicles would mean more of them clashing with other vehicle movements, particularly as some lorries delivering to industrial units on Railway Approach already park on the road. However, the area is defined as an employment area and has an established history of commercial vehicle movements. Notwithstanding this, accident figures for a period of nearly 6 years show no accidents involving heavy goods vehicles. In my view, there would be no significant impact on highway safety due to servicing of the store from Hartham Lane/Railway Approach.

[4.4.1, 4.4.12, 4.4.13, 5.3.1, 6.3.8, 8.2.4, 9.2.14, 9.2.16]

10.4.15. Notwithstanding the insignificant impact the proposal would have on 'rat running' and safety, and the fact that measures to encourage transport modes other than the car would be provided, the traffic attracted to the local network by the proposal would have a detrimental impact on congestion in the PM and Saturday peaks, albeit that the resulting congestion, even using HCC's preferred assumptions, would not be as bad as already exists in the AM peak. The proposal would, therefore, be contrary to the aims of PPG13, PPS6, draft PPS4, RSS Policies T1 and T8 and LP Policies TR1, TR2, TR3 and STC1 and the Local Transport Plan. This has to be balanced against any benefits.

[6.2.1, 6.2.2, 6.2.3, 6.2.4, 7.3.5]

10.5. Flood Risk Matters

Statement of Matters i) & vi)

10.5.1. Residents are concerned about an increased risk of flooding and damage to the aquifer. However, a *Flood Risk Assessment* was submitted with the application and examined by the EA, which considered that provided a number of conditions were attached the proposal would be acceptable. Subject to these safeguards the proposed scheme would accord with the objectives of PPS25, RSS Policy WAT4 and LP Policy ENV19.

[4.5.1, 9.2.21]

10.6. Other Matters

Statement of Matters i) & ix)

10.6.1. The site is within a designated Employment Land area where LP Policy HE8 requires uses to be primarily B1 and B2. I consider that a common sense

interpretation of the policy would require most of the land to be in B1 and B2 use, not just in excess of 50%. In that case the proposal, leaving only 61% of the designated land in B1 and B2 use, would not strictly be in accordance with the policy aims. However, an *Employment Report* submitted with the application identifies a plentiful supply of both office and industrial space in the Hertford area. In any event, the proposal would provide 'starter' type accommodation for new businesses and generate in the region of 330 to 380 jobs. The proposed use would have an effect on traffic flows and these have been considered above. Not all the jobs created are likely to be full time and employers will seek to maximise productivity but the jobs would be very real for those gaining employment. Although strictly contrary to Policy HE8 I consider that the proposal would not cause any material harm to the aims of the policy and so would have a neutral effect in the overall planning balance. [4.6.1, 5.3.7, 7.5.1, 7.5.3]

- 10.6.2. Additional parking for the town centre would, in my opinion, be a benefit although I accept that staff would have to park somewhere and that some parking on Hartham Lane would be lost. I note the view of residents that it is not the availability of parking that is a concern so much as the charging system. Overstaying the period by a few minutes leads to a large fine whilst in nearby towns it only means paying pro rata for additional time. [7.5.3, 9.2.17]
- 10.6.3. I understand the concerns of the Town Council and local residents about noise and disturbance and light pollution. However, McMullen's yard with its forklifts would be removed. Noise predictions relating to the car park indicate only a minor impact which in my view would be acceptable in an urban situation. The use of acoustic screens and a condition requiring a piling method statement would prevent any unacceptable noise and disturbance during construction. Lighting would comply with the Institute of Lighting Engineer's 2005 Guidance Notes for the Reduction of Obtrusive Light, which together with restricted opening hours would in my opinion prevent any significant effect. The ES indicates that there would be a negligible effect on air quality and there is no evidence that a sub-station in the car park on the opposite side of the river would have any impact on the health of nearby residents. [4.6.2, 5.3.9, 7.4.4, 8.2.4, 9.2.18, 9.2.20, 9.2.21]
- 10.6.4. Anti-social behaviour, and litter, already occurs but the car park would be closed off when the store was closed and a Section 106 Agreement would provide for an extension to an alcohol ban area. LP Policy ENV17 supports access to the riverside and I consider that the routes would be well designed and overlooked. Whilst there are concerns that the value and saleability of properties would be adversely affected, this is not generally a planning consideration. I conclude that there would be no unacceptable impact on the living conditions of the occupiers of nearby properties. [4.7.1, 5.3.9, 9.2.18, 9.2.20, 9.2.21]
- 10.6.5. Although some residents have expressed concerns about the impact on wildlife, the ES considered the impact on ecology. There are records of some notable species within a kilometre of the site but none on the site itself. A willow tree would have to be felled but additional trees would be planted on the site. To safeguard wildlife, conditions could be attached to preclude site clearance during the breeding season and to require details of measures to protect bats that might forage in the area to be submitted. [4.6.2, 5.4.5, 9.2.18]

- 10.6.6. The proposal would utilise a biomass boiler and meet the 10% renewable energy requirement in the RSS. Natural light would be provided and rooflights would allow natural ventilation. Boreholes would be used for washing and drinking water whilst rainwater harvesting would provide grey water for warehouse facilities. Energy and waste management is addressed in a *Sustainability Statement* and a *revised Sustainability Statement*.^[4.3.2, 4.6.2, 5.3.9, 9.2.22]
- 10.6.7. I have taken into account the ES which has been produced in accordance with the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999* as amended. This sets out the main mitigation measures to avoid, reduce and if possible offset any major adverse effects of the development. These measures have not been challenged or commented on by anyone. In my view, together with the Section 106 Agreement and conditions considered in the next section, the mitigation measures would be sufficient to make the proposal acceptable.

10.7. Section 106 and Conditions

Statement of Matters i), vii) & viii)

- 10.7.1. A Section 106 Agreement has been signed by all the parties with an interest in the land. This would provide for a Green Travel Plan to encourage more sustainable travel habits, a Community Space Management Plan to address the initial provision, management and maintenance of the community space within the listed buildings and a Car Park Management Plan to govern pricing to encourage linked trips and general use by town centre shoppers. The new route to Folly Island would also be dedicated as a public right of way. I consider all these measures to be necessary.^[4.7.1, 4.7.2, 5.4.1, 5.4.3, 5.4.4, 6.3.3]
- 10.7.2. Provision is made in the Section 106 Agreement for a number of contributions to be paid. A Community Safety contribution would assist in extending an alcohol ban area that currently ends at the site boundary. The store would sell alcohol and the extension of the ban area would help prevent any displacement of anti-social behaviour. As the proposal would make congestion and its impacts on the environment worse, contributions towards a design competition to improve the public realm in and surrounding Old Cross and Bull Plain, and the implementation of the winning scheme would be appropriate. Transportation related contributions would help provide improvements at the bus station and at bus stops in the vicinity of the site, provide a new crossing for cyclists and pedestrians at Port Hill, and assist with traffic regulation orders in connection with a residents parking scheme and with new or additional parking measures in the vicinity. Congestion causes 'rat-running' in Bengo and a contribution towards measures to address the problem would therefore be related to the proposal.^[4.7.1, 4.7.2, 5.4.2, 5.4.3]
- 10.7.3. HCC is concerned that the 15% reduced trip rates would be exceeded. If they were, the Section 106 Agreement makes provision for an additional sustainable transport contribution of £50,000 a year to be paid each year that trip rates are exceeded within the first 5 years after the store opens. If the reduced trip rates are not exceeded the impact would be less than HCC expects and, whilst I accept that there would still be some impact, I do not

consider that it would justify requiring the additional payments without the need for monitoring.^[6.3.4]

- 10.7.4. A contribution towards an Arts Project might be desirable and enhance the proposal in accordance with LP Policy LRC4 but the design of the scheme is acceptable in itself and an arts project would not be strictly necessary to make it acceptable. Similarly, a bridge at Dolphin Yard might have been an aspiration of EHDC for some time, but it would only provide a less direct route from the proposed store to the town centre than the bridge to Folly Island. In my view, a contribution towards it would not meet the tests in *Circular 05/2005*. Little weight should be given to these two provisions.^[4.7.1, 5.4.2]
- 10.7.5. Buses on the Hertford-Bengeo circuit that serve the nearest bus stop to the proposed store do not run after 18:30 or on Sundays and so would not be available as an alternative mode at those times. Improving bus services has been costed by HCC at £200,000. However, whilst I accept that it would be desirable, the sustainable transport contribution would already provide for improvements that would benefit bus users and, in my view, the failure to contribute towards extending bus services would not, in itself, justify refusing the proposal.^[6.3.5, 9.2.19]
- 10.7.6. I conclude that although there would be no contribution towards extending bus services and the provision of contributions towards an arts project and the provision of a bridge at Dolphin Yard should be given little weight, the Section 106 Agreement generally meets the tests in *Circular 05/2005* as its other planning provisions are fairly and reasonably related to the scheme and are necessary to make it acceptable.^[9.2.19]
- 10.7.7. Turning to conditions, 36 have been agreed between SSL and EHDC. I have amended the suggested wording in some instances in the light of the tests in *Circular 11/95* but consider that all are necessary. A number of conditions have been suggested by EA as being necessary to make the development acceptable, but which are not included in the agreed list. Whilst the ES indicates that external lighting would comply with the Institute of Lighting Engineers 2005 *Guidance Notes for the Reduction of Obtrusive Light*, I consider that this should be required by condition to safeguard the living conditions of the occupiers of nearby properties and prevent light spillage into the River Lea corridor as suggested by the EA. The site is in a sensitive position in relation to controlled water and has been in industrial use and so may be contaminated. I therefore agree with the EA that a condition requiring details of investigation, and proposed remediation of any contamination found, to be submitted prior to any development taking place and also submission of details to verify any remediation measures found necessary.^[4.5.1, 4.6.2, 4.7.3, 5.4.5]
- 10.7.8. In addition to the normal time condition, conditions 2, 3, and 7 would provide for samples of materials, a sample brickwork panel, and detailed drawings of certain elements to be submitted. The location in a Conservation Area adjoining a listed building makes these conditions necessary to safeguard the character and appearance of the area and the special architectural and historic interest of the listed building. I consider that details of the junction of the proposed store to the listed building should also be added to condition 7. Condition 8 would ensure that the listed

building was refurbished whilst condition 18 would ensure active frontages to the store. The openness of the area adjacent to the Common, a feature of the Conservation Area, would be ensured by condition 15 removing permitted development rights to erect additional gates or means of enclosure. Conditions 11 to 13 inclusive would ensure the proposal was in keeping with its surroundings adjacent to the Common by requiring a hard and soft landscaping scheme to be submitted, implemented and maintained. The retention of open areas would be required by condition 14 to maintain the open character. These measures would accord with the aims of PPS1, LP Policies ENV1, ENV2, ENV9, BH6, BH10, and STC1.

- 10.7.9. The limitation of the retail sales area and the percentage to be used for comparison goods, as set out in conditions 17 and 34, would ensure the impact on the town centre was as assessed in the retail evidence and accord with the objectives of PPS6 and LP Policies ENV1 and STC1. Conditions 5, 10, 21, 22, 23, and 25 would address highway safety and the encouragement of non car modes of transport by requiring the implementation of various measures to encourage cycling and walking, limit the size of delivery vehicles, and require sight lines to maintain highway safety. Approach routes would be difficult to enforce, and in any event load restrictions apply in Bengoe such that commercial vehicles would have to approach via the Old Cross junction and this does not therefore need to be included in a condition. Amendments to the access/egress from the service yard to improve safety would be ensured by condition 35 whilst condition 36 would provide for the essential improved linkage of the site to the town centre. These measures would comply with LP Policies ENV1, STC1, TR1, TR2, TR7, TR13, and TR14.^[9.2.16]
- 10.7.10. Provisions necessary to protect the living conditions of the occupiers of nearby properties, in accordance with LP Policies ENV1 and ENV24, are embodied in conditions 16, limiting the opening hours of the store; 19, governing construction methods; 20, limitations on use of plant and machinery during construction; 24, preventing external loudspeaker systems; and, 26 requiring a piling method statement and noise emissions to be approved.
- 10.7.11. Measures to deter waste and encourage recycling of building materials are contained in condition 4 whilst provision for storage and removal of waste in use would be required to be submitted by condition 9. EA's concern to protect the aquifer and river from possible contamination would be addressed by condition 31 requiring details of foul and surface water drainage to be submitted. Condition 33 would ensure that renewable energy provisions were implemented as set out in the *Sustainability* and *revised Sustainability Statements*. These measures are required by RSS Policy ENG1, LP Policies SD1, ENV1, ENV18 and ENV19 and *Hertfordshire Waste Local Plan* Policies 7 and 8.
- 10.7.12. The site is partly within an Area of Archaeological Interest and condition 6 would ensure protection for any archaeological remains in accordance with PPG16 and LP Policy BH2. Condition 27 would ensure that fire hydrants were provided to ensure safety in case of fire. Conditions 28 and 29 would protect the habitat of bats and avoid disturbance to breeding birds in accordance with the *Wildlife and Access to the Countryside Act 1981* and LP Policy ENV16. Flood risk would be reduced by condition 30 requiring the

floor level of the store to be at least 300mm above the 1 in 100 year plus climate change flood level of 37.57 metres above ordnance datum in accordance with LP Policy ENV19. Condition 32 would require signage and interpretation boards to be erected to increase awareness of the history and ecology of the rivers in accordance with LP Policies ENV1 and BH6.

10.7.13. In my view, all the conditions meet the tests in *Circular 11/95* and are needed to make the scheme acceptable. They are set out in full in Appendix 4.

11.0 Overall Conclusions and Recommendation

11.1. Overall Conclusions

11.1.1. The proposal would cause additional congestion and peak spreading, particularly in the PM and Saturday peaks. However, any redevelopment of the site, which it is generally accepted is required, would lead to increased congestion, including in the more sensitive AM peak. The increased congestion, whilst contrary to policy aims, would not be as bad as currently exists in the AM peak and needs to be balanced against other considerations. [10.4.8, 10.4.15]

11.1.2. The proposal in a designated Employment Area would also be contrary to LP Policy HE8 but there is a plentiful supply of office and industrial space in the Hertford Area and the proposal would create a significant number of jobs. It would not therefore cause any material harm. The proposal would incorporate energy and waste management measures, safeguard any archaeological remains that might exist, and would not increase the risk of flooding. Nor would it have any significant impact on the living conditions of nearby residents or on wildlife that might use or cross the site. [10.3.9, 10.5.1, 10.6.1, 10.6.4, 10.6.5, 10.6.6]

11.1.3. In terms of benefits, the scheme would meet an identified convenience shopping need and introduce an element of competition. It would increase footfall in the town to the benefit of the centre as a whole. The proposal would repair and adapt the listed Victorian brewery and bring it back into beneficial use as well as enhance the character and appearance of the Hertford Conservation Area. In addition, it would improve the permeability of the area increasing and improving pedestrian and cycling routes, facilities for public transport and encouraging the use of modes of transport other than the car. [10.2.19, 10.3.9, 10.4.11]

11.1.4. In my view, the benefits of the scheme would outweigh the increase in congestion in the PM and Saturday peaks, which would in any event still be less than the existing AM peak congestion in the town.

11.2. Recommendation

11.2.1. I recommend that the application be granted planning permission, subject to the conditions listed in Appendix 4 and the Section 106 Agreement.

K D Barton

INSPECTOR

APPENDIX 1

APPEARANCES

FOR HERTFORD CIVIC SOCIETY:

Andrew Sangster (Retail)	Chair, Hertford Civic Society Planning Group
Reg Harman BA(Hons), FCILT, FIHT, FRSA, MRTPI (Transport)	Independent Transport Policy & Practice Consultant
David Kirby Dip Arch RIBA (Design and Heritage)	Architect & Life Member Hertford Civic Society

FOR HERTFORDSHIRE COUNTY COUNCIL:

Graeme Keen of Counsel	Instructed by County Solicitor
He called	
Rob Jepson BEng, CEng, MIHT (Transport)	Area Highways Development Control Manager, Hertfordshire County Council

FOR SAINSBURYS SUPERMARKETS LIMITED:

Keith Lindblom QC	Instructed by Denton Wilde Sapte
He called	
Sean McGrath BA, MSc, MRTPI (Planning and Retail)	Director, Indigo Planning
Julian Foot BSc(Hons), MSc, MIHT, TPS (Transport)	Director, Savell Bird & Axon Transport Planners
Clive White BSc(Hons), DipArch, RIBA (Design)	Director, Chetwood Architects
Wyndham Westerdale BSc(Hons), DipArch, BA, MA, DipCon(AA), RIBA, MIHBC (Heritage)	Director of Conservation, Acanthus LW Architects
Peter Shearman MA MRTPI (Retail)	Principal, Peter Shearman Associates

FOR EAST HERTFORDSHIRE DISTRICT COUNCIL:

Michael Bedford of Counsel

Instructed by EHDC's Solicitor

He called

Councillor William Ashley
(Planning)

Chairman, Development Control
Committee, East Herts D C

Huw Williams BA(Hons), MRTPI
(Retail)

Partner, Chase & Partners, Chartered
Surveyors and Town Planners

Tim Hagyard BA, MATCP,
MAUD, MRTPI (Section 106
Agreement)

Development Control Team Manager
(West), East Herts D C

INTERESTED PERSONS:

Alan Nudds DipArch

Chair, Lower Bengoe Residents' Association

Nina Villa

Clerk, Hertford Town Council

John Barber

Local Resident and former Town Centre Manager

Peter Brown

Peter & Susan Brown Design + Decoration

APPENDIX 2

DOCUMENTS

A. GOVERNMENT DOCUMENTS AND LEGISLATION

- A1 PPS1 – Delivering Sustainable Development (2005) and PPS1 companion guide The Planning System: General Principles (January 2005)
- A2 Supplement to PPS1 – Planning and Climate Change (December 2007)
- A3 PPS3 – Housing (with Delivering Affordable Housing) (November 2006)
- A4 PPS4 Consultation Paper – Planning for Prosperous Economies (May 2009)
- A5 PPS6 – Planning for Town Centres (March 2005) with Guidance on Design and Implementation Tools (March 2005)
- A6 PPS12 – Local Spatial Planning (June 2008)
- A7 PPG13 – Transport (March 2001)
- A8 PPG15 – Planning and the Historic Environment (September 1994)
- A9 PPG16 – Archaeology and Planning (November 1990)
- A10 PPS25 – Development and Flood Risk (December 2006)
- A11 ODPM Circular 05/05 – Planning Obligations (July 2005)
- A12 DETR Circular 11/95 – Use of conditions in planning permission (July 1995)
- A13 DCLG – Looking after our town centres (April 2009)
- A14 DfT – Manual for Streets (March 2007)
- A15 English Heritage and CABE – Building in Context (2001)
- A16 DETR – By Design: Urban Design in the Planning System – Towards Better Practice (2000)
- A17 DfT/DCLG – Guidance on Transport Assessments (March 2007)
- A18 PPS15 Consultation Paper – Planning for the Historic Environment (July 2009)
- A19 Planning for Town Centres – Good Practice Guide on Need, Impact and the Sequential test – Living Draft (submitted on 24 September 2009)

B. DEVELOPMENT PLAN AND OTHER COUNCIL DOCUMENTS

- B1 The East of England Plan (May 2008)
- B2 Hertfordshire County Council – Local Transport Plan 2006/07 – 2010/11 (March 2006)
- B3 Hertfordshire's Local Transport Plan 2006/07- 2010/11 Long Term Strategy (July 2005)
- B4 Hertfordshire County Council – Roads in Hertfordshire A Guide for New Developments – Edition No.2 (June 2001)
- B5 Hertfordshire County Council – Planning Obligations Guidance – Toolkit for Hertfordshire (January 2008)
- B6 East Herts Local Plan Second Review (April 2007)
- B7 East Herts District Council – Vehicle Parking Provision at New Development Supplementary Planning Document (June 2008)
- B8 East Herts District Council – Planning Obligations Supplementary Planning Document (October 2008)
- B9 East Herts District Council Hertford Conservation Area Character Statement (1998)
- B10 East Herts District Council Employment Land and Policy Review prepared by Halcrow (2008)
- B11 East Herts District Council Retail and Town Centres Study prepared by Chase and Partners (2008)
- B12 East Herts District Council Riverside Yards Supplementary Planning Guidance (1998)

C. SAINSBURY'S APPLICATION DOCUMENTS (EHDC ref 3/08/1528/FP)

- C1 Letter from Indigo Planning to East Herts DC dated 22 August 2008 enclosing planning application, conservation area consent and listed building consent forms with existing site plan and all submitted plans
- C2 Planning Statement by Indigo Planning on behalf of Sainsbury's dated August 2008
- C3 Environmental Statement (including non-technical summary) by Indigo Planning on behalf of Sainsbury's dated August 2008
- C4 Design and Access Statement by Chetwoods on behalf of Sainsbury's dated August 2008
- C5 Transport Assessment by Savell Bird & Axon on behalf of Sainsbury's dated August 2008
- C6 Retail Statement by Indigo Planning on behalf of Sainsbury's dated August 2008
- C7 Statement of Public Consultation by PPS on behalf of Sainsbury's dated August 2008
- C8 Employment Development Assessment by Colliers CRE on behalf of Sainsbury's dated October 2007
- C9 Sustainability Statement by Indigo Planning on behalf of Sainsbury's dated August 2008
- C10 Tree Condition Survey by The Landscape Partnership on behalf of Sainsbury's dated April 2007
- C11 Tree Root Survey by The Landscape Partnership on behalf of Sainsbury's dated September 2007
- C12 Construction Method Statement by Henry Riley on behalf of Sainsbury's dated August 2008
- C13 Listed Building Statement by Indigo Planning on behalf of Sainsbury's dated August 2008
- C14 Structural Survey Report by the Morton Partnership on behalf of Sainsbury's dated May 2008
- C15 Schedule of condition and proposed repairs by Acanthus LW Architects on behalf of Sainsbury's dated June 2008
- C16 Conservation Area Statement by Indigo Planning on behalf of Sainsbury's dated August 2008
- C17 Flood Risk Assessment by STATS on behalf of Sainsbury's dated August 2008
- C18 Revised Sustainability Statement (revision A) by Indigo Planning on behalf of Sainsbury's dated October 2008
- C19 Condition Survey of the cottages prepared by Nidus Riley on behalf of Sainsbury's dated November 2008

- C20 Chase & Partners critique of Retail Statement by Indigo Planning on behalf of East Herts District Council dated October 2008
- C21 Supplementary Retail Statement by Indigo Planning on behalf of Sainsbury's dated November 2008
- C22 Chase and Partners letter in relation to Indigo's Supplementary Retail Statement dated 2 December 2008
- C23 East Herts District Council Development Control Committee – report and minute for planning application reference: 3/08/1528/FP; 3/08/1529/LB & 3/08/1530/LC – dated 14 January 2009 and 11 February 2009
- C24 Listed Building Consent 3/08/1529/LB dated 14 January 2009
- C25 Conservation area consent 3/08/1530/LC dated 14 January 2009
- C26 East Herts District Council Development Control Committee – report and minute for planning application reference: 3/08/0098/FP; 3/08/0099/LB & 3/08/0100/LC – dated 9 April 2008 (Sainsbury's withdrawn applications)

D. TESCO'S WITHDRAWN PLANNING APPLICATION (EHDC Ref 3/08/1268/FP)

- D1 Letter from GL Hearn to East Herts District Council dated 8 July 2008 enclosing planning and conservation area consent application forms with location plan, existing site plan and proposed site plan

- D2 Planning Statement by GL Hearn on behalf of Tesco Stores Ltd dated July 2008
- D3 Design and Access Statement by Black on behalf of Tesco Stores Ltd dated June 20
- D4 Retail Assessment by GL Hearn on behalf of Tesco Stores Ltd dated July 2008
- D5 Transport Assessment by Waterman Boreham Ltd on behalf of Tesco Stores Ltd dated June 2008
- D6 Chase & Partners critique of Retail Statement by GL Hearn on behalf of East Herts District Council dated September 2008

E. CALL-IN CORRESPONDENCE

- E1 Letter from East Herts District Council referring application to Secretary of State dated 17 February 2009
- E2 Letter from GO East to Indigo Planning calling-in the Sainsbury's Planning Application and conjoining with Tesco Appeal dated 25 March 2009
- E3 Letter from GO East to Indigo Planning clarifying listed building and conservation area consent are not part of call-in 27 March 2009
- E4 Letter from PINS to Denton Wilde Sapte advising of confirmed pre-inquiry meeting and enclosing Inspector's note dated 26 June 2009
- E5 Inspector's Note of Pre-Inquiry Meeting dated 8 July 2009

F. WRITTEN REPRESENTATIONS

- F1 Copies of representations at application stage provided by East Hertfordshire District Council
- F2 Council's letters of notification of the Inquiry and a list of those notified
- F3 Representations received by PINS in response to the letters of notification
- F4 Written Statement of Mr Nudds on behalf of Lower Bengeo Residents' Association (submitted 22 September 2009)
- F5 Written Statement of Ms Nina Villa on behalf of Hertford Town Council (submitted 23 September 2009)
- F6 Written Statement of Mr John Barber (submitted on 23 September 2009)
- F7 Letter from Mr Collins dated 28 September 2009 (submitted 29 September 2009)
- F8 Written Statement of Mr Hillen (submitted 29 September 2009) (also included in F3)
- F9 Letter from Peter & Susan Brown dated 29 September 2009 (submitted on 29 September 2009)
- F10 Letter from Planning Potential on behalf of ASDA Stores Ltd dated 28 September 2009 (submitted on 29 September 2009)
- F11 Written Statement on behalf of Old Cross Residents (submitted on 29 September 2009)
- TS/1 Tesco's Statement of Case
- TS/2 Not Used
- TS/3/A Proof of Evidence of Alastair Crowdy (Retail) on behalf of Tesco
- TS/3/B Appendices to Proof of Evidence of Alastair Crowdy (Retail) on behalf of Tesco
- TS/3/C Supplementary Proof of Evidence of Alastair Crowdy (Retail) on behalf of Tesco
- TS/3/D Replacement Appendix G of Proof of Evidence of Mr Crowdy (Retail) on behalf of Tesco (submitted on 30 September 2009)
- TS/4/A Proof of Evidence and Appendices of Mike Bedwell (Transport) on behalf of Tesco
- TS/4/B Supplementary Proof of Evidence of Mike Bedwell (Transport) on behalf of Tesco
- TS/5 Letter from Berwin Leighton Paisner on behalf of Tesco in relation to Further Statement of Common Ground dated 24 September 2009 (submitted on 29 September 2009)

STATEMENTS OF COMMON GROUND

- SOCG 1 Planning Statement of Common Ground agreed by EHDC and Indigo Planning on behalf of Sainsbury's Supermarkets Ltd – dated 10 August 2009
- SOCG 2 Retail Statement of Common Ground agreed by Chase & Partners on behalf of EHDC and Indigo Planning on behalf of Sainsbury's Supermarkets Ltd – dated 10 August 2009
- SOCG 3 Transport Statement of Common Ground agreed by Hertfordshire County Council and Savell Bird & Axon on behalf of Sainsbury's Supermarkets Ltd – dated 10 August 2009
- SOCG 4 Addendum Transport Statement of Common Ground agreed by Hertfordshire County Council and Savell Bird & Axon on behalf of Sainsbury's Supermarkets Ltd – dated September 2009
- SOCG 5 Further Retail Statement of Common Ground agreed by Chase & Partners on behalf of EHDC and Indigo Planning on behalf of Sainsbury's Supermarkets Ltd – dated 10 August 2009 (submitted 22 September 2009)

HERTFORD CIVIC SOCIETY'S DOCUMENTS

- HCS/1 Statement of Case
- HCS/2 Opening Submissions
- HCS/3/A Proof of Evidence of Andrew Sangster (Retail Matters)
- HCS/3/B Appendix to Proof of Evidence of Andrew Sangster (Retail Matters)
- HCS/3/C Summary of Proof of Evidence of Andrew Sangster (Retail Matters) (submitted on 22 September 2009)
- HCS/4/A Proof of Evidence of Reg Harman (Transport)
- HCS/4/B Summary Proof of Evidence of Reg Harman (Transport) (submitted on 22 September 2009)
- HCS/5/A Proof of Evidence of David Kirby (Design & Conservation Area)
- HCS/5/B Summary Proof of Evidence of David Kirby (Design & Conservation Area) (submitted on 22 September 2009)
- HCS/6 Experian Retail Planner Briefing Note 7.1 – August 2009 (submitted on 23 September 2009)
- HCS/7 Closing Submissions (submitted on 30 September 2009)

HERTFORDSHIRE COUNTY COUNCIL'S DOCUMENTS

- HCC/1 Statement of Case
- HCC/2 Opening Submissions
- HCC/3/A Proof of Evidence and Appendices of Rob Jepson (Transport)
- HCC/3/B Summary of Evidence of Rob Jepson (Transport)
- HCC/3/C Rebuttal Proof of Evidence of Rob Jepson
- HCC/3/D Note on Paras 2.8 to 2.15 of Mr Foot's modelling rebuttal evidence (submitted on 22 September 2009)
- HCC/4 Extract from Bengeo Traffic Study – Feasibility Study Report (submitted 23 September 2009)
- HCC/5 Statement by Brendon Lee on behalf of HCC on land ownership (submitted 30 September 2009)
- HCC/6 Closing Submissions (submitted 30 September 2009)

SAINSBURYS SUPERMARKETS LIMITED'S DOCUMENTS

- SS/1 Statement of Case
- SS/2 Opening Submissions
- SS/3/A Proof of Evidence of Sean McGrath (Planning & Retail)

SS/3/B	Summary of Evidence of Sean McGrath
SS/3/C	Appendices to Proof of Evidence of Sean McGrath (Planning & Retail)
SS/3/D	Rebuttal Proof of Evidence of Sean McGrath (Planning & Retail)
SS/4/A	Proof of Evidence of Julian Foot (Transport)
SS/4/B	Summary Evidence of Julian Foot (Transport)
SS/4/C	Figures and Appendices to Evidence of Julian Foot (Transport)
SS/4/D	Rebuttal Proof of Evidence of Julian Foot (Transport)
SS/5/A	Proof of Evidence of Clive White (Design)
SS/5/B	Summary of Proof of Evidence of Clive White (Design)
SS/5/C	Appendices to Proof of Evidence of Clive White (Design)
SS/6/A	Proof of Evidence of Wyndham Westerdale (Listed Building)
SS/6/B	Summary Proof of Evidence of Wyndham Westerdale (Listed Building)
SS/6/C	Appendices to Proof of Evidence of Wyndham Westerdale (Listed Building)
SS/6/D	Supplementary Appendix L to Proof of Evidence of Wyndham Westerdale (Listed Building)
SS/7/A	Proof of Evidence of Peter Shearman (Retail)
SS/7/B	Summary Proof of Evidence of Peter Shearman (Retail)
SS/7/C	Appendices to Proof of Evidence of Peter Shearman (Retail)
SS/7/D	Rebuttal Proof of Evidence of Peter Shearman (Retail)
SS/8	Letter from HCS to EHDC on Sainsburys Planning Application dated 24 December 2008 (submitted 22 September 2009)
SS/9	Swept path analysis for 13.5m articulated vehicle (plans ref 62422/AR/U05 & U06) (submitted 25 September 2009)
SS/10	Entry manoeuvring of 13.5m articulated vehicle (plan ref 62422/AR/Z07), exit manoeuvring of 13.5m articulated vehicle (62422/AR/Z08) and 20mph forward visibility splay (62422/A/55) (submitted on 25 September 2009)
SS/11	E-mail from Dave Havery of GONE to SBA dated 14 September 2009 regarding need for Inquiry into Stopping-Up Order (submitted 25 September 2009)
SS/12	Drawing 2500 PL(2) 614A – proposed sections (withdrawn plan) (submitted 25 September 2009)
SS/12/A	Drawing 2500 PL(2) 614B – proposed sections (replacement illustrative plan) (submitted 29 September 2009)
SS/13	Agreed draft Section 106 Agreement (submitted 25 September 2009)
SS/13/A	Certified copy of signed Section 106 Agreement
SS/14	A3 version of C1 planning application drawings
SS/15	Note on clawback expenditure and inflow (submitted 29 September 2009)
SS/16	Note on expenditure growth (submitted 29 September 2009)
SS/17	Note on bus services (submitted 29 September 2009)
SS/18	Walking distances from Tesco store to nearest part of primary shopping frontage (submitted 29 September 2009)
SS/19	Closing Submissions (submitted 30 September 2009)
EAST HERTFORDSHIRE DISTRICT COUNCIL'S DOCUMENTS	
EHDC/1	Statement of Case
EHDC/2	Opening Submissions

EHDC/3	Not Used
EHDC/4/A	Proof of Evidence of Councillor William Ashley (Planning)
EHDC/4/B	Summary of Evidence of Councillor William Ashley (Planning)
EHDC/5/A	Proof of Evidence of Huw Williams (Retail)
EHDC/5/B	Summary of Evidence of Huw Williams (Retail)
EHDC/5/C	Appendix to Proof of Evidence of Huw Williams (Retail)
EHDC/5/D	Briefing Note from Huw Williams (submitted 29 September 2009)
EHDC/6/A	Proof of Evidence of Tim Hagyard (S106)
EHDC/6/B	Summary Evidence of Tim Hagyard (S106)
EHDC/6/C	Appendices to Proof of Evidence of Tim Hagyard (S106)
EHDC/7	Draft list of Agreed Conditions (submitted 25 September 2009)
EHDC/7/A	Revised Agreed Conditions (submitted on 30 September 2009)
EHDC/8	List of plans/documents granted Listed Building and Conservation Area Consent (submitted 25 September 2009)
EHDC/9	Plan with B12 Riverside Yards SPG public rights of way superimposed on JF6 Walk Distances to Key Destinations (submitted 30 September 2009)
EHDC/10	Closing Submissions (submitted 30 September 2009)

APPENDIX 3 – SCHEDULE OF SITE VISITS

19 September 2009	Hertford town centre, traffic in Saturday peak period at Mill Bridge/ Old Cross/ St Andrew Street and Cowbridge/ Old Cross/ Hartham Lane junctions and roundabout at North Road/ Cross Lane, Bengo 'rat run'	Unaccompanied
20 September 2009	Hertford, Ware and Hoddesdon town centres, traffic at Mill Bridge/ Old Cross/ St Andrew Street and Cowbridge/ Old Cross/ Hartham Lane junctions and roundabout at North Road/ Cross Lane, Bengo 'rat run'	Unaccompanied
21 September 2009	Hertford, Ware and Hoddesdon town centres, traffic in weekday am and pm peak periods at Mill Bridge/ Old Cross/ St Andrew Street and Cowbridge/ Old Cross/ Hartham Lane junctions and roundabout at North Road/ Cross Lane, Bengo 'rat run'	Unaccompanied
30 September 2009	Listed Brewery Building and Surrounding Area	Accompanied

APPENDIX 4 – SCHEDULE OF CONDITIONS TO BE ATTACHED SHOULD THE SECRETARY OF STATE BE MINDED TO GRANT PLANNING PERMISSION

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted, including rainwater goods, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 3) No bricklaying shall take place until a sample panel of the brickwork has been provided on the site and approved in writing by the local planning authority. The panel shall be retained as a reference for all external brickwork within the development which shall be carried out in accordance with the approved sample panel.
- 4) No development shall take place until details of the measures to be taken in the design, construction, decommissioning and demolition of the development to: re-use existing materials within the new development; recycle waste materials for use on site and off; minimise the amount of waste generated; minimise the pollution potential of unavoidable waste; treat and dispose of the remaining waste in an environmentally acceptable manner; and to utilise secondary aggregates and construction and other materials with a recycled concept, have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved measures.
- 5) No development shall take place until details of cycle parking facilities have been submitted to and approved in writing by the local planning authority. The approved cycle parking facilities shall be provided prior to the first occupation of the store and retained thereafter.
- 6) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 7) No development shall take place until detailed drawings of new doors, windows, roof eaves, shopfront, canopy, and the junction between the listed building and the store at a scale of not less than 1:20 have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Prior to the occupation of the store, or within a timetable agreed in writing by the local planning authority, the repairs and refurbishment of the listed brewery shall be carried out in accordance with a programme of works that has been submitted to and approved in writing by the local planning authority.
- 9) No development shall take place until details of facilities for the storage and removal of refuse from the site have been submitted to and approved in writing by the local planning authority. The facilities shall be provided in accordance with the approved details prior to the occupation of the store and retained thereafter.

- 10) Prior to the first occupation of the development hereby permitted, 232 spaces shall be provided within the application site for the parking of cars and such spaces shall be retained at all times solely for the parking of cars in connection with the development hereby permitted. The car park shall include a designated taxi rank as indicated on drawing 2500 SK1008A.
- 11) No development shall take place until details of hard and soft landscaping have been submitted to and approved in writing by the local planning authority. These details shall include: (a) Means of enclosure (b) Hard surfacing materials (c) Planting plans (d) Schedule of plants, noting species, planting sizes and proposed numbers/densities. The details shall extend to the landscaping of areas of Hartham Common, within the District Councils ownership, to the north of the site, including the enhancement of the recycling bins provision and the implementation of off-site works shown on drawing 06055/32A.
- 12) All hard and soft landscape work shall be carried out in accordance with the approved details and in accordance with the relevant recommendations of British Standards or other recognised Codes of Good Practice. The works shall be carried out prior to the first occupation of any part of the development or in accordance with a timetable agreed with the local planning authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the local planning authority gives its written consent to any variation.
- 13) Prior to the first occupation of the development hereby permitted, a schedule of landscape maintenance for a minimum of five years shall be submitted to and approved in writing by the local planning authority and shall include details of the arrangements for its implementation.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the areas shown for landscaping on the plans hereby approved shall be retained and maintained as open landscaping, and shall not be developed, enclosed or used in any way that is detrimental to that open character.
- 15) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken without the prior written permission of the local planning authority.
- 16) The retail store hereby permitted shall only be open for customers between 07:00 and 22:00 hours Mondays to Saturdays and for no more than six hours between 07:00 and 22:00 hours on Sundays and Bank Holidays.
- 17) The use of the store hereby permitted shall be solely for Class A1 retail use with an ancillary A3 Café use. The net retail sales floor area shall not exceed 2328m².
- 18) Prior to the first occupation of the store, details shall be submitted of the internal ground floor layout of areas within 10m of glazed sections of the north and east elevations. Such details shall indicate open areas behind the proposed shop windows. No posters, boards, display equipment or other obstructions shall be placed within the identified shop window areas. The

development shall thereafter be laid out and retained in accordance with the approved details.

- 19) No development shall take place until details of: a phasing programme for the development of the site; methods for accessing the site and provisions for construction traffic access; wheel washing facilities; and associated parking areas and storage of materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 20) No plant or machinery to be used in connection with any site demolition, site preparation or construction works, shall be operated on the premises before 07:30 hours on Monday to Saturday, nor at any time on Sundays or Bank Holidays.
- 21) Prior to the first occupation of the development, all highway works, including those specified below, shall be completed in accordance with the approved drawings
 - (a) All access roads, parking areas, and pedestrian links, as shown on the approved Drawing No. 2500 SK 1008 Rev A.
 - (b) Amendments to the Hartham Lane / Cowbridge junction as shown on the approved Drawing No.62422/A/19 Rev B.
 - (c) Realignment of Hartham Lane, including new footways.
 - (d) Pedestrian / cycle link and bridge to Folly Island as shown on the approved Drawing No. 06055/28 Rev D.
 - (e) Loading facilities for the listed building as indicated on Drawings No.62422/AR/W1 or No.62422/AA/1.
- 22) Prior to the first occupation of the development hereby permitted, the existing vehicular access shall be permanently closed and the kerbs and footway/verge reinstated in accordance with details that have been submitted to and approved in writing by the local planning authority.
- 23) Prior to the first occupation of the development hereby permitted, the following visibility splays shall be provided and permanently maintained within which there shall be no obstruction to visibility between 600mm and 2m above the carriageway level:
 - (a) Dwg No. 62422/A55 – 25m forward visibility at service yard corner.
 - (b) Dwg No. 62422/SK01 – 25m forward visibility at service yard exit.
 - (c) Dwg No. 62422/A/25 Rev A – Visibility splays from existing business access.
 - (d) Dwg No. 62422/A/21 – Visibility splays from revised McMullen access.
 - (e) New store access with realigned Hartham Lane, 2.4m x 43m.
- 24) No external loudspeaker systems shall be installed.
- 25) No deliveries to the site shall take place by vehicles longer than 13.5m. A written record of the time and date of deliveries and vehicle details shall be kept for inspection by the local planning authority on request.

- 26) Prior to the commencement of the development, details of the method for piling for construction works, including a method statement and noise emissions, shall be submitted to and approved in writing by the local planning authority. All piling works shall be carried out in accordance with the approved details.
- 27) Prior to first occupation of the store fire hydrants shall be installed at the site in accordance with details previously submitted to and approved in writing by the local planning authority.
- 28) No development shall take place until measures for the protection of bats, their roosts and access points, have been carried out in accordance with details, including a schedule of works, previously submitted to and approved in writing by the local planning authority.
- 29) Site clearance and removal of buildings, trees and shrubs shall not take place in the breeding season from 1st^t March to 31st August.
- 30) Floor levels for the store building shall be at least 300mm above the 1 in 100 year level plus climate change flood level of 37.57m above Ordnance Datum.
- 31) No development shall take place until details of works for the disposal of surface and foul water have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to first occupation of the store.
- 32) Prior to the commencement of the use of the store, directional signage at the site and interpretation boards at the riverside shall be erected in accordance with details previously submitted to and approved in writing by the local planning authority.
- 33) The development shall be operated incorporating the provisions of the renewable energy systems as detailed within the submitted Sustainability Statement and revised Sustainability Statement, and the use of locally sourced supplies (within 10 miles of the site) for the biomass boiler, or by the use of other renewable technologies approved in writing by the local planning authority.
- 34) No more than 20% of the net retail sales area shall be used for the sale of comparison goods.
- 35) No development shall take place until details of an amended entrance to the servicing area, including landscaping and revised boundary wall have been submitted to and approved in writing by the local planning authority. The details will ensure that the vehicle movements within the development comply with the tracking plans- Drawings Nos.62422/AR/Z07 and 62422/AR/Z08 and ensure visibility will comply with Drawings Nos.62422/A/55 and 62422/SK01. The development shall be carried out in accordance with the approved details.
- 36) Notwithstanding the detail shown on the application plans prior to the occupation of the development details of an additional pedestrian access point to the riverside walk to be provided in the south eastern corner of the car park shall be submitted to and approved in writing by the local planning authority. The access shall be provided in accordance with the approved details.
- 37) The development hereby permitted shall not be brought into use until an external lighting scheme, in accordance with the Institute of Lighting Engineers 2005 Guidance Notes for the Reduction of Obtrusive Light, has been submitted

to and approved in writing by the local planning authority. External lighting shall only be installed in accordance with the approved scheme.

- 38) Development other than that required to be carried out as part of an approved scheme of remediation must not commence until items 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until item 4 has been complied with in relation to that contamination.

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of item 1 above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of item 2 above and approved in writing by the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared and approved in writing by the local planning authority in accordance with item 3.

5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation, and the provision of reports on the same must be prepared and approved in writing by the local planning authority prior to the first occupation of the store hereby permitted.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

APPENDIX 5 – GLOSSARY

DOS	Degree of Saturation
Draft PPS4	Draft Planning Policy Statement 4: Planning for Prosperous Economies
EA	Environment Agency
EH	English Heritage
EHDC	East Hertfordshire District Council
ES	Environmental Statement
HCC	Hertfordshire County Council
HCS	Hertford Civic Society
LDF	Local Development Framework
LoBRA	Lower Bengeo Residents' Association
LP	East Herts Local Plan Second Review April 2007
LPA	Local Planning Authority
LTP	Local Transport Plan
PCA	Primary Catchment Area
PIM	Pre-Inquiry Meeting
PPG15	Planning Policy Guidance Note 15: Planning and the Historic Environment
PPG16	Planning Policy Guidance Note 16: Archaeology and Planning
PPS1	Planning Policy Statement 1: Delivering Sustainable Development
PPS6	Planning Policy Statement 6: Planning for Town Centres
PPS25	Planning Policy Statement 25: Development and Flood Risk
RSS	Regional Spatial Strategy for the East of England
SSL	Sainsbury's Supermarkets Limited