

13/01003/OUT

Land South Of The A46 And North Of Tirl Brook, Ashchurch, Tewkesbury

Valid 02.10.2013

Outline planning application (with all matters reserved except access) for proposed garden centre, retail outlet centre and ancillary facilities together with associated infrastructure works including access), car parking and landscaping.

Grid Ref 392055 233031

Parish Ashchurch Rural

Ward Ashchurch With Walton
Cardiff

Robert Hitchins Limited

C/o Agent

RECOMMENDATION Refuse

Policies and Constraints

DEFERRED AT 15.03.2016 COMMITTEE (Item No 1, Page No 790)

NPPF

Planning Practice Guidance

The Tewkesbury Borough Local Plan to 2011 - March 2006 - TPT1, TPT6, TPT9, TPT13, EVT5, EVT9, RET6, RET8 and LND4.

JCS (Submission Version) November 2014 - SD1, SD2, SD5, SD7, SD10, SD15, INF1, INF2, INF3

Adjacent to Major Employment site

Flood Zones 2 and 3

Public Transport Corridor (A46)

Human Rights Act 1998 - Article 8 (Right to Respect for Private and Family Life)

The First Protocol, Article 1 (Protection of Property)

Consultations and Representations

Ashchurch Rural Parish Council (APRC) - Object on following grounds:

o This Council's principal objection is against any development of the floodplain and the shoulders of the floodplain, which retain water and slow its passage through natural drainage throughout and adjacent to all of the watercourses in Ashchurch Rural Parish.

o In particular we are unable to see any way that the needs of 'out of town' shoppers can be balanced against the rights and needs of members of our community who are likely to suffer damage and inconvenience for the sake of profit and the minimal provision of jobs when this development displaces the water that would have naturally drained through the site and without development already floods and displaces water elsewhere throughout Natton and Fiddington.

o Against the loss of the rural aspect of the parish should this development go ahead, and feel that the size and nature of the development is inappropriate and too large for the outskirts of the historic market town of Tewkesbury and would be better suited to a major conurbation such as Cheltenham, Gloucester, Bristol and Worcester.

o Concerned about the 'run-off' pollution that will be naturally transmitted from the hard standings to the Tirlbrook and downstream to Walton Cardiff Village.

o The increase of traffic on the A46 will be totally unacceptable.

o Against the detrimental effect such a large shopping centre will have on the town centre businesses and historic market of Tewkesbury. We do not believe that a free or subsidised bus service to take shoppers to the town centre and Abbey will have a significant uptake when visitors to the centre will have come for one thing and one thing alone - to shop at the outlet or garden centre with easy access to the M5 motorway.

If the application does go ahead APRC would like the following important points to be considered: Adequate flood alleviation measures and long term maintenance plan needed and traffic congestion. If permission is granted APRC would like the following 106 items considered:

- A footpath & cycleway along Fiddington Lane to promote alternative uses of transport to the site and allow local residents safe access.

- Possibly a dedicated minibus to the parish council to transport the isolated rural residents who live in the parish to the site.
- A footpath from the top of Fiddington Lane up to the railway bridge and beyond so that residents from Ashchurch can access the site and a footpath to the traffic lights at Northway Lane with a pelican crossing facility so that residents can access the footpath/railway station.
- The proposed access shortens the safety space of queuing traffic and lessens the visibility of traffic coming over the bridge towards the lights. Access should be via traffic lights at Alexandra Way ONLY and not impose this extremely unnecessary and impractical traffic plan etc on Fiddington Lane, it's residents and the A46.

APRC has also advised that it does not support the suggested name change of Ashchurch for Tewkesbury railway station to Tewkesbury Parkway and also expresses extreme disappointment at the County Highways comments, particularly the Recommendation - 'The Highway Authority considers that this development will not have a severe impact on the local highway network.' ARPC are highly confused by this statement - the A46 is well known by all who use it (especially at peak times) that this area of the road is already near saturation point and will really struggle to take the proposed amount of traffic to/from this development.

Tewkesbury Town Council - Object - New design still does not resolve the car park impact on the site. The flooding implications of the development have not been resolved. The traffic implications for the A46 have not been resolved.

Northway Parish Council - No Objection so long as the infrastructure and flooding issues are addressed.

Stoke Orchard Parish Council - Concerns over Fiddington lane access, giving how already difficult it is to currently exit onto the A46. Also very concerned about increased flood liability into the Tirlbrook.

Gloucestershire County Council Highways - No objection subject to conditions and planning obligations relating to highway improvements; footway/cycle improvements and travel plan monitoring.

Highways England - Initial comment was that the TA and associated documents lacked sufficient detail to establish an informed view on the highways and traffic impact of the development proposals on its network. Several Directions were issued for non-approval of the application in order to give the applicant time to submit information required. Following the completion of further technical work and engagement, the HA raise no objection subject to highway conditions.

Gloucester City Council - Object on the grounds that it would be contrary to National and local planning policy. The applicant should assess the potential of other more accessible 'out-of-centre' sites to establish whether or not they could reasonably accommodate the proposal in its entirety or disaggregated elements of the proposal. Concerned about the anticipated level of trade draw from designated centres in the catchment of the proposal, including Gloucester city centre and Tewkesbury town centre, and the resulting impact on vitality and viability. Of greater concern however is that the assessment only considers cumulative impact for the application for Sainsbury's at the Trelleborg site to the north of the application site. It does not factor in the cumulative impact of other planning consents granted in the wider area, of which there are several and all of which will, to differing degrees, draw trade from designated centres and therefore impact on their vitality and viability. Loss of Strategic Employment site principally intended to accommodate Class B growth. The Tirl Brook is identified in the Joint Core Strategy draft Green Infrastructure Plan (GI) which should be taken into consideration.

Wychavon District Council - In making a decision on this application due regard should be given to paragraphs 26 and 27 of the NPPF and the council should take account of the impact on the proposal on town centre vitality and viability, including Evesham. If the impact is found to be significantly adverse, permission should be refused. The retail impact assessment admits that the proposed development will have an impact of 6% on Evesham Town Centre. It also acknowledges that Evesham is a struggling centre, therefore, the additional impact will be severely felt given its fragile state. However, it also states that this is not permanent and the current interest shown by Waitrose proves this. Recognition should be given to the fact this is due to Wychavon District Council's intervention to facilitate the availability of the site otherwise there would not be any commercial interest. Despite this Evesham is still in a fragile state in terms of comparison goods and any confidence could be undermined by an out of town retail development with such an impact. The development will have the greatest impact on Evesham Country Park. We were specific in terms of what type of retail is acceptable in the 2010 planning permission to minimise the impact on Evesham Town Centre and other centres including Tewkesbury. We hope that a similar rigid approach will be taken with this proposal.

Environmental Health - Comments awaited.

Environment Agency - No objection subject to a condition to secure an exemplar SUDS scheme.

Severn Trent Water - No objection subject to conditions.

County Archaeological Officer - Recommend condition for archaeological mitigation.

Natural England - No objection to development.

Letter from Savills on behalf of Stanhope Plc who is the selected developer for the regeneration of land at The Kings Quarter site in Gloucester City Centre. Object on the grounds that it would have a direct impact on the city centre and planned private/public investments at Kings Quarter, Gloucester. A further letter has been received from Stanhope plc outlining their present position in terms of the Kings Quarter Project with a projected start date of mid 2017 once the relocated bus station is completed. An Application for the development in due to be submitted in mid 2016.

2 Letters from WYG on behalf of Gloucester Quays LLP - Object on following grounds:

- o Unsustainable development
- o It would result on the loss, in entirety, of the Key Strategic Employment Site for the Borough of Tewkesbury
- o Proposals are of an inappropriate scale and contrary to the role and function of Tewkesbury in the retail hierarchy.
- o Would result in a significant adverse impact on existing, planned and committed investment in the central area of Gloucester.
- o Fails to comply with adopted and emerging development plan strategy and the NPPF.
- o Would have devastating consequences the future important redevelopment of other regeneration sites within Tewkesbury as a result of the high traffic levels and the attendant delay, congestion and road safety issues arising. This is particularly important for the redevelopment of the MOD Ashchurch site.

Letter from Blencowe Associates on behalf of Ross Labels Factory Outlet Centre - Would have an adverse impact on the Ross Labels Factory Outlet Centre; Contrary to NPPF as not sustainable development as customers would almost all go by car; Previous FOC in area refused on appeal and decisions should be consistent; in open countryside; contrary to Development Plan and emerging policies in Core Strategy.

2 Letters from Eagle One Limited who own Evesham Country Park - Would undermine the significant investment to the Country park and in consequence would undermine committed public and private investment in Evesham town centre; unsustainable; not policy compliant as out of town centre location and located on employment allocation site; scale of development inconsistent with retail hierarchy approach; Fails sequential (particularly in terms of the flexibility that is required to be shown) and impact tests.

Local Residents - 9 letters have been received objecting to the application on the following grounds:

- o Unsuitable for site
- o Would impact heavily on the vitality of the town and would be better placed within the town centre in order to draw in rather than take away.
- o Garden centre could be a consideration as Tewkesbury does lack this facility of a least a competitor for the small one at Mythe Bridge
- o Has opened up alternatives to using green field land and should be taken into serious consideration.
- o Fiddington lane will be affected by run-off water unless thorough surveys and management and installation of robust flood defence works and undertaken
- o Highways England need to monitor A46 and assess impact on this major trunk road which is already struggling to cope with current capacity.
- o Fails to address the current and future transport infrastructure needs of the area
- o Adverse traffic impact on A46 and Fiddington Lane
- o Flood risk
- o Water voles are a protected species and should be considered prior to determination
- o Sewerage pumping station will fail due to flooding
- o Adversely affects access to Newton Farm

One letter has been received in support of the development - best thing for Tewkesbury's future.

Ashchurch, Tewkesbury & District Rail Promotion Group - Support in principle the development but would wish to see reciprocal support (Section 106 monies) towards an enhanced station to be known as Tewkesbury Parkway.

Planning Officers Comments: Miss Joan Desmond

1.0 Introduction

1.1 The site comprises 21.37ha of agricultural land and lies to the east of Tewkesbury town adjacent to junction 9 on the M5 and lies immediately to the south of the Tewkesbury Business Park on the opposite side of the A46. The site wraps around the existing BP service station and includes part of Fiddington Lane to the east. The Tirl Brook demarcates the southern boundary (**see attached location plan**).

2.0 History

2.1 This site was subject of a number of applications for residential/employment use in the early 1990's but none of the applications were progressed.

2.2 In terms of planning history, reference has been made to a former application (Ref: 93/5593/0975/OUT) for a retail outlet centre on Tewkesbury Business Park in the mid 1990's (known as RAM Euro). This application was refused by the Secretary of State on the following grounds:

- i) that the development would not be accessible by a choice of means of transport
- ii) that it would encourage greater car use
- iii) that the applicant had not complied with the sequential approach
- iv) that the benefits of investment in Tewkesbury were not sufficient to overcome the above objections.

2.3 It is important to note that the above decision was made in a different planning policy context at National, Regional, and Local level and also at a time when there was little empirical evidence on the impact of Retail Outlet Centres and their operational characteristics. Ashchurch railway station was also not open at that time. As with any application, this particular proposal must be considered on its own individual merits however this previous decision is a material consideration.

3.0 Current Application

3.1 The current proposal seeks outline planning permission for a new garden centre, retail outlet centre and ancillary facilities together with associated infrastructure works (including access), car parking and landscaping. The means of access is to be dealt with at this stage, but all other matters are reserved for future consideration. The Retail Outlet Centre (ROC) would provide approximately 17,545 sq.m floorspace and the new Garden Centre 8,000 sq.m floorspace. These figures are taken from the retail assessment report but do conflict with those on the application form which specifies that ROC would provide 16,795 sqm floorspace and the garden centre 7,600 sqm. In addition the application form solely specifies A1 use yet the proposed controls offered in the retail assessment discuss separate Class A3, A4 and A5 units in the retail factory outlet centre and separate A3 and A5 uses associated with the garden centre. During discussions with the applicant it is clear that a mix of uses is proposed. A combined parking provision for up to 2,112 parking spaces split between the garden centre and an area of overflow car parking is proposed with a dedicated area for coach parking.

3.2 Access to the proposed development would be via the A46 and Fiddington Lane. This would involve modifications of the existing A46(T)/ Alexandra Way junction, carriageway widening, the realignment of Fiddington Lane and its junction with the A46(T) and associated works to create vehicular, pedestrian and cyclist accesses.

3.3 Whilst the remaining matters of layout, scale, appearance and landscaping are reserved for future consideration, the applicant has provided an indicative Masterplan, Land use Parameters Plan, Access and Circulation Parameters Plan, Buildings heights and levels Parameters plan, Landscaping Parameters Plan and Indicative sectional elevations.

3.4 A design and access statement (DAS) has also been provided, which gives further information in to the likely design and layout of the development and the rationale behind the concept. An addendum to the DAS has been submitted following concerns raised by the Landscape Officer and Urban Design Officer
Copies of the Masterplan and Parameters Plans will be displayed at committee. Copies will also be displayed in the Members Lounge.

3.5 The application has been accompanied by an Environmental Statement as required under the Town and County Planning (Environmental Impact Assessment) (England) Regulations 2011. The Environmental Statement includes assessment of the following issues:

- Planning Policy Context;
- Hydrology, Flood Risk and Drainage;
- Noise;
- Air Quality;
- Archaeology and Cultural heritage;
- Ground Conditions;
- Transport;
- Ecology and Nature Conservation;
- Landscape and Visual effects;
- Socio-Economic Effects;
- Agriculture;

A copy of the Environmental Statement's Non-Technical Summary will be displayed in the Members Lounge

4.0 Policy Context

4.1 At the heart of the NPPF is a presumption in favour of sustainable development, of which there are three dimensions: economic, social and environmental. The NPPF does not change the statutory status of the development plan as the starting point for decision making but emphasises the desirability of local planning authorities having an up-to-date plan. According to paragraph 215 of Annex 1 of the NPPF, due weight should be given to relevant policies in existing development plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given).

4.2 Policies of the NPPF include those in its section 1 (Building a strong, competitive economy), section 2 (Ensuring the vitality of town centres) and section 4 (Promoting sustainable transport). PPG on 'Ensuring the vitality of town centres' is particularly relevant to this application.

4.3 Retail Policy RET6 of the local plan seeks to protect the vitality and viability of existing retail centres.

4.4 Policy RET8 of the local plan states that proposals for new garden centres located in the open countryside will not be permitted unless they are directly related and ancillary to an existing agricultural or horticultural business; involve the redevelopment of an existing built or derelict site, or the re-use of existing buildings; do not result in an adverse landscape impact and are well related to the primary road network and do not result in any adverse traffic impact. This Policy is out-of-date and as such should be afforded limited weight accordingly. Although this site is a greenfield site, outside of any development boundary, it is a proposed strategic allocation in the JCS (Submission Version) and lies adjacent to an existing employment area and the M5. Therefore the consideration of this site through this policy is not considered to be particularly appropriate and the impact of the garden centre is considered in tandem with the ROC in the following analysis section.

4.5 Local Plan Policy EVT5 seeks to protect the ability of floodplains to perform their function of accommodating the flow and storage of floodwater, and also to protect habitable property from flooding.

4.6 Policy EVT9 requires that development proposals demonstrate provision for the attenuation and treatment of surface water run-off in accordance with sustainable urban drainage systems (SUDS) criteria.

4.7 Policy TPT1 of the local plan seeks to reduce the need to travel by car and promote alternative modes of transport. It also seeks to ensure that highway access can be provided to an appropriate standard which would not adversely affect the safety or satisfactory operation of the highway network, nor cause an unacceptable loss of amenity to users of adjacent land. Policy TPT9 seeks to promote sustainable transport measures on the main public transport corridors (A46) and Policy TPT13 seeks to encourage the implementation of measures to alleviate traffic problems which exist between M5 junction 9 and Aston Cross.

4.8 Local Plan Policy LND4 provides that in rural areas regard will be given to the need to protect the character and appearance of the rural landscape.

4.9 Policy NCN5 of the local plan seeks to protect and, wherever possible enhance biodiversity, including wildlife and habitats.

4.10 The above local plan policies are considered to be consistent with the NPPF and are therefore considered to have significant weight.

Emerging Development Plan

4.11 The emerging development plan will comprise the Joint Core Strategy (JCS), Tewkesbury Borough Plan and any adopted neighbourhood plans. These are all currently at varying stages of development.

4.12 The JCS Submission Version November 2014 is the latest version of the document and sets out the preferred strategy over the period of 2011-2031. In terms of the retail strategy it seeks to maintain and improve the city, town and rural service centres to ensure their long-term role and wider function, promoting their competitiveness whilst ensuring their roles are complementary. A retail hierarchy (Policy SD3) is identified with Gloucester and Cheltenham being the key urban areas and Tewkesbury next in the hierarchy as a market town.

4.13 This site is identified as a strategic employment site in the JCS (Policy SA1 (Area A9)).

4.14 Paragraph 216 of the NPPF sets out that decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given)

4.15 On 20 November 2014 the JCS was submitted for examination and the examination hearings commenced in May 2015 and are still on-going. Having been submitted the JCS has therefore reached a further advanced stage, but it is not yet formally part of the development plan for the area and the weight that can be attached to each of its policies will be subject to the criteria set out above, including the extent to which there are unresolved objections. In this respect there are objections to Policies SD3 and SA1 (A9).

5.0 Analysis

5.1 The main issues in this case are considered to be the impact of the proposals on the vitality and viability of nearby centres; the use of a proposed allocated employment land; its impact on the character and amenity of the area and highway impacts.

Retail Impact Considerations

5.2 The NPPF seeks to ensure the vitality of town centres. Paragraph 24 of the NPPF outlines the requirement for a sequential test for main town centres uses that are not in an existing centre and are not in accordance with an up to date development plan. This states that local planning authorities *'should require applications for main town centre uses to be located in town centres, then edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale'*.

5.3 Paragraph 26 of the NPPF outlines the requirement for an impact assessment for retail development outside of town centres and not in accordance with an up to date development plan. This applies to development over 2,500 sq. m unless locally set thresholds indicate otherwise. Such assessments should include:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider area.*

5.4 The NPPF advises that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal and/or on town centre vitality and viability, it should be refused.

5.5 A Government letter in January 2015, also reinforced the Government's town centre first policy and states that *'Ministers wish to restate policy which makes clear that where an application ... is likely to have a*

significant adverse impact on the town centre, as set out in the NPPF, it should be refused.'

5.6 In view of the scale of the current proposal, the applicant has provided a full impact assessment and a Commercial Assessment which concludes that:

- *Having regard to the JCS Retail Study 2011, which identifies capacity for nearly 100,000 sqm (net) of comparison goods floorspace in the study area by 2021, the proposed development would constitute just 15% of this identified capacity in a form of development which would be complementary to the retail offer in the established town centres.*
- *The proposal would also help to boost the relatively low proportion of new floorspace identified by the JCS Study for Tewkesbury borough. The nature of the proposed retail offer, in the form of tightly controlled Factory Outlet and Garden Centre goods, is intended to provide a new retail experience to Tewkesbury and to complement existing provision in the established town and city centres.*
- *Whilst there would be some direct competition with Gloucester Quays, that development is due to increase its attraction through new investment in an enhanced leisure offer, and in any event the levels of forecast impact are not considered to be such as to result in significant adverse impact.*
- *There are a number of notable planned improvements to the key centres within the study area which will serve to strengthen their attraction and resilience over time. We do not anticipate any of this new investment would be deterred as a result of this proposal, nor should they be directly affected by the proposed development in view of its specialist nature.*
- *The proposed development would not have a significant adverse impact on investment in any of the established centres; nor would the proposals significantly adversely impact the vitality and viability of these centres having regard to the levels of trade diversion forecast in the assessment and the relative health of these centres.*
- *Any impact on consumer choice is expected to be positive in terms of broadening the retail offer to shoppers in Tewkesbury and the wider study area and introducing a new retail and leisure experience to complement that on offer in the established centres.*
- *The proposal satisfies paragraphs 26 and 27 of the NPPF and those aspects of adopted development plan policies which are consistent with that Framework.*
- *The development satisfies the sequential test.*

5.7 Letters have been received from Gloucester City Council, Wychavon District Council and various practices/consultants, as detailed in the consultations section above, expressing concerns that the proposed development would have a harmful impact on nearby centres, including on Tewkesbury Town Centre itself, and on planned private/public investments in Gloucester City.

5.8 The Council commissioned an independent retail appraisal (DPDS) of the submitted assessment which considered whether the proposal satisfies the sequential test and what impact it would be likely to have on the vitality and viability of the town centres in the study area (These include Tewkesbury, Cheltenham, Gloucester and Worcester). The appraisal focussed on the impact of the ROC as it concluded that the proposed Garden Centre was likely to have very little impact on the vitality and viability of town centres. The initial appraisal raised a number of issues in respect of the sequential test and requested further information to enable a full appraisal of the proposal. The initial findings were however that the proposal would have an adverse impact on identified town centres both in terms of their vitality and viability and planned investment, contrary to the NPPF and Policy RET6 of the local plan.

5.9 The applicant responded by reiterating the complementary nature of the proposals to the retailing offer in Tewkesbury and other established centres, particularly with regard to the proposed Factory Outlet Centre (FOC). It is widely recognised by practitioners that there are clear qualitative differences between the retail offer in FOC's and those generally found in town and city centres such as Tewkesbury and Gloucester. FOC's operate by creating a critical mass of stores that attract visitors from a wide catchment. They tend to target high end designer fashion and homeware retailers and discounted goods which would not normally be found in town centres. It is also pointed out that planning conditions are proposed to control the nature of the proposed operation both in terms of the FOC and the Garden Centre including preventing the sale of DIY goods.

5.10 In terms of the sequential test further assessment work has been undertaken by the applicant on some of the 31 sites identified in 6 centres including Tewkesbury, Cheltenham, Gloucester, Evesham, Great Malvern and Worcester. It is however contended by the applicant that a smaller FOC at Ashchurch would not be successful and therefore would not be able to deliver the benefits which have been identified would flow from the proposed development. Nevertheless, it is stated that a flexible approach has been adopted to the sequential approach as required by policy in considering what contribution alternative sites are able to make individually to accommodate the proposal. The response concludes that:

- *The scale of the proposed development is necessary in order to be viable and there is strong justification for the combined FOC and Garden Centre;*
- *Both the FOC and the Garden Centre provide the type of retail offer which is not typically found in town centres. For these reasons the proposal is considered to 'complement' rather than 'compete' with Tewkesbury town and other established centres;*
- *As a consequence we do not consider there would be a sizeable level of 'job substitution' nor do we consider there will be a significant adverse impact on existing, committed and planned public or private investment in the principal centres within the catchment area;*
- *The proposed development will not result in a significant adverse impact on town centre vitality and viability. We have reviewed our economic assessment and provided sensitivity tables to further justify this conclusion including revisiting the turnover of the main centres from household survey and the turnover and trade draw of the proposals, with particular emphasis on the FOC;*
- *There are not considered to be any sites which are sequentially preferable to the application site having regard to their suitability, availability, and viability for the proposed development, even adopting a flexible approach regarding scale and format. Indeed, DPDS recognise that FOCs are not readily designed to fit into town centres and that easy access to the motorway and trunk road networks is important to the success of the FOC; whilst we have not relied on this, a number of sequential sites could be eliminated on this basis alone;*
- *There are a number of reasons why the Secretary of State's decision in 1996 is not considered to be a relevant determining factor in this case. The fact that the proposed development, by its nature, may encourage greater car use, is not the relevant policy consideration as confirmed by the NPPF; rather decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. We maintain the application site delivers against these objectives;*
- *The proposed development is consistent with relevant and up-to-date planning policy. The emerging strategic employment allocation in JCS and the obsolete and dated Local Plan policy RET8 should be afforded appropriate weight accordingly;*
- *The proposed development is estimated to generate 818 individual jobs.*

5.11 Following lengthy discussions with the applicant and the submission of further information, the Council's retail consultant reached the following conclusions:

- *The applicant has met the sequential test.*
- *The proposal would not, on its own have a significant adverse impact on the Tewkesbury town centre, but the combined impact of the proposal and the permitted Sainsbury foodstore would. Unless there are material considerations which would outweigh that objection, the NPPF indicates that planning permission should be refused.*
- *The proposal would represent a significant risk to the planned investment in Gloucester City Centre.*
- *The employment generation and wider contribution to the local economy might outweigh the harm to the town centre. It is considered that there would be employment benefits in the Tewkesbury area in the proposal, but these would be offset to some extent by job losses elsewhere. In terms of job generation it is considered that any estimate is highly uncertain because retail employment is more related to sales than floorspace but that the applicant has overestimated employment benefits considerably.*

5.12 In response to this conclusion the applicant has responded as follows:

1. *Insufficient regard has been given to the complementary nature of the retail offer at the proposed FOC/Garden Centre relative to the retail provision in Tewkesbury town centre. We do not agree that the proposed FOC would enjoy a turnover of £70m or that a significant adverse impact will result on Tewkesbury town centre.*
2. *We contend that we have substantiated that linked trips and the associated spin-off benefits could more than offset the anticipated trade diversion.*
3. *We have considered at length the potential impact of the proposal on existing, committed and planned public and private investment in centres in the catchment area of the proposal. The impact on Kings Quarter in Gloucester has been a key consideration as part of this analysis. However, this is based on the assumption those retail schemes are competing for the same target operators; that is not the case here. The Kings Quarter redevelopment would cater for the more mainstream comparison goods shop rather than the infrequent, specialist shop which FOC's attract. As previously stated we therefore contend that the proposals will not represent a risk, significant or otherwise, to the planned investment to the Kings Quarter development. In this respect it is argued that:*

- The operation of the FOC is proposed to be controlled via a range of planning conditions which restrict its function and the type of goods that can be sold
- The promoters Stanhope, have reconfirmed their commitment to Kings Quarter in the full knowledge of our proposals
- Any delays to bringing forward the Kings Quarter redevelopment are the result of wider market conditions and site specific complexities, not the possible existence of a FOC at Ashchurch
- The forecast impact of the proposed FOC on Gloucester City Centre is around 3.6% prior to the introduction of Kings Quarter. Following its introduction the impact falls to 3.2% based on a conservative assessment of that scheme's turnover. We do not consider this to be a level of impact which can be regarded as 'significantly adverse'
- Savills have submitted an objection to the proposed FOC on behalf of Stanhope but this is based more on concerns over impact on Gloucester City Centre overall (based on an erroneous methodology by Savills) and compliance with the sequential approach rather than impact on investment per se. Nowhere in this letter does Stanhope state that the proposal will result in the Kings Quarter scheme not coming to fruition.

5.13 Following further discussions with the applicant additional independent retail advice has been sought (GVA) and this assessment concludes that on the sequential test, GVA do not consider that the applicant has yet properly explained how flexible it can be over the proposed retail uses although it is arguable that the applicant has possibly gone further that it needs to in terms of how it assesses alternative sites. Therefore, if the Council is satisfied that the actual assessment of alternative sites is robust then GVA consider that even if the applicant employed a greater amount of flexibility in terms of site size but excluded disaggregation then it is unlikely that a suitable site would be found.

5.14 In terms of impact GVA has concluded the proposal is likely to have a significant adverse impact upon the health of Tewkesbury town centre and Gloucester city centre. In relation to Tewkesbury, GVA have reached this view based upon the proximity of the proposal to Tewkesbury and its potential to offer a rival retail destination to the town centre, including a significant amount of floorspace capable of selling a wide range of comparison goods supplemented by a large amount of food and beverage uses. This would make the site very attractive to the local shopping population and is, in the opinion of GVA, likely to lead to a diminution in the role of Tewkesbury town centre. Consideration of controls offered by the applicant has been taken into consideration in the assessment.

5.15 In relation to Gloucester city centre, GVA consider that it is likely that there would be a large trading overlap with the current proposal, competing particularly for clothing and fashion shopping trips. This level of competition is coupled with the relatively poor performance of the city centre in recent years, including a loss of market share and lower than expected turnover growth. As a consequence of these factors, GVA consider that the city centre is vulnerable to even relatively small impacts and the scale and type of impact from the proposal is likely to lead to significant adverse harm.

5.16 In relation to impact on investment, GVA support the general approach of the advice provided by DPDS, which has focused in on the key issues of impact on investment in Tewkesbury town centre and Gloucester city centre. GVA consider that the focus in Tewkesbury town centre is likely to be on the impact on existing investment and have reached the conclusion that the proposed development is likely to have a significant impact on existing investment due to the scale and type of retail floorspace proposed and its proximity to the town centre. The same considerations could also apply to the impact on investment in Gloucester city centre, bearing in mind the lack of sufficient expenditure capacity. However, GVA recommend that before the Council can reach a final conclusion on this impact test that further information is sought from Gloucester City Council. This information is still awaited and **Members will be updated at Committee.**

5.17 The applicant has offered a package of mitigation measures including £675K towards Tewkesbury Borough Council initiatives and measures to enhance the attraction of the town centre and increase in footfall and a commitment towards providing and maintaining an interactive Tourist Information point in the ROC promoting attractions in the town centre. These initiatives are in addition to the transportation measures including enhanced bus services between the railway station, ROC and the town centre. No mitigation measures are proposed for Gloucester city centre. It is not considered that the mitigation measures proposed would address the likely significant adverse impact on the vitality and viability of these centres.

5.18 In conclusion the sequential test has been satisfied and there are no alternative, sequentially preferable sites for this development in nearby centres. Whilst there is clearly disagreement between the applicant and the Council's retail consultant (GVA) on the impact of the development on nearby centres, the Council's retail consultant concludes that the proposal is likely to have a significant adverse impact upon the health of Tewkesbury town centre and Gloucester city centre. In terms of impact on investment it is also considered that the proposal is likely to have a significant impact on existing investment in Tewkesbury town

centre and a similar impact is also likely on investment in Gloucester city centre but further evidence of this is awaited from Gloucester City Council. Whilst it is recognised that there would be some employment generation and wider contribution to the local economy, these benefits would not outweigh the harm to both Tewkesbury town centre and Gloucester city centre. The harmful impact to these centres weighs heavily against the development. The mitigation measures proposed would fail to address this harm.

Use of allocated employment site

5.19 The application site is identified in the JCS (Submission Version) as one of the Strategic Allocations and is covered by Policy A9: Ashchurch Strategic Allocation. This policy looks to allocate this land for approximately 14 hectares of employment land which would make a significant contribution to the supply of employment land required to meet the needs of the JCS area. The NPPF, as well as the JCS (Submission Version) recognises that 'employment' should be considered in a wider sense, outside just tradition B class uses, and can include retail development that are also large job generators.

5.20 The Planning Policy section initially commented that there would be no objection in principle to the proposed retail use on this site as it would be broadly in line with the employment aspirations set out in the draft JCS (Submission Version). Following the JCS examinations sessions it is recognised however that the issue of suitable types of employment for the employment allocation sites remain unresolved. Ashchurch/J9 is one of the most popular and successful areas in the County for high quality/hi-tech business and the needs of existing and new businesses looking to expand/relocate to the area should continue to be provided for. This is why the JCS is seeking to allocate land in this location and there is concern that the proposed development would affect the ability of this successful area to accommodate the needs of the existing and potential new businesses which are so crucial to the economic success of the area.

5.21 The JCS continues to count this site towards its future supply against the B class employment land need of 192ha and a proposed amendment to the employment policy SD2 has been submitted to the EiP which would seek to ensure that employment land at Strategic Allocations would be predominantly for B class use. In this case the whole of the allocation site is to be used for retail use and as such it would result in the loss of land for Class B (Business) type employment uses which would be a disbenefit and weighs against the scheme in the planning balance.

Landscape and Visual Impact

5.22 One of the core planning principles of the NPPF is to contribute to conserving and enhancing the natural environment and this core principle is reflected in Policy LND4 of the local plan and Policy SD7 of the JCS (Submission Version) and as such these policies should be accorded considerable weight. The Tirlle Brook is also identified in the JCS Green Infrastructure Strategy and is covered by Policy INF4 which seeks to conserve and enhance this green infrastructure network.

5.23 The application site reflects the landscape character type Settled Unwooded Vale as recognised within the Gloucestershire Landscape Character Assessment. The site and the surrounding area directly to the south and east is a soft, gentle undulating to flat landscape with medium to large irregular fields. The area has mixed arable and pastoral land use enclosed by a hedgerow network forming a strong landscape pattern. There are limited woodlands and hedgerow trees within the area. The M5 borders the west boundary which divides and cuts the pattern of the surrounding rural landscape. There is also a network of public rights of way to the south and east of the application site, some providing clear views of the site. The Gloucestershire Way national trail lies within close proximity to the south of the site which leads from the elevated and prominent Oxenton Hill to the south east. To the north lies the A46 which together with the M5 to the west is a major visual influence on the sites character. To the north of the A46 industrial units and a small business park has been developed. There is also a small number of isolated farms scattered within the surrounding landscape with the closest being Newton Farm to the east.

5.24 The submitted Landscape and Visual Impact Assessment (LVIA) concludes that the overall landscape and visual effects of the proposed development would result in the loss of openness and a corresponding extension of the current urban area into open countryside. This would result in a new urban edge being created to the north of Tirlle Brook where presently it is formed by the alignment of the A46 highway. The LVIA states that structural landscaping to mitigate potential impacts would create a natural edge to the development which would reduce the visibility of the new development, existing highway and existing commercial buildings to the north of the application site. This vegetative margin would mitigate visual impacts both to existing public rights of way and residential properties south of Tirlle Brook. Most significant effects are likely to be experienced on Fiddington Lane from Newton Farm to the bridge over Tirlle Brook. Proposed landscaping along the application boundary with Fiddington Lane would establish a vegetative

buffer that would screen new built form and retain a rural character to the lane. Whilst this could not mitigate the loss of openness presently experienced it would screen views of the commercial structures and highway presently experienced on the lane. The landscape and visual assessment concludes that the landscape and visual effects resulting from the development would be acceptable in the context of the potential benefits arising from the development. These benefits include the creation of a new natural landscape edge to the development which would provide a buffer between the current commercial area of Ashchurch and the open countryside to the south of Tirl Brook.

5.25 The Council's Landscape Officer (LO) advises that the site does not have any national or local designations within or adjacent to its boundaries. It has few landscape features within it worthy of retention and therefore has a reduced landscape value. However, the open character of the field itself does form part of the overall landscape character of the area and contributes to the rural, agricultural open environment to the south of the A46. The main landscape feature is the Tirl Brook which meanders from east to west making the southern boundary of the site irregular. The few landscape features associated with the brook and current land use being heavily managed reduces its sensitivity to accommodate change.

5.26 The LO felt that the proposed indicative master plan did not appear to consider views of the site, particularly those from nearby rights of way, or the rural open landscape. The southern boundary of the development had a hard line and did very little to integrate or respect the surrounding existing flat landform. It was evident that the LVIA has not influenced the design of the retail buildings and therefore had led to an unengaged frontage to the north and poor design along the southern boundary. In addition, the sheer size and mass of the units, reaching over 15m in height, would also contribute to the harmful visual impact on the predominately flat rural landscape despite having the backdrop of the existing units north of the A46. The vast areas of car parking especially the multi-storey units also contributed to the adverse effect. Whilst in principle there was felt to be no strong objections to the development of this site, it was considered that a better informed design reflecting the outputs of the LVIA would be more appropriate for the site. The design should allow the smooth transition and integration of the development into the surrounding rural area.

5.27 In response to the comments raised, the applicant has submitted an Addendum to the DAS. This seeks to demonstrate how an appropriate design approach, combined with a landscaping scheme, could achieve an acceptable development in design, landscape and visual impact terms within the set parameters. In developing the proposed masterplan, the views of the site from local public rights of way have been considered and a Green Infrastructure and Landscape Strategy Plan has been produced. This plan includes the following mitigation measures:

- Location of developable areas close to the existing employment sites along the A46 to minimise the magnitude of change to the landscape.
- Provision of breaks within the massing of the new built form to retain glimpsed views of the rural vale landscape.
- Tirl Brook watercourse and open land to the north of the Brook to be retained and protected. This area would include planting and integrated SUD's. The open land adjoining the Brook would become an area of species rich grassland which would maintain an open setting for the watercourse and its riparian vegetation. This would offer partial screening and would help the transition to the rural landscape.
- Reinforcing the existing structure planting alongside the M5 slip road to maintain the separation of the development from the landscape and motorway. Maintaining a green corridor along the A46 through two styles of planting. The first would use native species in a formal manner on either side of the junction opposite Alexandra way. This would act as a 'window' to the site and would enable glimpsed views of the rural vale landscape and distant Cotswold Hills. The second would be a whole hedgerow surrounding the service station through to the improved junction at Fiddington Lane. This native structure planting would continue along the eastern edge of the development and would provide screening from the access road and Newton Farm.

5.28 Following further discussions with the agent, further revised illustrative plans have been submitted which seek to address the concerns in respect of views from the south and the hard outer edge of the proposed multi storey parking areas. The plans indicate the removal of the above ground decked parking building to the south.

5.29 In conclusion, the principle of development on this site is considered to be acceptable given its allocation for employment use in the JCS; the landscaping parameters plan indicates proposed Green Infrastructure and visual buffers to help mitigate its visual impact on the landscape; and the revised Parameters Plan would ensure a softer edge to the development when viewed from the south. There are some doubts as to whether the scale and form of development proposed could be accommodated on this site in an acceptable way, however, on balance, it is considered that these matters could be addressed at

reserved matters stage.

Layout/Design

5.30 The NPPF sets out that the Government attaches great importance to the design of the built environment (paragraph 56). Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. At paragraph 57 the NPPF advises that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Similarly Policy SD5 of the JCS (Submission Version November 2014) seeks to encourage good design and is consistent with the NPPF and so should be accorded considerable weight.

5.31 Most matters relating to design and layout are reserved for future consideration but the application includes the proposed means of access. The application has however, been supported with an indicative layout which illustrates how the site could be developed. The application is also supported with a design and access statement (DAS) and parameter plans. The DAS states that it is anticipated that the Garden Centre would be located on the western part of the site and the retail outlet on the eastern part. This is primarily because the eastern part of the site is larger than the western part and therefore, suits the larger development area requirements of the retail outlet. The more irregular development area to the west is also more suitable for the location of the outdoor sales area of the Garden centre which does not need a regular shaped footprint. The separation of the delivery and distribution of goods from customer traffic is an important requirement. The DAS advises that the retail experience and the safety of shoppers is significantly enhanced if the lorries are separated from cars at the earliest opportunity and loading areas are discrete and separate from customer parking. In this case loading is proposed to be located on the northern boundary adjacent to the A46 and customer parking to the south and east. An existing hedge running along the northern edge of the site would be reinforced which it is argued would provide an enhanced frontage to the development and to screen the loading areas from the road. The buildings would have a maximum height of 14.5m (Garden centre) and 15.5m (Retail Outlet buildings). A decked parking area is proposed around the eastern and southern edges of the retail outlet units which would have a maximum building height of 5.5m. The car parking for the garden centre is indicated to be at ground level at levels to suit stepped buildings.

5.32 The Urban Design Officer (UDO) commented that while some aspects of these proposals are felt to have a potentially positive impact on the quality and functionality of the area (the garden centre), there are other elements (the retail outlet village) that in their current form would exert too harmful an impact on the quality of the area. He considered that the retail village in particular did not appear to be striking the right balance of development, and this appeared to mitigate against the scheme being able to take relatively obvious opportunities to improve how it would integrate into and engage with its setting. It was difficult to see how the proposals were actively seeking to improve the character and functionality of the area. The UDO had particular concerns about the relationship with the A46 and wider open landscape setting. In respect of the wider landscape setting it was felt that the multi-deck parking would create an enclosed, canyon like character to the principal area of public realm.

5.33 The addendum DAS has sought to address these concerns and explains the rationale for the loading areas being located alongside the A46 as it is a less sensitive boundary in terms of long-range views into the site from the open countryside and it is argued that structural landscaping would create a strong frontage and screen the loading areas. The step down in levels it is argued would also enhance the opportunity to make these loading areas discrete. The DAS states that some decked parking is required to meet parking standards but that landscaping could be used to soften and mitigate its impact. It is considered that a detailed scheme design at reserved matters stage would ensure that the proposed development is acceptable in terms of mitigating the visual impact of views from the south. The buildings would have steeply pitched roofs to reflect traditional buildings in a rural context. These roof pitches, together with opting for a mono-pitch roof for the retail units would also give the option for PV panels.

5.34 The UDO has commented that whilst the application is in outline form, the submitted design proposals would play an extremely important role in setting out the actual physical parameters of any subsequent Reserved Matters application. It is however, recognised that the inherent nature of this type and scale of development, and the fact that the extent of the site is limited by floodplain to the south, means that it would be difficult to address some aspects of accepted good urban design practice. An example of this is how the development is unlikely to be able to provide a significant active frontage to the A46 due to the complex servicing requirements of the development. It is accepted that placing the servicing areas to the northern side of the development would be less damaging to the overall character and quality of place than placing them to the developments southern edges.

5.35 It is accepted that the proposed landscape mitigation strategy would soften views of the development

from the wider landscape setting, but it is felt that it would not address the issue of failing to create a good sense of place. Further details have been submitted to indicate that the car parking along the southern boundary would have ground level parking with lower level parking (3m lower) although the decked parking area along the eastern boundary is proposed to remain.

5.36 In response to previous concerns raised in respect to the height and scale of the architectural design, the addendum DAS states that there would be scope to reduce the overall heights of buildings in any future Reserved Matters application. It should be noted however, that this application would fix the physical parameters for the proposed development. As highlighted above, the maximum height for the retail outlet buildings is stated as being 15.5m and it would be difficult to require buildings to be of a lower height if these parameters are agreed. Although some improvements have been made to the application, concerns in respect of the impact of the retail outlet village on the character and functionality of the area have not been successfully addressed. Achieving an appropriate quality of design is recognised in the NPPF as a key strand of sustainable development. Consequently, the proposal does not adequately demonstrate that any subsequent reserved matters application would achieve good design. This weighs against the proposal in the planning balance.

Accessibility and Highway Safety

5.37 Section 4 of the NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. It states at paragraph 29 that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. Paragraph 32 states that planning decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure. Furthermore, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Similarly policies INF1 and INF2 of the JCS (Submission Version) seek to provide choice in modes of travel and to protect the safety and efficiency of the transport network.

5.38 A Transport Assessment (TA) has been submitted as part of the ES which states that in the interests of sustainability measures to encourage walking, cycling and public transport travel and to mitigate the additional travel demand as well as generally improving the surrounding transport infrastructure are proposed. The TA concludes that with the implementation of the mitigation measures, the additional demand would be safely and satisfactorily accommodated on the local transport network. The overall residual impacts of the proposed development in transport terms are likely to be neutral / no effect - low to moderate adverse. Low - moderate beneficial effects are likely in the PM peak hour for Driver Delay, where the mitigation measures have a wider benefit. In addition, further information has been submitted by the applicant detailing other highways related benefits of the scheme including:

- *The retail proposal would generate significantly less traffic during the critical weekday AM and PM peak periods than that of a traditional employment development comprising a mix of B1, B2 & B8 employment generating uses.*
- *The site access arrangements and associated A46(T) improvements increase the capacity of the A46(T) which traffic modelling has shown mitigates the impact of the proposed development. Furthermore, a financial contribution towards an improvement of the A438/Shannon Way junction would be provided which would deliver significant improvements to the operation of the local highway network.*
- *The proposals not only deliver an acceptable highways solution for the development itself, they offer the potential to enable future important developments along the A46(T) corridor to be realised through safeguarding sufficient land along the frontage of the application site for future highway improvements should these be deemed necessary to facilitate planned growth identified in the JCS. Therefore the proposed development would not prejudice the development of other sites in the JCS coming forward.*
- *The provision of a shuttle bus service connecting the retail development with Ashchurch railway station and Tewkesbury town centre during the weekends and other peak times such as Bank Holidays, would encourage visitors to the retail outlets to travel by rail via Ashchurch Station, and encourage 'linked-trips' for visitors to travel between the retail outlets and Tewkesbury town centre.*

5.39 Highways England (HE) who are responsible for the Strategic Road Network (A46/M5) originally advised that insufficient information had been provided in support of the application and various Holding Directions were issued to enable this information to be provided and assessed. Following the submission of further technical information and detailed discussions with the applicant's highway consultants the HE now confirm that, whilst the development proposals would give rise to increased congestion and delay on the A46, and increased queuing impacts at M5 junction 9, these outcomes would not be so severe as to justify the refusal of planning permission. Further, that subject to the imposition of relevant planning conditions, the

overall safety and efficiency of the SRN in this location would be adequately protected. The works which are considered necessary to make this development acceptable to the HE comprise widening and signalisation works to the A46, and enhancements to the Fiddington Lane access (**see attached plans**). In respect of the junction 9 slip roads, HE have reviewed the relevant design and technical submissions and is content that that the development trips could be accommodated, albeit that the existing design and layout of the slip roads would not be compliant with the relevant standards as are required by the Design Manual for Roads and Bridges (DMRB). It follows that a 'departure from standards' would need to be agreed with HE. HE raise no objection to this development subject to the imposition of conditions to ensure the necessary highway improvement works are undertaken.

5.40 County Highways (CH) is responsible for the local highways network and has commented as follows:

Access Proposals

5.41 The proposed primary access off the A46/Alexandra Way junction would provide a fourth arm to the south. This junction would ban the right turn from the site access, with that traffic using the eastern access. This is done to achieve a more efficient flow of traffic, but it could result in drivers being unaware and thus turning left and needing to U-turn at the M5 Junction 9. CH however considers that this is unlikely to be a major issue and the benefit of banning the right-turn outweighs the potential capacity issue of an increase in U-turning traffic.

5.42 The second access involves realignment of Fiddington Lane into a new signal controlled junction to replace the existing priority junction. This would form part of a left-right staggered junction with Northway Lane. The two accesses would be joined by an internal link road with roundabout junctions to distribute the traffic. The applicant has satisfied CH that there are suitable solutions which could be delivered within the land available to address their concerns which relate to the junction being able to accommodate large vehicles (HGV's), including the turn into the north access to Newton Farm. A prohibition of driving order is likely to be required to prevent the right-turn from the north Newton Farm access, which would be physically prevented by a central island. Access has been designed to be compatible with HE Pinch Point proposals.

5.43 Pedestrian/cyclist access would be provided from the existing footway/cycleway along the north of the A46. The link across the M5 Junction 9 would be improved as part of the HE pinch point scheme. Pedestrians/cyclists would therefore need to cross the A46 to access the site. Signalised crossing facilities are proposed at the Access Junction with Alexandra Way. The use of Fiddington Lane is also proposed to form a segregated pedestrian/cyclist route which is welcomed. A signalised crossing is proposed across the A46. The developer also proposes to contribute to the funding of footway/cycleway improvements on the east side of Northway Lane which would provide improved facilities for employees and customers travelling between Northway and the Proposed Development.

5.44 The development proposes to provide a shuttle bus between the site, the railway station and Tewkesbury town centre to enhance opportunities to travel by bus and train and to encourage "linked-trips" for visitors to travel between the retail outlets and Tewkesbury town centre. This would be co-ordinated with rail services at Ashchurch Railway Station. Whilst CH recognise the benefits of such a service they are concerned about the impact on the viability of existing services which are currently subsidised by the County. The applicant has developed the bus operation proposals to address these concerns. The bus is proposed to operate on weekends and Bank Holidays when there is the greatest visitor demand. It would have three stops; Ashchurch Railway Station, Tewkesbury town centre and the Outlet Centre, and would operate at a 20-minute frequency. Connection with the station would be free of charge, whilst travel between the Outlet Centre and the town centre would be charged at the same rate as the public service, but refundable with proof of purchase of goods. Public bus stops are available on the A46 to the west of the western access and on Northway Lane.

Highways Impact

5.45 CH consider that the traffic impact of the proposed development on the A438-A46 corridor is not severe, subject to the contribution to the A438/Shannon Way improvement scheme being provided. In terms of the local road network, modelling indicates that queue lengths (am and pm) on local roads including Alexandra Way, Shannon Way, Northway Lane and the A438 approach to the M5 Junction 9 at their junction with the A438/A46 corridor would be similar with or without the development in place. There will be an increase in queue lengths on Northway Lane but this is not considered to be severe.

5.46 CH has been developing a package of measures to address congestion on the A438 between the junctions with the A38 and the M5. This includes a concept design for improvements at the A438/Shannon

Way junction. This would provide an additional eastbound exit lane from this junction, enabling ahead traffic on the A438 to use both lanes at the junction with Shannon Way. This also has the benefit of improving the A438 capacity at the M5 Junction 9 by providing two full lanes for the length of this approach, as opposed to a single lane plus a flare as at present. This improvement scheme would provide significant benefit to the proposed development by improving its accessibility.

5.47 CH considers that this development will not have a severe impact on the local highway network and recommend that no highway objection be raised to this application, subject to the conditions being attached to any permission granted and planning obligations relating to highway/footway/cycleway improvements and Travel plan monitoring fee.

Prematurity

5.48 In responding to the application however HE has also advised that *'The implementation of the current proposal for the retail outlet centre and garden centre would result in the remaining highway capacity on the A46 and M5 junction 9 being utilised, such as to limit the scope to accommodate any significant future proposals on the SRN in this location. Development on the application site would also limit the scope for any major improvement to junction 9.'* HE conclude that *'There is a risk that future proposals for development on identified strategic sites may be found to be unacceptable on highway grounds, due to capacity constraints on the A46 and M5, junction 9 and the attendant delay, congestion and highway issues.'* In the light of these comments, it is necessary to whether, if this development proposal were to be implemented, there would be any prejudice to the delivery of the allocated strategic site (A8 - MOD Ashchurch) in the emerging JCS.

5.49 In this respect an analysis of transport modelling work to inform the JCS is being undertaken and a separate study of options for improvements at M5 junction 9 and on the A46 has been commissioned. The ongoing analysis of this area is indicating that significant improvements to the A46 may be required in future and this would likely require more extensive improvements around the M5 to facilitate new infrastructure.

5.50 The applicant has provided details of suggested highway improvements and how these works could be accommodated within the safeguarded land which they are proposing as part of the application.

5.51 In respect of the proposed safeguarded Land, HE have advised that, with the information available, there remain concerns that there is insufficient land set aside to accommodate potential infrastructure improvements identified for the A46 - M5 J9. HE also consider that further information on the proposed improvements is required in order for them to carry out a proper analysis. For such an analysis to take place the highway improvements scheme would need to be drawn up to a full build-ready stage and until such time it is not possible to confirm whether the safeguarded land proposed in this application would be sufficient. Even if a fully designed scheme were to be produced, the ongoing modelling work being undertaken through the JCS means that at this stage it is not possible to know what the final solution and required design specification would be.

5.52 Due to these uncertainties and possible requirement for more extensive infrastructure improvements, the Council is not in a position to confirm that the safeguarded land as proposed would be adequate. In terms of the impact of A46, further initial analysis is being undertaken which suggests that, a more extensive solution along this corridor may be required in future.

5.53 In response to these concerns the applicant believes that they have provided clear and comprehensive information to justify the area of land to be safeguarded and that is not disputed. They also refer to guidance in the PPG on prematurity and case law. The PPG provides that prematurity is unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the NPPF and any other material considerations into account. It advises that such circumstances are likely to be, but not exclusively, to be limited to situations where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging local plan or Neighbourhood Planning and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

5.54 The applicant argues that there has to be evidence to demonstrate *"the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits"* and that moreover granting permission for the development of this site which is an emerging JCS allocation cannot *"predetermine*

decisions about the scale, location or phasing of new development that are central to an emerging plan". It is argued that the prematurity argument flies in the face of the PPG and the urgency injected by both the NPPF and the Planning for Growth agenda.

5.55 In conclusion, in terms of the safeguarded land the Council is not in a position to confirm whether this is adequate but it is acknowledged that the applicant has done all they can to safeguard land required for improvements to the A46/M5 junction. It is however clear that this development would add to the existing capacity constraints in this area which, without fully understanding the impact of all development planned in this area and the infrastructure improvements needed to deliver it, could prejudice the delivery of growth. It is considered therefore that the issue of prematurity remains unresolved however it is recognised that there is insufficient evidence at this stage to justify a refusal on these grounds.

Conclusion on transport related matters

5.56 In terms of accessibility and highway safety both HE and CH consider that this development would not have a severe impact on the strategic and local highway network and that the development would be accessible by sustainable transport modes. In terms of prematurity, it is not yet known what impact all of the development planned in the area would have or what the infrastructure improvements needed to deliver it would be. The comments of Highways England are noted in that it is possible that the proposals could prejudice the delivery of planned growth in this area, however HE do not object to the application and it is considered that there is insufficient evidence to justify refusal on these grounds.

Ecology

5.57 The NPPF sets out at paragraph 109 that the planning system should contribute to and enhance the natural and local environment by, amongst other things, minimising impacts on biodiversity. This advice is reflected in Local Plan Policy NCN5.

5.58 An ecological assessment has been carried out on site which has been submitted as part of the application. The report concludes that the site is of low ecological value. The proposals would provide the opportunity to enhance the ecological interest of the site through the provision of areas of species-rich grassland within the Tirlle brook floodplain zone, new landscape / buffer planting, new tree planting and the creation of new attenuation ponds, providing green links through the site in particular along its southern boundary. No significant adverse impacts are considered to arise on any statutory designated sites and the protection of the Tirlle Brook would ensure there are no adverse effects on the Walton Cardiff Newt Ponds.

5.59 The loss of habitats of greater interest such as sections of hedgerows and the copse, would be offset by new areas of tree and landscape / buffer planting of a greater area than that lost. The creation of new species-rich grassland within the Tirlle Brook floodplain zone would provide new and enhanced foraging opportunities for Badgers, and provide a safe dispersal route for this species. The planting of new landscape / buffer planting and hedgerows within the site, would provide new navigational and foraging opportunities for bats. The erection of bat boxes would provide new roosting opportunities over the existing situation. Provisions would be made to ensure no Otters are disturbed during the construction and operational phases of the development proposal. The creation of species-rich grassland within the Tirlle Brook floodplain zone would likely provide enhanced habitat for Otters. Measures have been put forward to avoid impacts on nesting birds and to enhance foraging and nesting opportunities post-development. The creation of new habitats as part of the Landscape Proposals would maximise the assemblage of birds attracted to the site post-development and the provision of bird boxes would also provide new nesting opportunities for birds.

5.60 The ecological assessment concludes that with the mitigation proposed, the proposed development would not result in any adverse residual impact on habitats of species of any significance, and there would be no net loss of features of ecological importance. Following mitigation and enhancement measures, overall impacts are considered to be positive at the local level and would ensure no net loss in biodiversity terms.

5.61 Natural England (NE) has advised that based upon the information provided, the proposal is unlikely to affect any statutorily protected sites or landscapes or European Protected Species. The authority is advised to consider securing measures to enhance the biodiversity of the site. NE also recognises that the development 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.

5.62 In light of the above, there is no evidence to suggest that there are any overriding ecological constraints to the development of the site. The proposals would deliver a net benefit for wildlife which could

be secured through appropriate planning conditions.

Heritage Assets/Archaeology

5.63 The NPPF seeks to conserve the historic environment and advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.

5.64 The Heritage/Archaeology Statement in the ES states that there are no designated or non-designated heritage assets of the highest significance situated within the site itself, nor within its immediate proximity, such that the proposed development would have cause to harm their associated setting. During construction, the proposed development would result in a long term adverse environmental effect on an area of heritage sensitivity identified within the north-western extent of the site. However, the ES concludes that implementation of an appropriate programme of archaeological investigation and recording phased ahead of, and/or during, development, would serve to mitigate this effect and overall result in a minor beneficial residual effect through increasing our knowledge on the archaeology and historic landscape of the area.

5.65 The County Archaeological Officer (CAO) has commented on the submitted Heritage Statement and other supporting reports undertaken to investigate the archaeological impact of the proposed scheme. The CAO comments that it is clear from the results of the investigations that the archaeological remains are not of the first order of preservation, since they have undergone erosion from later ploughing with the result that all surfaces associated with the remains have been destroyed. For that reason it is his view that the archaeology on this site is not of the highest significance, so meriting preservation in situ. Nevertheless, while not of the highest significance, it is still considered that the archaeological deposits on this site will make an important contribution to our understanding of the archaeology of both the locality and the wider region.

5.66 On that basis the CAO raises no objection in principle to the development of this site, with the proviso that an appropriate programme of archaeological work involving excavation and recording of any significant archaeological remains should be undertaken prior to the development in order to mitigate the ground impacts of this scheme.

Hydrology, Flood Risk and Drainage

5.67 The NPPF sets out at paragraph 103 that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment (FRA).

5.68 The submitted Flood Risk Assessment concludes that the site is considered to be in an area of generally low sensitivity in terms of the water environment. The proposed development would after implementation of the proposed SuDS mitigation measures, have no significant adverse environmental effects on hydrology and flood risk either during construction or when completed. The proposed sustainable drainage System would help to reduce overall flood risk in the area and would have a moderate beneficial impact. Overall it is concluded that the effect of the proposed development on hydrology and flood risk is considered to be beneficial.

5.69 The Environment Agency (EA) has reviewed the Flood Risk Assessment (FRA) and has commented that although the site lies within all four flood zones as defined in the NPPF, a site specific hydraulic model has been undertaken on this site which identifies the extent of the flood zones and all development is proposed to be located within the area defined as Flood Zone 1 (Low Risk). Proposed finished floor levels are deemed acceptable to mitigate any risk of internal flooding to the new development building from fluvial sources.

5.70 The proposed surface water drainage strategy follows current accepted principles in maintaining existing greenfield runoff rates from the site, whilst storing additional volumes and taking account of climate change. The strategy also takes account of long term storage should the discharge points become submerged. The EA recommend a condition to secure an exemplar SUDS scheme as this is imperative to ensure surface water entering the Northway and Tirlie Brook is of an acceptable quality and that the aims of the Water Framework Directive (WFD) are not adversely affected. Severn Trent Water also raise no objection to the development subject to drainage conditions.

Loss of agricultural land

5.71 Paragraph 112 of NPPF advises that local planning authorities should take into account the economic

and other benefits of the best and most versatile land (BMV). Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use poorer quality land in Grades 3b, 4 and 5 in preference to higher quality land. Paragraph 109 of the NPPF puts the protection and enhancement of soils as a priority in the conservation and enhancement of the natural environment.

5.72 The ES confirms that of the study area of 18.56 hectares, 8.31ha comprises BMV (grade 3a) with the remaining 10.25 grade 3b which does not constitute BMV. Surplus soil could be used to restore other sites which are short of soil, to preserve the soil and retain soil functions such as water and carbon storage.

5.73 It is recognised of course that the site is allocated for development in the emerging Joint Core Strategy however it is clear that 8.31 hectares of BMV would be lost to the development and this is a matter which weighs against the proposal in the overall planning balance.

Air Quality

5.74 The ES states that the potential air quality impacts associated with the construction and operation of the proposed retail development have been assessed, including the operational impacts of increased traffic emissions arising from the additional traffic on local roads, due to the development. Existing conditions within the study area show poor air quality in the centre of Tewkesbury, with concentrations of nitrogen dioxide exceeding the annual mean objective along the High Street and Barton Street. An AQMA has been declared for this area.

5.75 The ES concludes that the overall operational air quality impacts of the development would be low adverse. This conclusion, which takes account of the uncertainties in future projections, in particular for nitrogen dioxide, is based on the concentrations being at, or just below, the annual mean objective for nitrogen dioxide, and the impacts being slight adverse at two receptors, assuming no reduction in vehicle emissions. The construction works have the potential to create dust. During construction it would therefore be necessary to apply a package of mitigation measures to minimise dust emission. With this mitigation, the overall impacts during construction are judged to have no effect.

5.76 The comments of the Environmental Health Officer are awaited and **Members will be updated at Committee.**

6.0 Overall Planning Balance and Conclusion

6.1 In accordance Paragraph 14 of the Framework, where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted. The three tests of sustainability are formed by the economic, social and environmental tests as set out in paragraph 14.

6.2 In terms of the economic dimension it is recognised that the proposal would provide jobs, both directly and indirectly. The proposal would therefore contribute towards building a strong, competitive economy and these matters are given significant weight in line with the NPPF. The development would however, result in the loss of land identified in the emerging Joint Core Strategy for Class B (Business) type employment uses which would be a disbenefit and weighs against the scheme in the planning balance. The development is also likely to have a significant adverse impact upon the health of Tewkesbury town centre and Gloucester city centre and is likely to have a significant impact on existing investment in Tewkesbury town centre due to the scale and type of retail floorspace proposed and its proximity to the town centre. The proposal is also likely to have a significant impact on investment in Gloucester city centre, bearing in mind the lack of sufficient expenditure capacity but further evidence of this is awaited from Gloucester City Council. These adverse impacts attract substantial weight against the proposal in line with Government's policy on 'Ensuring the vitality of town centres'. The NPPF clearly advises that in such cases the application should be refused.

6.3 With regards to the social dimension, the proposal would again provide jobs which would help support local communities and would have social welfare benefits. Nevertheless there remain concerns about whether the proposed development would provide a high quality environment which weighs against the proposal in the planning balance.

6.4 Turning to the environmental dimension, there would be harm arising from its intrusion into open agricultural land. This impact is however, likely to be limited to the immediate surroundings and could be

further mitigated by appropriate landscaping. Nevertheless, there would be a landscape impact which would constitute harm in terms of the environmental sustainability of the proposal. The development would also result in the loss of 8.31 hectares of 'Best and most versatile agricultural land' (BMV) (Grades 1, 2 and 3a).

6.5 The proposed development would not be at an unacceptable risk of flooding and would not exacerbate flooding problems for third party property. The development would not have an unacceptable impact in terms of contamination of land or soil and would not appear to raise any air quality issues. In terms of ecology and nature conservation, it has been demonstrated that the development would not have a detrimental impact upon biodiversity. The development provides opportunities for sustainable transport and would not have a severe impact on either the strategic or local highway network. It may however prejudice the delivery of further growth in the area which weighs against the development.

6.6 Whilst there are clear and significant benefits to the proposal as set out above, it is considered that the adverse impacts identified significantly and demonstrably outweigh the benefits that would accrue from the development. The proposal therefore does not represent sustainable development in the context of the NPPF and is recommended for **Refusal**.

Summary of Reasons for Decision:

RECOMMENDATION Refuse

Reasons:

- 1 The proposed development would be likely to have a significant adverse impact upon the health of Tewkesbury town centre and Gloucester city centre and is also likely to have a significant impact on existing investment in Tewkesbury town centre due to the scale and type of retail floorspace proposed and its proximity to the town centre. Whilst all matters relating to design and layout are reserved for future consideration, the proposal, by virtue of its form and layout fails to demonstrate good design which would deliver a strong sense of place. The proposal would also result in the loss of 8.31 hectares of best and most versatile agricultural land. For these reasons the proposal does not represent sustainable development within the context of paragraph 14 of the NPPF and the identified harms would significantly and demonstrably outweigh the benefits of the proposal. The proposed development would therefore be contrary to the core principles of land-use planning set out at paragraph 17 of the NPPF, sections 2 (Ensuring the vitality of town centres) and 7 (Requiring Good Design) and paragraph 112 of the NPPF, Policy RET6 of the Tewkesbury Borough Local Plan to 2011 - March 2006 and emerging policies SD3 and SD5 of the Joint Core Strategy Submission Version November 2014.

Notes:

1 Statement of Positive and Proactive Engagement

In accordance with the requirements of the NPPF, the Local Planning Authority has worked with the applicant in a positive and proactive manner in order to seek solutions to overcome the planning objections and the conflict with Development Plan Policy by seeking to negotiate with the applicant to address identified issues of concern and providing on the council's website details of consultation responses and representations received. However, negotiations have failed to achieve sustainable development that would improve the economic, social and environmental conditions of the area.