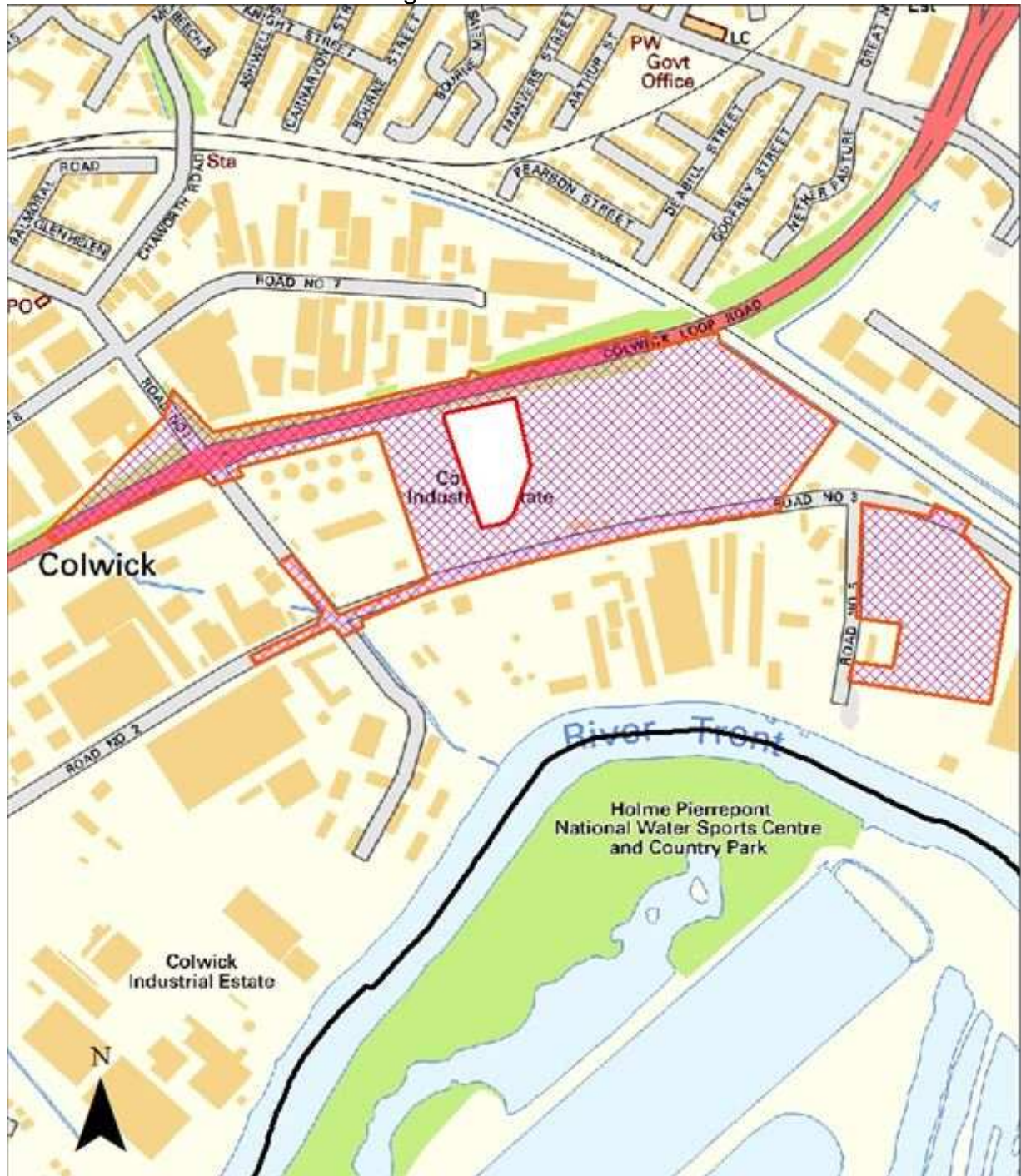


**Application Number:** 2013/0500  
**Location:** Land South Of Colwick Loop Road Colwick  
Nottinghamshire NG4 2JS



**NOTE:**

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## **Report to Planning Committee**

<b>Application Number:</b>	2013/0500
<b>Location:</b>	Land South Of Colwick Loop Road Colwick Nottinghamshire NG4 2JS
<b>Proposal:</b>	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)
<b>Applicant:</b>	Sainsbury's Supermarkets Ltd & City Estates
<b>Agent:</b>	Miss Hannah Smith

### **Background**

This application is inextricably linked to Planning Application no.2013/0497 for the construction of a public house with restaurant facilities and associated managerial accommodation at first floor (full application) and an A3 or A5 hot food takeaway (outline application). A separate report has been prepared for application 2013/0497.

Both applications share an access to Colwick Loop Road. The application also raises complex planning issues in particular in relation to the impact on highways and its location close to the Total Lindsey Oil Refinery Terminal.

### **Site Description**

The application site extends to a total of 10.86 hectares and relates to two distinct parcels of land. The larger comprises former petroleum storage sites on land south of Colwick Loop Road, and the second area lies off Road 1 on the industrial estate to the south. Colwick Loop road is elevated above the sites with the residential area of Netherfield beyond. To the west lies the current Total UK fuel terminal.

The larger, northern, site is brownfield land, left vacant since 2009 after demolition of the former Chevron, Save and Esso fuel terminals. The site is generally level and comprises remediated crushed material that forms a large area of open ground surrounded by a metal chain link fence to the site perimeter. There are small areas of self set vegetation.

The eastern part of this site was formerly occupied by Save, but is now occupied by Trust Civil Engineering Ltd., and comprises portable buildings and open storage.

The railway borders the site to the east and is elevated above the site. At the base of the railway embankment is an open drainage ditch. Along the northern boundary there are two 'live' fuel pipelines running west to east while a second redundant pipeline runs along the southern boundary.

The southern site is an area occupied by open storage areas containing construction materials and concrete drainage pipes and areas of hardstanding surrounded by a metal chain link fence to the site perimeter.

To the east, on the opposite side of the railway line, is Victoria Park which includes a Morrisons and Lidl food store.

### **Proposed Development**

A hybrid planning application has been submitted proposing as follows:

Full planning permission sought for a Sainsbury's food store on the northern site; consisting of:

- 11,781m<sub>2</sub> (126,811ft<sub>2</sub>) Gross External Area of which 7,665m<sub>2</sub> (82,506ft<sub>2</sub>) net sales area.
- In store restaurant.
- 3 ATM's
- Staff areas and storage.
- A service yard
- 798 car parking spaces (including 46 disabled, 46 parent & child and 6 electric car charging points)
- Motorcycle and bicycle parking
- 9 pump petrol filling station with canopy over
- Car wash
- Petrol station kiosk of 111m<sub>2</sub> Gross External Area
- Highway works including a new access road, from Colwick Loop Road, plus a package of off-site highway works.

Outline planning permission on the land off Road 1 to the south; for B1, B2 and B8 employment units with a minimum Gross External Area of 6,440m<sub>2</sub> and maximum GEA of 9,894m<sub>2</sub>. All matters are reserved for subsequent approval except means of access, which would be taken from Industrial Estate Road 3.

The applications are accompanied by the following documents

Environmental Statement.  
Retail Report.  
Off Site Risk Assessment.  
Noise Assessment.  
Renewable Energy and Efficiency Assessment.  
Air Quality Assessment.  
Statement of Community Involvement.  
Drainage Statement.  
Flood Risk Assessment.  
Travel Plans.  
Arboricultural Report  
Ecological Appraisal.  
Transport Assessment.

### **Consultations**

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

Nottingham City Council – Object to the proposed development on planning policy grounds as it constitutes out of centre development, which is contrary to the National Planning Policy Framework (NPPF), which recommends that a sequential approach is applied when assessing planning applications. This approach requires main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. The site is out of centre and is therefore considered unsuitable for retail development. Whilst the Greater Nottingham Retail Study (2008) concluded that 'a new district centre could potentially be developed in the general area between Mapperley Plains and Carlton Square', it is difficult to see how a supermarket in the proposed location would fit this criterion. Further to this, the draft update to the retail study concludes that further capacity is only available at Arnold, further suggesting that this location would not serve the identified capacity within the Borough.

It is recommended that the Travel Plan is conditioned to ensure that it is implemented at all times and that individual businesses develop their own, unit specific sustainable transport strategies to promote a reduction in car dependency. References in the Travel Plan to the Commuters Planners Club and the trip times website have been replaced with the Big Wheel Business Club and [www.traveline.com](http://www.traveline.com) respectively.

Section 106 contributions are requested as follows:

A contribution of £100,000 per annum to allow for the Citylink 2 bus service to be extended into the site to better serve staff and customers, improve the frequency of services from every 15 minutes to 12 minutes. This service would also provide staff with free travel on the Citylink 2 service enabling them to utilise the park and ride facility at the racecourse.

A contribution of £250,000 is sought towards a major bus priority scheme known as the Southside Growth Corridor which will provide enhanced bus services from Daleside Road through to Beeston via the Racecourse Park and Ride site, the Waterside Regeneration Zone, the Creative Quarter, the Southern Gateway Regeneration Zone (Broadmarsh and Turning Point South), the Station Hub, Queen's Drive Park and Boots Enterprise Zone.

Rushcliffe Borough Council – No comments received.

Notts County Council (Ecology) – No comments received.

Notts County Council (Highways) – The proposed new access from Colwick Loop Road and the alterations to the existing Road 1/Loop Road junction are acceptable.

The proposals to ban HGV's on Mile End Road and Vale Road will require a Traffic Regulation Order.

The County Council have been in negotiation with the agents and consider that the works above and the provision of 2 bus stops will cost in excess of £1.49m. No further contributions are required providing those items are provided by the applicant.

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 to the proposed development.

Gedling Borough Council (Trees) – States that the site does not contain any trees of significance, but it is clear that the new access will require removal of trees and vegetation, causing a loss of local amenity. The loss will require mitigation in the form of appropriate landscaping elsewhere on the site.

Environment Agency – Raise no objections if the site can be adequately managed during a flood event. Request conditions that development is carried out in accordance with the submitted Flood Risk Assessment. In addition conditions need to

be submitted in respect of surface water drainage, contaminated land, tank storage, and floor levels.

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.

Notts Wildlife Trust – Do not object to the applications but make the following comments.

The Trust welcomes the submission of the ecological appraisal report, and note that surveys of a number of taxonomic groups (bats, birds, reptiles, amphibians and, in addition, invertebrates) have been carried out. The Trust is pleased to see a note on the detailed planting plans in relation to “ecology initiatives” where bat and bird boxes and log piles are noted. The Trust would like to see a mechanism to secure this, such as a planning condition.

The amended planting plans received on 26<sup>th</sup> July now included species such as bird’s-foot trefoil, Mugwort, Weld, Willows, Osier, wildflower), to provide habitat for certain locally important invertebrates.

In relation to the landscape master plan generally, the Trust would like to have seen stronger (i.e. wider, continuous green links or habitat corridors) provided along the southern and eastern development boundaries of the main site. To offset loss of brown field habitats; the Trust would be grateful if inclusion of green or brown roof could be considered for some of the employment buildings subject to outline consent.

Finally, the Trust support the advice in paragraph 207 in relation to site clearance outside the nesting season and recommend a condition is used to protect nesting birds.

Police Architectural Liaison Officer – Have previously met with the Architect and discussed the proposals in detail.

No concerns as to the application for an A1 Retail unit with car parking provision. It is understood that the A1 retail unit (Sainsbury’s) will not be open 24 hours per day, so the Police request that the car park has the capability of being secured after normal shopping hours, this will prevent the car park from being misused, as these problems have occurred on a nearby retail unit. The retail unit will increase crime in the local area, i.e. shop theft etc, but unfortunately the increased crime is a by product of the retail unit, or indeed any retail unit, and the Police are aware that Sainsbury’s have a robust crime reduction plan in place as part of their company policy.

The application also includes B1/B2/B8 employment uses; we have no concerns regarding these.

Natural England – State that the site is in close proximity to the Colwick Cutting Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified.

It is noted that a survey for European Protected Species (bats and badgers), has been undertaken in support of this proposal. Natural England does not object to the proposed development. Furthermore the proposed development would be unlikely to affect bats or great crested newts.

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature.

Network Rail – Raise no objections although issues relating to a level crossing need to be addressed, including matters of drainage, boundary fencing, barriers, method statement, lighting and landscaping.

Department for Transport – No comments received.

Office of Rail Regulation – No comments received.

Ramblers Association – No comments received.

Health and Safety Executive – On the basis that the site itself constitutes a hazardous site, the risk of harm to people at the proposed development is such that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission. This reflects the fact that the proposal involves an indoor use

by the public development with over 5,000 m<sup>2</sup> of floorspace, which will be sited within the inner zone of the Esso Petroleum Company Ltd and Chevron Ltd sites.

HSE advise against the proposed employment use as it also lies within the inner zone of the Esso Petroleum Company Ltd site this aspect of the proposed development; if any building contains 100 or more people, or 3 or more occupied storeys.

The HSE however indicate that until all of the hazardous substances consents on the these site have been revoked, HSE's consultation distances will remain in place and HSE will continue to advise against granting consent If the hazardous substances consents are 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.

Alternatively a suitably worded condition could be included in the planning permission which would prevent the occupation of the development until the relevant hazardous substances consents for the Esso Petroleum Company Ltd and Chevron Ltd have been revoked.

Canal and River Trust – No comments received.

Planning Policy – State that this is an out of town site and a protected employment site, with the result that retailing is not in accordance with policy. However the applicant has demonstrated extensive marketing of the site in accordance with Local plan Policy E3. It is considered that there would be sufficient employment land remaining if the plans for the food store were approved. The assessment of alternative sites is accepted. The Retail Impact assessment is satisfactory and it is accepted that there will be no significant adverse impact on nearby centres. Additionally weight should be attached to the fact that the scheme would bring about redevelopment of a major contaminated Brownfield site, and provide a number of jobs. In summary therefore no objections are raised.

Scientific Officer – Advises as follows:

It is correct to state that the site has been subject to extensive works to ensure that groundwater (controlled waters) have been assessed and remediated to the Environmental Agency's satisfaction. The Scientific Officer agrees that provided that adequate remedial measures are carried out, the re-development will have a beneficial effect with regard to the sites impact on the soil and groundwater environments.

However, the risk assessment for human health related only to the 'yard area' around the loading gantry and only related to hydrocarbon contamination. The Local Authority has indicated that this assessment for this area and these contaminants was satisfactory and the site was suitable for its current use (as a piece of fenced, undeveloped land). The assessment has concentrated on the 'yard area' and looked



at only the hydrocarbon issues. Large areas of the site have had little physical assessment and no actual assessment regarding other potential contaminant linkages (asbestos, metals, PAHs, ground gas etc).

With regard to the groundwater, the Scientific Officer would recommend that the Environment Agency be consulted to ensure their views are taken into account. Additionally, if this is the case then the Scientific Officer would recommend further consideration is given to the vapour intrusion pathway in the AWP conceptual models alongside the assessments they are carrying out regarding ground gases.

Conditions will need to be attached to any consent to ensure that issues relating to land contamination are fully assessed.

The Air Quality Assessment submitted has been carried out to best practice. However the following comments are made.

Table 21 indicates that in the next 5 years annual mean NO<sub>x</sub> concentrations at receptors will fall. We understand that the Emissions Factor Toolkit (EFT) used was the most up to date but we do not believe, based on our monitoring, that these kinds of reductions in concentrations will be forthcoming in the next 5 years, even as Euro 6 vehicles start to enter the fleet. As such we believe it prudent to carry out a sensitive test whereby the background and vehicle emission rates are held at 2012 levels and used in the modelling of future concentrations. The conclusions regarding 'significance' should then be based on the results of this sensitivity test.

Additionally as this is a major development we would expect that the change in emissions (NO<sub>x</sub> and PM<sub>10</sub>) would be monetised using the pollutant damage costs (per tonne) specified by the Defra Inter-Governmental Department on Costs and Benefits (IGCB). <https://www.gov.uk/air-quality-economic-analysis>

The calculation uses the most current EFT to estimate the additional pollutant emissions from a proposed development. This will provide the relevant pollutant emissions outputs for the mitigation calculation, which is then multiplied to provide an exposure cost value. This value is used to inform costing the required emissions mitigation for the development. (See below).

Section 5.3 'Operation' indicates that no mitigation measures are proposed. Whilst from an air quality objectives point of view the development may not be significant, we would consider any development would lead to an increase in road transport emissions. As such some mitigation would be required to ensure the re-development is sustainable from an emissions point of view.

I recommend that each part of the development should include an individual Mitigation Statement outlining the mitigation proposal including formalising of the Construction Phase mitigation measures as per Section 5.3 of the report; and provision of Electric Vehicle (LEV) Charging Points (Sainsbury's Store – 5 No. for customers 1 No. for staff. With infrastructure put in place to allow for an expansion to

a total of 10 No. points for customers and 2 No. staff in future. Industrial Area – 1 No. point with provision for expansion to 2 No in future. )

In addition the following matters need to be secured

Travel Plan including mechanisms for discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies.

Designation of parking spaces for low emission vehicles.

All commercial vehicles should comply with either current or previous European Emission Standards from store opening, to be progressively maintained for the lifetime of the development.

Fleet operations should provide a strategy for considering and reducing emissions, including possibilities for the take up of low emission fuels and technologies (ECOStars or similar).

The assessment for air quality impacts, as carried out as part of these applications is based on a model that predicts air quality impacts and as such is an estimate of the atmospheric emission impacts.

This service would wish to confirm these impacts through monitoring once the store is operational. As such this service would request a Section 106 contribution to undertake 4 years of low cost monitoring at affected areas commencing during the construction phase. The contribution amount to be agreed should permission be granted.

The matters raised by the Scientific Officer were addressed by the applicant and the Officer raises no objections to the proposal.

Waste Services – Raise no comments.

Urban Design Consultant – Has concerns about the expanse of the parking area which is uninterrupted by any landscaping. Considers areas of mass planting should be incorporated in a cruciform shape within the car park to divide it up into 4 sections surrounded by greenery. In addition the Consultant has also advised he would like to see a materials panel to judge the appearance.

Following the submission of photographs showing other Sainsbury's car parks the Consultant advised this reinforced their view that more significant planting is required for the proposed car park serving the proposed retail unit. The Consultant recommends an every row proposal of trees every 2 spaces as per the example photographs. The Consultant is also concerned about the types of trees that might

be used and does not consider such changes are anywhere near enough to enhance the parking area and strongly objects.

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.

Without a commitment in writing, the employer may choose to work with a neighbouring authority to assist with employment which would actually exclude Gedling residents from those opportunities.

#### 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 5 written representations in support of the proposals, and 3 raising concerns summarised as follows.

The roundabout proposed on the new access roads will make access along the existing industrial estate roads tortuous and difficult for HGV's to negotiate.

The roundabout will have customers cars mixed with HGV's going to the existing industrial estate.

Mile End Road is the continuation of Industrial estate Road 2 and 3. This has become more and more busy and the pavements are well used.

The signs restricting lorry access along Mile End Road are ignored. There have been accidents on Mile End Road and at its junction with Colwick Loop Road.

The proposals will greatly increase traffic and accident potential, especially during construction.

The filter traffic lights on the junction of Mile End Road and Colwick Loop Road encourage traffic to enter the industrial estate there rather than at the next junction, so this should be removed.

The junction of Road 1 and the Loop Road should be changed to add a filter lane, or replaced by a roundabout.

Heavy traffic should be banned from Mile End Road.

Speed restriction signs should be placed on Mile End Road.

Detrimental effect on Netherfield.

In addition specific technical details have been raised by the adjoining business as follows.

Total Lindsey Oil Refinery Ltd - TLOR raised objections in relation to application reference 2013/0497, which are set out in the report relating to that application.

### **Planning Considerations**

In my opinion the main planning considerations in the determination of this application are:

- Whether the proposal would constitute a sustainable form of development.
- The appropriateness of a retail proposal in this out of town location, including the loss of allocated employment land.
- The likely impact of the food store on the vitality and viability of other centres.
- Highways and traffic implications.
- The risk posed by the presence of the adjacent fuel terminal.
- Flood Risk and Land Contamination.
- The impact on the highway network and transport safety.
- The appropriateness of the proposed design.
- The impact of the proposed development on local amenity including air quality
- The impact of the development on nature conservation and the need to enhance biodiversity.

### **Principle of development**

This section considers whether the retail proposals are acceptable in principle having regard to planning policy. This assesses the loss of employment land, the impact on existing retailing, and alternative sites.

The National Planning Policy Framework (NPPF) has at its heart the principle of sustainable development. Paragraph 19 of the NPPF states that “significant weight should be placed on the need to support economic growth through the planning system”. It seeks to protect the vitality and viability of town centres, by adopting a sequential approach to new retail plans, with sites within town centre boundaries, being preferred to those on the edge of or outside town centres.

The following sections of the National Planning Policy Framework (NPPF) (2012) are particularly relevant in considering these proposals:

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

## Conserving and enhancing the natural environment( Paragraphs 109 – 125)

At the local level the following policies of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008) are relevant:

- RLP Policy ENV1 (Development Criteria)
- RLP Policy ENV2 (Landscaping)
- RLP Policy ENV3 (Development on Contaminated Land)
- RLP Policy ENV6 (Energy efficiency)
- RLP Policy ENV8 (Development affecting hazardous substance sites)
- RLP Policy ENV11 (Pollution Generating Development)
- RLP Policy ENV41 ( Flooding)
- RLP Policy ENV42 (Aquifer Protection)
- RLP Policy S11 (Retail Development Outside Shopping Centres)
- RLP Policy S12 (Retail Development Outside of District, Local and Town Centres)
- RLP Policy S15 (Petrol Filling Stations)
- RLP Policy S17 (Security Shutters)
- RLP Policy E3 (Retention of Employment)
- RLP Policy E4 (Employment development on unallocated sites)
- RLP Policy T1 (New Developments – Developer Contributions)
- RLP Policy T2 (Sustainable transport)
- RLP Policy T8 Cycle facilities)
- RLP Policy T9 (Cycle Routes)
- RLP Policy T10 (Highway Design and Parking Guidelines)

The Gedling Borough Aligned Core Strategy Submission Documents (ACSSD) have been adopted for development management purposes by the Council. As such weight can be attached to these policies. The following policies are relevant:

- ACS Policy A: Presumption in Favour of Sustainable Development
- ACS Policy 1 (Climate Change)
- ACS Policy 4 (Employment Provision and Economic Development)
- ACS Policy 6 (Role of Town and Local Centres)
- ACS Policy 7 (Regeneration)
- ACS Policy 10 (Design and Enhancing Local Identity)
- ACS Policy 14 (Managing Travel Demand)
- ACS Policy 15 (Transport Infrastructure Priorities)
- ACS Policy 17 (Biodiversity)
- ACS Policy 18 (Infrastructure)
- ACS Policy 19 (Developer Contributions)

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.

### **Proposed Use of the Site**

Paragraphs 18-22 of the NPPF relate to building a strong competitive economy. Paragraph 19 states “significant weight should be placed on the need to support economic growth through the planning system”. Paragraph 22 identifies that the long term protection of sites should be avoided if there is no reasonable prospect of a site being used for that purpose.

Policy E3a of the Replacement Local Plan defines the extent of the protected employment area at Colwick and states that planning permission will be granted for the expansion, conversion or development of land for employment purposes (other than retail) provided the development does not cause traffic, amenity or conservation problems.

Policy E3b sets out that permission for alternative uses will not be granted unless:

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

It is considered that Policy E3 is up to date and consistent with the NPPF. The policy identifies sites to be retained for employment purposes and also includes criteria to allow for alternative uses.

Policy 4 of the Aligned Core Strategy sets the economic strategy for Greater Nottingham and identifies that the economy of the area will be strengthened and diversified. For Gedling Borough it requires the provision of 22,800 sq metres of new office and research floorspace and 10ha of industrial and warehousing land. Policy 4.1(h) sets out that:

the areas most attractive to the market will be appropriately managed to ensure they remain available for employment uses;  
retain good quality existing sites that are an important source of jobs, especially those that support less-skilled jobs in or near deprived areas or have the potential to provide start up or grow-on space; and  
considering the release of sites that do not meet the two criteria above.

Paragraph 3.4.2 of the supporting text to the policy recognises the role that other types of employment generating uses, including retail, will play in the economy of

Greater Nottingham. Retail proposals will still need to accord with relevant other policies related to Town Centres.

There are unresolved objections to this policy related to the amount of floor space and how this is expressed, whether the NCRELS assessments are flawed and whether there is sufficient guidance on when to retain or release employment sites. As these objections are considered significant only limited weight should be given to Policy 4 of the Aligned Core Strategy.

The Nottingham City Region Employment Land Study (NCRELS 2008) assessed Colwick Industrial Estate as 'average' in terms of Market Appeal and recommended that the site is retained for employment use.

The employment element of the proposal, submitted in outline as part of application 2013/0500, accords with Policy E3 of the Replacement Local Plan. As such there are no planning objections to this element of the proposal.

In terms of considering the release of the remainder of the employment land for alternative uses, there are two issues. Firstly whether, 'extensive marketing' of the site has taken place to show there is no reasonable prospect of the site being used for the employment uses identified in the Replacement Local Plan. Secondly, whether there is sufficient employment land within Gedling Borough and across the wider Greater Nottingham area to meet the need identified in the Aligned Core Strategy.

The Planning and Retail Report includes details of 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. The marketing exercise indicated that this site was less preferable to investors than sites closer to the M1. Full details of the various enquiries and discussions can be found in Appendix 10 of the submitted report.

Enquiries for short term use of the parts of the site (between 0.25 to 1 acres) for storage occupiers were received prior to 2008 but did not progress. Since marketing of the full site began in 2009 detailed discussions were held with a number of potential operators:

Costco – 140,000 sq ft cash and carry.

Fresh Start – 10,000 sq ft food preparation facility

National Autoparts – vehicle component manufacturing and distribution

In these cases the site was either deemed less preferable than sites closer to the M1 or the lack of market confidence resulted in the scheme not progressing.

Overall it is considered that there is evidence of extensive marketing sufficient to accord with Policy E3b of the Replacement Local Plan.

Given the current economic climate it is important to consider the longer term need for employment land. Taking account of predicted employment loss and the potential loss here of around 6.38ha due to non-employment uses, and at Teal Close of around 10ha as a result of the planning application currently being determined (ref 2013/0546) there will be sufficient employment land to meet the figures identified in the Aligned Core Strategy. (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 for public consultation in Autumn 2013.

### **Impact on other retail centres**

Paragraphs 23-27 of the NPPF relate to ensuring the vitality of town centres. Paragraph 24 sets out that main town centre uses (such as this food store) which are not in a town centre and not in accordance with an up to date development plan should demonstrate compliance with the sequential test. This requires sites within or on the edge of centres to be considered before out of centre locations can be developed. Applicants should demonstrate flexibility on issues such as format and scale.

Paragraph 27 of the NPPF sets out that where the proposal fails the sequential assessment or is likely to have significant adverse impacts on the factors identified above, permission should be refused.

RLP Policy S11 adopts a similar approach to the NPPF and requires that proposals demonstrate compliance with the sequential test and do not cause demonstrable harm to the vitality or viability of other shopping centres. S11 also requires evidence of a 'need' for a proposal. While this requirement was not included in previous national policy (PPS4) or in the NPPF, understanding 'need' is a part of the sequential assessment and understanding where the customer catchment of the store lies (and therefore which centres should be searched). Other than the references to 'need' Policy S11 is up to date and consistent with the NPPF. Therefore, excluding the 'need' test, it should be given significant weight.

There are therefore two elements which will be considered:

- Whether there is a suitable and available site within or on the edge of a town centre; and
- Whether the proposal is likely to have a significant adverse impact on town centres.



There is not a specific policy requirement to demonstrate ‘need’ for retail proposals, but ‘need’ does form an important part of assessing the identified customer catchment and understanding the potential impact of the proposal.

The Greater Nottingham Retail Study (2008) identified a need for a new supermarket to serve the area between Mapperley Plains and Carlton Square. This was backed up by the recent update to the Retail Study (2013). The recommendation in the 2008 study was based, in part, on the redevelopment of the former Gedling Colliery site which would include provision of a new district centre providing an opportunity for a superstore to act as an anchor for the new centre. While efforts continue to secure that site’s redevelopment, there are complex site constraints and accordingly, there is insufficient certainty that the site will be developed within a foreseeable timescale, it should therefore be discounted as an alternative location.

The non development of Gedling Colliery will affect the area of need. A planning application at Teal Close to east of the proposal site, including large scale new housing is currently under consideration. If that proposal is approved the customer demand base (or “need”) will likely move south away from the Mapperley Plains area, towards this area.

The applicants have considered sites in Arnold, Carlton Square, Netherfield and Nottingham City Centre as alternatives for the proposals. It is considered that the customer catchment identified is reasonable for the proposal.

### **Alternative sites**

The following sites have been identified by the applicant. For a food store of the size proposed, plus a petrol filling station, sites of 4.7ha minimum are required :-

<b>Site</b>	<b>Applicants Comments</b>	<b>Planning Policy conclusion</b>
Broadmarsh Shopping Centre, Nottingham City Centre  10.15ha	Not suitable as comprises existing retail uses. Food store would require redevelopment of whole site. In active use so not available.  Demolition of site and relocation would likely affect viability.	Not a viable alternative.
High Street Car Park, Arnold	Insufficient size for food store.  Not available for restaurant/public house as GBC not looking to sell.	Alternative car parking proposed nearby but redevelopment of the site is not advanced enough for it to be considered as

0.3ha	Loss of off-street car parking conflicts with Policy S4 of RLP. Lack of access onto Front Street affects marketability of site.	available.  Not a viable alternative.
Arnold Health Centre, Arnold  0.3ha	Insufficient size for food store.  Currently being redeveloped for new health centre	Not a viable alternative.
Former Druids Tavern and adjacent land, Arnold  0.49ha	Insufficient size for food store.  Currently in use as car park, restaurant and offices. Loss of off-street car parking conflicts with Policy S4 of RLP.	Not a viable alternative.
Friar Tuck Public House, Arnold  0.41ha	Insufficient size for food store.  Currently operational as Public House so not available for restaurant/Public House.	Not a viable alternative.
Arnold Library and Leisure Centre, Arnold  0.45ha	Insufficient size for food store.  Currently occupied and users would need to be relocated. Site is not available.	Not a viable alternative.
BT Telephone Exchange, Carlton Sq	Insufficient size for food store.  Currently occupied and users would need to be relocated. Site is not available.	Not a viable alternative.
Former Windsor Castle Public House, Carlton	Insufficient size for food store.	Further consideration required. (see below)

Sq		
Former Infant School, Netherfield  2.2ha	Insufficient size for food store.  Site is available and likely viable for restaurant and public house use. Likely to be residential amenity issues which mean the site is not suitable for these uses. The site is not prominent enough for the operators.	Not a viable alternative.

Further consideration has been given to the former Windsor Castle public house site. The building's current use is as a public house and is no longer being demolished to make way for the extension to the supermarket. The considerations relevant are the

- Site is too small to accommodate a food store and ancillary requirements
- Site is currently not being marketed for sale or lease and is not considered to be available.

It is accepted that the Windsor Castle site is not a viable alternative for the proposed food store, although it is sequentially better located.

Overall it is considered that there is no suitable, available or achievable location in or on the edge of a centre for the supermarket. As such compliance with the sequential assessment has been demonstrated.

### **Impact on other retailing**

The site is an out of centre location and retail use is not in accordance with the Replacement Local Plan or Aligned Core Strategy. One of the key considerations is the impact the proposal will have on the vitality and viability of the centres within its catchment in terms of the impact on the turnover of the existing in centre stores and the impact on investment in centres.

Out of centre stores, such as the existing nearby Morrisons, are not offered any protection by the NPPF or by policies in the Replacement Local Plan or RSS. Any adverse impact on them should be given limited weight.

In determining the impact of the proposal it is commonly held that 'like-affects-like' basis. This means that similar stores will compete against each other. The proposed store would operate as a 'weekly convenience store' and will therefore compete with the other weekly convenience stores in the area. Table 1 identifies the

level of expenditure available for convenience and comparison goods from the catchment of the proposed store, at the present and once the proposed store is open. This shows the combined turnover of the existing centres and out of centre stores within the catchment of the proposal in 2018. This includes turnover which derives from outside the catchment. The table identifies the impact of the store itself alongside the other retail commitments (i.e. sites with planning permission for retail which are not yet operating). Impact has therefore been tested by the applicants on the basis of the proposed store and the cumulative impact with other approved schemes.

**Table 1**

	2013	2018
Convenience	£469.61 million	£506.87 million
Comparison	£621.87 million	£710.76 million

The applicants have forecast the impact of the proposed food store on retailing at Carlton Square, West Bridgford and Radcliffe. The impact on West Bridgford and Radcliffe in relation to expected reduction in trading would be 0.41% and 1.40% respectively. Given the distance to the centres and the different parts of the Greater Nottingham conurbation that these two centres serve it is not considered that the additional impact from the proposed Sainsbury's store is significant in terms of the NPPF.

Carlton Square's turnover will reduce by 16% in 2018 as a result of the proposed food store at this site and other committed stores, although the majority of this impact is on the existing Tesco store. Of the £9.61 million that will be drawn away from Carlton Square, £9.38 million will be drawn away from the Tesco. The applicant states that the Tesco store is trading well above the 'benchmark' level (the level at which the operator expects to trade at) and can comfortably accommodate the level of trade lost to the proposed food store without being at risk of closing down. The other stores within Carlton Square are less likely to be directly affected by the proposal based on the 'like affects like' principle. The applicant also notes that, given the nature of the road layout at Carlton Square, there are limited linked trips between Tesco's and the rest of the centre and that the Tesco store is an edge of centre location.

Given that the vast majority of the impact will be on the Tesco store, which appears from the evidence presented to be capable of accommodating the impact identified, it is considered that there will not be a significant adverse impact on Carlton Square. The purpose of the 'town centre first' approach is to protect the vitality and viability of the centre as a whole and not to protect individual stores within them.

The majority of the impact from the proposed food store will be on the existing out of centre stores, especially the nearby Morrisons. Given that these stores are out of centre they are not offered any protection by the NPPF or Development Plan. Therefore only limited weight should be given to the impact on these stores.

Overall it is considered that there is unlikely to be significant adverse impacts on the nearby centres and there are no planning objections to the proposal.

### **Impact on Transport/Highways**

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. These may include contributions towards:

Public transport provision or enhancement;  
Measures to assist pedestrians;  
Highway safety measures; and  
Measures to assist cyclists.

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.

RLP Policy T9 identifies that planning permission will not be granted for development which would prejudice the implementation of identified cycle routes unless an alternative route is provided. On or off site contributions for cycle routes or facilities will be sought from developments around the identified cycle routes. A cycle route runs along East-West along Road No. 3 and then North-South along Road No. 5.

The application includes a Transport Assessment and a Travel Plan. 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 site will be accessed by a new road, formed from a signalled junction with Colwick Loop Road to the north. This will lead south and form a roundabout leading to the proposed store. The roundabout will in turn join the existing industrial estate road to the south, and have spurs accessing the development proposed under 2013/0497. This will be provided at the applicants expense.

In addition the proposals include a package of works aimed at ameliorating the traffic generated by the development, and implementing the Travel Plan. Specifically the applicants propose:

1. A footway on the southern side of the Colwick Loop Road from its junction with Road 1 to the new access road junction.
2. A pedestrian crossing across the Loop Road.
3. Coordinating with Nottingham City Council Public transport for diversion of bus routes into the site, including provision of two bus stops.
4. Alterations to the existing crossroads of Colwick Loop Road and industrial estate road 1, mainly in the form of an additional turning lane.
5. A Travel Plan and Travel Plan coordinator, to facilitate reduction in private car use by staff and customers.
6. A scheme to ban HGV traffic on Mile End Road and Vale Road.

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. I am also of the opinion that to ensure that there are no adverse impacts on the local highway network that conditions be attached to ensure that the suggested improvements are secured.

The Local Plan maximum parking standards for an A1 food retail use are 1 space per 14 sq.m. of gross floor area. This equates to a requirement of 832 car spaces. The food store car park would provide 798 car spaces. However the applicants forecast peak demand is 629 cars. As a result the level of parking proposed is considered to be acceptable.

The applicant is willing to finance the provision of bus stops on the access road, to provide for customers and staff. In addition it is intended to divert an existing bus route to use those new stops. The City Council public transport officer has requested a financial contribution to wider public transport services, but the agents have

indicated that this is not acceptable as these are not directly relevant to the proposals. I accept this and as a result no financial contribution to bus services is required.

The applicant has agreed to provide a financial contribution to enable the monitoring of the proposed Travel Plan. This would need to be secured through a sS.106 agreement.

The site is affected by a designated Recreational Cycle Route which will require retention through the site; this can be controlled by condition. The development includes the provision of cycle parking, under the projecting canopy roof at the front of the food store.

### **Risk Posed by the Total Lindsey Oil Refinery**

Adjacent to the site is the Total Lindsey Oil Refinery (TLOR), which represents a hazardous risk to persons using the food store. The level of risk is determined by the Health and Safety Executive (HSE), based on proximity, nature of the hazard and type/magnitude of development.

Policy ENV8 identifies that development in the vicinity of a site for the storage, use or transportation of a hazardous substance will not be permitted if it would expose the public or the natural environment to any unacceptable risk.

The TLOR comprises 9 large storage tanks of which 4 store petrol, up to 6.7million litres. These constitute a Major Industrial Hazard because of the risk of, and implications of, an explosion. The relevant legislation imposes Development Proximity Zones around such sites, and advises against certain types and scales of development within different parts of the DPZ. The food store would be sited within the Outer zone (where risk is calculated at 1 in 10,000,000), and which the Health and Safety Executive (HSE) do not advise against granting planning permission. The proposed access and car park would be sited in both the inner, middle and outer zones. The risk calculated depends mainly on the likely length of time that people might spend in that area, with for example, residential constituting a much higher risk than a road. This part of the scheme also attracts a response of Do Not Advise Against from the HSE response matrix.

The HSE consultee comments above will, in part, be superseded as the Hazardous Substance consents referred to are in the process of being revoked. This means that TLOR will be the only hazard, and that it is just the petrol storage specifically which represents a risk. However, the HSE does not advise against this application.

It is considered therefore that the development would not give rise to unacceptable risk to public health and safety based on present legislation and submitted details. Nonetheless if the application is to be approved there is a statutory requirement for the application to then be referred to the HSE for a 21 day period, due to the comments received from them in relation to the consents.

## **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 site was a fuel depot and known to be contaminated. The Scientific Officer has advised that further assessments are required and these can be controlled by 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.

The site is within Flood Zone 3, and the River Trent lies to the south. 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.

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 food store and employment development will need to have floor levels 600mm above the existing ground levels. This can be controlled by conditions.



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 physical conditions on the site it is not possible to make use of a sustainable urban drainage scheme. However other measures (such as rain water harvesting) can be implemented to limit runoff rate to a 20% betterment for the retail element and 10% in relation to the other elements from the existing drainage conditions, as required by the EA.

I am satisfied that there is no sequentially preferable site for the proposed development. I am satisfied that the proposed development would be safe and would not increase the risk of flooding elsewhere, and 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.

### **Design and appearance**

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.

The store would have a shallow pitched roof and large areas of glazing, plus metal clad sides. The surrounding industrial estate is characterised by modern metal buildings and the site's setting is not affected by heritage interest. The design is considered appropriate given the site's context. There are minor matters requiring resolution such as the design of bollards and trolley shelters, but these can be dealt with by a condition on a planning permission and do not affect the wider area. Elsewhere landscaping will be a key consideration to improve the appearance of some elements of the scheme especially in views on approaching the site.

In terms of landscaping the Council's Urban Design officer raises concerns about the extent and nature of planting proposed. In response the applicant, points out that the landscaping is concentrated around the petrol station and recycling area to ameliorate views on entrance to the site, and the species reflect biodiversity mitigation requirements. In addition I consider that low level planting would prove visually meaningless within a car park, and that isolated trees within the car parking rows tend to suffer damage from cars and poor growth.

### **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. Policy ENV9 resists development which would give rise to unacceptable noise disturbance to residential amenity

The location 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. Noise at the site is dominated by traffic noise. The assessment carried out by the applicant indicates a negligible increase in noise generation and little likelihood of a detrimental effect on residential amenity, with the nearest dwelling 185m distant.

The plans however include installation of external plant on the roof of part of the food store and a condition restricting noise generation from is reasonable. The screening proposed and location of the delivery yard should ensure that little additional noise impact will result.

Some of the highway/traffic proposals will improve the amenity of neighbours, specifically the proposals to ban HGV movements from Mile End Road

I therefore consider that the proposed development would be acceptable in relation to Policy ENV1, ENV9 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 in biodiversity terms is limited. The ecological appraisal that has been carried out indicates that the site does not contain rare or unusual areas of vegetation and no protected wildlife species were found on the site.

However in order to offset the loss of 5 locally important identified invertebrate species mitigation is considered sufficient, in the form of suitable plant species. In addition planting on boundaries for foraging and wild bird nesting is also appropriate.

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, subject to suitably worded conditions.

### **Air Quality**

Paragraph 124 of the NPPF requires developments to sustain compliance with EU values for pollutants.

Policy ENV11 of the replacement local plan resists development which would cause unacceptable nuisance to residents by reason of smoke, fumes, gases, dust, etc.

ENV9 of the replacement local plan also requires consideration of the impact of any increased activity on adjoining properties.

Air quality issues revolve around dust generation (Particulate matter PM10), Sulphur Dioxide (SO<sub>2</sub>), Nitrogen Dioxide (NO<sub>x</sub>) and Lead. Existing air quality monitoring in the surrounding area reveal compliance with EU air quality standards, except for one instance where NO<sub>x</sub> values peaked. Generally therefore the air quality standard at the site is acceptable and no adverse impacts are envisaged as a result of the development. The applicant has agreed to finance additional air quality monitoring.

Without mitigation the effects of the proposals have been modelled as moderately adverse in respect of dust. The applicants have suggested ways of mitigating dust emitting activities during construction using site layout and site management tools. This can be controlled by conditions and other legislation.

## **Renewable/Alternative energy**

Paragraph 17 of the NPPF requires developments to support the transition to a low carbon future including by encouraging the use of renewable energy.

The food store plans include a ground source and air source heat pump, to generate renewable energy for some the store's needs. A large number of rooflights are included to provide daylighting to the store, although this would make the food store building unsuitable for sedum planting to create a "green roof".

Electric car charging points for customers are included, as well as under cover cycle parking. It is anticipated that battery charging can be provided for vehicles dispatching on line shopping, together with gas fuel at the petrol filling station.

Within the store car park a recycling station is proposed, with containers for various forms of waste for recycling and re-use.

## **Other issues raised by consultees**

### **Network Rail**

As the site will be fenced off from the railway line and as it is lower than the railway no additional barriers are required around the service yard. In respect of the existing footpath level crossing near the site, the agents do not believe that this is likely to be used by customers and therefore the concerns should be set aside.

### **Environment Agency**

The site may not be suitable for below ground fuel tanks, and as a result above ground tanks may be required. However there appears to be space available to site these without a material impact on the overall scheme, and it is likely that suitable screening can be implemented. This can be adequately controlled by conditions.

## **Developer contributions/Infrastructure**

Policies 18 and 19 of the Aligned Core Strategy set out the approach to infrastructure and developer contributions. It is not considered that objections to these policies are significant and therefore significant weight should be given to these policies. Together they require that new development be supported by the required infrastructure at the appropriate stage and that new development

meets the reasonable costs of new infrastructure required as a consequence of the proposal;  
where appropriate contribute to delivery of necessary cumulative infrastructure; and  
Provide for the maintenance of facilities provided.

For these reasons the request for funding of 2 bus services by the City Council has been set aside as the routes involved are not affected by the development of this site.

The S.106 relevant to the food store proposals will be needed to secure the following:

Air quality monitoring - £1329.52 single payment.  
Monitoring of Travel Plan.

## **Conclusion**

Whilst 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, it is considered 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.

The NPPF requires that “*significant weight should be placed on the need to support economic growth through the planning system*”. It is understood that the retail element of the proposal will deliver in the region of about 1000 jobs (a mix of full and part time). The applicant has proposed to enter into a ‘Local Labour Agreement’ to ensure that where possible the created jobs go to local residents. Overall significant weight should be given to the jobs and economic benefit from the proposal.

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. The proposal for up to 9,894 square metres of employment land accords 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 us close to the target identified in the Aligned Core Strategy there will still be sufficient employment land remaining. As such there are no planning objections to the loss of employment land, but it should be noted that additional sites will need to be sought through the Local Planning Document.

In terms of the proposed retail uses it is considered that there is no suitable, available or achievable location in or on the edge of a centre for the supermarket, public house or restaurant. As such compliance with the sequential assessment has been demonstrated. It is also considered that there is unlikely to be significant adverse impacts on the vitality and viability of nearby centres. There are no objections to the proposal as a result of retail policy.

The recommendation is to grant planning permission subject to a S106 agreement to secure £1329.52 payment for Air quality monitoring and implementation of Travel Plan, and the conditions listed at the end of this report.

However no consent can be issued until after a 21 day period in which the application must be referred to both the HSE and Secretary of State for Communities and Local Government, for the reasons described below.

Paragraph A5 of the DETR Circular 04/2000 states that:

“ .. Where a local planning ...authority is minded to grant planning permissions... against HSE’s advice, it should give HSE advance notice of that intention allow 21days from that notice for HSE to give further consideration to the matter. During that period HSE will consider whether or not to request that the Secretary of States...to call-in the application for his own determination.”

In addition prior to issue of any consent the application needs to be referred to the Secretary of State (via the National Planning Casework Service) under The Town and Country Planning (Consultation) (England) Direction 2009, as the development would be carried out on land which is edge-of-centre, out-of-centre or out-of-town; and is not in accordance with one or more provisions of the development plan and consists of the provision of a building with floor space of over 5,000 square metres or more.

Either referral procedure may prevent or delay the issuing of this planning permission.

**Recommendation: GRANT PLANNING PERMISSISON subject to the applicant entering into a Section 106 Agreement for the provision of contributions towards air quality monitoring with Gedling Borough Council and towards travel plan monitoring with the County Council as Highway Authority and subject to the following conditions:-**

### **Conditions**

- 1 Application for approval of reserved matters relating to the employment element (namely layout, appearance, scale and landscaping) shall be made not later than three years beginning with the date of this permission and the development shall be begun not later than two years from the final approval of the reserved matters or, in the case of approval of the reserved matters on different dates, the final approval of the last such matter to be approved.
- 2 The development hereby approved for full planning permission relating to the construction of the retail element, an A1 retail unit with ancillary restaurant

and concession units, service yard, car parking, landscaping and highway works must be begun not later than three years beginning with the date of this permission.

- 3 This development hereby granted full planning permission shall be completed in accordance with drawing nos.A-PL-01 Rev B, A-PL-03 Rev A, A-PL-11 Rev D, A-PL-12 Rev A, A-PL-13 Rev A, A-PL-14 Rev A, A-PL-15 Rev A, A-PL-16 Rev A, A-PL-17 Rev A, A-PL-20 Rev A, A-PL-21 Rev A, and the landscaping details and notes detailed on drawing nos.GC.81800.001 Rev A, GC.81800.301 Rev A, GC.81800.302 Rev A, except where further details are required for approval by other conditions of this planning permission.
- 4 Prior to the commencement of development of the retail elements(excluding any site clearance and remediation works as required by condition 8) a sample panel of materials to be used in the external elevations of the food store building, kiosk and carwash, shall be submitted to and approved in writing by the Borough Council. Once approved the development shall be completed in accordance with the approved materials.
- 5 The retail and employment elements shall be carried out in accordance with the measures set out under the Air Quality Mitigation Strategy dated 22nd July 2013. A verification report to demonstrate compliance with the Air Quality Mitigation Strategy shall be submitted to and approved in writing by the Borough Council before the respective elements are first brought into use.
- 6 The development hereby granted full planning permission shall be completed in accordance with the tree constraints and protection plans and notes drawing nos.GC.81800.201 and GC.81800.202.
- 7 There shall be no vegetation clearance and demolition works during the main bird nesting period (March - August), unless otherwise prior agreed in writing with the Local Planning Authority.
- 8 Prior to the commencement of development of the retail or employment element (excluding 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 for the respective element 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.

- 9 Prior to the occupation of the retail or employment elements details of bat and bird boxes to be incorporated within the approved relevant element shall be submitted to and approved in writing by the Borough Council. Once approved the bat and bird boxes shall be installed in accordance with the approved details prior to the relevant element being brought into use.
- 10 Prior to the commencement of development of the retail or employment elements(excluding any site clearance and remediation works as required by condition 8) drainage plans for the disposal of surface water and foul sewage relating to the respective element shall be submitted to and approved in writing by the Borough Council. The drainage scheme shall be implemented in accordance with the approved details before the respective element is first brought into use.
- 11 The retail elements hereby approved shall not be brought into use until full details of the Local Employment Partnership, as outlined in Appendix 11 of the Planning and Retail Report submitted as part of this application, has been



submitted to and approved in writing by the Local Planning Authority and evidence has been provided to demonstrate that the partnership has been established. In addition the details to be submitted shall also set out how the partnership shall be sustained throughout the life time of the development. The development shall thereafter operate in accordance with the approved Local Labour Agreement.

- 12 Prior to the occupation of the retail element details of the retail unit car park barrier, including a management plan for the car park barrier, shall be submitted to and approved in writing by the Borough Council. The management plan shall include details of the times and respective days that the gates will be opened and closed as well as details of who will be responsible for ensuring the gates are opened and closed at these times. Once approved the proposed car park barrier shall be installed prior to the retail unit first being brought into use and operated in accordance with these details at all times unless otherwise agreed in writing by the Borough Council.
- 13 Prior to the commencement of development of the retail and employment elements (excluding any site clearance and remediation works as required by condition 8), a Construction Management Plan for the respective element shall be submitted to and approved in writing by the Borough Council. The Construction Management Plan shall demonstrate that the works can be carried out without affecting or causing any obstruction to Carlton Footpaths 22 and 23. The respective element shall be completed in accordance with the approved relevant Construction Management Plan.
- 14 The development shall not be occupied until the following works have been provided in accordance with details that have been first agreed with the Local Highway 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 to the satisfaction of the Local Planning Authority.
- 15 The retail and employment elements shall not be brought into use until the access roads parking, turning and servicing areas relating to the respective element are surfaced in a hard bound material and delineated on site, to the satisfaction of the Local Planning Authority. The surfaced areas and any

parking or turning areas shall then be maintained in such hard bound material for the life of the development.

- 16 The retail and employment elements shall not be brought into use until a scheme relating to the respective elements to regulate the discharge of surface water from the access roads, parking, turning and servicing areas to the public highway is submitted and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the respective element being brought into use.
- 17 The food store element hereby permitted shall not be brought into use until the cycle parking layout as indicated on drawing A-PL-04 / C has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.
- 18 The retail elements shall not be occupied until the off-site traffic management works comprising of a weight restriction on Mile End Road have been provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
- 19 Details of measures to prevent the deposit of debris upon the adjacent public highway as a result of the construction of any part of the retail or employment elements shall be submitted to and approved in writing by the LPA prior to commencing work on the respective element. The approved measures shall be implemented in accordance with the agreed measures, and retained in situ until construction of the respective elements is available for use.
- 20 The retail or employment elements shall not be occupied until a Full Travel Plan for the 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

- 21 The retail and employment 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.
- 22 Prior to the commencement of development of the retail or employment elements (excluding any site clearance and remediation works as required by condition 8), a scheme to provide an evacuation plan for the respective element shall be submitted to, and approved in writing by, the local planning authority, in consultation with their emergency planner. The approved scheme for the respective element shall be fully implemented and subsequently maintained.
- 23 Prior to the commencement of development of the retail and employment elements (excluding any site clearance and remediation works as required by condition 8) 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 scheme for each element shall be fully implemented and subsequently maintained.
- 24 Prior to the commencement of development of the retail or employment elements (excluding any site clearance and remediation works as required by condition 8), 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 respective scheme 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 shall subsequently be implemented in accordance with the approved details before the respective element is brought into use. The scheme shall include: a) The utilisation of sustainable drainage techniques, including rainwater harvesting for the supermarket and

permeable paving within the retail element; b) Limitation of the runoff rate to a 20% betterment from the existing drainage conditions for the retail element (limiting discharge to 4.7l/s/ha (QBAR)); and a 10% betterment for the employment element (limiting discharge to 5.3l/s/ha (QBAR)); as detailed in a letter dated 16th September 2013 from Morgan Tucker. c) Water quality management 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.

- 25 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.
- 26 Prior to the commencement of development of the petrol filling station (excluding any site clearance and remediation works as required by condition 8) a scheme to install petrol storage tanks shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include the full structural details of the installation, including details of: excavation, the tank(s), tank surround, associated pipework and monitoring/ leak detection system, along with: a) Proposed method of petrol storage; b) Justification for this method of storage; c) Groundwater levels for this specific part of the site; d) Site specific risk assessment outlining the volume, type of pollutants being stored and the hydrogeological situation. Where potential risks have been identified, the Local Planning Authority will require mitigation measures to be implemented to ensure that there is no release of hazardous substances into the Secondary Aquifer.
- 27 The schemes approved under conditions 21, 22, 23, 24 and 25 shall be fully implemented and subsequently maintained in that form.
- 28 Notwithstanding condition 3 above, prior to the commencement of development of the retail elements (excluding any site clearance and remediation works as required by condition 8), details of the following matters shall be submitted to and approved in writing by the Local Planning Authority. Once approved the matters shall be maintained in accordance with these details at all times unless otherwise agreed in writing by the Local Planning

Authority.a) Electric charging points for customer vehicles.b) Sprinkler tanks, including their colour and appearance.c) The design, height and colour of the service yard enclosure and its gates.d) The appearance of the car wash (including materials and lighting).e) The appearance of the covered walkway across the walkway (including materials and lighting).f) The materials and design of trolley storage areas, both within the car park and adjacent to the food store.g) The details of the height, materials and design of the bollards/barriers around the food store building.h) Plans for providing shelter to motorcycle parking.g) The size, location and appearance of the proposed new bus stops on the site.h) Boundary treatment of the perimeter of the site, and around the recycling area.i) The appearance of the plant to be sited on the roof, and if required any screening or acoustic enclosure.

- 29 Prior to the commencement of development of the employment elements (excluding any site clearance and remediation works as required by condition 8) 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.
- 30 Prior to occupation of the food store, petrol station or car wash, a scheme detailing all external lighting, including details of the height of any lighting columns, the design of lamp assembly, the spread of light beyond the site boundaries and the hours of illumination, shall be submitted for the approval of the Local Planning Authority, and the approved details to be implemented and maintained in that form.
- 31 The floor area of the employment development shall not exceed 9895 sq. m. gross internal floor area, unless otherwise agreed by the Local Planning Authority.
- 32 No part of the retail and employment elements shall be brought into use until the hazardous substances consents for Esso Petroleum Company Ltd and Chevron Ltd have been revoked.

## Reasons

- 1 In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 3 For the avoidance of doubt.
- 4 To ensure the details of the development are satisfactory in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved) 2008.
- 5 In order to assist in the protection of air quality.
- 6 In the interests of good arboricultural practice.
- 7 In order to protect and enhance habitats on the site in accordance with the aims of Paragraph 118 of the National Planning Policy Framework (2012).
- 8 In order to assist in the protection of air quality.
- 9 In order to enhance habitats on the site in accordance with the aims of Paragraph 118 of the National Planning Policy Framework (2012).
- 10 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.

- 11 To ensure that the development meets some of the requirements for sustainable development.
- 12 In the interests of crime prevention.
- 13 In order to ensure Carlton Footpaths 22 and 23 are kept available for use both during and after the construction period and the users of the footpaths are not impeded or endangered in any way.
- 14 To ensure that the traffic accessing the development does not give rise to highway danger, traffic problems and loss of residential amenity.
- 15 To ensure that an adequate level of off street parking is provided for the needs of the development.
- 16 To regulate the discharge of surface water from the site onto to the public highway to prevent traffic and highway problems
- 17 To ensure the provision of cycle parking in order to support use by non car borne customers and staff.
- 18 To prevent heavy goods vehicles travelling along residential roads to access the site, in the interests of residential amenity.
- 19 To prevent the deposit of debris on the highways around the site, in the interest of highway safety.
- 20 To enable, encourage and facilitate visitors to the site to use non-car means of transport
- 21 To reduce the risk of flooding to the proposed development.

- 22 To enable a safe means of egress from the site during an extreme flood event.
- 23 To reduce the impact of flooding on the development.
- 24 To prevent the increased risk of flooding, both on and off site and to manage surface water in a sustainable manner.
- 25 To ensure that there is no mobilisation/ migration of contamination into the underlying aquifer.
- 26 To ensure that there is no mobilisation/ migration of contamination into the underlying aquifer.
- 27 To ensure the development is implemented in a manner which does not increase the risk of flooding, both on and off site, to manage surface water in a sustainable manner and prevent contamination.
- 28 These detailed matters were not included on the submitted plans and require the approval of the Local Planning Authority in the interests of visual amenity.
- 29 To assist in satisfying energy demand from renewable energy sources.
- 30 To ensure that external illumination does not affect highway safety or residential amenity.
- 31 To define the consent



32 To ensure that there is no risk posed by these relevant hazardous substances consent.

### **Reasons for Decision**

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

### **Notes to Applicant**

Your attention is drawn to the attached comments of the Rights of Way Officer.

You are advised that further consents may be required for advertisements and signage, and you should contact the Borough Council prior to carrying out any such works.

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact the County Highway Authority for details.

The proposed off-site highway works referred to in condition 5 requires a Traffic Regulation Order before the development commences to provide off-site mitigating works. The developer should note that the Order can be made on behalf of the developer by Nottinghamshire County Council at the expense of the developer. This is a separate legal process and the Applicant should contact the County Highway Authority for details.

Washdown from the car wash should be discharged to foul sewer. This washdown should not be discharged via an oil separator as detergents in the washdown will render the separator ineffective. Car wash liquid waste is classed as trade effluent. Before discharging to a sewer you must always get a trade effluent consent or enter into a trade effluent agreement with your water and sewerage company or authority.

If you are not able to discharge effluent to the foul sewer it will be classed as waste and you must then comply with your duty of care responsibilities. More information regarding the discharge of trade effluent can be found at [www.netregs.gov.uk](http://www.netregs.gov.uk)  
<http://publications.environment-agency.gov.uk/pdf/PMHO0307BMDX-e-e.pdf>

The hazardous substances consents for Esso Petroleum Company Ltd and Chevron Ltd are in the process of being revoked, however condition 32 has been attached to this permission on the advice of HSE.

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.