

**Application Number: F/YR11/0482/F**  
**Major**  
**Parish/Ward: Whittlesey**  
**Date Received: 7 December 2011**  
**Expiry Date: 7 March 2012**  
**Applicant: Harrier Developments Ltd**  
**Agent: Miss E Dent, ICIS Consulting Ltd**

**Proposal: Erection of food store with petrol filling station and car wash, recycling centre associated parking, landscaping (2 metre high earth bund, 4.5 high non climb galvanised fence, 2 metre high brick wall, extension to existing pond), and highway works**

**Location: Site of former Eastfield Nursery, Eastrea Road, Whittlesey**

**Site Area/Density: 4.84 ha**

**Reason before Committee: This proposal is before the Planning Committee due to the significance of the application and level of objections received.**

**1. EXECUTIVE SUMMARY/RECOMMENDATION**

This application was deferred at the Planning Committee held 9 May 2012 to allow further assessment to be undertaken of the commercial viability of the Station Road food store site.

The original report to Committee follows this executive summary along with the update presented to Committee on the 9 May 2012.

An updated assessment including reference to correspondence received since the 9 May 2012 is then provided.

The application is considered to comply with adopted local and national planning policy and is recommended for approval, subject to appropriate Section 106 Agreement and planning conditions.

**F/YR11/0482/F**

**24 June 2011**

**Applicant : Harrier Developments Ltd**

**Agent : Ms E.Dent**

**ICIS Consulting Ltd**

**Site of Former Eastrea Nursery, Eastrea Road, Whittlesey.**

**Erection of a food store with petrol filling station and car wash, recycling centre associated parking, landscaping (2 metre high earth bund, 4.5 high non climb galvanised fence, 2 metre high brick wall, extension to existing pond) and highway works**

**This proposal is before the Planning Committee due to the significance of the application and level of objections received.**

**This application is a major.**

**1. SITE DESCRIPTION**

The site is located to the east side of Whittlesey on Eastrea Road and adjoins the existing Development Area Boundary. An area of residential development exists immediately to the west of the site with open land to the north and south. Gildenburgh Water is located to the east of the site. An existing housing allocation is located on the land to the north. The site is relatively flat in nature and was previously used as a nursery. A large area of hardstanding exists on the site which previously accommodated a number of glass houses, now demolished. The site is considered derelict. The site is located just over a mile from the town centre.

**2. HISTORY**

Of relevance to this proposal is:

- |               |   |
|---------------|---|
| F/YR03/0632/O | - Residential development (5.87 ha) including formation of access, balancing pond and public open space – refused 24/10/2003.   |
| F/96/0802/F   | - Erection of 69 houses comprising 6 x 4-bed detached; 34 x 3-bed semi/terraced; 28 x 2-bed terraced and 1 x 1-bed terraced together with garages, estate roads and landscaping – granted 23/12/1997. |

**3. CONSULTATIONS**

***Town Council***

Raise no objection in principle but have concern with regard to opening hours, height of bund/trees proposed to west boundary, proximity of store to dwellings, impact of lighting, suggestion that roundabout should be moved further to the east.

<b><i>Environmental Health</i></b>	No objection but note construction and operational issues should be considered in terms of impact on existing amenity.
<b><i>CCC Highways</i></b>	No objection to proposed scheme.
<b><i>The Wildlife Trust</i></b>	No objection in principle but would welcome proposals for positive biodiversity enhancements.
<b><i>Middle Level Commissioners</i></b>	No specific objection but requires adequate details and test results to be submitted to prove surface water disposal treatment is acceptable.
<b><i>Anglian Water</i></b>	Require conditions relating to foul sewerage and surface water disposal.
<b><i>Natural England</i></b>	Satisfied with site ecology tests provided and mitigation. Request that potential impact of contamination to ground water or surface water is dealt with.
<b><i>CCC Archaeology</i></b>	Note requirement for archaeological evaluation to be undertaken.
<b><i>Environment Agency</i></b>	Raise concern with regard to petrol station underground storage tanks and impact on ground water – this issue can be addressed by appropriate condition.
<b><i>Local Residents/Interested Parties</i></b>	520 letters of support for the application have been received.
	10 letters of objection received on grounds that site is outside Development Area Boundary, will adversely affect town centre trade, highway dangers, pollution of waterways, a larger urban extension incorporating the proposed Sainsbury site and business park is preferable to the stand alone Tesco site, scheme will

not deliver wider benefits to the town, concern regarding operating hours, noise pollution, light pollution, anti social behaviour, environmental pollution, possible flooding issues, scheme conflicts with housing scheme proposal to north of Eastrea Road.

#### 4. POLICY FRAMEWORK

##### FDWLP Policy

- |     |   |
|-----|---|
| E3  | - To retain existing trees and hedgerows. To impose, where appropriate, conditions on planning applications, requiring landscaping and tree planting schemes. To request the submission of a landscaping scheme with planning applications on visually important sites.                           |
| E8  | - Proposals for new development should: <ul style="list-style-type: none"> <li>- allow for protection of site features;</li> <li>- be of a design compatible with their surroundings;</li> <li>- have regard to amenities of adjoining properties;</li> <li>- provide adequate access.</li> </ul> |
| TR3 | - To ensure that all proposed developments provide adequate car parking in accordance with the approved parking standards.  |
| E20 | - To resist any development which by its nature gives rise to unacceptable levels of noise, nuisance and other environmental pollution.   |

##### East of England Plan

- |      |                                     |
|------|-------------------------------------|
| ENV7 | - Quality in the built environment  |
| SS1  | - Achieving sustainable development |
| SS6  | - City and Town Centres             |

##### National Planning Policy Framework

- |         |  |
|---------|--|
| Para 6  | - Notes that the purpose of the planning system is to contribute to the achievement of sustainable development.                                      |
| Para 11 | - Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. |

- Para 19 - Notes that the Government is committed to ensuring that the planning system supports sustainable economic growth.
- Para 23 - Planning policies should be positive, promote competitive town centre environments and set out policies for management and growth of centres
- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.
  - If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre.
  - Set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres.
- Para 24 - Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date Local Plan.....when considering edge of centre or out of centre proposals preference should be given to accessible sites that are well connected to the town centre.
- Para 26 - When assessing applications for retail, leisure and office developments outside of town centres which are not in accordance with an up to date Local Plan local planning authorities should require an impact assessment.....this should include assessment of the impact of the proposal on town centre vitality and viability.
- Para 27 - Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

- CS1 - Spatial Strategy – notes that the majority of the district’s new housing, employment growth, retail growth and wider service provision should take place in the market towns, including Whittlesey.
- CS4 - Employment and retail – the strategy for retail development in Fenland is to:
- Embrace a strong ‘town centre first’ message when considering the most appropriate locations for retail and leisure development in the towns.
- New retail development will be encouraged to maintain and enhance the vitality and viability of centres. Where retail development for which there is an identified need cannot be accommodated within the defined town centre area, a sequential approach will be followed.
- CS5 - Urban extensions – must be planned and implemented in a comprehensive way through an agreed master-planning approach, provide a wide range of local employment opportunities, make provision for appropriate levels of retail, leisure, social, cultural, community and health facilities to meet local needs.
- CS9 - New urban extensions to Whittlesey will be supported on land to the north of Eastrea Road, and south and east of Drybread Road. Other medium sized sites for housing will also contribute to the development of the town. These include sites in the following locations – land south of Eastrea Road and west of Gildenburgh Water.

## 4. ASSESSMENT

### ***Nature of Application***

This is a full application for the erection of a food store, petrol filling station, recycling centre with associated landscaping and highway works, including formation of a new roundabout at the junction with Eastrea Road. It is proposed that the site will have a gross internal floor space of 4238 sqm with a net retail sales area of 2460 sqm consisting 1855 sqm for the sale of food and related products and 605 sqm for the sale of non-food goods. The applicant has submitted an appropriate level of supporting documentation with the application including a transport assessment, environmental screening report, flood risk assessment, ecology/biodiversity studies and arboricultural/landscaping report.

The application is considered to raise the following key issues;

- Site History
- Principle and policy implications
- Design and layout
- Transport and access
- Flood Risk.

### ***Site History***

As noted above the site has previously been used as a nursery. All that remains on the site is a large area of concrete hardstanding. There have been previous applications for residential development on the land including the granting of planning permission for a scheme in 1997. This scheme was not implemented. The site has remained vacant for a number of years.

### ***Principle and Policy Implications***

The site is located in an out of town location immediately adjoining the existing Development Area Boundary. As well as considering impact of the development on the immediate locality, a key factor will be retail impact on the town centre and whether suitable alternative sites are located either in the town centre or in more sequentially preferable locations. It should be noted that Planning Permission was granted by the Council in 2009 for a new food store at Station Road, Whittlesey (under application ref F/YR09/0582/O) which had a net convenience sales area floor space of 2272 sqm. That application was also submitted by Harrier Developments Ltd who have agreed that the Planning Permission F/YR09/0582/O can be quashed via Section 106 Agreement if the current application is approved.

In order to properly assess the impact of the current scheme, particularly in the context of the National Planning Policy Framework and potential impacts on Whittlesey town centre, the Council have instructed Roger Tym and Partners to consider the impact of the current scheme on the town centre and whether sufficient retail capacity exists to support two food stores in out of town locations (the application site and the Station Road site). The following conclusions are derived from Roger Tym's assessment.

It is noted that the NPPF retains the requirement to apply the sequential approach and impact test to planning applications for main town centre uses that are not in an existing centre. The NPPF under paragraph 27 notes that where an application fails to satisfy the sequential test or is likely to have

significant adverse effect it should be refused.

With regard to the sequential assessment it is noted that the application site is located outside the Development Area Boundary and, therefore, represents an 'out of town' location. It is also accepted that the approved food store at Station Road would have a convenience net sales area floor space of 2,272 sqm and, therefore, forms a fall-back position and the base against which the currently proposed scheme at Eastrea Road should be assessed.

When undertaking the sequential assessment, sites should be assessed in terms of their availability, suitability and viability; that all in centre options should be thoroughly assessed before less central sites are considered, and that where it is demonstrated that there are no town centre sites, preference should be given to edge-of-centre locations that are well connected to the centre by easy pedestrian access. Accepting there are no alternative sites available for the proposed level of retail floor space within or closer to the town centre there is no basis to refuse the application due to availability of alternative preferable sites. It should also be noted that the Eastrea Road site is slightly closer to the town centre than the Station Road site.

In terms of impact assessment the Station Road consent is a material factor. Upto 2,272 sqm of convenience sales area floor space could be provided at Station Road compared to 2,460 sqm of retail floor space proposed at Eastrea Road. It is noted that in subsequent negotiations following submission of the current application, the applicant has agreed to accept a planning condition which restricts the convenience sales area floor space at Eastrea Road to a maximum of 2,062 sqm and which limits comparison sales to 398 sqm (total 2,460 sqm). Taking into account the 'fallback' position at Station Road the imposition of such a condition would address concerns relating to town centre impact.

Roger Tym conclude that subject to a planning condition effectively restricting the sales area to that of the Station Road site, there is no basis to resist the application in relation to retail policy.

In terms of location, the site is outside the Development Area Boundary but does fall within the broad area of growth identified under Policy CS9 of the draft Core Strategy. Although CS9 does suggest that this site could be considered for housing it is the opinion of officers that the alternative use for a supermarket can be considered acceptable. This takes into account the urban extension area proposed to the north of Eastrea Road in the Core Strategy. The current application if approved would not be considered to stifle housing growth for example.

In summary, although the site is just outside the existing Development Area Boundary, it is considered to comply with current national, regional and local planning policy.

### ***Design and Layout***

The proposed site layout includes the main store building, a service yard located to the rear of the store with the main shopping car park (621 spaces) located to the front of the main store entrance. A petrol filling station will be located between the car park area and the highway. A small recycling area is proposed



next to the petrol station. A mini roundabout leading from the main access roundabout will serve feeder roads leading into the main car park and to the delivery area to the rear of the site. Pedestrian walkways lead through the site. A bus stop/drop of point is also indicated to the front of the store entrance. Taking into account the proximity of the housing development adjoining the site to the west the applicant proposes provision of a planted 2.0m high bund and 2.0m boundary wall on the western boundary. A 4.5 metre screening fence will enclose the delivery yard to the rear of the site.

The main store building is single storey format providing a gross internal floor area of 4403m<sup>2</sup>. This includes the main shopping area, storage space and staff areas. The design of the building is contemporary in nature with the main front elevation being predominantly glazed, incorporating small areas of timber cladding. The remaining elevations consist mainly of insulated metal cladding panels with some timber cladding areas identified. The roof has a very shallow pitch and again is metal clad, but incorporates roof lights and vents to give natural light and ventilation to the store.

In summary, the design and layout is considered to be acceptable, making good use of the existing site constraints and protecting existing residential amenity.

### ***Transport and Access***

The main vehicular access into the site will be via a new roundabout located on Eastrea Road feeding to a new mini roundabout to give access to the main store and the petrol filling station. A separate feeder road runs to the south of the application site and provides access for delivery vehicles to the rear of the proposed store. Pedestrian footpaths are proposed to serve the site, leading from existing public footpaths on Eastrea Road. The roundabout design has been agreed with the Highway Authority and would have the capacity to serve the proposed housing site to the north of Eastrea Road if required. The roundabout and associated works will be completed prior to the operation of the store commencing. There will be a requirement to upgrade existing street lighting in the immediate locality of the site as well as provision of a £150,000 lump sum towards public transport to serve the site.

### ***Flood Risk***

The site is located in Flood Zone 1 and the submitted Flood Risk Assessment concludes that the proposed use will not be vulnerable to flooding. Surface water drainage will be taken to an existing enlarged pond to the south of the site and via creation of a small pond to the north of the petrol station. The scheme is considered acceptable in terms of flood risk.

### ***Conclusion***

As noted the development will not result in an increase in convenience floor space above that already consented at the Station Road site, although there will be a small increase in the overall retail floor space and when considered against the sequential and impact tests in terms of affecting the viability of the town centre is considered acceptable. The contemporary design and proposed layout is appropriate to this locality and ensures that existing residential amenity is protected. Access to the site can be provided for various transport modes including walking, cycling, public transport and the car. In addition this location is considered to be preferably sustainable to the Station Road site.

The proposed development is considered to comply with the adopted Local Plan, the draft Core Strategy and the National Planning Policy Framework. The application is, therefore, recommended for approval subject to appropriate conditions and a comprehensive Section 106 Agreement.

## 6. RECOMMENDATION

### GRANT SUBJECT TO

- (i) Appropriate planning conditions.
- (ii) Prior completion of Section 106 Agreement, which includes the following requirements:
  - Construction and provision of a roundabout on Eastrea Road and an access road and footways up to and including the southern end of the roundabout splitter island on the southern arm of the roundabout, the upgrading of street lighting and Eastrea Road signage and the stopping up and permanent closure of the existing access to the site prior to the operation of the food store or petrol filling station commencing.
  - Trading shall not commence from the food store or the petrol filling station until a travel plan co-ordinator has been appointed and a travel plan is submitted to the District and County Council for approval.
  - Prior to the opening of the food store to pay the District Council a community transport contribution of £150,000.
  - Prior to the commencement of trading to submit to the District Council proposals and a scheme for the provision of equipment and facilities for the display of local information directed to the promotion of Whittlesey Town Centre and its businesses services and facilities and implement the said scheme as approved prior to the opening of the food store.
  - Prior to the implementation of development the planning permission reference F/YR09/0582/O shall cease to have effect.

### CONDITIONS

- 1 The development permitted shall be begun before the expiration of 3 years from the date of this permission.

*Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.*

- 2 Prior to the commencement of the development hereby approved a scheme and timetable to deal with contamination of land and/or groundwater shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall then be implemented on site in accordance with the approved timetable.

The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:

**1. A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. This should include a conceptual model, and pollutant linkage assessment for the site. Two full copies of the desk-top study and a non-technical summary shall be submitted to and approved in writing by the Local Planning Authority.**

**IF during development any previously unsuspected contamination is discovered then the LPA must be informed immediately. A contingency plan for this situation must be in place and submitted with the desk study. If a desk study indicates that further information will be required to grant permission then the applicant must provide, to the LPA:**

**2.A site investigation and recognised risk assessment carried out by a competent person, to fully and effectively characterise the nature and extent of any land and/or groundwater contamination, and its implications. The site investigation shall not be commenced until:**

**(i) A desk-top study has been completed, satisfying the requirements of paragraph (1) above.**

**(ii) The requirements of the Local Planning Authority for site investigations have been fully established, and**

**(iii) The extent and methodology have been submitted to and approved in writing by the Local Planning Authority. Two full copies of a report on the completed site investigation shall be submitted to and approved in writing by the Local Planning Authority.**

**Following written LPA approval of the Site Investigation the LPA will require:**

**3. A written method statement for the remediation of land and/or groundwater contamination affecting the site. This shall be based upon the findings of the site investigation and results of the risk assessment. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority.**

**4. The provision of two full copies of a full completion report confirming the objectives, methods, results and conclusions of all remediation works, together with any requirements for longer-term monitoring and pollutant linkages, maintenance and arrangements for contingency action shall be submitted and approved in writing by the Local Planning Authority.**

***Reason - To control pollution of land or water in the interests of the environment and public safety.***

**3 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority)**

shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, and amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with. The development shall then be carried out in full accordance with the amended remediation strategy.

*Reason - To control pollution of land and controlled waters in the interests of the environment and public safety.*

- 4 Prior to the commencement of any development, a scheme for the provision and implementation of surface water drainage shall be submitted and agreed in writing with the Local Authority in consultation with the Drainage Authority. The scheme shall subsequently be implemented in accordance with the approved details before the relevant parts of the development are first brought into use and thereafter retained in perpetuity.

*Reason - To ensure a satisfactory method of surface water drainage and to prevent the increased risk of flooding.*

- 5 Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted and agreed in writing with the Local Authority. The scheme shall subsequently be implemented in accordance with the approved details before the relevant parts of the development are first brought into use and thereafter retained in perpetuity.

*Reason - To ensure a satisfactory method of foul water drainage and to prevent the increased risk of pollution to controlled waters.*

- 6 All hard and soft landscape works including any management and maintenance plan details, shall be carried out in accordance with the approved details. All planting seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development.*

- 7 The proposed earth bund located to the western boundary of the site shall be completed to the satisfaction of the Local Planning

**Authority prior to the food store and petrol filling station use commencing.**

***Reason - In the interests of residential amenity***

- 8** Prior to the commencement of any works or storage of materials on the site all trees that are to be retained shall be protected in accordance with British Standard 5837:2005. Moreover measures for protection in accordance with that standard shall be implemented and shall be maintained to the Local Planning Authority's reasonable satisfaction until the completion of the development for Building Regulations purposes.

***Reason - To ensure that retained trees are adequately protected.***

- 9** Prior to the operation commencing of the development hereby approved, the proposed on-site parking shall be demarcated, levelled, surfaced and drained in accordance with the approved plan(s). Thereafter, these spaces shall be permanently retained and available for the parking of vehicles of residents/occupiers of the approved scheme, and shall not be used for any other purpose.

***Reason - In the interests of highway safety.***

- 10** Prior to the commencement of the development a scheme and timetable for the provision of fire hydrants shall be submitted to, and agreed in writing by, the Local Planning Authority in consultation with the Chief Fire Officer and provision of the fire hydrants shall be made in accordance with the scheme and timetable.

***Reason - To ensure a satisfactory form of development.***

- 11** The development hereby permitted shall not be commenced until such time as a scheme to install the petrol filling station underground tanks has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include the full structural details of the installation, including details of the following: excavation, the tank(s), tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may subsequently be agreed, in writing, by the local planning authority.

***Reason - To prevent pollution of groundwater and/or inland freshwaters***

- 12** Prior to the commencement of the development hereby approved full details of the materials to be used for the external walls and roof shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved particulars and retained in perpetuity thereafter.

***Reason - To safeguard the visual amenities of the area.***

- 13** No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme and timetable of archaeological work and recording in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The approved programme shall then be implemented in accordance with the approved timetable prior to any other works taking place on site.

***Reason - To secure the provision of the investigation and recording of archaeological remains threatened by the development and the reporting and dissemination of the results in accordance with Policy E7 of the Fenland District Wide Local Plan.***

- 14** The convenience sales area floor space of the proposed food store hereby approved shall not exceed 2,062 sq.m and the comparison goods sales area floorspace shall not exceed 398 sqm (total 2,460sqm).

***Reason - In order to ensure that the proposal does not detrimentally affect the vitality and viability of Whittlesey Town Centre.***

## **UPDATE TO PLANNING COMMITTEE – 9 MAY 2012**

### Car Parking

It should be noted that the proposed car parking provision is 321 spaces and not 621 as stated in the Committee report.

### Section 106

An additional item has been identified to form part of the Section 106 Agreement. – “That the applicant/developer provide a pedestrian crossing between the proposed food store and the opposite side of Eastrea Road prior to operation of the food store and the opposite side of Eastrea Road prior to the operation of the food store commencing, details to be agreed with the Local Planning Authority prior to works commencing”.

The following point on page 11 of the report “prior to the implementation of development the planning permission reference F/YR09/0582/O shall cease to have effect” is to be replaced with the following recommendation:

“The owner of the land of planning permission F/YR09/0582/O must enter into a Section 106 Agreement agreeing not to implement permission F/YR09/0582/O if permission F/YR11/0482/F is implemented. Also in the event that the Council makes an order under Section 97 of the Town and Country Planning Act 1990 to modify or revoke the planning permission F/YR09/0582/O then owner shall not object in any way to any such order being made nor to seek compensation in respect thereof.”

#### Additional Correspondence received

Two additional letters received from agents acting for Sainsbury's who suggest that because the proposed Tesco roundabout position is at variance with the recently approved Larkfleet residential scheme on the opposite side of Eastrea Road (F/YR10/0904/O) then the Tesco scheme is undeliverable. Suggested that an EIA screening should have been sought by the applicant. Concern raised that it may not be possible to extinguish the Station Road site.

#### Officer response

The variation in roundabout position is noted, but both the Tesco and Larkfleet roundabouts are capable of serving both sites if necessary. In reality only one roundabout scheme will be delivered for adoption by the County Council.

With regard to the need for an EIA screening it was not considered necessary under the screening regulations for an EIA to be submitted in this case.

If this application is granted permission then the Section 106 Agreement will ensure that the Station Road site permission will not be implemented and/or revoked. The landowner at Station Road has confirmed this fact.

Andrew Hodgson, the agent acting on behalf of Whitacre Management, has written via email to suggest that the Council are wrong to rely on the FDC Local Plan or draft Core Strategy as they carry no weight.

#### Officer response

This assertion is incorrect, the Local Plan continues to have full weight unless it conflicts with the NPPF. Some weight can also be given to the draft Core Strategy.

Letter received from A & C Properties Ltd, who own the Station Road site, confirming that A & C will enter into a Section 106 Agreement allowing for the extant Station Road permission to be quashed if the current F/YR11/0482/F application is approved.

Letter dated 8 May 2012 received from ICIS consulting – agents for Application F/YR11/0482/F, stating that in relation to objections raised by the agents for Sainsbury's and Whitacre it would be quite possible to access the proposed food store from the proposed Larkfleet roundabout, or alternatively Larkfleet could be served from the Harrier roundabout or a third alternative centralised roundabout could serve both schemes.

Note that Tesco are fully contracted to occupy the proposed food store should consent be granted. Noted that owner of Station Road site has agreed to extinguishment of Station Road permission.

#### Other third party correspondence

A total of 750 letters received prior to issue of Committee report. A further six objections received since that date raising concern with regards to proximity of residential property, alternative to Tesco preferred.

#### CCC Archaeology

Have noted that archaeological works undertaken by applicant are satisfactory and request standard watching brief condition if permission granted.

**RESOLUTION: (NO CHANGE) – GRANT PLANNING PERMISSION SUBJECT TO SECTION 106 AMENDMENT NOTED ABOVE.**

**UPDATE TO PLANNING COMMITTEE – 29 AUGUST 2012**

**ADDITIONAL CONSULTATIONS**

Since the previous Planning Committee, held on the 9 May 2012, six additional letters have been received from third parties making specific reference to this application. Of these four letters have been received from local residents objecting to the application on grounds that the Sainsbury's scheme is preferable.

Additional correspondence dated 14 August 2012 has been received from Indigo Planning Ltd, who are the agents acting for application ref F/YR11/0930/F (Sainsburys). They note the conclusions made by Roger Tym & Partners that the Station Road site would not be viable for a food store if a similar scheme were to be implemented on Eastrea Road. Even if a store were implemented at Station Road it is concluded that trade would be poor and would not have a significant adverse cumulative impact on the town centre.

Indigo set down their considered merits of the Sainsbury scheme (see update report for F/YR11/0930/F) and raise specific objections to the Harrier scheme (F/YR11/0482/F). It is suggested that the proposed roundabout is incompatible with the access roundabout for the already consented Larkfleet residential scheme to the north of Eastrea Road and, therefore, the Eastrea Road scheme is undeliverable.

It is also suggested that Harrier Developments have failed to comply with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 in that they have not obtained a screening opinion. They suggest this may provide further justification for legal challenge. Indigo also query whether Tesco are legally bound to occupy either the Station Road or Eastrea Road site and whether Harrier actually have a committed occupier.

Indigo also supply a traffic assessment report undertaken by Vectos in relation to the Station Road food store site. This is also considered under the attached supplemental officer report.

Additional correspondence dated 16 August 2012 has also been received from Contour Planning Services acting on behalf of Harrier Developments Ltd. They make specific reference to the Roger Tym & Partner report relating to the viability of the Station Road site. Contour have also supplied Counsel opinion relating to the Station Road consent and a transport assessment of the Station Road site prepared by the Michael Thomas Consultancy on behalf of Harrier Developments Ltd. These papers are considered within the attached supplemental report.

**PLANNING POLICY**

Since the 9 May 2012 Committee meeting, a revised version of the Core Strategy (Further Consultation Draft) has been published. Relevant policies in respect of this application remain broadly unchanged, however, there are minor



amendments to Policies CS5 and CS9 in relation to retail provision.

The revised Policy CS5 relating to urban extensions requires that urban extensions must be planned and implemented in a coordinated way through an agreed 'overarching' comprehensive delivery scheme that is linked to delivery of key infrastructure. Criteria for such schemes includes the requirement to make efficient use of land, contribute to providing a wide range of employment opportunities, make provision for an appropriate level of retail and demonstrate availability and deliverability of the proposed scheme.

Policy CS9 relates specifically to development within Whittlesey and notes that a new urban extension will be supported to the north and south of Eastrea Road – this area is identified on the Policies Map. It does include the land subject to this planning application. This site is thus earmarked for some form of redevelopment subsequent to its former use as a nursery and the utilisation of it as a food store would fit this allocation.

## **ASSESSMENT**

This application along with F/YR11/0895/O and F/YR11/0930/F was deferred at the 9 May 2012 Planning Committee to allow an assessment to be undertaken on the viability of the Station Road site (Planning Permission F/YR09/0582/O) should an approval be granted for a supermarket on Eastrea Road. This assessment, prepared on behalf of the Council by Roger Tym and Partners (RTP), is considered in full under the attached supplemental report. Issues raised by third parties in relation to this report are also referred to in the supplemental report.

The supplemental report concludes that although the RTP report does question the viability of the Station Road site if an Eastrea Road site is consented the Station Road site cannot be discounted from the consideration of these current applications. There are other material factors to consider not least the strength of the contractual agreement between Tesco Stores and Harrier Developments to provide a food store either at the Station Road site or Eastrea Road if consented.

The supplemental report considers representations received from Indigo Planning on behalf of Sainsburys, Contour Planning on behalf of Harrier Developments, Highway Assessments provided by Vectos (on behalf of Sainsburys) and the Michael Thomas Consultancy (on behalf of Harrier Developments). The contractual position between Tesco and Harrier is also considered.

Officers note the comments made by Indigo Planning Ltd. With reference to the roundabout consented as part of the Larkfleet residential scheme being at variance with proposed Harrier roundabout, this is noted, but officers remain of the opinion that each roundabout is capable of effectively serving both the consented residential development as well as the proposed food store scheme. This fact is confirmed by the County Council Highways Officer.

The existence of a Planning Permission showing one roundabout position does not prevent the submission and consideration of an alternative scheme showing a different type of access arrangement. It is entirely lawful for two mutually

incompatible planning permissions to be granted; however, the situation will be clarified by one or other permission being commenced. Both consents provide the required highway access and maintain traffic flows deliverability is controlled by the Highway Authority given the need for works to the main highway; the party whose roundabout is not built will be able to obtain a variation to provide a link to the roundabout without significant difficulty.

The comments raised in relation to the need for an Environmental Impact Assessment Screening Opinion are noted, but having considered the content of the Town and Country Planning (EIA) Regulations 2011 it is officer opinion that a screening opinion was not necessary in this particular case. It should be noted that a screening opinion is a formal request for confirmation of whether or not an Environmental Impact Assessment is needed prior to the submission of a planning application. On application it was considered whether a full Environmental Impact Assessment was necessary for the application and it considered that this was not required by the Council in this case.

Questions have been raised by solicitors acting for Sainsbury's as to the adequacy of the provisions securing a single development across the two sites. The heads of terms for the S106 have thus been reviewed further. The owner of Station Road has provided confirmation that he is prepared to enter into a S106 Agreement which will restrict the implementation of the extant planning permission. Further it is clear that the most appropriate mechanism is to set up a situation whereby whichever permission is implemented first becomes the only one which can be exercised. To this end the recommended resolution below has been amended to add the reciprocal nature of the obligation across both sites. Again the Planning Authority has the ability to revoke planning permission; this brings with it rights of compensation, the proposal makes it clear that the parties will be bound not to seek such compensation if the permission is revoked.

At the last Planning Committee, Members also asked officers to consider further requirements to the S106 package to support the promotion of the vitality of the town centre. Negotiations are ongoing and a final proposal will be presented at committee.

Other matters raised in relation to the Station Road site are considered under the supplemental report.

## **CONCLUSION**

It remains officer opinion that the proposed development is considered to comply with the adopted Local Plan, the draft Core Strategy and the National Planning Policy Framework. The application is, therefore, recommended for approval subject to appropriate conditions and a comprehensive Section 106 Agreement

## **RECOMMENDATION**

### **GRANT SUBJECT TO**

- (i) Appropriate planning conditions.**

- (ii) Prior completion of section 106 agreement which includes the following requirements:
- Construction and provision of a roundabout on Eastrea Road and an access road and footways up to and including the southern end of the roundabout splitter island on the southern arm of the roundabout, the upgrading of street lighting and Eastrea Road signage and the stopping up and permanent closure of the existing access to the site prior to the operation of the food store or petrol filling station commencing.
  - Trading shall not commence from the food store or the petrol filling station until a travel plan co-ordinator has been appointed and a travel plan is submitted to the District and County Council for approval.
  - Prior to the opening of the food store to pay the District Council a community transport contribution of £150,000.
  - Prior to the commencement of trading to submit to the District Council proposals and a scheme for the provision of equipment and facilities for the display of local information directed to the promotion of Whittlesey Town Centre and its businesses services and facilities and implement the said scheme as approved prior to the opening of the food store.
  - The owner of the land of planning permission F/YR09/0582/O must enter into a Section 106 Agreement agreeing not to implement permission F/YR09/0582/O if permission F/YR11/0482/F is implemented. Further the 106 Agreement must provide that if permission F/YR11/0482/F is implemented then the relevant owners agree not to implement permission F/YR09/0582/O. Also in the event that the Council makes an order under Section 97 of the Town and Country Planning Act 1990 to modify or revoke the planning permission F/YR09/0582/O or F/YR11/0482/F (depending on whichever has been implemented first) then the owner shall not object in any way to any such order being made nor to seek compensation in respect thereof..
  - To commit the agreed schedule of works.

## **CONDITIONS**

1. The development permitted shall be begun before the expiration of 3 years from the date of this permission.

*Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.*

2. Prior to the commencement of the development hereby approved a scheme and timetable to deal with contamination of land and/or groundwater shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall then be implemented on site in accordance with the approved timetable.

The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:

**1. A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. This should include a conceptual model, and pollutant linkage assessment for the site. Two full copies of the desk-top study and a non-technical summary shall be submitted to and approved in writing by the Local Planning Authority.**

**IF during development any previously unsuspected contamination is discovered then the LPA must be informed immediately. A contingency plan for this situation must be in place and submitted with the desk study. If a desk study indicates that further information will be required to grant permission then the applicant must provide, to the LPA:**

**2.A site investigation and recognised risk assessment carried out by a competent person, to fully and effectively characterise the nature and extent of any land and/or groundwater contamination, and its implications. The site investigation shall not be commenced until:**

**(i) A desk-top study has been completed, satisfying the requirements of paragraph (1) above.**

**(ii) The requirements of the Local Planning Authority for site investigations have been fully established, and**

**(iii) The extent and methodology have been submitted to and approved in writing by the Local Planning Authority. Two full copies of a report on the completed site investigation shall be submitted to and approved in writing by the Local Planning Authority.**

**Following written LPA approval of the Site Investigation the LPA will require:**

**3. A written method statement for the remediation of land and/or groundwater contamination affecting the site. This shall be based upon the findings of the site investigation and results of the risk assessment. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority.**

**4. The provision of two full copies of a full completion report confirming the objectives, methods, results and conclusions of all remediation works, together with any requirements for longer-term monitoring and pollutant linkages, maintenance and arrangements for contingency action shall be submitted and approved in writing by the Local Planning Authority.**

***Reason - To control pollution of land or water in the interests of the environment and public safety.***

- 3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, and amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with. The development shall then be carried out in full accordance with the amended remediation strategy.**

***Reason - To control pollution of land and controlled waters in the interests of the environment and public safety.***

4. Prior to the commencement of any development, a scheme for the provision and implementation of surface water drainage shall be submitted and agreed in writing with the Local Authority in consultation with the Drainage Authority. The scheme shall subsequently be implemented in accordance with the approved details before the relevant parts of the development are first brought into use and thereafter retained in perpetuity.

***Reason - To ensure a satisfactory method of surface water drainage and to prevent the increased risk of flooding.***

5. Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted and agreed in writing with the Local Authority. The scheme shall subsequently be implemented in accordance with the approved details before the relevant parts of the development are first brought into use and thereafter retained in perpetuity.

***Reason - To ensure a satisfactory method of foul water drainage and to prevent the increased risk of pollution to controlled waters.***

6. All hard and soft landscape works including any management and maintenance plan details, shall be carried out in accordance with the approved details. All planting seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the Local Planning Authority.

***Reason - To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development.***

7. The proposed earth bund located to the western boundary of the site shall be completed to the satisfaction of the local planning authority prior to the food store and petrol filling station use commencing.

***Reason - In the interests of residential amenity***

8. Prior to the commencement of any works or storage of materials on the site all trees that are to be retained shall be protected in accordance with British Standard 5837:2005. Moreover measures for protection in accordance with that standard shall be implemented and shall be maintained to the Local Planning Authority's reasonable satisfaction until the completion of the development for Building Regulations purposes.

*Reason - To ensure that retained trees are adequately protected.*

9. Prior to the operation commencing of the development hereby approved, the proposed on-site parking shall be demarcated, levelled, surfaced and drained in accordance with the approved plan(s). Thereafter, these spaces shall be permanently retained and available for the parking of vehicles of residents/occupiers of the approved scheme, and shall not be used for any other purpose.

*Reason - In the interests of highway safety.*

10. Prior to the commencement of the development a scheme and timetable for the provision of fire hydrants shall be submitted to, and agreed in writing by, the Local Planning Authority in consultation with the Chief Fire Officer and provision of the fire hydrants shall be made in accordance with the scheme and timetable.

*Reason - To ensure a satisfactory form of development.*

11. The development hereby permitted shall not be commenced until such time as a scheme to install the petrol filling station underground tanks has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include the full structural details of the installation, including details of the following: excavation, the tank(s), tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may subsequently be agreed, in writing, by the Local Planning Authority.

*Reason - To prevent pollution of groundwater and/or inland freshwaters*

12. Prior to the commencement of the development hereby approved full details of the materials to be used for the external walls and roof shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved particulars and retained in perpetuity thereafter.

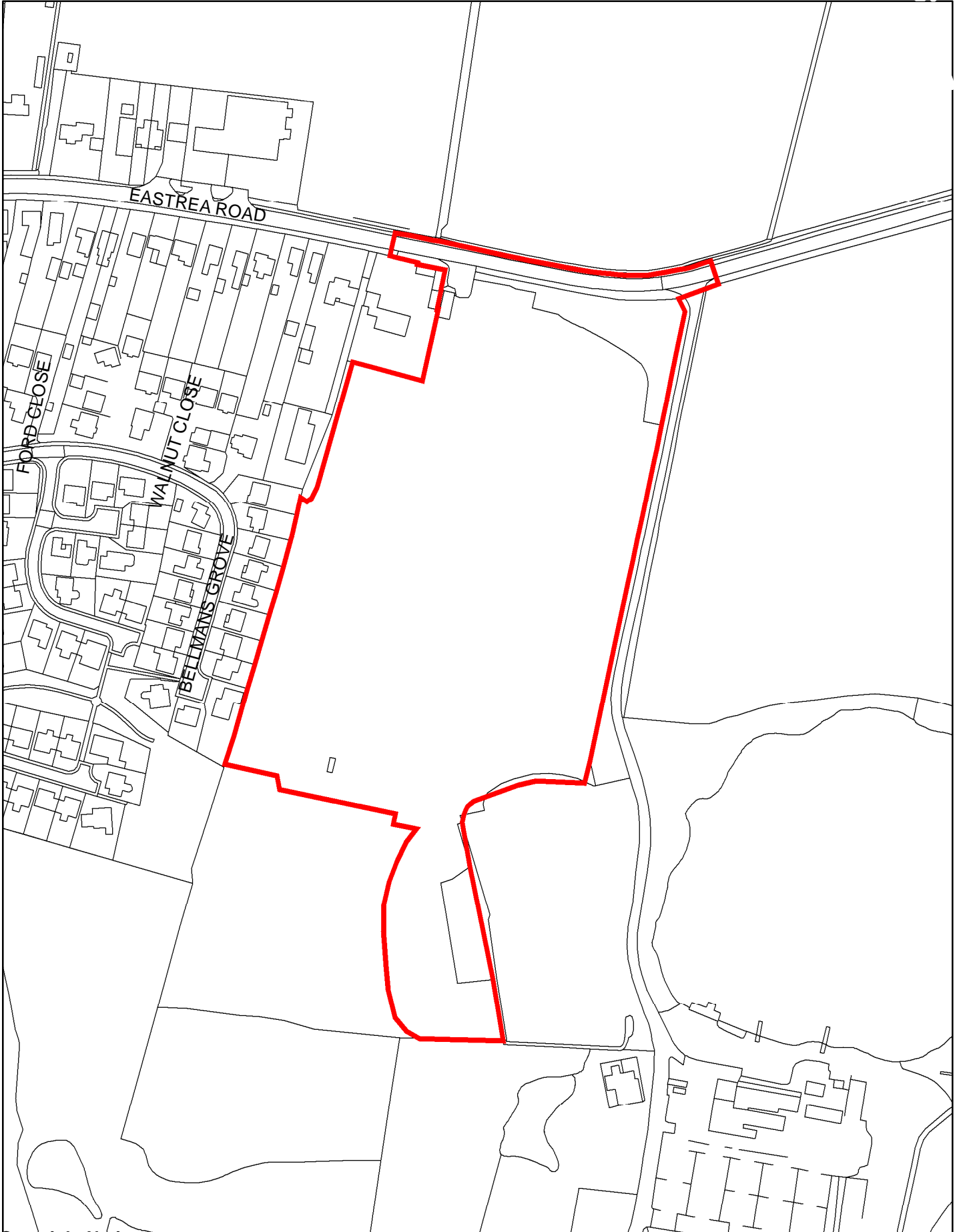
*Reason - To safeguard the visual amenities of the area.*

13. No development or preliminary groundworks of any kind shall take place until the applicant has secured the implementation of a programme and timetable of archaeological work and recording in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The approved programme shall then be implemented in accordance with the approved timetable prior to any other works taking place on site.

*Reason - To secure the provision of the investigation and recording of archaeological remains threatened by the development and the reporting and dissemination of the results in accordance with Policy E7 of the Fenland District Wide Local Plan.*

14. The convenience sales area floor space of the proposed food store hereby approved shall not exceed 2,062 sq.m and the comparison goods sales area floorspace shall not exceed 398 sqm (total 2,460sqm).

*Reason - In order to ensure that the proposal does not detrimentally affect the vitality and viability of Whittlesey Town Centre.*



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**Developments Service**

**F/YR11/0482/F**

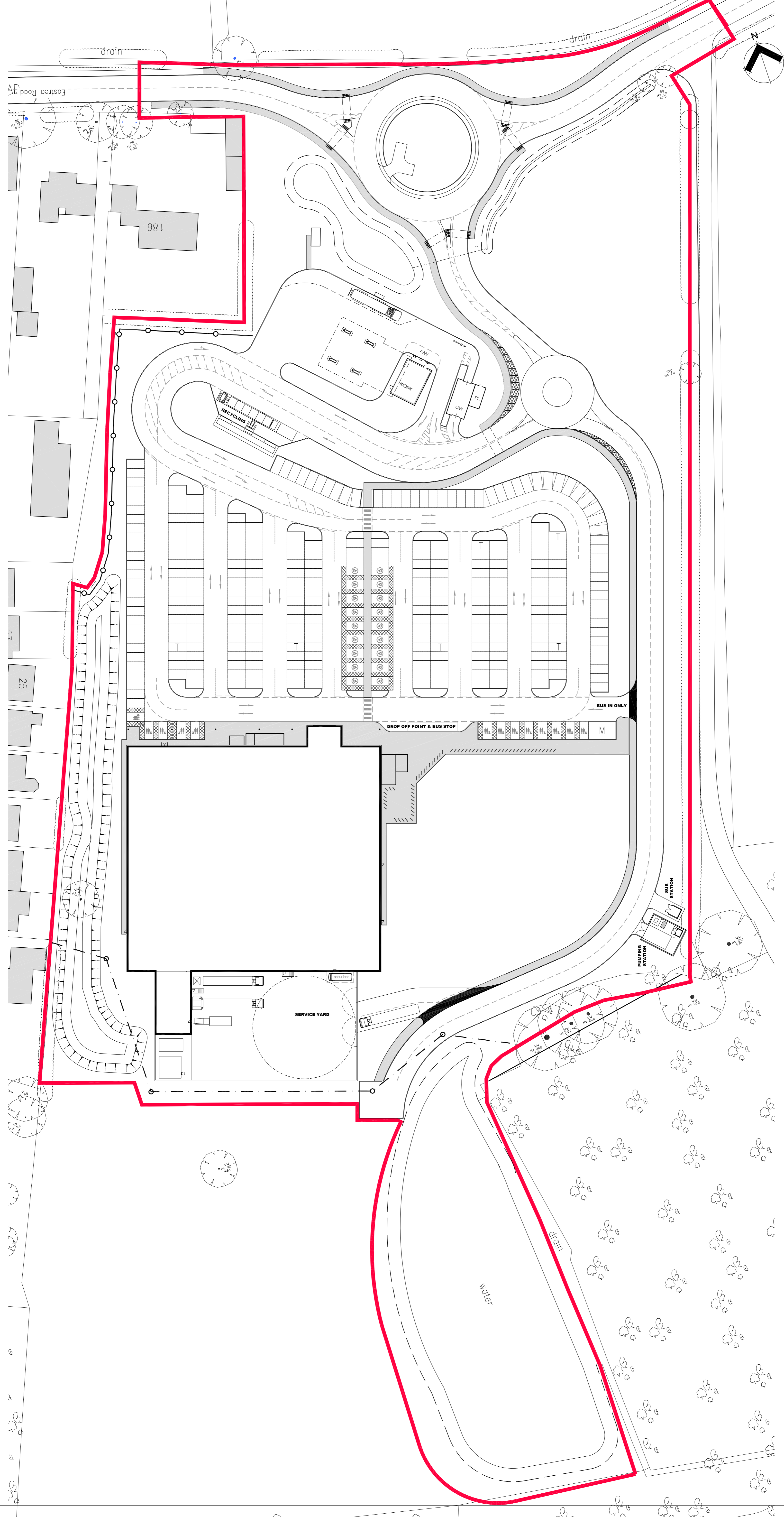
Scale: 1:2,500



**Fenland**  
CAMBRIDGESHIRE  
Fenland District Council



All dimensions to be checked by user and any discrepancies, error or omissions to be reported to the architect before work commences. Read this drawing with all relevant materials.



A 12/10/2011 FF RML Added new footpath to south east of big roundabout and added pedestrian crossing points on above splitters. Moved drainage ditch slightly.

Rev Date: A 12/10/2011  
 Drawn: FF  
 Description: RML

**FULL PLANNING APPLICATION**

Client: **Harrier Developments Limited**

Project: **Eastrea Road, Whitlsey - Proposed Food Store**

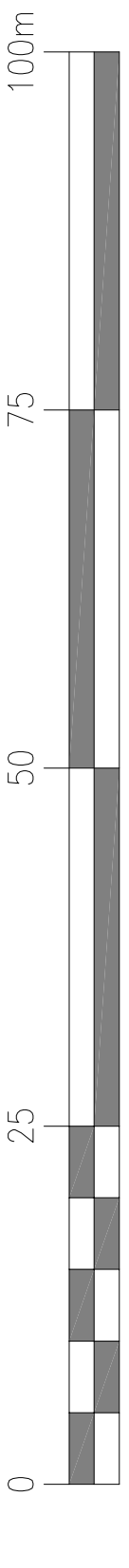
Working Title: **Proposed Site Plan**

Project number: **1284**

Drawing number: **PL1999**

Scale: **A**

accord\_architecture  
 Graham House, Pennells Court, Guildford, Surrey, GU1 4EY  
 [U] 01483 45010 [F] 01483 45010 [E] info@accordarchitecture.com  
 date: April 2011  
 draw: FF  
 scale: A1:  
 1:500



NB. Refer to Highways Engineer drawings 919-16A & 17D For J1 & J2 highway alteration respectively