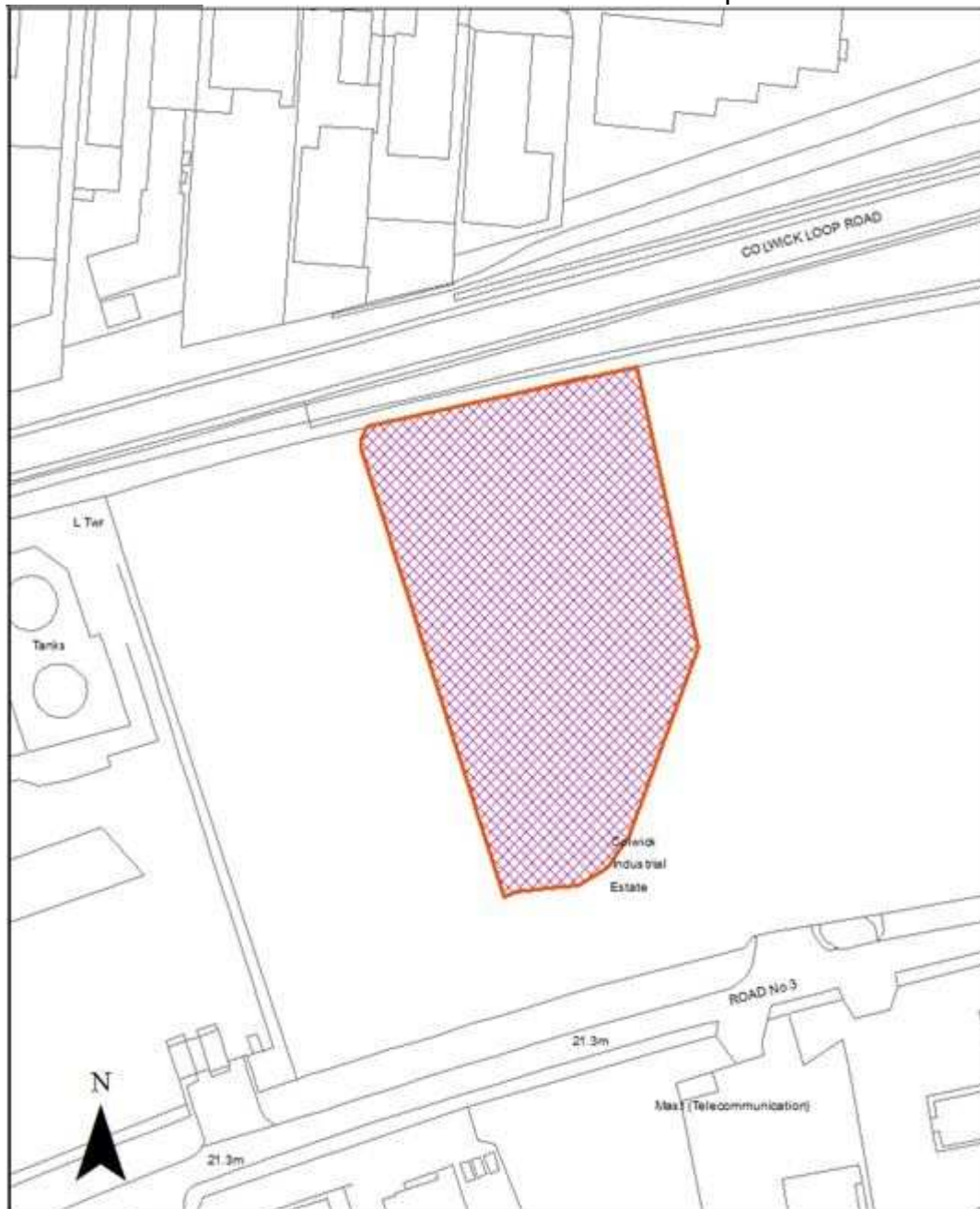


Application Number: 2014/0587

Location: Land South Of Colwick Loop Road Colwick



NOTE:

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Report to Planning Committee

| | |
|----------------------------|---|
| Application Number: | 2014/0587 |
| Location: | Land South Of Colwick Loop Road Colwick |
| Proposal: | Variation of Conditions 6, 10 and 11 of planning permission 2013/0497 for new Public House, including re-siting of building and rearrangement of approved layout. |
| Applicant: | Sainsburys Supermarkets |
| Agent: | Indigo Planning Ltd |

Background

The application raises complex planning issues because the site is located within the Development Proximity Zone (DPZ) of Total Lindsey Oil Refinery Terminal. For these reasons this application is being referred to the Planning Committee for decision.

This application is intrinsically linked to another application on this agenda, at the same site, 2014/0136DOC

Site Description

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

The application site is brown field land and occupies a piece of land that has a boundary with Colwick Loop Road. It is approximately 70m to the east of the boundary to the Total Lindsey Oil Refinery terminal. The site was formerly part of the Chevron Fuel Terminal. To the south of the site is Road No. 3 and other industrial units, beyond which is the River Trent.

Planning permission was granted under 2013/0497 for a Marston's restaurant/pub and a drive through restaurant. The public house was granted detailed planning permission, whilst the application for drive through restaurant was in outline form only (with access included)

The public house will be traditional in design, and would have a mix of external finishes comprising of brick, render and wood cladding. The duo-pitched roofs would be covered using slate coloured tiles. Details of the restaurant/takeaway's unit layout, scale, appearance and landscaping would need to be submitted as reserved

matters.

The application was accompanied by various technical reports including an off- site risk Assessment which considered the risk posed by the presence of the adjacent Total Lindsey Oil Refinery. The Total site constitutes a hazardous installation to which PADHI methodology is relevant. PADHI (planning advice for developments near hazardous installations) is the name given to the methodology and software decision support tool developed and used in HSE. It is used to give land use planning (LUP) advice on proposed developments near hazardous installations.

PADHI uses two inputs to a decision matrix to generate either an Advise Against or Don't Advise Against response, based on:

The zone in which the development is located of the three zones that HSE sets around the major hazard (low, medium and high risk)

The 'sensitivity level' of the proposed development which is derived from an HSE categorisation system of 'development types'.(with residential being more at risk than a workplace)

The Health and Safety Executive advised against granting planning permission as the site lies within the DPZ of the Total depot where the development of the uses proposed is considered unacceptable in principle, because of the potential risk to customer and staff.

This council resolution to grant planning permission had to be referred to the Secretary of State because of the HSE objection. However the HSE did not pursue the matter at that time and consent was granted.

The present application seeks to vary the position of the approved public house, to reduce the risk posed by the proposed development. A full explanation of why the changes have been made is described in the accompanying planning application 2014/0136DOC which is also included on the agenda.

Essentially the revised plans seek to re- site the approved public house on its plot, with consequent revisions to the parking layout. This constitutes a variation of condition 6 and 10 on the original planning permission, as these required the development to be carried out in accordance with the approved details. Details relating to cycle parking provision have also been submitted, which require condition 11 to be varied.

Condition 6 stated that:

The public house and restaurant shall be developed in accordance with drawings,APL-02 Rev. A (Location Plan) A-PL-30 B (Marstons Public House and Restaurant Plan), 0055/12/ 02 02 C Site Plan,0055/12/ 02 04 C Elevations, 0055/12/ 02 05 B Fence Locations + Details and Pergola Details, 0055/12/ 02 03 A Floor and Roof Plan and Marstons Public House and Restaurant Detailed Planting Plan GC.818000.303 A.

Condition 10 stated that:

The Public House shall not be brought into use until the parking/turning/servicing areas are provided in accordance with the approved plan 0055/12/0202 Rev C. The

parking/turning/servicing areas shall not be used for any purpose other than purpose thereafter.

Condition 11 stated that:

The Public House shall not be brought into use until the cycle parking layout as indicated on drawing 0055/12/0202 Rev C has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.

The approved plans under 2013/0497 showed a building with its main customer entrance and principle elevation facing west, with an outdoor customer areas to the south. Customer parking was to be provided to the south and west of the building, with deliveries to a service area to the north of the building alongside but at a lower level than Colwick Loop Road. This layout would have presented the main building frontage to the new site access road leading from Colwick Loop Road.

The layout proposed by this application pivots the building so that it would lie with its sides at an angle to the site boundaries. The principal elevation and main customer entrance would face south east, with the service yard to the North West. Customers' outdoor area would be to the south east and east of the building. The parking and access arrangements would be slightly changed from that approved as a result of this realignment. Under the original plans a total of 54 car parking spaces would be provided. As part of the revised siting of the public house, the car parking would be increased by 3 spaces to 57.

The principal change to passing views from Colwick Loop Road would be of a largely diamond shaped building orientated across a square plot. From the proposed new access road the side of the building would be angled and separated from the road by a triangular landscaped area.

Consultations

Health and Safety Executive - HSE advised against the granting of the original planning permission for the public house and restaurant (2013/0497) and was not involved in setting any of the conditions associated with the planning permission which the Council subsequently granted. HSE have no further comments to make on this application regarding the variation of conditions.

Total Lindsey Oil Refinery Ltd – No response received.

Nottinghamshire County Council Highways:- There are no highway objections to the minor amendments proposed by this application.

Planning Considerations

The site has planning permission already and this application seeks to re- orientate the approved building on the site. Accordingly only the following policies are relevant to the determination of this proposal:

National Planning Policy Framework

Paragraphs 56-68 (Requiring good design)

Gedling Borough Replacement Local Plan (Certain Policies Saved 2008)

ENV1 (Development Criteria)
ENV3 (Development on Contaminated Land)
ENV8 (Development affecting hazardous substance sites)

It is also considered that the following policy of the ACS is also relevant:

Policy 10: Design and Enhancing Local Identity

Gedling Borough Council at its meeting on 13th February 2013 approved the Gedling Borough Aligned Core Strategy Submission Documents (hereafter referred to as the ACSSD) which it considers to be sound and ready for independent examination. Following the examination hearings, Gedling Borough Council published main modifications to the ACSSD for public consultation. The Inspector conducting the examination has now issued her report on the examination of the ACSSD. In conclusion the Inspector states that with the recommended main modifications the ACSSD meets the criteria for soundness in the NPPF.

Consequently, the Borough Council, in determining planning applications, may attach significant weight to the policies contained in the ACSSD (with the recommended main modifications) in comparison to previous stages. The emerging plan is at a very advanced stage of preparation and outstanding objections have been resolved to the satisfaction of the Planning Inspector.

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

The visual impact of the revised siting of the approved building, and whether matters of parking and servicing are satisfactory.

Whether the risk posed by the presence of the adjacent fuel oil terminal to the staff and customers of the proposed public house/restaurant would be unacceptably high (also known as societal risk)

Visual impact of proposed re-siting and acceptability of parking changes

The proposed re-siting of the building would have no adverse impact on the visual appearance of the area. The alteration in the number of car parking spaces within the site and the revised layout would also have no adverse impact on the visual appearance of the site. I also note that the Local Highway Authority has not raised any issues in relation to the proposed alterations. The details provided to discharge condition 11 in relation to cycle storage for customers and staff comprises 5 cycle "hoops" at the edge of the car park. These details are also acceptable.

I therefore consider that the proposed alterations would comply with both national and local planning policies.

Risk Posed by the Total Lindsey Oil Refinery

The current application seeks to re-site the building, although it will still lie within the DPZ of the oil storage depot. The Health and Safety Executive (HSE) state that they

advised against granting the granting of the original planning permission and was not involved in setting the conditions, and therefore have no comments to make.

The revised layout does not alter the proximity issues, but in the event of an uncontrolled explosion event from the oil depot, in physical terms the customers using the outdoor space would be largely within the lee of the public house building and as such would be partly protected from any blast from the Total site which lies to the west. In addition the number of door and window opening in the elevation facing facing towards the oil depot have been minimised to reduce the risk to customers inside the public house building.

Conclusion

In design terms the revised siting of the building is acceptable. The parking and manoeuvring provision remain satisfactory.

The building would still lie close to the oil depot and therefore still attracts a recommendation of Advise Against under HSE guidance. However the development has already been granted planning permission by this Council, in full recognition of the concerns of HSE. The re-orientated building would ameliorate the risk posed to customers by providing shielding to outdoor customers and parenting a less vulnerable façade towards the Total site.

Because of the HSE standing guidance about the proximity of the building to a hazardous installation, this application would still need to be referred to the Secretary of State prior to issuing an approval. This would again allow the HSE an opportunity to challenge the recommendation on safety grounds, and prevent permission being granted.

Recommendation:

Grant Planning Permission subject to the following conditions.

Conditions

- 1 The public house hereby permitted shall be begun within five years from the date of the approval of the last reserved matters to be approved in relation to the restaurant element.
- 2 Application for the approval of any of the reserved matters (namely appearance, layout, landscaping and scale) required for the restaurant element shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 The restaurant element hereby permitted shall be begun within five years from the date of the approval of the last reserved matters to be approved.

- 4 The public house or restaurant element shall not be brought into use until either: a) The hazardous substances consent for the Total Lindsey Oil Refinery Ltd has been revoked, or b) A report relating to the respective element has been submitted to the LPA outlining the level of risk posed by the presence of the Total Lindsey Oil Refinery Ltd together with details of any proposed mitigation measures and the LPA have agreed in writing that they are satisfied with the conclusions of the Report so to allow the respective element to be occupied. Any mitigation measures proposed in the report to be approved in writing by the Borough Council shall be implemented in accordance with the approved report.
- 5 The restaurant element shall not exceed 452 square metres (Gross External Floor Area).
- 6 The public house and restaurant shall be developed in accordance with drawings, A-PL-02 Rev. A (Location Plan) A-PL-30 B (Marstons Public House and Restaurant Plan), 0055/12/ 02 02 D Site Plan,0055/12/ 02 04 D Elevations, 0055/12/ 02 05 C Fence Locations + Details and Pergola Details, 0055/12/ 02 03 A Floor and Roof Plan and Marstons Public House and Restaurant Detailed Planting Plan GC.818000.303 B
- 7 Prior to the public house being first brought into use precise details of the play equipment to be installed within the play area, together with a timescale for its installation shall be submitted to and approved in writing by the local planning authority. The play equipment shall be installed in accordance with the approved details and timescale, and shall be retained thereafter in accordance with the approved details.
- 8 The approved planting scheme, fencing, pergola and surfacing materials to be used within the soft and hard landscaping scheme submitted in relation to the public house shall be provided prior to the to the public house being first brought into use, or to a timescale to be prior agreed in writing by the local planning authority. The fencing, pergola and surfacing materials shall be retained thereafter in accordance with the approved details.
- 9 Prior to the public house being first brought into use precise details of any minor artefacts and structures such as external benches, refuse or storage units and lighting together with a timescale for their installation shall be submitted to and approved in writing by the local planning authority. Any proposed lighting scheme shall also include details of the spread of light beyond the site boundaries and the hours of illumination. Any minor artefacts or structures shall be installed in accordance with the approved details and retained thereafter.
- 10 The Public House shall not be brought into use until the parking/turning/servicing areas are provided in accordance with the approved plan 0055/12/02 02 Rev D. The parking/turning/servicing areas shall not be used for any purpose other than purpose thereafter.
- 11 The Public House shall not be brought into use until the cycle parking layout

as indicated on drawing 0055/12/02 02 Rev D has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.

- 12 The Public House or Restaurant element shall not be occupied until a Full Travel Plan for that respective element has been submitted to and approved in writing by the local planning authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the local planning authority and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority.
- 13 Details of measures to prevent the deposit of debris upon the adjacent public highway during the construction of both the proposed Public House and Restaurant element shall be submitted to and approved in writing by the LPA prior to the commencement of development of the respective elements(excluding any site clearance and remediation works as required by condition 20). The approved measures shall be implemented in accordance with the approved details prior to any construction works commencing on the respective phase and retained in situ until the respective element has been constructed.
- 14 The proposed development shall not be brought into use until the following works have been provided in accordance with details that have been first agreed with the Local Highway Authority and shall be carried out to the satisfaction of the Local Planning Authority.; (a) A new signalised junction has been provided on to the Colwick Loop Road. (b) Highway Improvements have been provided at Colwick Loop Road / Road No1 junction. (c) Highway improvements have been provided at A612 / Burton Road / Shearing Hill junctions.
- 15 The Public House and Restaurant elements shall be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures: (a) as a minimum, proposed floor levels will be set with a freeboard of 600mm above existing ground levels. (b) Other than in those areas where levelled or graded access is required to or from a building or to provide vehicular access into and between the respective elements, external finished ground levels will be no less than 300mm below the proposed floor level of the nearest building. (c) Where local flooding occurs surface water runoff is to be routed away from the buildings along the footways and roadways to the drainage system. The mitigation measures for each respective element shall be fully implemented prior to occupation of the respective element.
- 16 Prior to the commencement of development of the Public House or Restaurant elements (excluding any site clearance and remediation works as required by condition 20) a scheme providing an evacuation plan for the respective element shall be submitted to, and approved in writing by, the local planning authority, in consultation with the Council's emergency planner. The

approved scheme for the respective element shall be fully implemented and subsequently maintained.

- 17 Prior to the commencement of development of the Public House or Restaurant elements (excluding any site clearance and remediation works as required by condition 20) a scheme to provide flood resilience design for the respective element shall be submitted to, and approved in writing by, the local planning authority, in consultation with the Council's emergency planner. The approved scheme for the respective element shall be fully implemented and subsequently maintained.
- 18 Prior to the commencement of development of the Public House or Restaurant elements (excluding any site clearance and remediation works as required by condition 20) a surface water drainage scheme for the respective element, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The respective scheme for each element shall subsequently be implemented in accordance with the approved details before the respective element is occupied. The scheme shall also include: (a) The utilisation of sustainable drainage techniques, including rainwater harvesting and permeable paving; (b) Limitation of the runoff rate to a 10% betterment from the existing drainage conditions as detailed in a letter dated 16th September 2013 from Morgan Tucker, limiting discharge to 5.3l/s/ha (QBAR); (c) Water quality management to be incorporated within the design, with two forms of treatment prior to discharge from the site; (d) Demonstration through hydraulic calculations that appropriate attenuation is to be provided to limit the rate of runoff from the site. (e) Confirmation of responsibility and management of the drainage features on construction of the scheme.
- 19 Prior to the commencement of development of the Public House (excluding any site clearance and remediation works as required by condition 20) a scheme for the safe refuge of any residents during an extreme event has been submitted to, and approved in writing by, the local planning authority, in consultation with the Council's emergency planner. The scheme shall be fully implemented and subsequently maintained.
- 20 Prior to the commencement of development of the Public House or Restaurant elements (excluding any site clearance) an investigation and contamination risk assessment report relating to the respective element detailing those areas and / or contaminants not covered within the Ground Conditions Chapter of the submitted Environmental Statement shall be provided to the Local Planning Authority. If the information submitted with the application or within this additional report indicates that remediation is necessary, details of a remediation scheme for the respective element shall be submitted to and approved in writing by the Local Planning Authority. The remediation scheme shall include all works to be undertaken, remediation

objectives and remediation criteria, a timetable of works and site management procedures and shall be carried out in accordance with the approved details and timetable of works. Written notification of the commencement of the remediation scheme shall be given to the local planning authority at least 2 weeks before the start of the remediation works and a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the respective element. If during the course of development contamination not previously identified is found to be present at the site, no further development other than that agreed in writing with the Local Planning Authority shall be carried out until an amendment to the remediation scheme giving details on how to deal with this contamination has been submitted to and approved in writing by the Local Planning Authority. The remediation measures shall thereafter be carried out in accordance with the approved amended details.

- 21 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
- 22 The Public House and Restaurant element hereby approved shall not be brought into use until full details of a Local Employment Partnership has been submitted to and approved in writing by the Local Planning Authority, this shall include details of how the partnership shall be sustained for the life time of the development. The partnership shall be implemented in accordance with the approved details prior to either element being brought into use. Evidence shall be submitted to the Local Planning Authority that the partnership has been established.

Reasons

- 1 To accord with Section 51 of the Planning and Compulsory Purchase Act 2004 and to allow sufficient time to enable either the revocation of the relevant Hazardous Substance Consent for Total Lindsey Oil Refinery Ltd or for the Borough Council as Local Planning Authority to have confirmed in writing that the risk posed by the Total Lindsey Oil Refinery to be acceptable.
- 2 To accord with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 3 To accord with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 4 The Borough Council as Local Planning Authority is not satisfied that the risk posed by the adjacent Total Lindsey Oil Refinery is acceptable to allow the occupation of the proposed public house/restaurant and the proposed drive through restaurant. This condition will enable the public house/restaurant and the proposed restaurant/takeaway to be occupied only if the relevant

hazardous substances consent for both the Total Lindsey Oil Refinery Ltd have been revoked or if the Borough Council as Local Planning Authority has confirmed in writing that it is satisfied that the so as to allow the development to be occupied whilst the adjacent Total Lindsey Oil Refinery is still in operation.

- 5 For the avoidance of doubt and to ensure that the gross external floor area of the unit is set at outline stage so that the impact of the proposed development is within the parameters indicated within the assessments that have accompanied the application.
- 6 To ensure a satisfactory development that accords with Policy ENV1 of the Gedling Borough Replacement Local Plan.
- 7 To ensure a satisfactory development that accords with Policy ENV1 of the Gedling Borough Replacement Local Plan.
- 8 To ensure a satisfactory development that accords with Policy ENV2 of the Gedling Borough Replacement Local Plan.
- 9 To ensure a satisfactory development that accords with Policy ENV2 of the Gedling Borough Replacement Local Plan.
- 10 In the interests of highway safety.
- 11 To encourage sustainable forms of transport.
- 12 To encourage sustainable forms of transport.
- 13 In the interests of highway safety.
- 14 To ensure improve the capacity of the local highway network, in the interests of highway safety.
- 15 To reduce the risk of flooding to the proposed development.
- 16 To enable a safe means of egress from the site during an extreme flood event.
- 17 To reduce the impact of flooding on the development.
- 18 To prevent the increased risk of flooding, both on and off site and to manage surface water in a sustainable manner.
- 19 As living accommodation, ancillary to the use, is proposed then a safe refuge must be provided.
- 20 To ensure the site is suitable for use.
- 21 To ensure that there is no mobilisation/ migration of contamination into the

underlying aquifer.

- 22 To ensure that the uses once operational employ local people.
- 23 To assist in satisfying energy demand from renewable energy sources, in line with paragraph 17 of the National Planning Policy Framework.

Reasons for Decision

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

Notes to Applicant

For the purpose of the above conditions the following words and expressions shall be used, and unless otherwise stated elsewhere in the conditions shall have the following meaning: The proposed public house with dining facilities, managerial residential accommodation at first floor, car parking, landscaping and pedestrian access running east west between the retail element and the new access road comprise the "Public House". The proposed restaurant element to the south of the public house area is defined as the "Restaurant element". For the purposes of this application the reference to details required prior to the commencement of development (except in relation to condition 20) shall exclude remediation works required under the remediation scheme approved under condition 20. Planning Statement - The Borough Council has worked positively and proactively with the applicant to secure a revision to the proposed siting of the public house in order to assist the applicant in making an application to discharge condition 4, in the opinion of the Borough Council, the authority has acted in accordance with paragraphs 186 to 187 of the National Planning Policy Framework.

Date Recommended: 11th July 2014