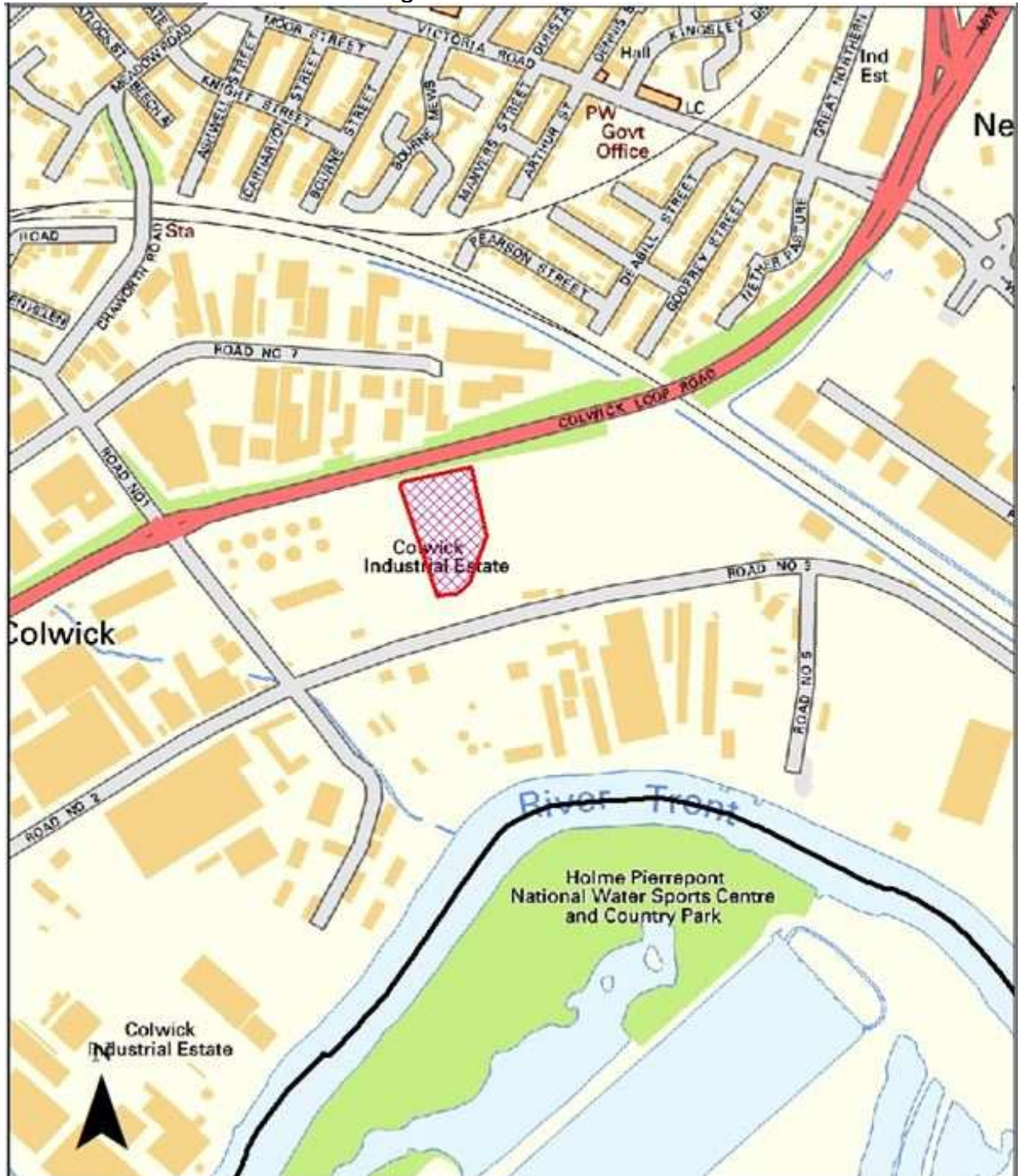


Application Number: 2013/0497
Location: Land South Of Colwick Loop Road Colwick
Nottinghamshire NG4 2JN



NOTE:

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Report to Planning Committee

Application Number: 2013/0497

Location: Land South Of Colwick Loop Road Colwick
Nottinghamshire NG4 2JN

Proposal: Construction of A4 public house with restaurant facilities & associated managerial residential accommodation at first floor (full application) & A3 restaurant or A5 hot food takeaway (outline application)

Applicant: Sainsbury's Supermarkets & City Estates

Agent: Miss Hannah Smith

Background

The application is inextricably linked to Planning Application no.2013//0500 for a Sainsbury's retail unit and buildings for employment uses falling under B1/B2 and B8 use classes as both applications share an access on to Colwick Loop Road. The application also raises complex planning issues, in particular in relation to the impact on highways and because the site is located within the Development Proximity Zone (DPZ) of Total Lindsey Oil Refinery Terminal. For these reasons this application, although within the delegation to the Corporate Director, is being referred to the Planning Committee for decision.

Site Description

The application site relates to former petroleum storage sites on land south of Colwick Loop Road, Colwick. Colwick Loop Road bisects the site and the industrial estate to the south from additional industrial properties to the north, and the residential area of Netherfield beyond.

The application site is brown field land and occupies a piece of land that has a boundary with Colwick Loop Road. It is approximately 70m to the east of the boundary to the Total Lindsey Oil Refinery terminal. The site was formerly part of the Chevron Fuel Terminal. Remediated crushed material currently covers the site. The site is surrounded by a metal chain link fence. To the south of the site is Road No. 3 and other industrial units, these industrial units border the River Trent.

Proposed Development

The application is a hybrid application requesting full planning permission for a Marston's restaurant/pub and outline planning permission for a drive through

restaurant. The only matter sought in relation to the drive through restaurant is access. Access to the public house and drive through restaurant would be provided by the same access proposed to the Sainsbury's Superstore which forms part of planning application 2013/0500.

The Marston's restaurant/pub would have a Gross External Floor Area of 776 square metres. It would provide 180 covers internally and 40 covers externally. The foot print of the public house would be 630 square metres with a first floor managers and staff accommodation of approximately 152 square metres. 59 car parking spaces would be provided; two of these spaces would be dedicated disabled spaces. It is also proposed to provide cycle parking facilities.

During the assessment of the application changes were made to the vehicle servicing area to overcome concerns raised by the Environmental Health Officer in relation to potential conflict between service vehicles and customers of the public house.

The space immediately around the public house would be landscaped, and would comprise of a terraced seating area and also a children's play area. Another landscaped area would be provided to the eastern edge of the site to provide a buffer to the proposed Sainsbury's store and the drive through restaurant.

The public house would be traditional in design, and would have a mix of external finishes comprising of brick, render and wood cladding. The duo-pitched roofs would be covered using slate coloured tiles.

It is proposed to construct an A3 restaurant or A5 takeaway unit which would have a minimum Gross External Floor Area of 192 square metres and a maximum Gross External Floor Area of 452 square metres. Details of the A4/A5 unit layout, scale, appearance and landscaping would need to be submitted as reserved matters.

The application has been accompanied by an Environmental Statement, which looks at hydrology, ground conditions, traffic and transport and the cumulative and interactive effects of the proposed development. The application has also been accompanied by an air quality assessment, statement of community involvement, design and access statement, drainage statement, flood risk assessment, Travel Plan statements, noise assessment, transport assessment and renewable energy and energy efficiency statement. An off- site risk Assessment has also been submitted which looks at the risk posed by the presence of the adjacent Total Lindsey Oil Refinery.

Consultations

Colwick Parish Council – Concerns over traffic volume and infrastructure of the roads in terms of the build-up down Mile End Road and past Rambler's Close.

Nottingham City Council – Object to the proposed development and query the location of these uses outside of identified town centres.

Rushcliffe Borough Council – No comments received.

Notts County Council (Ecology) – No comments received.

Notts County Council (Highways) – The principle of development is acceptable. Revised plans will be required to provide an aisle width of 6m between the proposed car parking spaces of the public house, however this could be conditioned. Highways have also requested that conditions be attached in relation to (1) the parking, turning and servicing areas being provided in accordance with the approved plans, (2) highway improvements being provided for a new signalised junction at Colwick Loop Road, the Colwick Loop Road/Road No1 Junction and A612/Burton Road/Shearing Hill junctions, (3) to the provision of cycle parking, (4) the submission of a Travel Plan together with details for monitoring and (5) details of measures to prevent debris being carried onto the public highway during construction.

Notts County Council (Rights of Way) – The application may impact on Carlton Public Foot Paths no.23 (Road No 1) & No 22 (Road No 3), which run alongside the west and south boundary of the site.

Whilst not an objection, the Rights of Way Office would require that the availability of Carlton Foot Paths No 22 & 23 are not affected or obstructed in any way by the proposed development at this location, that they be consulted in respect of any re-surfacing issues and that developers be aware of potential path users in the area who should not be impeded or endangered in any way.

Notts County Council (Arboriculture) – No objections, there are no trees of any significance on the site and any loss of trees could be mitigated through appropriate landscaping.

Environment Agency – The site is located within Flood Zone 3, defined in the NPPF as a high flood risk area. The primary risk of flooding is from the River Trent. Whilst the EA completed major flood defence scheme in 2012 to a 1 in 100 year standard of protection there remains a residual risk that the defences could be breached. In the event of a breach it is unlikely that there would be a safe means of access and egress for the new development. The EA advises that the Emergency Planner at Gedling Borough Council be consulted in relation to this application. If it is deemed that the site can be adequately managed during an extreme flood event and an appropriate flood evacuation plan is adoptable and conditions are attached relating to floor levels, a surface water scheme and to deal appropriately with contaminated land, then the development is considered to be acceptable.

Gedling Borough Council Emergency Planner – No objection, providing that a condition is attached requiring the submission of an evacuation plan should a flood event occur.

Severn Trent Water – No objections subject to the inclusion of a condition requiring drainage plans for the disposal of surface water and foul sewage to be submitted and approved.

Nottinghamshire Wildlife Trust – Do not object to the applications but did raise

concerns about the species proposed within the planting scheme.

Police Architectural Liaison Officer – With regards to the A4 Drinking establishment, the Police liquor licensing officers have been liaising with the developer for some time and are fully aware of the plans. The Police have no concerns regarding this application.

Natural England – Raised no objections to the proposed scheme.

Network Rail – No objections were raised to the proposed development, conditions have been suggested in relation to the nature of construction, the need for boundary fencing and also with regard to assessing whether there would be increased activity over the railway line.

Department for Transport – No comments received

Office of Rail Regulation – No comments received

Ramblers Association – No comments received

Health and Safety Executive – The HSE's assessment of the proposals indicates that the risk of harm to people at the proposed development is such that HSE's advice is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case. The development will involve an occupied building being sited within the Development Proximity Zone (DPZ) of Total Lindsey Oil Refinery Ltd, a large-scale petrol storage site. The HSE circular 'Land use planning advice around large-scale petrol storage sites' explains that the only developments within the DPZ which HSE would not advise against are those which meet the criteria for 'not normally occupied', as set out in paragraph 10 of that circular.

In addition, HSE would advise against the proposed development as it involves an indoor use by the public development with a total floorspace of more than 250m², which lies within the inner zone of Chevron Ltd.

It is understood that this application, and an associated application (2013/0497) are part of a proposal to redevelop all three of the major hazard sites referred to above. The Design & Access Statement indicates that the buildings and plant on the sites formerly occupied by Chevron Ltd and Esso Petroleum Company Ltd have been demolished. However, until all of the hazardous substances consents associated with each of these sites have been revoked, HSE's consultation distances will remain in place and HSE will continue to provide land use planning advice on proposed developments within them.

If the Borough Council, as the hazardous substances authority, advises HSE that the hazardous substances consents for any of these sites have been revoked, then the consultation distance around the site will be removed and the Borough Council will no longer need to consult HSE on developments in its vicinity.

However, HSE is prepared to consider reviewing its advice in the case of Planning

Application 2013/0497 if a suitably worded condition were to be included in the planning permission which would prevent the occupation of the development until the relevant hazardous substances consents for the Total Lindsey Oil Refinery Ltd and Chevron Ltd have been revoked.

Total Lindsey Oil Refinery Ltd – Total Lindsey Oil Refinery Ltd (TLOR), are the owner and occupier of the petroleum storage and distribution terminal which is adjacent to the above proposed development. The proposal is part of a larger scheme including an application for the construction of A1 retail unit with ancillary restaurant & concession units, service yard, car parking, landscaping & highways works (full application) & B1/ B2 / B8 employment uses (outline application) being dealt with under application number 2013/0500. TLOR have made separate representations in respect of that application however; they consider that the applications and their representations should be dealt with together.

TLOR object to the application as they believe that there errors within the ARUP report which results in an inaccurate assessment of the risks associated with siting the proposed development adjacent to the TLOR facility.

Canal and River Trust – No comments received.

Planning Policy – No objections

Scientific Officer – No objections subject to a condition being attached in relation to dealing with the contamination present on site. It is requested that electric charging points being installed within the car parking areas of the proposed public house and drive through restaurant.

Waste Services – No objections.

Urban Design Consultant (UDC) – With regards to the A4 Public House (PH), the UDC considers the amount of landscaping space could be greatly increased if the parking serving the PH was provided to both sides of the access road. This would reduce the length of the roadway and increase open green areas. The alteration to the parking would also have benefits for the customers as some customers would be able to get out the car and onto the footpath rather than having to cross the road.

With regards to the appearance of the Public House, the UDC considers it might be a good opportunity to create a more contemporary design rather than the standard Marston's design proposed.

Following the receipt of a preliminary drawing showing an alternative layout for the proposed Public House and alternative elevations, the UDC advised the layout was better as less of the site was taken up by the proposed access and parking was provided either side of the access. The UDC however did not consider the alternative scheme put forward was an improvement on the original design, and therefore the design of the public house has not changed from that originally submitted.

Economic Development Officer – There is a genuine desire on the part of the developer and Sainsbury's to develop local employment opportunities as part of this application. The specifics of this need to be included in the proposals. Jobs are a major priority of this council and with the site being so close to Netherfield (one of the council's priority areas), the aspiration is for any potential development to work with the council to maximise the potential job opportunities for this community.

Other Publicity and Neighbour Notification

The application has been advertised by site notice and in the local press as being accompanied by an Environmental Statement, as a departure from the development plan and as affecting a right of way.

As a result of this other publicity and the neighbour notification process I have received 6 written representations in support of the proposals.

Planning Considerations

The site is located within a protected employment area, within Flood Zone 3 and part of the site was formerly used as an oil storage terminal. It is an out of centre location and is for uses which should be sited within a town centre, and as such the proposal is not in accordance with the Replacement Local Plan or Aligned Core Strategy. It is understood that parts of the site has been vacant since about 2002 with other parts from 2007. Since then there have been a number of temporary uses on small parts of the site. An existing oil terminal will remain for the foreseeable future.

The following policies are relevant to the determination of this proposal:

National Planning Policy Framework

- Paragraphs 18-22 (Building a strong competitive economy)
- Paragraphs 23-27 (Ensuring the vitality of town centres)
- Paragraphs 29-41 (Promoting sustainable transport)
- Paragraphs 56-68 (Requiring good design)
- Paragraphs 93-108 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraphs 109-125 (Conserving and enhancing the natural environment)

Gedling Borough Replacement Local Plan (Certain Policies Saved 2008)

- ENV1 (Development Criteria)
- ENV3 (Development on Contaminated Land)
- ENV8 (Development affecting hazardous substance sites)
- S11 (Retail Development outside shopping centres)
- S12 (Retail development outside of district, local and town centres)
- E3 (Retention of employment)

T1 (New developments – developer contributions)
T9 (Cycle Routes)
T10 (Highway Design and Parking Guidelines)

It should also be noted that Gedling Borough Council at its meeting on 13th February 2013 approved the Gedling Borough Aligned Core Strategy Submission Documents which it considers to be sound and ready for independent examination. Consequently, Gedling Borough in determining planning applications may attach greater weight to the policies contained in the Aligned Core Strategy Submission Documents than to previous stages, as it is at an advanced stage of preparation. The level of weight given to each policy will be dependent upon the extent to which there are unresolved objections (the less significant the unresolved objections, the greater weight that may be given). It is considered that the following policies of the ACS Submission Document are relevant:

Policy A: Presumption in Favour of Sustainable Development
Policy 1: Climate Change
Policy 4: Employment Provision and Economic Development
Policy 6: Role of Town and Local Centres
Policy 7: Regeneration
Policy 10: Design and Enhancing Local Identity
Policy 14: Managing Travel Demand
Policy 18: Infrastructure
Policy 19: Developer Contributions

To inform the preparation of the Aligned Core Strategy a number of evidence based and background documents have been prepared regarding employment land and retail. Where necessary these will be referred to where appropriate within the main body of this report.

Taking into account the above planning policy context, it is my opinion that the main planning considerations in relation to the determination of this application are:-

Whether the proposed public house/restaurant and the restaurant/takeaway unit would be an appropriate use of this site;
The risk posed by the presence of the adjacent TLOR terminal;
Flood Risk and Land Contamination
The impact on the highway network and transport safety;
The appropriateness of the proposed design of the public house/restaurant;
The impact of the proposed development on local amenity
The impact of the development on nature conservation and the need to enhance biodiversity

I also consider that significant weight should be given to the reuse of a contaminated brown field site and also to the economic benefits that the proposal would generate.

Proposed Use of the Site

The site is allocated for employment uses within the Gedling Borough Replacement Local Plan. Policy E3 is considered to be up to date and consistent with the National

Planning Policy Framework and is therefore relevant to the consideration of this application and needs to be given weight. Policy 4 of the Aligned Core Strategy is also relevant although because there are still unresolved objections to the policy, only limited weight should be given to it. Policy E3 and Policy 4 do need to be considered in the context of paragraphs 18-22 of the NPPF which relate to the need to build a strong competitive economy and the requirement of the planning system to support economic growth.

Policy E3 defines the extent of protected employment sites within the Borough of Gedling, at E3 (b) of the Policy it is stated that permission for alternative uses such as that proposed in relation to this application will not be granted unless:

- i) The retention of the site for its specified employment use has been fully explored by extensive marketing and advertising without success; and
- ii) The proposed use would cause no traffic, amenity or conservation problems.

In this section I will give consideration to the first criterion of Policy E3b as the second consideration will be discussed later in the report.

Appendix 10 of the Planning and Retail Report submitted in support of the application addresses the requirement for extensive marketing. Section 3 of Appendix 10 details the marketing exercise that has been undertaken for the site since 2002. The exercise has included the publication of sales particulars, on site signage and various mailings to property agents and business with registered enquiries of over 5,000sq foot. This exercise was carried out in two stages. In both stages of the marketing exercise the site was deemed to be less preferable than sites closer to the M1. Full details of the various enquiries and discussions can be found in Appendix 10. Overall it is considered that extensive marketing has taken place to accord with the requirements of Policy E3b of the Replacement Local Plan.

Another consideration is the impact that the loss of employment land at this site could have in relation to the supply of employment land within the Borough. The loss of employment land as result of this proposal and that of other current proposals will place the Borough close to the level of employment land required within the ACS (22,800 square metres of new office space and research floor space and 10ha of industrial and warehousing land). If this application is approved any further loss of employment land is likely to be resisted. To provide a buffer and flexibility other small scale opportunities will likely be identified through future development plan documents especially the Local Planning Document which is expected to commence public consultation in autumn 2013.

The proposed use of the site for A3 (restaurant and café), A4 (Drinking establishment) and A5 (takeaway) purposes are town centre uses. Paragraph 24 of the NPPF sets out that main town centre uses which are not in a town centre and not in accordance with an up to date development plan (as is the case with this proposal) should demonstrate compliance with the sequential test. The sequential test requires sites within or on the edge of centres to be considered before out of centre locations can be developed. The NPPF advises that Applicants should demonstrate flexibility on issues such as format and scale. With regards to this

application because the floor area is below 2,500 square metres there is not a requirement to carry out an Impact Assessment.

Policy S11 of the Replacement Local Plan adopts a similar approach to the NPPF, in requiring proposals to demonstrate compliance with the sequential test. Policy S11 requires evidence of need to be demonstrated, however an understanding of need is required as part of the sequential test together with an understanding of catchment areas.

Appendix 7 of the Planning and Retail report submitted by the applicant details the applicant's approach to the sequential assessment. The applicant has indicated that they are looking for sites of 0.46ha for the restaurant and also 0.36ha for the public house. The applicant has looked at a number of sites which have been discounted, due to the sites being unavailable or the use of the sites for restaurant or public house uses having the potential to adversely affect local amenity. Further consideration was given to the Windsor Castle Public House at Carlton Square, however this site was discounted because the site is too small to accommodate the proposed building and the required servicing area and external dining area. The applicants have also indicated that the level of passing trade at the Windsor Castle site would not be as great as at the application site. Whilst I disagree with some of the justification put forward by the applicant, I do accept that there is some merit in the co-location of the public house with the proposed supermarket, in terms of the support that would be provided to the local economy and also the regeneration benefits of seeing the application site redeveloped. I also consider that there is sufficient distance between the Windsor Public House site and the application site for there to be limited impact on this site in terms of trade.

In relation to NPPF paragraph 24 and Policy S11 of the Gedling Borough Replacement Local Plan, and weight being given to the need for the planning system to support the local economy, it is my opinion that there are no suitable or available sites elsewhere which would generate the same benefits as the application site.

As a result of the above considerations I am satisfied that the use of the site for non-employment uses and for a town centre use would be acceptable in this instance and that the requirements of the NPPF in relation to these matters, and that of Policy E3 and Policy S11 of the Replacement Local Plan have been met, particularly when considering the need of the planning system to support economic growth and the regeneration of brownfield sites.

Risk Posed by the Total Lindsey Oil Refinery

The site is located within the Development Proximity Zone (DPZ) of Total Lindsey Oil Refinery Terminal. The HSE have advised against allowing the proposed development because of its proximity to the oil terminal and the potential risk posed should an explosion occur at the site. The HSE have however indicated that they would consider reviewing its advice if a suitably worded condition were to be included in any permission which would prevent the occupation of the site until the relevant hazardous substances consents for the Total Lindsey Oil Refinery Ltd and Chevron Ltd have been revoked.

The Chevron Ltd hazardous substance consents have now been revoked as the site has now been cleared and the official process for revoking this consent is being finalised. However, it is likely that for the foreseeable future that the Total Lindsey Oil Refinery site will remain in operation. The applicants have submitted an assessment of the risk posed by the Total site and Total have reviewed the assessment and have raised a number of issues regarding the assumptions made in the report which affect the risk levels that the applicants have calculated. The HSE have provided further advice in terms of the factors that they consider need to be included within any assessment. The applicants have reviewed their assessments, however I am still not satisfied that the assumptions used to generate the level risks are robust and that further work is required in relation to this matter.

I am mindful of the requirement of paragraph 186 and 187 that Local Planning Authorities should work proactively with applicants and should approach decision making in a positive way and look for solutions rather than problems. In considering this, I am of the opinion that the comments made by the HSE in relation to them reviewing their advice if a suitably worded condition were to be included in any permission which would prevent the occupation of the site until the relevant hazardous substances consents for the Total Lindsey Oil Refinery Ltd and Chevron Ltd have been revoked, should be considered in this instance. As a result of the advice from the HSE, a condition has been considered by both myself and the applicant which would restrict the occupation of the development until either both of the relevant hazardous substance consents have been revoked, or a report has been submitted that adequately assesses the level of risk posed by the Total Oil Refinery and that any risks can be adequately mitigated. If members were minded to approve this application, the application would need to be referred back to the HSE, to ensure that they are content with the wording of the condition and the development itself.

The HSE have 21 days within which to give further consideration to the matter and they do have the power to request that the Secretary of State for Communities and Local Government call in the application for its own determination.

Land contamination and Flood Risk

Paragraph 121 of the NPPF refers to land contamination and requires that the site is suitable for its new use taking account of ground conditions and proposals for mitigation after remediation the land is not capable of being determined as contaminated land under Part IIa of the Environmental Protection Act 1990; and adequate site investigation, prepared by a competent person is presented.

Policy ENV3 of the Replacement Local Plan sets out that development will not be permitted on contaminated land unless practicable and effective measures to treat, contain or control the contamination are taken.

The development is proposed upon part of the former Chevron Terminal and as such the site is known to be contaminated. The Scientific Officer has advised that further assessments are required and that the site should be split into zones for assessment purposes. However, the Scientific Officer has no objection subject to a suitably

worded condition being attached to any consent requiring further assessment work to be carried out and for the site to be remediated to a standard appropriate for its end use. The Environment Agency has also requested that such a condition be attached to any permission granted.

Given that no objections have been raised by either the Scientific Officer or the Environment Agency, I am of the opinion that conditions can be attached to ensure that the site is remediated in a manner which is appropriate for the proposed end use.

The site is within Flood Zone 3. Flood risk is addressed by paragraphs 99-104 of the NPPF. Paragraph 103 sets out that, when determining applications, local planning authorities should ensure that flood risk is not increased elsewhere and that permission is only granted if, following application of the Sequential and Exceptions Tests, it is demonstrated that:

Within the site, the most vulnerable development is located in the area of lowest flood risk unless there are overriding reasons; and
Development is appropriately flood resilient and resistant and priority is given to the use of sustainable drainage systems.

Policy 1 of the ACS follows a similar approach to this requiring the precautionary principle to be adopted. Objections to the Flood Risk element of Policy 1 are not considered to be significant in terms of this proposal and the Policy should be given significant weight.

The Environment Agency has reviewed the information submitted as part of the application. They have raised concern that even with the Flood Protection measures carried out as part of the Left Bank scheme in 2012, there is still a residual risk that these defences could be breached. The EA requested that the Council's Emergency Planner be consulted in relation to this application. The Emergency Planner has requested in line with the EA comments that a condition be imposed requiring details of an evacuation plan to be submitted should flooding occur. The EA have raised no other objections to the proposed development. They have suggested a number of conditions relating to a surface water drainage scheme and requiring details of any piling required as part of any foundation design for the scheme.

It should be noted that due to the previous use of the site and the level of contamination, in this instance it is not possible to make use of a sustainable urban drainage scheme. However the condition suggested by the EA will need to limit runoff rate to 10% betterment from the existing drainage conditions. To assist this it is proposed to use rain water harvesting.

I am satisfied that there is no sequentially preferable site for the proposed development. As the public house is not a use that is considered appropriate within Flood Zone 3a, it has been subject to the Exception Test. The exception test requires demonstration that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment, where one has been prepared. I am satisfied that the remediation and redevelopment of this site at a strategic location within the Borough of Gedling, is

sufficient to meet the Exception Test. The other aspect of the Exception Test is that it must be demonstrated that the site will be safe and that it will not increase flooding elsewhere, and if possible reduce flood risk overall. Given the comments from the EA I am satisfied that the proposed development would be safe and would not increase the risk of flooding elsewhere, I also consider that the reduction in the amount of surface water drainage at the site would assist in reducing the risk of flooding overall.

Impact on the highway network and transport safety

Paragraphs 29-41 of the NPPF address the promotion of sustainable transport. Paragraph 30 states that encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestions. Paragraph 32 requires that planning decisions take account of whether:

Opportunities for sustainable transport modes have been taken;
Safe and suitable access to the site can be achieved for all people; and
Improvements can be undertaken within the transport network.

Policy T1 of the Replacement Local Plan (Certain Policies Saved 2008) identifies that contributions will be sought from significant developments to meet additional transport costs that arise from the proposed development.

It is considered that T1 is highly consistent with the NPPF and up to date. It should be given significant weight in the determining the application.

Policy 14 (Managing Travel Demand) adopts a similar line but includes a hierarchical approach to sustainable transport networks. The Policy sets out the following order:

- a) site specific and area wide travel demand management;
- b) early improvements to public transport, walking and cycling facilities;
- c) optimisation of existing highway network to prioritise public transport, walking and cycling; and
- d) Network management measures then highway capacity improvements.

While there are unresolved objections to this Policy the approach it adopts is broadly supported. It is considered that significant weight should be given to this policy.

The implications of this development for the highway network have been considered as part of the overall redevelopment that forms part of this application 2013/0497 and also that of the Sainsbury's store, and B1/B2 and B8 employment units that form part of planning application reference 2013/0500. The assessment has also included a sensitivity test for the proposed Teal Close application which is still to be determined. The assessment and modelling that has been carried out indicates that the extra traffic to be generated by the proposed development (application 2013/0497 and 0500) will be accommodated on the local road network, subject to improvements being made to junctions on the local road network.

The County Council as Local Highway Authority has advised that the following works need to be carried out prior to any development being occupied:-

A new signalised junction on to the Colwick Loop Road;
Highway improvements at Colwick Loop Road/ Road No1 junction; and
Highway improvements at A612/Burton Road/Shearing Hill junctions

The applicant has agreed to provide these improvements as part of application 2013/0500. In addition as part of the proposal for both application sites the applicant has agreed to divert City Link service 2 along Private Road No.3 and there are proposals to enhance pedestrian and cycling infrastructure both within the development site and across the A612 Colwick Loop Road. Given the proposed package of measures, I consider that the proposed development would meet the requirements of the NPPF paragraphs 29 to 41, Policy T1 of the RLP and Policy 14 of the ACS submission draft. As the requirements are to be satisfied through application 2013/0500 the junction alterations do not need to be secured through conditions attached to this permission.

A total of 57 car parking spaces of which 2 would be for disabled users are proposed to be provided. I note that as part of the transport assessment that detailed calculations have been undertaken which predict the likely number of visits to the public house and that highways have not raised any objections to the number of spaces to be provided. The number of car parking spaces to be provided as part of the A3/A5 unit that is proposed would be considered as part of the reserved matters application/s.

Given the above considerations I am satisfied that an appropriate number of car parking spaces have been proposed in association with the proposed public house.

The appropriateness of the proposed design of the public house/restaurant

Paragraph 56 of the NPPF identifies that great importance is attached to the design of the built environment and good design is a key aspect of sustainable development. The NPPF goes on to say in paragraph 63 that great weight should be given to outstanding or innovative designs which help raise standards in the area while paragraph 64 identifies that poorly designed development or development that fails to take the opportunity to improve the character and quality of the area should be refused planning permission.

This requirement for a high standard of design is also present in Policy ENV1 and Policy S11 of the Replacement Local Plan. ENV1 sets out that development should be of a high quality and not adversely affect the area by reason of its scale, bulk, form, layout or materials. S11 requires that proposals are of an acceptable scale and there is no unacceptable harm as a result of the materials and design. Significant weight should be given to S11 as it is up to date and consistent with the NPPF.

ACS Policy 10 provides detailed information about the requirements for new development in terms of design and how these will be assessed. It requires that all new development should be designed to:

- a) make a positive contribution to the public realm and sense of place;
- b) create an attractive, safe, inclusive and healthy environment;

- c) reinforce local characteristics;
- d) be adaptable to meet changing needs of occupiers and the effects of climate change; and
- e) reflect the need to reduce the dominance of motor vehicles.

There is general support for the principles in Policy 10 and it, therefore, should be given significant weight in determining the applications.

The public house would be traditional in appearance and would have a pitched roof. Its scale and massing would resemble a country public house that has been extended over the years. Whilst I note that the Urban Design Officer would have preferred a more contemporary style building I do not consider that the proposed design of the public house would have an adverse impact on the visual amenity of the surrounding area.

I note that the servicing area proposed to the public house would be sited alongside the Loop Road. However, given the difference in site levels between the road and the servicing area, and that the area would be enclosed by a 2m high close boarded fence, and that landscaping is proposed along the embankment, I do not consider that the servicing area would have a detrimental impact on visual amenity.

The entrance to the public house would be visible from the proposed new roundabout. To the front of the public house would be a children's play area and a landscaped garden area. Precise details of the children's play area have not been provided as part of the application however these could be subject to a condition.

The design of the proposed A3/A5 unit would be considered at reserved matters stage.

Given the design of the public house and the context of the surrounding area, I consider that the proposed development would enhance the visual amenity of the area and make a positive contribution to the public realm.

The impact of the proposed development on local amenity

Policy E3 of the replacement local plan requires consideration to be given to the impact of the development on local amenity. Policy ENV1 of the replacement local plan also requires consideration of the impact of any increased activity on adjoining properties. The location of the public house and also the proposed A3/A5 unit next to the Colwick Loop Road and the proposed new access road would ensure that these uses would have no adverse impact on any surrounding properties. In addition the closest neighbouring properties are commercial and industrial uses. I therefore consider that the proposed development would be acceptable in relation to Policy ENV1 and Policy E3 of the replacement Local Plan.

The impact of the development on nature conservation and the need to enhance biodiversity

Paragraph 118 of the NPPF, requires consideration to be given to enhancing biodiversity. Given the previous use of the site, the site's current value to nature

conservation is limited; however I do consider that the proposed landscaping provides an opportunity to improve biodiversity. I note that the Nottinghamshire Wildlife Trust have raised no objections to the proposed development and that the proposed mix of planting has been altered following suggestions made by the Trust. I therefore consider that the proposed development satisfies the requirements of the NPPF in relation to biodiversity.

Other Material Considerations

As noted above, parts of the site have been vacant since 2002 with other parts since 2007. While small parts of the site have been used for temporary uses such as storage, the majority of the site has not been in active use for a number of years. The site is prominent being on a major route through the Borough into Nottingham City Centre and due to its former use is understood to be contaminated. Although I am mindful of the employment status of the site, I consider that weight should be given to the benefits of bringing a major brownfield site back into active use and to the benefits of remediating a contaminated site.

As noted above, the NPPF requires that “significant weight should be placed on the need to support economic growth through the planning system”. Overall significant weight should be given to the jobs and economic benefit from the proposal.

The improvements to highway network and also the benefits in relation to the rerouting of the public bus service that this proposal would make towards sustainable transport, would negate the need for requesting a contribution towards integrated transport measures. Therefore, through the package of measures proposed, the requirements of Policy T1 of the replacement local plan and Policy 18 and 19 of the ACS are met.

Other issues

The applicant has also agreed to make a contribution towards the monitoring of the proposed Travel Plan. These contributions would need to be secured through a section 106 agreement.

Conclusion

In terms of employment land, it is considered that the applicant has demonstrated that there has been extensive marketing of the site in accordance with Policy E3. While the loss of the part of the existing employment site for non-employment uses together with other losses and the potential loss at Teal Close, will put Gedling Borough close to the target identified in the Aligned Core Strategy, there will still be sufficient employment land remaining.

Weight should also be given to benefits of the proposal in terms of the redevelopment of a major contaminated brownfield site on a prominent route through Gedling Borough and the jobs and economic benefit of the proposal. I therefore recommend that this application be granted planning permission.

Given the comments made by the Health and Safety Executive, if Members are

mindful to approve this application it will need to be referred to the HSE in order to ensure that they are satisfied with condition 4, which is set out below.

Recommendation:

To GRANT PLANNING PERMISSION subject to the applicant entering into a Section 106 Agreement for the provision of contributions and towards travel plan monitoring with the County Council as Highway Authority and subject to the following conditions:-

Conditions

- 1 The public house hereby permitted shall be begun within five years from the date of the approval of the last reserved matters to be approved in relation to the restaurant element.
- 2 Application for the approval of any of the reserved matters (namely appearance, layout, landscaping and scale) required for the restaurant element shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 The restaurant element hereby permitted shall be begun within five years from the date of the approval of the last reserved matters to be approved.
- 4 The public house or restaurant element shall not be brought into use until either: a) The hazardous substances consents for both the Total Lindsey Oil Refinery Ltd and Chevron Ltd have been are revoked, or b) A report relating to the respective element has been submitted to the LPA outlining the level of risk posed by the presence of the Total Lindsey Oil Refinery Ltd together with details of any proposed mitigation measures and the LPA have agreed in writing that they are satisfied with the conclusions of the Report so to allow the respective element to be occupied. Any mitigation measures proposed in the report to be approved in writing by the Borough Council shall be implemented in accordance with the approved report.
- 5 The restaurant element shall not exceed 452 square metres (Gross External Floor Area).
- 6 The public house and restaurant shall be developed in accordance with drawings, A-PL-02 Rev. A (Location Plan) A-PL-30 B (Marstons Public House and Restaurant Plan), 0055/12/ 02 02 C Site Plan,0055/12/ 02 04 C Elevations, 0055/12/ 02 05 B Fence Locations + Details and Pergola Details, 0055/12/ 02 03 A Floor and Roof Plan and Marstons Public House and Restaurant Detailed Planting Plan GC.818000.303 A.
- 7 Prior to the public house being first brought into use precise details of the play equipment to be installed within the play area, together with a timescale for its

installation shall be submitted to and approved in writing by the local planning authority. The play equipment shall be installed in accordance with the approved details and timescale, and shall be retained thereafter in accordance with the approved details.

- 8 The approved planting scheme, fencing, pergola and surfacing materials to be used within the soft and hard landscaping scheme submitted in relation to the public house shall be provided prior to the to the public house being first brought into use, or to a timescale to be prior agreed in writing by the local planning authority. The fencing, pergola and surfacing materials shall be retained thereafter in accordance with the approved details.
- 9 Prior to the public house being first brought into use precise details of any minor artefacts and structures such as external benches, refuse or storage units and lighting together with a timescale for their installation shall be submitted to and approved in writing by the local planning authority. Any proposed lighting scheme shall also include details of the spread of light beyond the site boundaries and the hours of illumination. Any minor artefacts or structures shall be installed in accordance with the approved details and retained thereafter.
- 10 The Public House shall not be brought into use until the parking/turning/servicing areas are provided in accordance with the approved plan 0055/12/0202 Rev C. The parking/turning/servicing areas shall not be used for any purpose other than purpose thereafter.
- 11 The Public House shall not be brought into use until the cycle parking layout as indicated on drawing 0055/12/0202 Rev C has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.
- 12 The Public House or Restaurant element shall not be occupied until a Full Travel Plan for that respective element has been submitted to and approved in writing by the local planning authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the local planning authority and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority.
- 13 Details of measures to prevent the deposit of debris upon the adjacent public highway during the construction of both the proposed Public House and Restaurant element shall be submitted to and approved in writing by the LPA prior to the commencement of development of the respective elements(excluding any site clearance and remediation works as required by condition 20). The approved measures shall be implemented in accordance with the approved details prior to any construction works commencing on the respective phase and retained in situ until the respective element has been constructed.

- 14 The proposed development shall not be brought into use until the following works have been provided in accordance with details that have been first agreed with the Local Highway Authority and shall be carried out to the satisfaction of the Local Planning Authority.; (a) A new signalised junction has been provided on to the Colwick Loop Road. (b) Highway Improvements have been provided at Colwick Loop Road / Road No1 junction. (c) Highway improvements have been provided at A612 / Burton Road / Shearing Hill junctions.
- 15 The Public House and Restaurant elements shall be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures: (a) As a minimum, proposed floor levels will be set with a freeboard of 600mm above existing ground levels. (b) Other than in those areas where levelled or graded access is required to or from a building or to provide vehicular access into and between the respective elements, external finished ground levels will be no less than 300mm below the proposed floor level of the nearest building. (c) Where local flooding occurs surface water runoff is to be routed away from the buildings along the footways and roadways to the drainage system. The mitigation measures for each respective element shall be fully implemented prior to occupation of the respective element.
- 16 Prior to the commencement of development of the Public House or Restaurant elements (excluding any site clearance and remediation works as required by condition 20) a scheme providing an evacuation plan for the respective element shall be submitted to, and approved in writing by, the local planning authority, in consultation with the Council's emergency planner. The approved scheme for the respective element shall be fully implemented and subsequently maintained.
- 17 Prior to the commencement of development of the Public House or Restaurant elements (excluding any site clearance and remediation works as required by condition 20) a scheme to provide flood resilience design for the respective element shall be submitted to, and approved in writing by, the local planning authority, in consultation with the Council's emergency planner. The approved scheme for the respective element shall be fully implemented and subsequently maintained.
- 18 Prior to the commencement of development of the Public House or Restaurant elements (excluding any site clearance and remediation works as required by condition 20) a surface water drainage scheme for the respective element, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The respective scheme for each element shall subsequently be implemented in accordance with the approved details before the respective

element is occupied. The scheme shall also include: (a) The utilisation of sustainable drainage techniques, including rainwater harvesting and permeable paving; (b) Limitation of the runoff rate to a 10% betterment from the existing drainage conditions as detailed in a letter dated 16th September 2013 from Morgan Tucker, limiting discharge to 5.3l/s/ha (QBAR); (c) Water quality management to be incorporated within the design, with two forms of treatment prior to discharge from the site; (d) Demonstration through hydraulic calculations that appropriate attenuation is to be provided to limit the rate of runoff from the site. (e) Confirmation of responsibility and management of the drainage features on construction of the scheme.

- 19 Prior to the commencement of development of the Public House (excluding any site clearance and remediation works as required by condition 20) a scheme for the safe refuge of any residents during an extreme event has been submitted to, and approved in writing by, the local planning authority, in consultation with the Council's emergency planner. The scheme shall be fully implemented and subsequently maintained.
- 20 Prior to the commencement of development of the Public House or Restaurant elements (excluding any site clearance) an investigation and contamination risk assessment report relating to the respective element detailing those areas and / or contaminants not covered within the Ground Conditions Chapter of the submitted Environmental Statement shall be provided to the Local Planning Authority. If the information submitted with the application or within this additional report indicates that remediation is necessary, details of a remediation scheme for the respective element shall be submitted to and approved in writing by the Local Planning Authority. The remediation scheme shall include all works to be undertaken, remediation objectives and remediation criteria, a timetable of works and site management procedures and shall be carried out in accordance with the approved details and timetable of works. Written notification of the commencement of the remediation scheme shall be given to the local planning authority at least 2 weeks before the start of the remediation works and a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the respective element. If during the course of development contamination not previously identified is found to be present at the site, no further development other than that agreed in writing with the Local Planning Authority shall be carried out until an amendment to the remediation scheme giving details on how to deal with this contamination has been submitted to and approved in writing by the Local Planning Authority. The remediation measures shall thereafter be carried out in accordance with the approved amended details.
- 21 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

- 22 The Public House and Restaurant element hereby approved shall not be brought into use until full details of a Local Employment Partnership has been submitted to and approved in writing by the Local Planning Authority, this shall include details of how the partnership shall be sustained for the life time of the development. The partnership shall be implemented in accordance with the approved details prior to either element being brought into use. Evidence shall be submitted to the Local Planning Authority that the partnership has been established.
- 23 Prior to occupation of either the public house element or the restaurant element a viability assessment for additional renewable energy installations shall be submitted to the Local Planning Authority. If these prove viable, including those producing power only for the site's use, full details of the proposed installations shall be submitted for the approval of the Local Planning Authority and installed until technologically obsolete.

Reasons

- 1 To accord with Section 51 of the Planning and Compulsory Purchase Act 2004 and to allow sufficient time to enable either the revocation of the relevant Hazardous Substance Consents for Total Lindsey Oil Refinery Ltd and Chevron Ltd or for the Borough Council as Local Planning Authority to have confirmed in writing that the risk posed by the Total Lindsey Oil Refinery to be acceptable.
- 2 To accord with Section 51 of the Planning and Compulsory Purchase Act 2004
- 3 To accord with Section 51 of the Planning and Compulsory Purchase Act 2004
- 4 The Borough Council as Local Planning Authority is not satisfied that the risk posed by the adjacent Total Lindsey Oil Refinery is acceptable to allow the occupation of the proposed public house/restaurant and the proposed drive through restaurant. This condition will enable the public house/restaurant and the proposed restaurant/takeaway to occupied only if the relevant hazardous substances consents for both the Total Lindsey Oil Refinery Ltd and Chevron Ltd have been revoked or if the Borough Council as Local Planning Authority has confirmed in writing that it is satisfied that the so as to allow the development to be occupied whilst the adjacent Total Lindsey Oil Refinery is still in operation and the relevant hazardous substance consent for Chevron Ltd has been revoked.
- 5 For the avoidance of doubt and to ensure that the gross external floor area of the unit is set at outline stage so that the impact of the proposed development is within the parameters indicated within the assessments that have accompanied the application.
- 6 To ensure a satisfactory development that accords with Policy ENV1 of the

Gedling Borough Replacement Local Plan.

- 7 To ensure a satisfactory development that accords with Policy ENV1 of the Gedling Borough Replacement Local Plan.
- 8 To ensure a satisfactory development that accords with Policy ENV2 of the Gedling Borough Replacement Local Plan.
- 9 To ensure a satisfactory development that accords with Policy ENV2 of the Gedling Borough Replacement Local Plan.
- 10 In the interests of highway safety.
- 11 To encourage sustainable forms of transport
- 12 To encourage sustainable forms of transport .
- 13 In the interests of highway safety.
- 14 To ensure improve the capacity of the local highway network, in the interests of highway safety.
- 15 To reduce the risk of flooding to the proposed development.
- 16 To enable a safe means of egress from the site during an extreme flood event.
- 17 To reduce the impact of flooding on the development.
- 18 To prevent the increased risk of flooding, both on and off site and to manage surface water in a sustainable manner.
- 19 As living accommodation, ancillary to the use, is proposed then a safe refuge must be provided.
- 20 To ensure the site is suitable for use.
- 21 To ensure that there is no mobilisation/ migration of contamination into the underlying aquifer.
- 22 To ensure that the uses once operational employ local people.
- 23 To assist in satisfying energy demand from renewable energy sources, in line with paragraph 17 of the National Planning Policy Framework.

Reasons for Decision

The proposed development accords with the relevant policies of the Local Plan and the National Planning Policy Framework.

Notes to Applicant

For the purpose of the above conditions the following words and expressions shall be used, and unless otherwise stated elsewhere in the conditions shall have the following meaning: The proposed public house with dining facilities, managerial residential accommodation at first floor, car parking, landscaping and pedestrian access running east west between the retail element and the new access road comprise the "Public House". The proposed restaurant element to the south of the public house area is defined as the "Restaurant element".

For the purposes of this application the reference to details required prior to the commencement of development (except in relation to condition 20) shall exclude remediation works required under the remediation scheme approved under condition 20.

Your attention is drawn to the written comments of the Environment Agency, The Highway Authority, the Gedling Borough Council Scientific Officer, Network Rail and the Health and Safety Executive.

Planning Statement - The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework.