

APPLICATION NO	PA/2011/1008
APPLICANT	Simons Developments Limited
DEVELOPMENT	Planning permission to demolish Trent Valley Garden Centre and its associated structures (including three residential properties) and erect a retail park with associated access roads, car parking, servicing areas and hard and soft landscaping
LOCATION	Trent Valley Garden Centre, Doncaster Road, Gunness
PARISH	GUNNESS
WARD	Burringham and Gunness
CASE OFFICER	David Wordsworth
SUMMARY RECOMMENDATION	Subject to the Secretary of State not wishing to intervene, and the completion of a Section 106 agreement, grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Significant public interest Officer discretion

UPDATE

On 14 December 2011 this application was presented to the Planning Committee with a recommendation for approval. The committee resolved to grant planning permission subject to conditions and the completion of a section 106 agreement which provided for:

- (i) off-site highway improvements;
- (ii) Scunthorpe town centre protection measures;
- (iii) protected species translocation and maintenance; and
- (iv) footpath improvement works.

Since the committee decision several matters have arisen.

Firstly, the council has received a letter before claim from the group of objectors 'Keep Scunthorpe Alive' (KSA) which raises several issues. KSA has threatened to take North Lincolnshire Council's decision to grant planning permission to a judicial review. It has been alleged that the resolution passed by the council's Planning Committee was unlawful.

The council has taken legal advice on the claim which suggests that the decision could be flawed unless the matters raised by KSA are fully and properly considered. This report has therefore been redrafted and expanded on to take into account the matters raised by KSA.

The matters being contested are as follows:

- (i) that the Scunthorpe town centre protection measures afforded by part of the Section 106 agreement were wrongly used to balance deficiencies within the sequential assessment;
- (ii) firstly, the committee report confused policies EC17.1 and EC17.2 and secondly, the negative impacts of the development reported were limited to those related to the sequential test;
- (iii) the reporting of both the Church Square site and the former T J Hughes site was unclear;
- (iv) it was irrational of the council to conclude that the proposed planning obligation could make the development acceptable.

Secondly, the application was referred to Government Office so that the Secretary of State could consider if he wished to determine the application. A response was received on 13 January 2012 confirming that the Secretary of State did not wish to determine the application.

Should Members be minded to grant planning permission the application would again be referred to Government Office for the Secretary of State to consider because the proposal is outside the town centre and is for over 5,000 square metres of retail space.

An amended plan was received from the applicants on 15 February 2012 which takes account of condition 7 contained in the committee report presented at the 14 December 2011 Planning Committee. This condition, which is repeated, prevents any unit on site being less than 929 square metres in floor area. Consequently units 3a and 3b have been merged on the amended plan to comply with this condition.

Some of the suggested conditions that were reported to the Planning Committee on 14 December 2011 have been amended to take account of the applicant's suggested alterations to wording in order to make the scheme more workable. A condition has also been added (condition 38) which ensures that M&S are the first tenants of unit 1 in order that the economic benefits of the scheme started by the applicant are achieved.

POLICIES

National policy guidance

PPS1 (Delivering Sustainable Development):

- requires local planning authorities to ensure that development plans promote outcomes in which environmental, economic and social objectives are achieved together over time;
- ensures that development plans contribute to global sustainability by addressing the causes and potential impacts of climate change through policies which reduce energy use, reduce emissions by encouraging patterns of development which reduce the need to travel by private car or reduce the impact of moving freight, promote the development of renewable energy resources and take climate change impacts into account in the location and design of development;
- design which fails to take the opportunities available for improving the character and quality of an area should not be accepted;

- community involvement is an essential element in delivering sustainable development and creating sustainable and safe communities.

Planning and Climate Change Supplement to PPS1 states that the key planning objectives are:

- to make a full contribution to the delivery of the Government's climate change programme and energy policies to contribute to global sustainability;
- to secure the highest viable resource and energy efficiency in reduction in emissions as possible in providing homes, jobs, services and infrastructure needs by communities;
- deliver patterns of growth and sustainable rural developments that help secure the fullest possible use of sustainable transport for moving freight, public transport, cycling and walking and which overall reduce the need to travel, especially by car;
- secure new developments and shape places that minimise vulnerability and provide resilience to climate change;
- conserve and enhance biodiversity, recognising that the distribution habitat and species will be affected by climate change;
- reflect the development needs and interests of communities and enable them to contribute effectively to tackling climate change;
- respond to the concerns of business and encourage competitiveness and technological innovation in mitigating and adapting to climate change.

PPS4 (Planning for Sustainable Economic Growth): The Government's objectives for planning in achieving sustainable economic growth are:

- build prosperous communities by improving the economic performance of cities, towns, regions, sub-regions and local areas, both urban and rural;
- reduce the gap in economic growth rates between regions, promoting regeneration and tackling deprivation;
- deliver more sustainable patterns of development, reduce the need to travel, especially by car, and respond to climate change;
- promote the vitality and viability of town and other centres as important places for communities.

Policy EC10 requires local planning authorities to adopt a positive and constructive approach towards applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably. All planning applications for economic development should be assessed against the following impact considerations:

- whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions;

- the accessibility of the proposal by a choice of means of transport, including walking, cycling, public transport and the car, and the effect of local traffic levels of congestion;
- whether the proposal secures a high quality and inclusive design which takes opportunities for improving the character and quality of the area and the way it functions;
- the impact on economic and physical regeneration in the area, including the impact on deprived areas and social inclusion objectives;
- the impact on local employment.

Policy EC14: Supporting evidence for planning applications for main town centre uses

- EC14.1 References in this policy to planning applications for main town centre uses include any applications which create additional floorspace, including applications for internal alterations where planning permission is required, and applications to vary or remove conditions changing the range of goods sold.
- EC14.2 The town centre policies in this PPS apply to planning applications for the above uses unless they are ancillary to other uses. Where office development is ancillary to other forms of economic development not located in the town centre there should be no requirement for such offices to be located in the town centre.
- EC14.3 A sequential assessment (under EC15) is required for planning applications for main town centres uses that are not in an existing centre and are not in accordance with an up-to-date development plan. This requirement applies to extensions to retail or leisure uses only where the gross floorspace of the proposed extension exceeds 200 square metres.
- EC14.4 An assessment addressing the impacts in policy EC16.1 is required for planning applications for retail and leisure developments over 2,500 square metres gross floorspace or any local floorspace threshold set under policy EC3.1.d not in an existing centre and not in accordance with an up-to-date development plan.
- EC14.5 In advance of development plans being revised to reflect this PPS, an assessment of impacts in policy EC16.1 is necessary for planning applications for retail and leisure developments below 2,500 square metres which are not in an existing centre and not in accordance with an up-to-date development plan that would be likely to have a significant impact on other centres.
- EC14.6 An impact assessment dealing with the impacts set out in policy EC16.1 is also required for planning applications in an existing centre which are not in accordance with the development plan and which would substantially increase the attraction of the centre to an extent that the development could have an impact on other centres.
- EC14.7 Assessments of impacts should focus in particular on the first 5 years after the implementation of a proposal and the level of detail and type of evidence and analysis required in impact assessments should be proportionate to the scale and nature of the proposal and its likely impact. Any assumptions should be transparent and clearly justified, realistic and internally consistent.

EC14.8 Local planning authorities should respond positively to approaches from applicants to discuss their proposals before a planning application is submitted and seek to agree the type and level of information that needs to be included within an impact assessment.

Policy EC15: The consideration of sequential assessments for planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan

EC15.1 In considering sequential assessments required under policy EC14.3, local planning authorities should:

- a. ensure that sites are assessed for their availability, suitability and viability;
- b. ensure that all in-centre options have been thoroughly assessed before less central sites are considered;
- c. ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access;
- d. ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
 - i. scale: reducing the floorspace of their development;
 - ii. format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;
 - iii. car parking provision: reduced or reconfigured car parking areas; and
 - iv. the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals.

EC15.2 In considering whether flexibility has been demonstrated under policy EC15.1.d above, local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site, for example where a retailer would be limited to selling a significantly reduced range of products. However, evidence which claims that the class of goods proposed to be sold cannot be sold from the town centre should not be accepted.

Policy EC16: The impact assessment for planning applications for main town centre uses that are not in a centre and not in accordance with an up-to-date development plan

EC16.1 Planning applications for main town centres uses that are not in a centre (unless EC16.1.e applies) and not in accordance with an up-to-date development plan should be assessed against the following impacts on centres:

- a. the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal
- b. the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer
- c. the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan
- d. in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy
- e. if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
- f. any locally important impacts on centres under policy EC3.1.e.

Policy EC17: The consideration of planning applications for development of main town centre uses not in a centre and not in accordance with an up-to-date development plan

EC17.1 Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date development plan should be refused planning permission where:

- a. the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or
- b. there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments

EC17.2 Where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:

- a. the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and
- b. the likely cumulative effect of recent permissions, developments under construction and completed developments

EC17.3 Judgements about the extent and significance of any impacts should be informed by the development plan (where this is up to date). Recent local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy), will also be relevant.

PPG13 (Transport): In considering planning applications local authorities should:

- actively manage the pattern of urban growth to make the fullest use of public transport, focus major generators of travel demand in city, town and district centres and near to major public transport interchanges;
- locate day-to-day facilities which need to be near their clients in local centres so that they are accessible by walking and cycling;
- accommodate housing principally within existing urban areas, planning for increased intensity of development for both housing and other uses at locations which are highly accessible by public transport, walking and cycling;
- ensure that development comprising jobs, shopping, leisure and services offers a realistic choice of access by public transport, walking and cycling, recognising that this may be less achievable in some rural areas;
- in rural areas, locate most development for housing, jobs, shopping, leisure and services in local service centres;
- ensure that strategies in the development and local transport plan complement each other and that consideration of development plan allocations and local transport investment priorities are closely linked;
- use parking policies alongside other planning and transport measures to promote sustainable transport choices and reduce reliance on the car for work and other journeys;
- give priority to people over ease of traffic movement and plan to provide more road space to pedestrians, cyclists and public transport in town centres, local neighbourhoods and other areas with a mixture of land uses;
- ensure that the needs of disabled people as pedestrians, public transport users and motorists are taken into account in the implementation of planning policies and traffic management schemes, and in the design of individual developments consider how best to reduce crime and the fear of crime, and seek, by the design and layout of developments and areas, to secure community safety and road safety;
- protect sites and routes which could be critical in developing infrastructure to widen transport choices for both passenger and freight movements.

Regional planning policy

The Yorkshire and Humber Plan (Regional Spatial Strategy to 2026): The Regional Spatial Strategy (RSS) was adopted in May 2008. The Localism Act will enable revocation of the RSS policies but this has not been concluded and these policies can be afforded some weight in the determination of this planning application.

Policy E1 (Creating a Successful and Competitive Regional Economy) states that, in order to create a more successful and competitive regional economy, plans, strategies, investment decisions and programmes should help to deliver a number of criteria set out in the policy.

Policy YH4 (Regional Cities and Sub-regional Cities and Towns) identifies Scunthorpe as a sub-regional town which should be the prime focus for housing, employment, shopping, leisure, education, health and cultural activities and facilities in the region. A number of criteria are set out to enable the delivery of identified economic growth objectives.

Local policy guidance

North Lincolnshire Local Plan: Policy S8 (Out-of-centre Retail and Leisure Development) – planning permission will only be permitted for out-of-centre retail and leisure development where:

- a clear need for the development has been demonstrated;
- a developer can demonstrate that there are no sites for the proposed use within or at the edge of the town or district centre that are suitable, viable for the proposed use and likely to be available within a reasonable time period;
- the proposal, in addition to the cumulative effects of recently completed developments and outstanding planning permissions, will have no adverse impact on the vitality and viability of existing district centres and the rural economy. In all cases applications shall be accompanied by a retail impact assessment;
- the site is or can be made accessible by a choice of means of transport, including public transport, walking and cycling.

Where it is appropriate, conditions will be imposed restricting the minimum unit size of the development, and the type and range of goods sold, so as to prevent the operators directly competing with the existing town or district centres. The developer will be expected to support the proposal with evidence submitted as an impartial retail impact assessment.

Policy T1 (Location of Development) – developments which will generate a significant volume of traffic movement will be permitted provided that they are:

- (i) in the urban area of Scunthorpe, Bottesford, Barton-upon-Humber, Brigg and the areas identified for development at the South Humber Bank and Humberside International Airport; and
- (ii) where there is good access to rail, water, air transport or to the strategic road network, and where there is good foot, cycle and public transport provision, or where there are opportunities for such to be provided.

Policy T2 (Access to Development) – all development must be provided with a satisfactory access and in larger developments it should be served adequately by:

- (i) being readily accessible by a choice of transport modes;
- (ii) existing public transport services and infrastructure;
- (iii) additions or extensions to such services linked directly to the development; and
- (iv) the existing highway network.

Policy T19 (Car Parking Provision and Standards) – provision will be made for car parking where it would:

- (i) meet the operational needs of business;
- (ii) be essential to the viability of the new development;
- (iii) improve the environment or safety of streets;
- (iv) meet the needs of people with disabilities;
- (v) be needed by visitors to the countryside and comply with Appendix 2, Parking Provision Guidelines.

Policy DS1 (General Requirements) requires a high standard of design in all developments and poorly designed developments will be refused. The following criteria will be used to assess each proposal:

- (i) the design and external appearance should reflect or enhance the character, appearance, and setting of the immediate area;
- (ii) the design and layout should respect and, where possible, retain or enhance the existing landform;
- (iii) no unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, including overlooking or overshadowing;
- (iv) amenity open space should be retained where possible;
- (v) no pollution of water, air or land should result.

Policy DS12 (Light Pollution) – planning applications which involve light-generating development, including floodlighting, will only be permitted where it can be demonstrated that there will be no adverse impact on local amenities.

Policy DS14 (Foul Sewage and Surface Water Drainage) – the council will require satisfactory provision to be made for the disposal of foul and surface water from new development, either by agreeing details before permission is granted or by imposing conditions.

Policy DS16 (Flood Risk) – development will not be permitted within floodplains where it would:

- (i) increase the number of people or buildings at risk;
- (ii) impede the flow of flood water;
- (iii) impede access for the future maintenance of watercourses;
- (iv) reduce the storage capacity of the floodplain;
- (v) increase the risk of flooding elsewhere;
- (vi) undermine the integrity of existing flood defences.

North Lincolnshire Core Strategy: The North Lincolnshire Core Strategy development plan document was adopted as part of North Lincolnshire's local development framework (LDF) on 28 June 2011. The core strategy sets out the long-term spatial planning framework for North Lincolnshire up to 2026 by providing strategic policies and guidance to deliver the vision for the area, including the scale and distribution of development, the provision of infrastructure to support it and the protection of the natural and built environment.

Policy CS1 (Spatial Strategy for North Lincolnshire) – the spatial strategy will focus on:

- (a) delivering an urban renaissance in Scunthorpe and supporting its role as a major sub-regional town;
- (b) supporting the market towns of Barton-upon-Humber, Brigg, Crowle, Epworth, Kirton-in-Lindsey and Winterton as thriving places to live, work and visit, and as important service centres serving the needs of local communities across North Lincolnshire;
- (c) supporting thriving rural communities and a vibrant countryside through the protection and enhancement of local services, creating opportunities for rural economic diversification and the promotion of tourism;
- (d) supporting the development of key strategic employment sites at the South Humber Bank, Humberside Airport and Sandtoft Airfield;
- (e) supporting the protection and enhancement of North Lincolnshire's world-class natural and built environment to ensure the continued attractiveness of the area as a place to live, work and visit.

All future growth, regardless of location, should contribute to sustainable development, in particular in respect of those criteria set out in policy CS2.

Policy CS2 (Delivering More Sustainable Development) – in supporting the delivery of the spatial strategy set out in policy CS1, as well as determining how future development needs will be met in North Lincolnshire, a sequential approach will be adopted. Development should be focused on:

- (i) previously developed land and buildings within the Scunthorpe urban area, followed by other suitable infill opportunities within the town, then by appropriate greenfield urban extensions;
- (ii) previously developed land and buildings within the defined development limits of North Lincolnshire's market towns, followed by other suitable infill opportunities, then appropriate small-scale greenfield extensions, to meet identified local needs;
- (iii) small-scale developments within the defined development limits of rural settlements to meet identified local needs.

Any development that takes place outside the defined development limits of settlements, or in rural settlements in the countryside, will be restricted. Only development which is essential to the functioning of the countryside will be allowed to take place. This might include uses related to agriculture, forestry or other uses which require a countryside location, or which will contribute to the sustainable development of the tourist industry. A

sequential approach will also be applied to ensure that development is directed to those areas that have the lowest probability of flooding, taking into account the vulnerability of the type of development proposed, its contribution to creating sustainable communities and achieving the sustainable development objectives of the plan.

Policy CS4 (Creating a Renaissance in North Lincolnshire) sets out major transformational projects, the majority of which are located in the Scunthorpe area, notably Scunthorpe town centre. It is aimed to create a vibrant and attractive town centre, including new well-designed mixed-use developments to the east and west of the retail core using energy-efficient design and an improved public realm.

Policy CS5 (Delivery Quality Design in North Lincolnshire) requires all new development to be well-designed and appropriate for their context and also contribute to creating a sense of place. The council will encourage contemporary design providing that it is appropriate for its location and is informed by its surrounding context. Design which is inappropriate to the local area or fails to maximise opportunities for improving the character and quality of the area will not be acceptable. A list of criteria states what new development within North Lincolnshire should be assessed against.

Policy CS7 (Overall Housing Provision) establishes that between 2010 and 2026 North Lincolnshire's housing requirement is for 12,063 new dwellings to be provided (that is 754 new dwellings per year).

Policy CS8 (Spatial Distribution of Housing sites) confirms that nearly 9,000 houses will be provided within and around Scunthorpe, with 6,000 new dwellings being provided as part of the Lincolnshire Lakes development.

Chapter 10 of the core strategy sets out North Lincolnshire's planning policies for future retail development. The role of the LDF is to set a proactive planning policy framework to deliver the vision for the area and support the sustainable delivery of new and improved shopping, cultural, leisure and tourism facilities across North Lincolnshire. In doing so, it will ensure that new retail development is directed to appropriate locations, existing retail facilities are improved, and any deficiencies in the retail hierarchy are addressed, allowing for future growth to be planned for. The aim of the LDF is to promote the vitality and viability of the area's shopping hierarchy, encouraging a wide range of services that promotes genuine choice in a good quality environment with a vibrant mix of activity which is accessible to all.

Policy CS14 (Retail Development) – the council will work with partner organisations to identify, protect and enhance the following hierarchy of vital and viable town, district and local centres in North Lincolnshire:

- (1) **Scunthorpe town centre:** Scunthorpe town centre will be the main location for all new retail, leisure, cultural and office development in order to fulfil its sub-regional role. Development will be provided which meets the quantitative and qualitative needs for these users. To support the Scunthorpe urban renaissance programme the town centre will be subject to major redevelopment with increased comparison and convenience retail floor space, together with an improved market and enhanced cultural facilities. New development should make a positive contribution to improving the town centre's viability and vitality, support the creation of a comfortable, safe, attractive and accessible shopping environment and improve both the overall mix of land uses in the centre and its connectivity to adjoining areas.

- (2) Market town centres of Barton-upon-Humber, Brigg, Crowle and Epworth
- (3) District centres of Kirton-in-Lindsey and Winterton
- (4) District centres of Ashby High Street and Frodingham Road
- (5) Local centres/corner shops

Policy CS16 (North Lincolnshire's Landscape, Green Space and Waterscape) states that the council will protect, enhance and support a diverse and multi-functional network of landscape, green space and waterscape.

Policy CS17 (Biodiversity) states that the council will promote effective stewardship of North Lincolnshire's wildlife.

Policy CS18 (Sustainable Resource Use and Climate Change) – the council will actively promote development that utilises natural resources as efficiently and sustainably as possible, which will include:

- high water efficiency standards, incorporating new technologies to recycle and conserve water resources;
- requiring the use of sustainable urban drainage systems (SUDS) where practicable;
- supporting the necessary improvement of flood defences and surface water infrastructure required against the actions of climate change, preventing development in high flood risk areas where possible;
- meeting required national reductions of predicted CO₂ emissions by at least 34% in 2020 and 80% in 2050, all industrial and commercial premises greater than 1,000 square metres to provide 20% of their expected energy demand from on-site renewable energy until a code for such buildings is applied nationally. Where developers consider these codes and targets cannot be met on the basis of viability, they will be required to provide proof, through open-book discussions with the council at the planning application stage, ensuring building design reduces energy consumption by appropriate methods;
- supporting development that minimises the consumption and extraction of minerals;
- supporting development that seeks to minimise waste and facilitates recycling and using waste for energy where appropriate;
- ensuring that development and land use in areas close to the Humber estuary and rivers responds appropriately to the character of the area, in the interests of preserving and making best use of limited resources;
- supporting development that will help reduce the need to travel for people using that development;
- ensuring development and land uses protect people and the environment from unsafe, unhealthy and polluted environments;
- supporting renewable sources of energy in appropriate locations;

- supporting new technology and development for carbon-capture and the best available clean and efficient energy technology;
- promote the use of a green space strategy and a green infrastructure plan where applicable which can help reduce the effects of climate change.

Policy CS19 (Flood Risk) – the council will support development proposals that avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere. This will involve a risk-based sequential approach to determine the suitability of land for development. Development in areas of high flood risk will only be permitted where it meets the following prerequisites:

- it can be demonstrated that the development provides wider sustainability benefits to the community and the area that outweigh flood risk;
- the development should be on previously used land. If not, there must be no reasonable alternative developable sites on previously developed land;
- a flood risk assessment has demonstrated that the development will be safe without increasing flood risk elsewhere.

Policy CS25 (Promoting Sustainable Transport) – the council will support and promote a sustainable transport system in North Lincolnshire which offers a choice of transport modes and reduces the need to travel.

Policy CS27 (Planning Obligations) – where a development proposal generates an identified need for additional infrastructure, the council will, through negotiation pursuant to Section 106 of the Town and Country Planning Act and in accordance with guidance set out in Circular 05/2005, seek to ensure that the development proposal:

- meets the reasonable cost of new infrastructure and improvements to existing infrastructure made necessary by the proposal in order to support either affordable housing, maintenance payments, highway infrastructure, transport initiatives, utilities etc;
- mitigates the impacts of the development; and
- offsets the loss of any significant amenity or resource through compensatory provision elsewhere; or
- provides for the ongoing maintenance of facilities provided as a result of the development.

CONSULTATIONS

Highways: No objections subject to conditions and a commuted sum towards off-site highway improvements (18 to 37).

Environment Agency: No objections subject to the imposition of conditions.

Natural England: This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. The protected species survey has identified that great crested newts (a

European protected species) and water vole (a species protected by domestic legislation) may be affected by this proposal.

English Heritage: No objections.

Severn Trent Water Ltd: Advise a condition regarding disposal of surface water and foul sewage.

Highways Agency: A number of areas within the transport assessment could benefit from further analysis. A review of the information has concluded that there is no material impact on the safe and efficient operation of the M181 and therefore there is no objection. Additionally, the Highways Agency recommends to the local planning authority that the travel plan submitted must be made sufficiently robust and secured in an appropriate manner to minimise vehicle trips to the development and reduce any impact there may be on the local and strategic road network.

National Grid: The works proposed are likely, unless controlled, to adversely impact the safety and integrity of national grid operators. The applicants are therefore required to contact them for technical advice.

Scunthorpe and Gainsborough Water Management Board: There are no Board-maintained water courses adjacent to the site. The Board recommends several conditions and informatives regarding surface water drainage and maintenance responsibility.

NHS: No objections.

West Lindsey District Council: Object on the following grounds:

- the detrimental impact on the vitality and viability of retail centres within West Lindsey
- local villages located in the north-west of the district, which are already experiencing high levels of leakage, will be worst affected
- a 2008 retail study demonstrated that the Scotter area retained only 7.43% of its convenience expenditure, half leaking to Scunthorpe
- Scunthorpe took approximately 36% of the market share from the Scotter area regarding comparison goods shopping
- the development is unsustainable out of town – staff and customers would be highly reliant on use of the private car

North East Lincolnshire Council: No comments received.

GUNNESS PARISH COUNCIL

No objections to the proposal, however comment that it is possible that local residents adjacent to the new access road would suffer from noise pollution created by HGVs making deliveries, especially during the night, and generators for the refrigeration and cooling units which would be sited close to existing housing. Additionally, they are aware that reversing sirens cannot be used by HGVs after 11pm.

BURRINGHAM PARISH COUNCIL

No comments received.

PUBLICITY

Receipt of the application has been advertised by site and press notices, and the nearest commercial and residential properties have been notified. Over 2,000 letters have been received, the majority of which are a standard letter of objection that people have signed. A considerable number of letters of support have also been received and a number of letters which simply make comments of neither support nor objection. All the letters have been read and considered in the processing of this application.

On 8 November amended plans were received which made minor changes to the site layout and elevations of the building. The amendments to the scheme were advertised by site and press notices, and the nearest commercial and residential properties were notified. Resource limitations prevented the council writing individually to all those who have submitted representations to inform them of the amendments. However it is felt, through publicity undertaken and easy access to the council's website, that adequate consultation has been carried out for the purpose of processing the application.

The **letters of support** received are summarised as follows:

Transport

- Parking charges within the town centre are very high and having to pay on a Sunday is ridiculous. The town is full of cheap and 'pound' shops. The proposed site is already established as a premium shopping area in the town, convenient for both town and outlying villages, and motorway links.
- This new development would not make the traffic any worse than it is now and it is a lot less congested at peak times than most towns in the country.
- The first priority should be sorting the gridlock out on most days at Berkeley roundabout where five roads converge. There are no relief exits for Tesco or B&Q.
- The development would mean people from the Scunthorpe area have a wide variety of shopping and wouldn't need to travel to Meadowhall, Grimsby or Lincoln.
- The council should give the proposal more help as the Gallagher park was virtually given piecemeal to go ahead and no thought of egress was asked for.
- Decision-makers should welcome this quality store with open arms and seize the challenge of tackling the traffic problems with skill and goodwill.
- The cost of parking in the town centre is high for the limited range of shops.
- Not all areas are served well by public transport so inevitably shoppers want to use their cars, particularly when buying food.
- The way to keep the traders in the town centre trading is to improve the bus network between the bus station and the Gallagher retail park/new retail development as, over the past few years, buses have been diverting via the Gallagher retail park only on

week-nights and weekends, with the odd exception, buses from the villages and the megabus to and from London.

- The problems with congestion happen at times you would expect such as the rush hour, ie 8.30am to 9.30am and 3.30pm to 5.30pm weekdays, and when Scunthorpe United are playing at home for an hour before and after every match. At all other times problems do not occur.
- Hopefully, it would be free parking as with all out-of-town shops.
- There is a new bus service on the Hilton Avenue estate running every hour. This would probably be made difficult. Perhaps traffic lights would work.
- The road plans would be a great improvement to the current set-up.
- Several highway suggestions have been made:
 - retain the roundabouts at the A18 Scotter Road and M181/A1077 junctions;
 - erect traffic lights at both these roundabouts, control access to and flow round the roundabouts;
 - remove the pedestrian crossing traffic lights to the west of the A18/Scotter Road roundabout;
 - remove the mini-roundabout on the A18 at the Glanford Park entrance but retain road access to the ground, remove the lights and pedestrian crossing between Stephen Smith's and B&Q, to be replaced with a footbridge and ramp access crossing the A18;
 - build a central reservation from west of the A18/Scotter road roundabout;
 - enforce a one-way system between the two roundabouts;
 - eastbound two carriageways on the B&Q side of the A18.
- The development would certainly create extra traffic on Doncaster Road but some traffic delays occur in most towns and cities. It is something Scunthorpe people are unaccustomed to.
- It is believed the council has considered making a request to have the M181 downgraded to a trunk road which would enable football traffic to gain access directly from the ground onto the M181.

Economic

- The development would be a positive move for the town.
- The prospect of a new M&S store in the area is very exciting and just what Scunthorpe needs.
- Anything that creates jobs in the current economic climate is a good thing. If the development does not go ahead, M&S are not interested in moving back to the town

centre, in which case the opportunity of creating new employment for a lot of people would be lost. The demise of Scunthorpe town centre was brought about by Asda, Tesco and Morrisons opening their large stores, creating out-of-town shopping areas.

- Away supporters coming to football matches could spend money in the M&S store and other units, and could even go into the town centre to spend as well.
- If the application is refused, M&S may well pull out of the town for good, which would be a disaster.
- The creation of jobs is good news for the unemployed in our area.
- If permission is refused, it will send out the wrong message to other potential developers and retail business.
- It must be positive to create more jobs, not only in the building of the site, but for the employees in the long-term.
- The development would increase Scunthorpe's appeal.
- This development, alongside The Pods and The New Venue, would bring modernity and vibrancy to Scunthorpe, and enhance its somewhat dreary reputation.
- The development would be a real asset to the people of the town and further afield.
- The possibility of creating 300 new jobs and increased business further down the supply chain gives local businesses a relief break during challenging times.
- The benefits of this scheme for Scunthorpe and the surrounding area are potentially enormous.

Retail

- Customers who shop at M&S would stay in the town and use the High Street shops as well if the store had a large enough range of goods.
- Many people travel to cities and towns that do have M&S stores.
- We have been wanting a bigger store for years but there are clearly no vacant shops big enough for M&S to move into.
- Surely the development would ensure people would stay in the town rather than going to an M&S store elsewhere. Why can't the council provide a good shopping centre in the town centre like other towns do?
- The town centre is no longer a viable option for M&S to relocate to Scunthorpe. If North Lincolnshire Council miss the opportunity for M&S to trade in the town, it would be a very sad loss indeed. It does not matter where the M&S store is located; with longer opening hours it would definitely suit people's needs.
- This development will mean that people can stay in Scunthorpe and be able to shop in the town centre shops at the same time.

- This opportunity should really not be missed out on. The town has been screaming out for a retailer of this kind to open a large store in the area.
- If it is done right, it will only help traders in the town centre to prosper.
- The Gallagher retail park is the gateway to Scunthorpe. Having the store there would keep people in the town, saving them from leaving Scunthorpe.
- If there are any complaints from Tesco, check with the tax payers who would like to see the store go ahead as Tesco are becoming so dominant in the area – with the Extra store on Doncaster Road, Express stores in Ashby and Crowle, and Brigg and Barton, they have a fair amount of retailing space in the county.
- A new M&S would not draw business away from Scunthorpe town centre as the customers M&S aim their products at are more likely to be found at the Gallagher retail park.
- The clothing on offer in Scunthorpe for men and women of the older generation is limited now that T J Hughes has closed.
- If the development is sufficiently attractive, it could draw additional shoppers in from further afield than North Lincolnshire.
- This store will attract a totally different clientele from the town centre
- M&S are the only retail store in Scunthorpe to do particular sizes of clothes.
- Scunthorpe needs more ladieswear for over 50s, good shoe shops, household goods and menswear shops.

Localised

- Most residents would rather a large store outside the centre, than no M&S store at all.
- The development would be good for the Lincolnshire Lakes project.
- We must be the only county in the whole of the UK not to have an M&S store, or a proper department store.
- Scunthorpe is fortunate that M&S (probably the UK's leading retailer) is proposing a flagship store near to the town centre.
- The Gallagher retail park is one of the areas of Scunthorpe which is vibrant and uplifting for visitors to Scunthorpe. It is understandable why M&S would want to position themselves in this part of town.

Council

- The previous Scunthorpe and North Lincolnshire Councils failed to attract retail business and lacked foresight when the opportunity to develop was available.

Environment

- With regard to loss of the lake that exists at the garden centre, the developers could be asked to put the lake somewhere else, either in the development or around the area.
- Today we must all accept change.
- Reducing the number of people travelling outside the area will reduce pollution and the carbon footprint.

Town centre

- The proposed site is only a short distance from the town centre which, if it was smartened up, people would probably visit.
- Free parking would benefit the town centre. Scunthorpe has been allowed to deteriorate over the years – facts that the objectors have done nothing about.
- Scunthorpe's shopping centre is very run-down, with scruffy buildings, especially above the shop names, and dirty windows, the whole length of the town. Problems with Berkeley Circle should have been dealt with years ago. The shops in Scunthorpe High Street do not sell quality goods close to the town.
- High Street shops should not be too complacent about the development – as long as they keep up-to-date with customers' needs, with more free car parking, sales will continue.
- There are no suitable stores within the town centre.
- If there is some wise updating of the town centre, less 'pound' shops and fewer charity shops, people may also then gravitate into the town.
- No shops within the town centre will compare to this development so they will not be affected. There is an existing junction from Stephen Smith's garden centre so this should not make much difference to the traffic.

Other

- There is a huge footfall of customers in that location.
- If the development is not approved, there will never be an M&S in Scunthorpe and that will not help the town at all.
- They should never have been allowed to leave the town in the first place.
- Even the empty T J Hughes property might not be big enough for a full range of stock.
- If the store went back into the town centre, it would make no difference to other traders and would not be viable for M&S to sustain the size of store needed.
- M&S are very environmentally friendly.

- Many people prefer to shop in retail parks where convenience is one of the prime considerations.

Objections received to this application can be summarised as follows:

Town centre

- A large M&S store would offer a large range of goods, including food, clothing and homewares, which would compete directly with existing in-town retailers. The accompanying 40,000 square feet retail would, without doubt, remove trade from the town centre.
- With an M&S anchor scheme would expect to draw numbers of retailers from the town, for example, Boots, New Look, Dorothy Perkins, Burton and Currys.
- The trade draw assumptions for the M&S store and other floor space is almost identical. The applicants assume that the other floor space will be occupied by high-end fashion retailers that represent an equal attraction to the M&S store which cannot be justified in the absence of named operators. The applicants' trade draw assumptions do not reflect existing shopping patterns. As a result more trade will be diverted away from Scunthorpe town centre.
- The town centre could actually be under-trading and the trade diversion would therefore be more significant.
- M&S should be within the town centre but not to the detriment of all the businesses within the town centre who supported it after M&S left.
- The 'Keep Scunthorpe Alive' campaign is long-term working for the good for the benefit of Scunthorpe town centre.
- The coalition government have announced that they intend to save 'ghost' town centres. Community Secretary Eric Pickles is leading the drive to put town centres first and give British high streets a chance against out-of-town retail parks.
- Ironically, the T J Hughes store was originally designed for M&S so presumably any qualitative arguments in terms of accommodation must be negated.
- Granting permission for this development would allow five other traders to leave the town centre and position themselves alongside M&S. These five traders will be national as small independents will be of no interest to the developers. This would be the death of Scunthorpe town centre trade.
- There are empty units and land within the town centre that could be used for this development with excellent public transport links.
- The council should decide whether they want a vibrant quality town centre or a second-rate one. Over the past 40 years these out-of-town developments have all but destroyed Scunthorpe as a town centre. There is no longer a good market, and all the big multiple stores are now on the perimeter of Scunthorpe. Big companies and developers are very selfish and clever at getting what they want. Other cities and towns (such as Hull, Beverley, Lincoln, Grimsby, Buxton and Harrogate) will not allow it and they all have a

town centre M&S, so why should Scunthorpe give in to them? It seems odd that M&S cannot make their Scunthorpe store viable or do we have to take their word for it, or is it a cynical way of getting what they want by closing first? This development would be totally unfair to new entrepreneurs and small businesses, then you could say 'goodbye' to the town centre. You would find Westgate and many more big stores closing and the new town centre would be the Gallagher retail park.

Planning policy

- The applicant claims the existing use of the site is an unrestricted retail use (Class A1). This is not the case. The relevant planning permission (7/783/84) describes the development as a garden centre. The applicant claims comments previously made by the Secretary of State, in determining the application in 1990, remain relevant. This cannot be the case because consideration of sequential and impact assessments was only introduced in PPG6 in June 1996. Therefore no weight can be attached to the Secretary of State's previous assessment of the site.
- The limited evidence presented by the agents enables the following conclusions to be drawn:
 - The six retail units proposed could be disaggregated and delivered separately.
 - The M&S convenience floor space could be disaggregated from the comparison floor space in accordance with the M&S Simply Food model.
 - Disaggregation cannot prejudice the implementation of an unknown operator's business model.
 - There is no need for the proposed development as a whole to be delivered as a single retail park.
 - A thorough assessment of all in-centre opportunities has not been undertaken.
 - There are many sequentially preferable vacant units in the town centre that could accommodate a disaggregated proposal.
 - The former leisure centre site is a sequentially preferable site that could accommodate the entire proposal.
 - The evidence presented by the applicant fails the tests of PPS4, policy EC15 and therefore refusal of planning permission is justified.
- The proposed impact upon vitality and viability of Scunthorpe town centre has not been properly assessed in line with PPS4 Practice Guidance upon the range, type and quality of goods available.
- The inclusion of housing commitments to define the study area population is unjustified and not robust.
- The retail assessment is also flawed in that they have chosen not to address the negative impacts of the proposal.

- The draft national planning policy framework (NPPF), which is expected to be implemented shortly, states: 'In determining planning applications, local authorities should apply the presumption in favour of sustainable development. Policies should be positive and promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. Local planning authorities should prefer applications for retail and leisure uses to be located in town centres where practical, then in edge-of-centre locations, and only if suitable sites are not available should out-of-centre sites be considered.'
- Objections refer to paragraph 3.13 of the North Lincolnshire Local Plan which is under policy ST1 (Sustainable Development) which requires new shopping facilities to be located within existing centres.
- Reference is also made to paragraph 7.4 of the North Lincolnshire Local Plan which states that Scunthorpe town centre is vulnerable if it loses major retailers, stating that the council is committed to an ongoing programme of town centre regeneration which would create further opportunities for enhancement and refurbishment, and generally increase the attractiveness of the centre.
- It must be possible to develop a new M&S adjacent to the cultural quarter by rearranging the format of the store, in other words utilising more innovative site layouts such as multi-storey trading levels. At 7.29 of the applicants' statement they question the suitability of the 2.8 hectare site and then switch to indicate the developers believe that the time it would take for the land to be amassed from various owners would take longer than they deem a realistic time frame, which obviously depends on what is driving the timetable. There is no indication what the time parameters are that the developers are referring to.
- The needs of the town centre are enshrined in current policy as paramount in any new retail development and the likelihood of funding being available for the proposed cultural quarter is likely to be limited for two to three years, perhaps longer.
- Businesses within the town centre appear to be doing a reasonable level of trade. The town centre is busy. However, there is a real concern in the community generally, not just from businesses themselves, but from shoppers, that the proposed development would attract other retailers from the town centre which would have a devastating impact and would also impact on the council's car park revenues and the overall mix of business. The proposal would have a very negative impact upon The Foundry and Parishes shopping centre which would result in a major reduction in footfall. This, in turn, would place great strain on the more established retailers like BHS, HMV and Wilkinsons.
- Being an owner of a small independent company, employing 37 staff, is a considerable undertaking. Heavy investment has been poured into the salon which trades six days a week. If the town centre is decimated, the business will not be able to provide 37 jobs for local people. The North Lincolnshire Local Plan gave added confidence where it states that out-of-centre locations would be considered only in exceptional circumstances. A developer that stands to make a huge return on this development and a large corporate who will significantly gain financially from agreeing to be the anchor store is not deemed to be exceptional circumstances.

- It is hoped that the planning department will be true to the ethos and values set in their local plan and realise that this proposal does not fit with what they have specified.
- If the developers and M&S hold the interests of Scunthorpe at the centre of their considerations, to get maximum exposure to the services they wish to deliver, the perfect location would be the new site being made available next to the bus station which is the hub of public transport enabling everyone who does not have their own transport to get to it without the unprecedented upheaval that is intended to be imposed at the proposed site.
- The local plan specifically states that out-of-town development should be restricted in favour of development in the town centre. The demolition of the former leisure centre provides an excellent development opportunity which would utilise the Phoenix Parkway for out-of-town visitors and is close to the existing public transport infrastructure.
- The applicants state that a bus service would be provided from the town centre and train station at 30 minute intervals to take customers away from the town centre. The planning permission to extend the Tesco store on the Gallagher retail park contained a condition that stated, *'The net floor space of the extended store shall not exceed 6,993 square metres. Of the net floor space no more than 2,867 square metres shall be used for the sale of comparison goods.'*, the reason being, *'To prevent the development having an adverse impact upon the viability and vitality of Scunthorpe town centre's retail function.'* This is evidence that in mid 2009 the council were minded to work in accordance with their own local plan to promote the future vitality and viability of the town centre. Since this decision in 2009 the council cannot surely have changed their mind. Their opinion on a significant matter such as the future viability of the town centre cannot completely reverse in the space of two years.
- The proposal contravenes the council's own local plan and also current government guidance on out-of-town retailing – enough is enough.
- Policy EC15 (the sequential test) states that a developer must show that no suitable sites exist in the town centre before being allowed out of town. They must also show that they cannot split their operation between more than one site in the town centre. They cannot have done this. Firstly, with the old leisure centre site and the demolition of the multi-storey car park in Carlton Street, plus associated available space in that area, and the vacant T J Hughes site on Cole Street, they have clearly disregarded the council's own guidelines.
- Yorkshire Forward, council members and officers, and members of the Town Team have made the Lincolnshire Lakes extraordinary development an economical possibility and, in line with the North Lincolnshire Local Plan, retail units would not be allowed on this major development due to there already being an excess of out-of-town retail sites.
- There are significant deficiencies in the sequential testing submitted by the applicants which is not justified in line with national or local policy.
- The proposal flies in the face of the North Lincolnshire Local Plan – the council's published policies in respect of restricting further out-of-town development in favour of town centre regeneration – and has no public transport facilities of any note.

- This application should be refused and it should be recommended that they locate to the former T J Hughes' site in the town centre where all the facilities are already constructed: two storeys, purpose-built café and ample car parking (especially now that there is free parking). The proposed location would do nothing but annoy drivers trying to get into and out of town.
- Approximately six years ago permission was refused for a large Asda superstore development on Glebe Road because it was not near enough to the town centre, so where does this development fit in with that correct and reasoned thinking?
- M&S left the town without a second thought with the statement that the store was not viable. Now that the cards are on the table, Scunthorpe is back on their radar. That would be great if it was in the town centre, but why out of town? Like developers will tell you, it is the only viable place. How did Scunthorpe get in a situation where there is more out-of-town retail at nearly every corner when much bigger towns like Grimsby, Doncaster and Hull have far less.
- Replacing a garden centre with a large 7-unit retail park is not like for like. It is a completely different kind of retailing experience to a garden centre.

Economic

- If development is allowed, the number of job losses from premises within the town centre will be far in excess of those created, particularly due to knock-on effects.
- There will be a severe impact when retailers leave the town centre and smaller businesses are boarded up. There will be loss of rental values as non-occupancy levels increase.
- Any application of this sort will include the claim of improved employment prospects. Development will, of course, provide work for contractors during the building phase, but this is not necessarily local jobs. Skilled jobs and management will already be employed and imported to Scunthorpe. The longer-term employment of the site is less clear because M&S will have a reasonable idea as to their staffing needs, but the other five units will not. The town centre provides excellent nurturing potential for new and developing businesses but this potential will be eroded if the town continues to lose major footfall to out-of-town developments.
- There is no evidence in the statement to support the idea that this project will secure sustainable economic growth. If any part of retailing were secure then Scunthorpe would still have a branch of M&S, Woolworths, T J Hughes and Littlewoods, which were all in the town when England & Lyle presented their report in 2005, but are all gone now. There are significant lessons to be learned about town centre management and speculative out-of-town developments. In terms of sequential tests, it would be interesting to see what difficulties M&S would have in setting up on one of the identified sequentially favourable sites. There is no data about why M&S require the precise area that they will occupy if the proposal is granted permission.
- A lot of local businessmen have, over the years, shown faith in Scunthorpe by investing thousands, and in some cases millions, of pounds of their own money. It is time North Lincolnshire's elected councillors repaid that faith.

- Jobs were not at the top of the agenda when M&S closed its doors in the town centre, so why can this be a point of argument now?

Retail

- The applicants' assessment of impact is based on delivering high-end fashion retail floor space with an ancillary M&S food offer. However, this limited assessment does not reflect what is being applied for, which is approximately 10,500 square metres gross of unrestricted retail floor space, which could accommodate any retail operator.
- The applicants have only considered the impact of additional high-value fashion floor space despite M&S only being committed to occupying one of the units. There is therefore no evidence to suggest that the potential non high-value fashion impact derived from the other five retail units has been assessed.
- Inconsistency within the retail statement: in paragraph 9.10 M&S are described as a mainstream retailer, in 9.13 they are not considered to be in competition with other mainstream fashion retailers, then at 9.14 the proposal is described as delivering high-value fashion floor space – an approach that is highly inconsistent.
- The applicants claim the proposal doesn't compete directly with the town centre (paragraph 9.14). However, in table 23 the proposal is shown to divert the highest quantum of trade from Scunthorpe town centre.
- If planning permission is granted there will be a hugely detrimental effect upon Scunthorpe town centre. If looking in other areas, there has been a massive decline in the vitality of Rotherham town centre over the last decade as a result of poor planning decisions that granted Retail World on the edge of town. Many shops have been boarded up for years, unable to find new tenants. Once the demise has happened, it is a huge, if not impossible, task to get the town centre back on track.
- Large investment in Scunthorpe town centre of over a million pounds to build up this local business over the last six years. The decision to invest was not taken lightly and was only done after due diligence and research into North Lincolnshire Council's policies on Scunthorpe town centre with particular reference to the North Lincolnshire Local Plan.
- The council's annual monitoring report states that there will be no new out-of-centre retail development.
- It is claimed that there are 21 empty units in Scunthorpe, however a commercial survey has been commissioned which shows there are more than 50 empty units which equates to a staggering 250,000 square feet of retail space available. This does not take into account the units which are currently occupied but on which tenants are keen to terminate their lease.
- The applicants state that no other site in Scunthorpe meets their criteria. This cannot be the case as the leisure centre site meets the M&S criteria which is a new build with own customer parking, easily accessible from the motorway.
- We ask the planners not to be enticed by the M&S brand and that the planning application should not be assessed with an M&S bias because they are a huge player in

retail and often dictate where they are located, which is the best place for them financially but not the best place for the town.

- If planning permission is granted, it would be almost impossible to attract any potential developer to the leisure centre site which would see the site remain derelict and empty, giving a bad impression to visitors.
- It is believed that the whole of the leisure centre site is owned by the council so in effect is owned by the residential and business rate payers of North Lincolnshire. The council must therefore have a duty of care to protect the asset values of what belongs to rate payers.
- Over the years the town centre has tried to compete with the development of four major out-of-town retail areas: Asda on Scotter Road, the Skippingdale retail park, Lakeside and then the Gallagher retail park.
- How many retail parks can a small town support?
- The applicants need the development for one reason only – profit. The previous four out-of-town developments have not increased footfall in the town centre so by what kind of miracle will this one?

Traffic/transport

- only one football match was monitored to assess the potential impact upon the highway network and this match was the last game of the season when Scunthorpe United were already relegated. The traffic figures were therefore unrealistic.
- increased traffic congestion into an area that already cannot cope with the traffic problems that exist there
- delivery lorries to the store, further adding to the congestion problems
- poor public transport links, disadvantaging the elderly and disabled
- major disruption to local residents during the construction phase
- potential restriction on emergency service access
- There is almost a complete lack of public transport to this area which limits access for many people, particularly the elderly and disabled, who rely on public transport.
- The existing plans to build a school and over 2,000 houses at the rear of the existing Tesco site flagged up concerns regarding traffic flow from that development into the Doncaster Road/Berkeley Circle area.
- Additional congestion from this development would add to an already busy road during and after construction.
- This area already struggles to cope with the level of traffic on a daily basis, particularly at weekends.

- Doncaster Road from Glanford Park to Berkeley Circle is already frequently heavily congested leading to significant delays to traffic trying to enter the roundabout from both sides of Scotter Road, Kingsway and Doncaster Road.
- insufficient parking on the site leading to staff and customers using nearby residential estates to park
- potential road traffic accident hotspot with increased danger to schoolchildren
- The plans do not take into account the new exit being proposed from the Gallagher retail park.
- There is no bus service and not everyone has a car. In fact we are encouraged not to use them.
- With regard to highway congestion, it is not unusual to see queues on Scotter Road from Asda in the south and Kirk's Corner in the north to Berkeley Circle because there is continuous traffic on both sides of Doncaster Road denying this traffic access to the roundabout.
- Another busy retail park would surely gridlock the traffic in this part of Scunthorpe.
- The whole area suffers from traffic flow problems/congestion due to the developers of the Gallagher retail park and the council's own highways department underestimating the amount of retail car journeys to Tesco and B&Q, and the extra problems caused by additional match-day traffic from Glanford Park.
- If allowed, this development would certainly double the current traffic movements in this area, which struggles to cope with it now. With the housing development in the mix, it would create total gridlock.
- To add a set of lights out of the car park and onto Doncaster Road – what looks like a solution on paper very often does not work out in reality.
- The proposed access road would be used by articulated lorries to the service yard and members of the public by car and on foot with no physical barrier separating them. Surely this is a road safety concern, particularly for pedestrians and motorcycle users.
- On leaving the site the same dangerous hazard would exist with no obligation for lorries to turn left towards the motorway. If they turn right they would be across several lanes of traffic into a very populated residential area with several schools. It is not felt that the traffic survey submitted gives a fair reflection of the potential traffic in the area.
- Temporary traffic lights were trialled at the site in December to deal with heavy congestion at the retail park, but the trial was not a success.
- How can the developers expect retail traffic to exit into busy match day traffic and why would football supporters who wish to leave the ground quickly then give way to traffic leaving the retail park? This will not work safely.

- It has been suggested that the KFC entrance/exit should be utilised for the exit from the retail park as an alternative to Jack Brownsword Way, but this would still be affected by match-day traffic.
- The Tesco extension under PA/2008/1709, which includes improvements to the Gallagher retail park access, must be commenced before June 2012. Therefore this additional traffic should also be considered in any traffic impact assessment.
- On the Gallagher development web site it states that the planning application for a further 77,000 square feet on the remaining 3 acres of the site is being promoted. If this was submitted and approved imagine the severe impact it would have on traffic levels.
- Congestion has a very negative impact upon the existing retail stores at the Gallagher retail park. They are desperate for a solution to this issue which has been ongoing for a number of years now. At busy weekends it can take customers over an hour to leave the retail park. After such an experience customers do not return.
- Sales are severely being impacted upon. At times colleagues have to spend more time in the car park than they do in the shop to pacify angry customers. If nothing is done the retail park's future will be compromised.
- There is a high level of concern in the community about the already difficult entrance to the town from the M181 because of the congestion caused by the Gallagher retail park.
- This development would create additional traffic congestion on a road system which struggles with the current level of traffic.
- The Gallagher estate has an existing planning permission (PA/2007/0828) for residential development on land to the rear of the Tesco store on Doncaster Road. The actual traffic assessment fails to include the residential permission and only assesses the Tesco development.
- It is likely that the additional traffic generated by the proposed retail park would require the applicants to implement the committed improvement scheme at the Berkeley Circle junction first in order to accommodate the increase in traffic.
- The retail park proposes a secondary access via Scunthorpe Football Club. We believe the majority of traffic would use the proposed signalled access off Doncaster Road.
- A more suitable access onto Jack Brownsword Way could be provided by the KFC mini-roundabout.
- There are concerns with regard to the capacity assessments contained in the transport assessment which do not seem to replicate existing traffic conditions.
- Clarification is required on what programme has been used to assess the Berkeley Circle junction.
- There are outstanding traffic, access and highway issues which need to be addressed and anomalies within the transport assessment rectified.

- A secondary access via the KFC mini-roundabout approach should be considered before any access via Scunthorpe Football Club is proposed.

Ecology

- wildlife disturbance and killing of wildlife as a result of the pond being removed
- The site has a lake-size stretch of water on it that attracts many different wildlife species. A thorough independent wildlife assessment should take place before this application is even considered. There are endangered species in this area.
- destruction of the pond, impact on the environment, habitat and wildlife

Amenity

- The site has a lake-size stretch of water on it that attracts many different wildlife species. A thorough independent wildlife assessment should take place before this application is even considered. There are endangered species in this area.
- This proposal would turn local residents' lives upside down because:
 - it would encroach onto the parameters of the suburb, take away the farmer's access road to his fields, and restrict pedestrians to a 1m wide footpath;
 - it would remove a countryside view;
 - it would decimate the birds, insects and small animals, along with the wild flora, to be replaced by an audio fence against the proposed new footpath in the hope that this would reduce the noise of delivery lorries;
 - it would create more litter, packaging, plastic bags and trolleys to blight the area.
- Hundreds of thousands, if not millions, of pounds would be spent on this development to change the environment even before any buildings are erected, instead of locating shops in business, commercial and retail parks specially designed to accommodate them without interfering with the lives of nearby residents.
- The biggest blight of all is when the retailers close their doors and shut up shop and locals are left with a costly eyesore that destroyed the way of life for everyone which becomes a magnet for vandalism.

Other relevant considerations

- no security CCTV

The consultation responses from non-statutory consultees are summarised below:

Licensing: No objections.

Environmental Protection: Conditions recommended regarding land contamination and noise issues.

Environment Team (Public Rights of Way): A public right of way runs through the site in the approximate location of the proposed service road. This footpath requires diverting. It is hoped in future to resurface and upgrade the diverted footpath to facilitate a pedestrian/cycleway to improve sustainable transport in accordance with PPG13 and PPS1. A commuted sum will be paid under the Section 106 agreement to facilitate this. The merits of the footpath diversion will be the subject of a separate report to a future Planning Committee.

Environment Team (Ecology): Ecological surveys were submitted with the planning application. Further work was required in terms of bat and water vole surveys which has concluded that there is no evidence of bat roosts on the site although a suggested planning condition will require bats to be provided for within the development. With regard to water voles, evidence suggests only a very small population on the site and similarly a suggested condition will require details of the translocation of any water voles to an alternative habitat off site, the creation of which can be controlled through a Section 106 agreement.

Environment Team (Archaeology): No objections.

ASSESSMENT

Full planning permission is sought to erect a retail park with associated access roads, car parking, service areas, and hard and soft landscaping at Trent Valley Garden Centre on the southern side of Doncaster Road, Scunthorpe.

The application site is 3.2 hectares in size, to the north lies the Gallagher retail park, to the south lies an area of grassland/scrub that backs onto the Scunthorpe/Doncaster railway line, to the east is an existing residential estate and to the west is the Scunthorpe United football ground with several small food and drink outlets.

The proposal involves the demolition of three existing dwellings on the site and the erection of four retail units. The largest unit (retail unit 1) has two floors providing 25,000 square feet on each which is 4,645 square metres. This unit is referred to as the anchor store and is the closest to Doncaster Road. The other three units, which are arranged in an L-shape, comprise retail unit 2 (total 12,500 square feet, 1,161 square metres), retail unit 3 (total 10,000 square feet, 975 square metres), and retail unit 4 (total 40,000 square feet, 3,716 square metres). Each of the units (other than retail unit 3) contains a mezzanine floor which are utilised for retail floor space.

The proposed vehicular access into the site would be located in the north-western corner onto Doncaster Road. The access would comprise three lanes: one providing access in for customers, staff and delivery lorries, and a two-lane exit – one left-turn southwards towards the motorway junction and one lane northwards towards Berkeley Circle. The service road, located to the rear of the proposed units, would access the service yard which wraps round the rear of the five units and is located in the north-eastern corner of the application site. The car parking area is shown as to the front (north) and side (west) of the retail units and provides 456 parking spaces, which includes 27 disabled and parent and child spaces, the layout of which is shown as a rigid car parking layout. To the south of retail unit 4 is an overflow/staff parking area providing 27 spaces. A secondary exit from the proposed car park is shown within the western boundary which would allow vehicles to exit the site only via the Scunthorpe United FC access road located to the west of the application site which connects up with Doncaster Road via Jack Brownsword Way.

Landscaping on the site has been shown to include proposed tree and shrub planting adjacent to all the boundaries, sporadic tree planting in and around the car park areas and more heavily landscaped areas to provide a buffer zone between the activity of the service yard and additionally more structural planting on the overflow car park to the south-west of the application site.

The applicant indicates that the project will be an investment which claws back a projected £20m to within the Scunthorpe area and the creation of approximately 300 part-time and full-time jobs. The return of Marks and Spencer to Scunthorpe as a nationally important retail brand has also to be considered in the decision-making process.

On 8 November 2011 amended plans were received by the council that made minor changes to the proposed layout and elevations of the retail park, improved landscaping areas and of greater significance a reduction in the number of retail units from six to five by the amalgamation of units 4 and 5 (as shown on the original submission dated 31 August 2011) into one unit, namely unit 4 (as shown on the amended plans dated 8 November 2011). The amended plans received were subsequently advertised in the press, site notices posted, and neighbouring properties notified. The number of units has again been amended (15 February 2012) and is now reduced to four to account for condition 7 restricting the size of units allowed. The following documents were submitted to accompany the planning application:

- design and access statement
- flood risk assessment
- arboricultural assessment
- phase 1 environment assessment
- planning and retail statement
- environmental noise assessment
- transport assessment
- summary of consultation

The key issues in determining this proposal are whether the proposal complies with planning policy, the potential impact upon the town centre of Scunthorpe and other local centres, the impact upon highway congestion/safety in the locality, the impact upon residential amenity, economic considerations and the impact upon ecology on the site.

Relevant planning history of the site

7/783/84: Full planning permission to change the use of land and erect buildings to form a garden centre – granted 17/01/1985

7/131/86: Full planning permission to retain a restaurant, lounge and patio area – granted 03/04/1986

7/479/88: Outline planning permission to erect buildings to create a non-food retail park garden centre, associated access and car parking – granted 09/08/1990

7/139/92: Full planning permission to remove condition 3 of full planning permission 7/479/88 dated 09/08/1990 – application withdrawn 29/06/1992

Of particular relevance is planning application 7/783/84 granted in January 1985 and of particular note is condition 2 which states:

Only those goods described in the attached list shall be displayed or sold on the site, subject to the definitions and limitations contained in the list and at no time shall any 'white goods', carpets, furniture, electrical goods, or any foods other than those in the list be displayed or sold on the site.

The list is summarised as follows:

- plants, house and fancy goods, eg houseplants, greetings cards
- planataria, eg alpiners and heathers, trees and shrubs
- shop, eg fertiliser and chemicals, garden furniture, greenhouses and summerhouses, pet and animal foods
- rural craft studio restricted to 50 square metres room size
- boutique restricted to 50 square metres room size, fresh fruit sales restricted to 14 square metres of display area, frozen foods restricted to 14 square metres of display area.

The applicants make reference to a planning application in 1989 (Secretary of State's reference P/BRY/C876/1) to erect a 10,312 square metres non-food retail warehouse park. The application was called in for consideration by the Secretary of State in 1990. The decision was to grant permission, however the planning permission was never implemented and has now lapsed. The planning status of the existing garden centre is that there is an established A1 retail use of the existing building which has a floor space of 4,500 square metres gross. The planning permission is subject to conditions on the range of goods allowed to be sold. Whilst the goods sold at Trent Valley Garden Centre do not now conform with the list or the condition, and the range of goods sold for a number of years is much wider than the condition allows, the permission does represent a *fallback position* that is current to the relevant planning application in that a retail development with a total floor space of up to 4,500 square metres gross could be developed on the site.

Design

PPS1 requires design issues to be a key consideration in planning. The following issues have been discussed with the applicants:

- site layout
- proximity of service road/yard to residential properties
- position of unit 1 and relationship with Doncaster Road

- relationship of footprint and buildings/spaces to the Gallagher retail park
- landscape buffers

Planning policy context

The council commissioned planning consultants England & Lyle to carry out an independent review of the proposals and in particular the retail assessment by HOW Planning and retail policy.

National planning policy, in the form of PPS4, requires local planning authorities to adopt a positive and constructive approach towards applications for economic development. The criteria against which planning applications must be considered, as set out in policy EC10, appear to be generally compliant with the majority of the criteria, particularly with regard to the impact on economic and physical regeneration of the area and impact on local employment. Policy EC14 requires planning applications for main town centre uses to be assessed against policy EC15 (a sequential assessment) and policy EC16 (addressing impacts of the development, particularly upon town centre vitality and viability). Policy EC17 requires main town centre uses that are not in an existing centre and not in accordance with an up-to-date development plan to be refused where:

- (a) the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or
- (b) there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of the impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions and developments under construction and completed developments.

Where no significant adverse impacts have been identified, planning applications should be determined by taking account of:

- (a) the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and
- (b) the likely cumulative impact of recent permissions, developments under construction and completed developments.

Judgements about the extent and significance of any impacts should be informed by the development plan (where this is up to date). Recent local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy) will also be relevant.

The applicant has submitted a planning and retail statement in support of its planning application which has been independently assessed by a planning consultant employed on behalf of the council (England & Lyle) to assess the proposal in terms of its compliance with retail policy.

Need for the development

PPS4 no longer requires proposals to specifically demonstrate a retail need or capacity to accommodate them. However, *need* remains an important factor in the consideration of both impact of a proposal upon retail centres and the sequential test:

- **Quantitative need is conventionally measured as expenditure capacity, that is the balance between the turnover capacity of existing facilities and available expenditure in any given area. Expenditure capacity or quantitative need can arise as a result of forecast expenditure growth, either through population growth or increases in spending.**
- **Qualitative need includes more subjective measures which include consumer choice, the appropriate distribution of facilities and the needs of those living in deprived areas. Over-trading is also identified as a measure of qualitative need. (Referenced from Planning for town Centres Practice Guide on Need Impact and the Sequential Approach)**

The applicants produced figures showing a forecast growth in total population in the catchment area of 13,210 between 2011 and 2016. England & Lyle considered that these figures were not accurate because population growth from housing commitments should not be added into the natural growth of population because natural growth takes account of housing developments. The growth based on housing commitments is consistent on the 2008-based population projections which show an increase in total population from 160,100 in 2011 to 170,500 in 2016, a growth of 6,400. The applicants subsequently revised their population forecast for 2016 to 159,900 (in the table below).

Table 18. Study Area Sensitivity Comparison Goods Expenditure Capacity Analysis

	2011	2016	Growth (2011 - 2016)
Total population within Catchment Area	151,051	159,909	8,859
Total Comparison Goods Expenditure within Catchment Area (£m)	£391.19	£495.55	£104.36
Comparison Expenditure Retained by Centres / Facilities within Catchment Area (£m)	£296.75	£378.08	£81.33
Initial Surplus at Constant Retention Rate (£m)	-	£81.33	-
Claims on Expenditure			
Existing Traders within Study Area (Floorspace Efficiency Gains) (£m)	-	£30.89	-
Retail Commitments within PCA (£m) (assume 90% Exp from within Catchment)	-	£14.40	-
Total claims on capacity (£m)	-	£45.29	-
Surplus Comparison Expenditure (£m)	-	£36.05	-
Proposed Marks & Spencer Store (90%)	-	£12.26	-
Proposed Retail Units (90%)	-	£22.22	-
Residual Surplus Comparison Expenditure Following Proposal (£m)	-	£1.57	-

Notes

1. The analysis draws upon the NEMS Household Telephone Shopper Survey (May 2011) and Tables 1, 2, and 3 of this Capacity Assessment.
2. Comparison goods floorspace productivity projected forward at 2.0% per annum from 2008 to 2016, based on advice provided in Experian Retail Planner Briefing Note 8.1 – August 2010 (Page 11).
3. Assumed that 90% of the proposed comparison goods floorspace's turnover will be drawn from the catchment area.
4. Turnover of commitments provided by England & Lyle.
5. All prices are 2008 based.

By looking at growth in population, retail consultants can then forecast what the level of expenditure will be with regard to both comparison goods and convenience goods. The estimated comparison turnover of the scheme drawn from within the catchment area for 2016 at the end of the five-year period is £34.48 million. The residual capacity projected for 2016 for the catchment area is £60.13 million. Consequently there is sufficient quantitative need to support the amount of comparison goods turnover in the proposed development in 2016. This projection is agreed by England & Lyle. In terms of convenience goods, there is sufficient capacity in convenience goods to support the convenience goods floor space for the proposed development which equates to 697 square metres or 21% of the floor space. This is also agreed by England & Lyle.

Qualitative

The applicants emphasise that there is a qualitative need for a better clothing and footwear offer in Scunthorpe to reduce leakage from the local area to larger centres such as Doncaster, Lincoln and Meadowhall. This is a particular offer of Marks and Spencer which represents a growing number of the company's retail park orientated formats, which the agents state, '...is designed to complement the brand's traditionally strong high street portfolio. The store format will be tailored to its overall design which will fully meet Marks and Spencer's stringent requirements to combat climate change, reduce waste and make use of sustainable raw materials...'

Table 1. Clothing and footwear shopping patterns – expenditure retained by Scunthorpe retail provision

Clothing and Footwear	Zone 1 Scunthorpe Central North	Zone 2 Scunthorpe Central South	Zone 3 Scunthorpe North	Zone 4 Scunthorpe East	Zone 5 Scunthorpe South	Zone 6 Scunthorpe West
Retained by Scunthorpe retail floorspace	67%	68%	64%	51%	46%	35%
Leaking to non-Scunthorpe retail floorspace	33%	32%	36%	49%	54%	65%

The applicants provide table 1 as evidence of unsustainable shopping patterns borne out of an existing deficiency and that a qualitative need therefore exists for a more varied local clothing and footwear offer to improve Scunthorpe's expenditure retention rate. The applicants consider that this provision is required to stem significant leakage from its natural catchment area and 'claw back' retail expenditure currently flowing to more distant shopping destinations.

Table 3. Clothing and footwear market shares of competing centres 2005 and 2011 shopper surveys

Clothing and Footwear	2005 Shopper Survey	2011 Shopper Survey
Doncaster	6.3%	12.1%
Meadowhall	7.4%	10.13%
Lincoln	4.0%	6.7%

England & Lyle accept that the retention level for clothing and footwear spending in the Scunthorpe area could be higher and could claw back some of that loss to other areas but there is a limit to the extent to which Scunthorpe's market share could be increased

because the nature of the retail hierarchy is such that shoppers will tend to travel to larger centres for higher order goods including good quality clothing. It is also important to consider that the end users of the retail park, excluding the M&S anchor store, are not yet known. However, the qualitative need for the catchment area is used to justify the development.

Sequential test

Policy CS14 of the North Lincolnshire Core Strategy and policy EC15 of PPS4 require applicants to demonstrate compliance with the sequential test. The core strategy states that in choosing the location of new retail development it should be done in line with the sequential test as set out in PPS4:

Policy EC15: The consideration of sequential assessments for planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan

EC15.1 In considering sequential assessments required under policy EC14.3, local planning authorities should:

- a. ensure that sites are assessed for their availability, suitability and viability;
- b. ensure that all in-centre options have been thoroughly assessed before less central sites are considered;
- c. ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access;
- d. ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
 - i. scale: reducing the floorspace of their development;
 - ii. format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;
 - iii. car parking provision: reduced or reconfigured car parking areas; and
 - iv. the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals.

EC15.2 In considering whether flexibility has been demonstrated under policy EC15.1.d above, local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site, for example where a retailer would be limited to selling a significantly reduced range of products. However, evidence which claims that the class of goods proposed to be sold cannot be sold from the town centre should not be accepted.

In applying the sequential test, the applicants considered a catchment area that was highlighted in the North Lincolnshire Retail Study in 2005 prepared by England & Lyle, which broadly represents a 20-minute drive-time from the application site. The applicants considered the following sites for their *suitability*, *viability* and *availability*:

Scunthorpe town centre opportunities

The former T J Hughes unit on Cole Street

This unit has a total floor space of 3,884 square metres and the sales area is just smaller than the proposed M&S store (3,252 square metres). Floor space is provided on two levels.

The applicants discounted this location as being *unsuitable* due to its size, not being able to accommodate all the floor space on the Doncaster Road store. The M&S business model would prevent disaggregation of the proposal for the reasons stated in the paragraphs below.

Units 18-20/22-24 Southgate

Both these units were vacant and have a combined floor space of 1,253 square metres. Formerly occupied by Kwik Save and Ethel Austin, the Kwik Save unit is large enough to accommodate a Simply Food store or the combined area for unit 2 from the Doncaster Road scheme. Recently, however, the former Kwik Save unit is occupied and so is not now *available*.

The applicants have stated that the closure of their in-centre operation in 2010 on viability grounds, which was a more typical clothing and food offer, demonstrates that this is a challenging catchment for the retailer from a commercial perspective. This position has led M&S to establish that 'to create a commercially viable store within the catchment area, a clothing, homeware, food and hospitality offer needs to be provided under one roof in order to give shoppers a comprehensive brand offer and critical mass of retailing that would make them want to return, and therefore seeks to ensure that the store remains commercially viable.' Furthermore, whilst M&S do trade from convenience goods focused Simply Food units, they do not have a business model comprising solely clothing and homeware goods. This additional justification provided by the applicants does explain how the viability of the M&S business model is an important consideration, and justifies why neither the T J Hughes site or the Southgate units are suitable given that the clothing and food offer at the M&S town centre site failed to be viable.

West Street car park

This car park is bounded by Gilliatt Street and Chapel Street and is allocated in the North Lincolnshire Local Plan under policy S1 (Scunthorpe Town Centre New Retail and Leisure Development) which states that proposals for new retail and leisure development will be given favourable consideration within Scunthorpe town centre. Additionally, the West Street site will only be released for development following the completion of the development on the John Street/Lindum Street site. The applicants discounted West Street car park on the grounds that the size is 0.6 hectares and in isolation is not large enough to accommodate the scale and form of the development proposed. Furthermore, the applicants state that the proximity of residential properties to the east and west render the site *unsuitable* unless these were purchased and demolished. The majority of the residential properties are occupied and therefore the larger site is unlikely to become available for redevelopment within a five-year time horizon. However, the council, as highway authority, have confirmed

that this car park provides essential parking provision within the town centre and therefore they would not want to see it developed. Consequently the site is not *available*.

Land surrounding Church Square incorporating the vacant leisure centre building

The land in question includes the market, library, vacant leisure centre and multi-storey car park, an area of 2.8 hectares in size. The test of whether the site is genuinely available within a reasonable period of time has been considered. The site is still partly occupied by buildings which have to be demolished and replaced elsewhere such as the market and library. Redevelopment of the site will be complex, taking several years to complete, and therefore it is not *available* to meet the need identified by the applicants within a reasonable time period.

In addition, whilst the site may be suitable for retail development when it is available, it is of key strategic importance for redevelopment of the town centre. Allowing piecemeal retail development would prejudice the remainder of the site in a comprehensive manner affecting the overall *viability* of the site.

Edge-of-centre

The England & Lyle report highlighted that there were other opportunities at edge-of-centre locations that the applicants had not fully covered. The three sites are:

- Winterton Road, which has planning permission for 3,133 square metres of retail warehouse development (approximately half the floor space in other retail units proposed at Doncaster Road);
- the empty retail unit on Brigg Road, which comprises 1,864 square metres and could accommodate some of the floor space in the other retail units proposed at Doncaster Road; and
- Glebe Pit to the north of the town centre, which is allocated for mixed use development, including A1 retail use, which could accommodate the whole of the development.

The applicants counter-claim that the Winterton Road site is commercially unviable because planning permission was granted for a single comparison goods unit in 1993 which has never been implemented in 18 years.

With regard to the Glebe Pit site, the applicants counter-claim that in the inspector's report regarding the appeal in 2008 against refusal of planning permission by the council, the inspector did not consider the Glebe Pit site to be a sequentially preferable alternative. Furthermore, the North Lincolnshire Housing Employment Land Allocation DPD Submission Draft November 2010 proposes that Glebe Pit is allocated for up to 250 new houses. This document has not been adopted and therefore carries no weight currently. However, in 2008, when the extension to Tesco was sequentially assessed by England & Lyle (PA/2008/1709), they concluded that Glebe Pit was not considered to be *available*, *suitable* or *viable*.

Glebe Pit is large enough to accommodate all the floor space proposed but the council wish Glebe Pit, as the largest undeveloped site in Scunthorpe, to be comprehensively developed. However, developing part of the site for retail purposes would be piecemeal and would affect the viability of the remainder of the site.

With regard to Brigg Road, the applicants' counter argument is that the unit is currently being marketed as a showroom for non-food retail and given its design and location, it would appear to be better suited to a showroom. The applicants question the viability of the unit, given its location, and state that it is unsuitable as there is no servicing area and access for the unit.

In summary, the applicants have adequately justified the sequential approach taken by assessing sites within and on the edge of Scunthorpe town centre for their availability, suitability and viability. On the issue of disaggregation, whilst the applicants have provided a justification why the M&S (unit 1) cannot be disaggregated, they have not demonstrated flexibility in terms of disaggregating the smaller units of the proposal (units 2, 3 and 4) onto separate, sequentially preferable sites. For this reason it is felt that the sequential test has not been passed and therefore fails to comply with all the requirements of policy EC15 of PPS4.

Assessment of the impact upon Scunthorpe town centre and other retail centres within the catchment area

Policy EC16 of PPS4 sets out the impact considerations which all planning applications for main town centre uses, not in a centre and not in accordance with an up-to-date development plan, should be assessed against. The applicants' retail statement considers the vitality and viability of Scunthorpe town centre and concludes that the town centre shows strong signs of vitality and viability with the comparison goods retail sector being of particular strength. The Parishes development has significantly improved Scunthorpe's retail and leisure offer and provided excellent public transport access. They have no long-term concerns regarding the centre's health, particularly considering that:

- the vacancy rate in June 2011 was 9%. This is below the national average of 12-14%. The vast majority of vacant units are within the secondary retail frontage to the west of the primary shopping area;
- there is good pedestrian footfall throughout the length of High Street, The Foundry and The Parishes;
- overall cleanliness, the quality of buildings and the quality of open spaces and landscapes is considered to be of reasonable standard.

England & Lyle agree with this assessment of the vitality and viability of the town centre. Following the 2005 retail study England & Lyle inspected the town centre and acknowledged that there are no particular issues regarding its health, however there has not been any major investment in the town centre in recent years and it is in much the same condition as it was in 2005, which could be a problem when neighbouring competing centres are encouraging new investment.

Impact analysis

HOW Planning predict that the largest trading impact will be on Scunthorpe's town centre with a trade diversion of about £11 million (percentage impact of 4.3%) on town centre comparison turnover in 2016. A further £15.4 million of turnover is expected to be from clawback, mostly from Doncaster and Meadowhall. The percentage impacts on smaller centres in the catchment area are 3.8% from Brigg and 2.6% from Ashby High Street. No trade diversion is predicted from Epworth. The impacts on the retail parks are predicted to

be 6.3% from the Gallagher retail park, 7.4% from Skippingdale and 4.6% from Lakeside. It should be noted here that no policy protection is afforded to any existing out-of-town retail parks. The applicants consider that the impact on Scunthorpe's town centre, given its vitality and viability, would not be significantly adverse.

<u>Trade Draw (Scenario 1)</u>	<u>Marks & Spencer</u>	<u>Other Retail Units</u>
from Scunthorpe town centre	28%	30%
from other centres and retail parks	<u>14%</u>	<u>24%</u>
catchment area total	42%	54%
from clawback	48%	36%
from inflow of trade	<u>10%</u>	<u>10%</u>
Total	100%	100%

England & Lyle consider that the applicants overestimate the amount of turnover that would be drawn from clawback of leakage, particularly to M&S. The applicants quote a figure of 40% of the scheme's turnover would be from clawback. England & Lyle consider that this figure is more likely to be 30% clawback for the M&S turnover and 25% for the other retail units, as shown in Scenario 2 below.

<u>Trade Draw (Scenario 2)</u>	<u>Marks & Spencer</u>	<u>Other Retail Units</u>
from Scunthorpe town centre	40%	35%
from other centres and retail parks	<u>20%</u>	<u>30%</u>
catchment area total	60%	65%
from clawback	30%	25%
from inflow of trade	<u>10%</u>	<u>10%</u>
Total	100%	100%

England & Lyle have also considered if the development, with the exception of the M&S anchor store, were to be conditioned to restrict the development to the sale of bulky goods. Trade draw from the town centre is predicted to be reduced to 20% and clawback would also be lower at a figure of 20% of turnover.

<u>Trade Draw (Scenario 3)</u>	<u>Marks & Spencer</u>	<u>Other Retail Units</u>
from Scunthorpe town centre	40%	20%
from other centres and retail parks	<u>20%</u>	<u>50%</u>
catchment area total	60%	70%
from clawback	30%	20%
from inflow of trade	<u>10%</u>	<u>10%</u>
Total	100%	100%

England & Lyle have taken the three scenarios (scenario 1 predicted by the applicants, scenario 2 predicted by England & Lyle, and scenario 3 assuming a bulky goods condition is attached to the development with the exception of the M&S anchor store).

<u>Impact on Scunthorpe town centre</u>	<u>Impact of Marks & Spencer</u>	<u>Impact of other retail units</u>	<u>Overall impact</u>
Scenario 1 (HOW Planning)	1.5%	2.8%	4.3%
Scenario 2 (England & Lyle)	2.1%	3.4%	5.5%
Scenario 3 (assuming bulky goods)	2.1%	1.5%	3.6%

It is agreed by the applicants and England & Lyle that the proposed M&S store would not have a significant impact on trade in Scunthorpe's town centre. The predicted trade diversion arising from the M&S store is only 2.1%. This level of trading would not harm the vitality and viability of the town centre overall. The other retail units would have a greater impact on trade in the town centre because their total turnover is higher than that of M&S. Based on England & Lyle's assessment of trade draw in scenario 2, the development would not have a significant adverse impact on Scunthorpe's town centre or the other retail centres within the catchment area.

Whilst the levels of impact upon Scunthorpe's town centre are not considered by England & Lyle to be significant (which in PPS4 terms would justify a refusal of planning permission), England & Lyle have suggested to the council that it should, if possible, consider measures that would protect Scunthorpe town centre. Negotiations between North Lincolnshire Council and the applicant have established that this protection could be given by the following measures:

For the first five years of the development, only one of the three smaller retail units (excluding the M&S anchor store) would be occupied by an existing town centre trader. Thereby no other retailers within the town centre could leave to occupy any of the units for the first five years of the development opening. The first five years of the development is seen as critical because it is projected that after five years levels of population and trade expenditure will be significantly greater than at this current time. Further controls and protection can be given by way of planning conditions to ensure that the development is devoted to comparison goods with only an ancillary convenience goods floor space. Also, that the minimum amount of floor space is 929 square metres to prevent subdivision and smaller retail units occupying the development.

Highways and traffic issues

The applicants' transport consultants prepared a traffic impact assessment that was submitted in support of the planning application. This was assessed by the council's Highways team and by independent consultants Pell Frischmann. The key considerations during that assessment have been the following junctions:

- Berkeley Circle – A18/Scotter Road/Doncaster Road roundabout
- A18 Doncaster Road/proposed M&S signalised access
- A18 Doncaster Road/Tesco/Scunthorpe United FC roundabout
- M181/A18/Doncaster Road/A1077 roundabout

The projections for the traffic generated by this development and proposals for its mitigation are included within technical note 3 of Croft Transport Solutions' submission dated November 2011. The proposed off-site highway works consist of:

- road markings on the east-bound section of Doncaster Road to allow two lanes that travel straight on along the A18
- remove the hatching to the west-bound approach to the Tesco roundabout to create two lanes between the Tesco roundabout and the signalised site access
- the provision of a formal signal-controlled junction to provide vehicular access to the site from Doncaster Road with the closure of the existing priority-controlled junction. This provides a right-turning lane of nearly 100 metres (around 18 vehicles) to provide sufficient stacking space for right-turning vehicles into the site from Doncaster Road
- substantial widening of Doncaster Road into the application site to provide two formal east-bound running lanes between the site access and the Tesco roundabout
- substantial widening of the existing Doncaster Road carriageway to the east of the proposed site access junction to provide two approach lanes for west-bound traffic from around 60 metres east of the junction
- removal of the existing controlled crossing on Doncaster Road and provision of new formal controlled pedestrian facilities within the proposed signalised site access junction
- provision of two formal exit lanes from the proposed site access junction to increase the capacity of the signalised site access
- provision of road marking improvements to formally provide two east-bound lanes between the site access and the Berkeley Circle junction
- a secondary access will be provided from the site to the southern end of Jack Brownsword Way which provides access to Scunthorpe United Football Club's ground. This forms an alternative access to the site to disperse traffic at busy times and also reduces the traffic flow on the section of Doncaster Road between the Tesco roundabout and the new site access signals

In addition to the above, the applicants have offered a financial contribution to provide meaningful capacity improvements at Berkeley Circle which will be used to improve the currently proposed Gallagher residential scheme improvement. Should the Gallagher scheme not proceed or be substantially delayed then the financial contribution will be used elsewhere on the Doncaster Road corridor to further enhance the proposed improvement works submitted in support of the application. As part of the above, a right-turning lane from Doncaster Road into Hilton Avenue is to be removed and the right-turn manoeuvre prohibited.

The proposed off-site highway scheme would double the queueing capacity at both junctions and would almost double the east-bound capacity of the entire Doncaster Road corridor between the M181 roundabout and the Berkeley Circle, providing substantial improvements to the operation of this corridor following the opening of the proposed retail development.

Whilst it has been predicted that the Doncaster Road corridor would experience a traffic impact of 670 additional traffic movements as a result of the Gallagher residential planning consent, there are no overall proposed improvements to the Doncaster Road corridor from the M181 roundabout to the Berkeley Circle. The Gallagher improvements include the conversion of Berkeley Circle to signal control and other signing and marking alterations to Doncaster Road and the potential relocation of the existing pedestrian crossing. The financial contribution from this development would ensure that some of this Gallagher scheme is brought forward to improve the operation at Berkeley Circle.

The current park and ride service travels between Glanford Park and Scunthorpe General Hospital. This service may be extended to cover Scunthorpe town centre and be available for customers and staff alike. Discussions are ongoing with respect to the service covering a Saturday as well. A formal bus stop would be provided within Glanford Park which could include a shelter and timetable information. This would allow the site to be linked to the town centre and would increase the use of the park and ride service, enhancing sustainability and reducing the use of the private car.

The local highway authority has no objections to the proposed development subject to conditions and the commuted sum which will facilitate the aforementioned works to the highway.

Residential amenity

Consideration has been given to the distance of the proposed retail park and its service yard activity and service road to residential properties to the east of the site. The section drawings submitted with the application show that the rear elevation of properties to the east is approximately 38 metres from the rear elevation of unit 1, with back gardens approximately 10 metres long. The existing grassed area beyond the gardens gives a natural buffer zone of approximately 15 metres, plus the 5 metre wide public footpath and cycleway that will be created (once the footpath diversion has been authorised). The residential properties are considered to be an adequate distance away from the proposed retail units so as not to have a reduction in residential amenity in terms of any loss of light or overshadowing, or enjoyment of the rear garden areas due to the outlook from those properties and massing of the building. Whilst no-one is entitled to a view, the provision of some screening, in terms of tree planting and landscaping, would assist in improving the outlook from those rear garden areas. In terms of noise disturbance from the activity of the service yard and from the level of activity in and around the development from customers/employees/service deliveries, a noise impact assessment was submitted with the application which has been assessed by the council's Environmental Protection team who have stated that they have concerns that the proposals would give rise to noise nuisance, loss of amenity and sleep disturbance for local residents if the hours of operation are not restricted to avoid the more noise sensitive hours. Many supermarkets operating elsewhere within the area have hours restrictions where there are residential properties close by and therefore to avoid loss of amenity and to meet the requirements of planning policy DS1 of the North Lincolnshire Local Plan it is recommended that site deliveries and service yard activity take place only between the hours of 7am to 11pm, and 8am to 7pm on Sundays, Bank and Public Holidays. The noise consultants' predictions of levels depend upon the installation of suitable acoustic barriers. The height of the proposed acoustic barriers is 2.5 metres for some parts and 3.8 metres for others. Consequently a condition is required to provide details of the technical specifications for the acoustic barriers, including details of the location, size and design of the barriers with predicted noise reduction over the frequency spectrum. The acoustic barriers should be installed prior to the

commencement of use of the site. Other conditions recommended would address any potential noise from machinery and plant on the site and also restrict operations during the construction period to limit the hours. With these recommended conditions it is considered that the development would not have an adverse impact upon residential amenity.

Economic considerations

The Head of Economic Development and Area Renaissance at North Lincolnshire Council made the following comments when consulted on the economic considerations:

‘Whilst we recognise that there may be some negative impact on the town centre of the development, the employment growth, increased local disposable income and stemming the leakage of retail spend outside of North Lincolnshire will result in a net positive impact on Scunthorpe and North Lincolnshire.

It is recognised that female unemployment is currently rising faster than male unemployment in North Lincolnshire. The additional new jobs created, due to their part-time nature, will provide much needed employment opportunities particularly for female unemployed.

A global, well-respected firm such as M&S will provide Scunthorpe with a positive marketing opportunity and may help with raising the profile and aspiration of not only Scunthorpe as a town but of North Lincolnshire as a whole.’

Ecology

In terms of ecology, agreements have been drafted to protect any water voles found on the site by translocation to a suitable site. Additionally, birds and bats will be provided for within the development.

Balance of considerations

Under the provisions of Section 70(2) of the Town & Country Planning Act 1990 local planning authorities are required, when determining applications, to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Government guidance and the contents of Planning Policy Statements are material considerations but local planning authorities need not follow Government guidance if other material considerations outweigh this.

PPS4 is clear in its advice that local planning authorities must consider both the sequential approach and impacts upon retail centres when determining out-of-centre retail development proposals. The applicants have followed the sequential approach and assessed whether sites are *suitable*, *viable* or *available* but have not displayed flexibility by looking at the issue of disaggregation, particularly with regard to the smaller units (units 2, 3 or 4). Consequently policy EC15 of PPS4 is not fully complied with.

Under policy EC17.1a of PPS4 planning applications that fail to demonstrate compliance with the sequential approach (policy EC15) should be refused.

The issues of highway congestion and highway safety have been fully considered. Improvements to the highway have been agreed to reduce levels of congestion on the surrounding highway network to a level that Highways consider acceptable.

Residential amenity has been adequately protected by a raft of planning conditions to manage the operation of the development, particularly with regard to activity within the service yard and deliveries.

Other material considerations to be attributed weight include: the economic benefits that the scheme would have during this serious economic downturn; additionally, the fallback position of the existing use of the site, which enables 4,500 square metres gross of retailing from the site. The attraction that a M&S store and other retailers would have in potentially stimulating the local economy is a key driver in reducing the leakage of expenditure to neighbouring centres such as Doncaster and Meadowhall.

With regard to the assessment of impact, it is agreed by England & Lyle that the adverse impacts upon existing retail centres within the catchment area, including Scunthorpe's town centre, are not significant.

England & Lyle considered if a bulky goods condition would be a way of protecting Scunthorpe's town centre, however the applicants have stated that such a condition would make the development unviable. The developer proposes to enter into an agreement under section 106 of the Town & Country Planning Act which, amongst other things, will give greater certainty to North Lincolnshire Council that Scunthorpe's town centre would not have its vitality or viability reduced by the proposed development to a degree that would cause harm. A list of over 30 town centre retailers has been compiled and are referred to as regulated tenants within the Section 106 agreement. The developer has agreed that only one regulated tenant will be able to occupy any of the smaller units (2, 3 or 4) for the first five years of the development opening and that retailer must retain a town centre presence for the first five years of the development opening. Whilst it is accepted that there will be some impact upon Scunthorpe's town centre, the legal agreement carries significant weight in minimising the less than significant impact that is predicted.

It is considered that the positive benefits outweigh the negative and what negative impacts have been identified have been mitigated to an acceptable degree. Consequently the recommendation is one of approval subject to conditions and the completion of a Section 106 agreement.

RECOMMENDATION

Subject to the completion of a formal agreement under Section 106 of the Town and Country Planning Act 1990 providing for off-site highway improvements, Scunthorpe town centre protection, protected species translocation and maintenance, and a contribution towards improving the existing footpaths in the vicinity of the site, the committee resolves:

- (i) it is mindful to grant permission for the development;**
- (ii) the application be referred to the Secretary of State in accordance with statutory procedures to enable him to consider whether or not to intervene;**
- (iii) in the event of the Secretary of State deciding not to intervene, the decision be delegated to the Head of Development Management upon completion of the obligation;**

(iv) if the obligation is not completed by 7 June 2012 the Head of Development Management be authorised to refuse the application on the grounds of the possible adverse impact upon the vitality and viability of Scunthorpe town centre, adverse impact upon highway safety and levels of congestion within the locality, adverse impact upon protected species and their habitat, and non-compliance with policy EC16 of PPS4, policies T2 and T6 of the North Lincolnshire Local Plan, and policies C14, C25 and CS17 of the North Lincolnshire Core Strategy; and

(v) the permission so granted be subject to the following conditions:

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: 5295-001-2 Site edge red plan, 5295-010-2 Existing site layout plan, 5295-100-9 Proposed site layout, 5295-101-3 Proposed mezz layout, 5295-101-3 Proposed roof layout, 5295-200-4 Site elevations, 5201-SK-110 3D CGI View 1 and 5295-SK-111 3D CGI View 2.

Reason

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

3.

No development shall take place until details have been submitted to and approved in writing by the local planning authority of the make, type and colour of all external facing materials for the development and only the approved materials shall be used.

Reason

To ensure that the building is in keeping with its surroundings in the interests of visual amenity, in accordance with policy DS1 of the North Lincolnshire Local Plan.

4.

Development shall not begin until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include a proposed area of public realm enhancement, proposed finished levels, means of enclosure, pedestrian access and circulation areas, hard surfacing materials, minor artefacts and structures (such as furniture and signs) and planting plans (including written specifications and schedules of plants). All hard and soft landscape works shall be carried out in accordance with the approved details and shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the local planning authority.

Any trees or plants which, within a period of 5 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 otherwise first agreed in writing by the local planning authority.

Reason

To enhance the appearance of the development in the interests of amenity.

5.

All the approved landscaping shall be carried out within twelve months of development being commenced (unless a longer period is agreed in writing by the local planning authority). Any trees or plants which die, are removed or become seriously damaged or diseased within five years from the date of planting shall be replaced in the next planting season with others of similar size and species to those originally required to be planted, unless the local planning authority agrees in writing to any variation.

Reason

To ensure the implementation and maintenance of the submitted scheme of landscaping for the proposed development.

6.

The combined net sales area of the retail park units devoted to comparison goods shall not exceed 7,014 square metres and no more than 697 square metres shall be used for the sale of convenience goods.

Reason

To ensure that the development does not have a significant adverse impact upon the vitality and viability of Scunthorpe town centre in accordance with PPS4.

7.

Any unit whose primary function is the sale of Class A1 retail goods shall not have a gross floor area of less than 929 square metres.

Reason

To ensure that the development does not have a significant adverse impact upon the vitality and viability of Scunthorpe's town centre in accordance with PPS4 and to comply with policy S8 of the North Lincolnshire Local Plan.

8.

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason

To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

9.

No development shall start on site until details of any external lighting/floodlighting of the retail park, service yard and customer parking area have been submitted to and approved

in writing by the local planning authority. The approved details shall be installed, operated, and maintained in accordance with the approved scheme.

Reason

To protect residential amenity in accordance with policy DS12 of the North Lincolnshire Local Plan.

10.

Development shall not begin until details of the service yard, including the provision of turning space so that vehicles may enter and leave the highway in forward gear, have been submitted to and approved in writing by the local planning authority. The service yard shall be completed in accordance with the approved details before the development is first brought into use and shall be retained for that purpose thereafter.

Reason

To ensure compliance with policies DS1 and T1 of the North Lincolnshire Local Plan.

11.

Site deliveries and service yard activities shall take place only during the following times:

Monday to Saturday: 7am to 11pm

Sundays, Bank Holidays, Public Holidays: 8am to 7pm

Reason

To ensure compliance with policies DS1 and DS11 of the North Lincolnshire Local Plan.

12.

Prior to the proposed retail park being first brought into use, the detailed technical specification for the acoustic barrier along the eastern site boundary shall be submitted to and approved in writing by the local planning authority. The specification shall include details of the location, size and design of the barrier, with predicted noise reduction over the frequency spectrum. The approved acoustic barrier shall be installed prior to the proposed retail park being first brought into use, and shall be maintained thereafter.

Reason

To protect residential amenity in accordance with policy DS12 of the North Lincolnshire Local Plan.

13.

No fixed plant and/or machinery shall come into operation until details of the fixed plant and machinery serving the development hereby permitted, and any mitigation measures to achieve this condition, are submitted to and approved in writing by the local planning authority. The rating level of the noise emitted from the fixed plant shall not exceed 45 dBA between 7am and 11pm and 43 dBA at all other times. The noise levels shall be determined by measurement or calculation at the nearest noise sensitive premises. The measurements and assessment shall be made according to BS4142:1997.

Reason

To protect residential amenity in accordance with policy DS12 of the North Lincolnshire Local Plan.

14.

Construction and demolition operations shall be limited to the following hours:

Monday to Friday: 7am to 7pm

Saturday: 7am to 12 noon

No construction or demolition work shall take place on Sundays, Bank Holidays and Public Holidays.

Reason

To protect residential amenity in accordance with policy DS12 of the North Lincolnshire Local Plan.

15.

Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

In particular, the scheme shall demonstrate:

- the utilisation of sustainable drainage techniques;
- that the areas of undeveloped land will be attenuated to the greenfield run-off rate of 1.4 litres per second per hectare;
- a 20% reduction in current brownfield surface water run-off rates;
- the ability to accommodate surface water run-off on site up to and including the critical 1% (1 in 100 year) event plus an appropriate allowance for climate change through supporting drainage calculations;
- the responsibility for the future maintenance of all drainage features.

Reason

To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

16.

The development hereby permitted shall only be carried out in accordance with the approved flood risk assessment undertaken by ADEPT Civil and Structural Consulting Engineers (July 2011). In particular, the finished floor levels shall be set no lower than 3.4 metres above Ordnance Datum. The applicant shall confirm in writing to the local planning authority that this has taken place within one month of completion.

Reason

To reduce the risk and impact of flooding on the development in accordance with policies DS16 of the North Lincolnshire Local Plan and CS19 of the North Lincolnshire Core Strategy.

17.

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be approved in writing by the local planning authority:

1. a preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site
2. a site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site
3. the site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

Prior to the occupation of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be approved in writing by the local planning authority:

4. a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action
5. 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 Parts 1 and 2, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 3, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with Part 4.

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

Reason

To prevent the contamination of groundwater.

18.

No development shall take place, including any works of demolition, until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:

- (i) the parking of vehicles of site operatives and visitors;
- (ii) the loading and unloading of plant and materials;
- (iii) the storage of plant and materials used in constructing the development;
- (iv) the erection and maintenance of security hoarding;
- (v) wheel-washing facilities;
- (vi) measures to control the emission of dust and dirt during construction;
- (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- (viii) details of working hours.

Reason

To ensure compliance with policies T2 and DS1 of the North Lincolnshire Local Plan.

19.

Upon final occupation of the proposed retail park, it shall be demonstrated to the satisfaction of the local planning authority that 20% of regulated energy demand will be provided by on-site renewable energy generation/low and zero carbon technology.

Reason

To ensure compliance with policy CS18 of the North Lincolnshire Core Strategy.

20.

The proposed infrastructure surrounding the store shall be set out and constructed essentially in accordance with drawing number 5295/A1/100-9.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

21.

No development shall take place until details showing the method of constructing the internal pedestrian routes, including the provision of dropped kerbs, tactile paving and protection from service and customer vehicles, have been submitted to and approved in writing by the local planning authority. Once approved these facilities shall be provided prior to the opening of the store and retained thereafter.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

22.

No development shall take place until details of a construction phase traffic management plan have been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary throughout the construction period.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

23.

Adequate boundary treatments and planting shall be provided to the Doncaster Road frontage to prevent unauthorised pedestrian access points to the site in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

24.

No development shall take place until details of all off-site within-highway works including:

- alterations to any kerb lines;
- additional carriageway/footway construction;
- removal of redundant vehicle or pedestrian accesses;
- removal of redundant pedestrian crossing and associate traffic signals;
- construction of new vehicle or pedestrian accesses;
- installation of new traffic signals (including MOVA systems and integrated TOUCAN crossing facilities);
- protection of combined pedestrian and cycle facilities;
- relocation, reconfiguration, replacement or installation of any street furniture, including signage, street lighting columns or pedestrian guard rail;
- carriageway resurfacing;
- footway/cycleway resurfacing;
- renewal, replacement or reconfiguration of white-lining and anti-skid surfacing;

- service protection or diversion;

along the entire length of the A18 Doncaster Road from the approaches to Frodingham Grange roundabout to the Berkley Circle, have been submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

25.

The proposed retail development site shall not be brought into use until all off-site within-highway works identified as a result of the above planning condition have been completed in accordance with the approved details.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

26.

The proposed development shall not be brought into use until the submitted car park management plan has been approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed, amended and updated as necessary.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

27.

Adequate information shall be contained within the travel plan to develop a commitment to improve existing public transport facilities within the area.

Reason

To promote sustainable transport within the area in accordance with policy CS25 of the North Lincolnshire Core Strategy.

28.

The secondary access across Scunthorpe United Football Club land (included within the red line application) shall be available at all times for use by staff and customers visiting the site. The only exceptions to this shall be:

- outside of the opening hours of the retail park;
- on match days where it is necessary to gate the entrance to the retail park to control the movements of people/vehicles going to and from the football ground;
- in the event of an emergency.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

29.

No development shall take place until details of any improvements or alterations to Jack Brownsword Way necessary to facilitate the secondary access have been completed in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

30.

Within 3 months of the completion of the new access, any redundant access to the site shall be removed and the area reinstated to footway/verge (including the provision of full height kerbs) in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

31.

No development shall take place until details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway have been submitted to and approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

32.

Works shall not commence on site until wheel cleaning facilities, in accordance with details to be submitted to and approved in writing by the local planning authority, have been provided within the curtilage of the site, and this facility shall be retained for the duration of the works.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

33.

The development shall not be brought into use until:

- (i) the access roads to the service and customer parking area;
- (ii) the loading, off-loading and turning areas for all vehicles; and
- (iii) the parking spaces and access aisles (including surface markings);

have been provided and all these facilities shall thereafter be so retained.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

34.

The submitted framework Travel Plan shall be fully implemented prior to the proposed development being brought into use and all conditions and requirements of the plan shall be fully implemented and retained at all times that the use is in operation.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

35.

The final Travel Plan shall be submitted to and approved in writing by the local planning authority within six months of the proposed development being brought into use and all conditions and requirements of the plan, once approved, shall be implemented and retained at all times.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

36.

The Travel Plan, once approved and in place, shall be subject to monitoring on an annual basis for a period of three years from the approval date. The monitoring report on the impact of the Travel Plan shall be submitted to the local planning authority on the first of January each year following the grant of planning permission. All amendments to the approved Travel Plan identified as a result of the monitoring process shall be implemented and retained.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

37.

No development shall take place until a landscape and biodiversity management plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

1. details of measures to be taken to avoid harm to water voles, bats and nesting birds during demolition and construction, in the event of them being found;
2. proposals for the translocation of water voles to suitable alternative habitat prior to any work within 5 metres of the pond identified in the submitted water vole survey reports;
3. details of nesting and roosting features to be installed in buildings to support birds and bats as recommended by a suitably qualified ecologist;

4. details of bat boxes and bird nest boxes to be installed in the grounds as recommended by a suitably qualified ecologist;
5. proposed timings for the installation of the above features in relation to the completion of works on each building and the opening of the facility;
6. restrictions on external lighting to avoid impacts on bat roosts, bat foraging areas and sensitive habitats;
7. prescriptions for the creation and management of wildflower areas, including details of soil properties and local origin plugs and seed mixes;
8. prescriptions for trees, shrubs and mixed nature hedges of high biodiversity value.

The management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. The applicant or their successor in title shall submit photographs of each of the approved biodiversity features, within two weeks of installation, as evidence of compliance with this condition.

Reason

To protect features of recognised nature conservation importance in accordance with policies CS5 and CS17 of the North Lincolnshire Core Strategy.

38.

The first tenants of unit 1 (as shown on drawing number 5295/A1/100-12) shall be a retail company within the Marks and Spencer plc group of companies.

Reason

To ensure that the regeneration and economic benefits demonstrated by the application are delivered.

Reasons for approval

The local planning authority has considered all representations made and the potential impacts upon residential amenity, levels of traffic in the locality and to the vitality and viability of existing retail centres. The council has had regard to the relevant policies of the development plan (particularly policies T2, T3, S8, DS1 and DS16 of the North Lincolnshire Local Plan and policies CS1, CS14, CS19 and CS27 of the North Lincolnshire Core Strategy), to Government guidance and to all material considerations and considers that the positive impacts of the proposal outweigh the potential negative impacts.