

F/YR14/0991/F

<b>Applicant: Sainsbury's Supermarkets Ltd</b>	<b>Agent : Mr Sean McGrath Indigo Planning</b>
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**Land South And West Of 300, Eastrea Road, Whittlesey, Cambridgeshire**

**Erection of a food store with cafe, petrol filling station and car wash with associated parking, landscaping and highway works including formation of roundabouts and change of use of agricultural land to form Country Park with associated landscaping**

**Reason for Committee Consideration: The application is before Committee due to the number of objections received contrary to Officer recommendation.**

**1. EXECUTIVE SUMMARY**

This is a full application for the erection of a food store, café, petrol filling station, car wash, parking and associated highway works including a new roundabout, and change of use of agricultural land to form a Country Park. The site is located to the south and west of 300 Eastrea Road in Whittlesey. There has been a previous approval on the site for a food store and associated works and a country park, which was approved under planning permission F/YR11/0903/F on 27 February 2014. This application seeks to amend some aspects of this approval, including alterations to the floor space of the store, and increase in number of petrol pumps, and change in roundabout design from a 4-arm roundabout to a 3-arm roundabout.

The key issues to consider are:

- Principle of development.
- Assessment of retail impact.
- Access and highway safety.
- Design, Layout and the Visual Impact on the Area
- Biodiversity.
- Gildenburgh Water.
- Station Road food store.
- Health and Wellbeing,
- Economic Growth.
- Other Matters.

The proposal and key issues have been considered against the Development Plan and other material considerations including relevant National Planning Policies, and importantly the extant planning permission on the site. The proposal is considered acceptable in this instance and is therefore recommended for approval subject to a Section 106 agreement.

## **2. SITE DESCRIPTION**

The site is located at Lattersley Fields, off Eastrea Road in Whittlesey and comprises a large area of land which extends from adjacent Gildenburgh Water and along to the East to land adjoining Jones Lane in Eastrea. The wider area is characterised by residential development to the west, comprising part of Whittlesey, as well as vacant site, Gildenburgh Water to the South and East of the site, the Larkfleet Housing Development to the north and a row of terraced houses, and open agricultural land and the settlement of Eastrea to the west.

## **3. PROPOSAL**

The proposal seeks planning permission for a food store, petrol station and associated works, and a country park. The site has an extant permission for this development and this new application has been submitted to seek amendments to the approved scheme due to requirements for alterations to the access and roundabout and amendments to the store to reflect recent changes in shopping habits.

The proposal includes a number of highway works including the provision of a new roundabout on Eastrea Road. In terms of the wider site the proposed food store, petrol station and associated parking are to be sited within the western part of the site, adjacent to Eastrea Road and Gildenburgh Water. This part of the development will comprise a supermarket store to the north eastern corner of this part of the site and the petrol station to the western boundary. The proposed parking is to be located between the store and petrol station.

The proposed country park is to be located on the eastern part of the wider site to the south of the AB Texel premises and adjoining Jones Lane to the east. This area will comprise green space and provide a community park.

This application has been submitted following a previous planning permission for a similar development. (F/YR11/0930/F). This will be explored further in the Background section of this report.

### Proposed Foodstore and Petrol Station

Turning back to the current proposal and taking each element in turn the proposed foodstore is to comprise of approximately 5,022 square metres of

gross internal floorspace with a net sales area of 3,193 square metres. In addition to this, ancillary retail units are proposed to be located towards the front of the store. The main entrance and exit to the store is proposed on the western elevation with an adjacent ATM machine south of the access. Internally, the layout of the store involves checkouts and the 2 ancillary retail units located to the western side of the store, with a bakery and storage areas to the eastern side.

The design of the proposed food store is in keeping with the current requirements and standards for Sainsbury's stores nationwide. The design is largely similar to the previously approved scheme and the building remains single storey. The western elevation, which is the main shop front, will be predominantly glazed and provide the entrance to the store, as well as an ATM facility. The other elevations will see Grey cladding as the predominant material. Each elevation will have Sainsbury's signage to the roof. The design is considered to be acceptable and accords with the type of foodstore commonly found nationally.

Externally, to the east of the main store building will be a service yard for deliveries and loading/unloading. The proposed parking areas will be located to the south and west of the main store building and will provide approximately 398 car parking spaces.

Beyond the parking area, to the west, the petrol filling station and car wash are proposed, as well as a recycling area for household waste. The petrol station will provide 6 petrol pumps and a kiosk.

Access to the proposed store/filling station will comprise of a main vehicular access via the new roundabout proposed on Eastrea Road. This access will lead to an access road which allows for turning into the petrol station and car park or leads on to an internal roundabout to provide access for the Hopper Bus and delivery vehicles.

### Country Park

The proposed Country Park comprises of approximately 25.6 hectares and will comprise of pathways and cycle ways, a children's play area, biodiversity areas, orchards and open space. The scheme has been designed to link up with existing footpaths and cycle ways in the area. Access to the proposed Country Park will be via Eastrea Road.

### Proposed Roundabout

The proposed development includes a new roundabout onto Eastrea Road which will provide access into the store/petrol filling station, and access to the east and west of Eastrea Road. The roundabout will sit to the north of the proposed site and will be located to the east of the existing new Larkfleet roundabout, also on Eastrea Road. The proposed roundabout will

provide the main vehicular access into the site as well as to the proposed mixed use business park being considered under planning application F/YR15/0054/O.

#### 4. SITE PLANNING HISTORY

F/YR15/0054/O	Erection of Mixed Use Business Park to include Employment (B1), Community (D1) and Retail/Professional Uses (A2/A3/A5).	Pending.
F/YR11/0930/F	Erection of a food store with café, petrol filling station and car wash with associated parking, landscaping and highway works including formation of roundabouts and change of use of agricultural land to form Country Park with associated landscaping.	Granted 27/02/14.
F/YR11/0895/O	Erection of mixed Use Business Park to include Employment (B1), Community (D1) and Retail/Professional Uses (A2/A3/A5).	Granted 24/09/14
F/YR11/0482/F	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	Refused 27/02/13
F/YR11/0726/S CO	Screening Opinion: Erection of a mixed use development comprising of retail (A1) business (B1) and non-residential institutions (D1) uses and formation of a country park	Further information Not required. 20/01/12
F/YR03/0632/O	Residential Development (5.87 ha) including formation of access balancing pond and public open space Former Nursery Site Eastrea Road Whittlesey	Refused 24/10/2003
F/YR02/0110/O	Residential development (5.87 ha) including formation of access balancing pond and public open space Former Nursery Site Eastrea Road Whittlesey	Withdrawn 04/02/2003
F/YR01/1270/O	Residential development (32.75 ha) including affordable housing and relocation of playing fields Land At Bassenhally Farm Eastrea Road/ Drybread Road	Withdrawn 17/05/2002
F/YR00/0075/F	Formation of diving and leisure centre involving erection of dive centre and shop; 1 x 44-bed hotel; depot; restaurant/social club; relocation of existing clubhouse to south of site to form fishing lodge Dive In Centre Gildenburgh Water Eastrea	Granted 04/09/2001

	Road Whittlesey	
F/97/0865/F	Erection of diving facilities building together with accommodation offices restaurant/bar teaching centre and associated car parking; change of use of dwelling Dive In Centre Gildenburgh Water Eastrea Road Whittlesey	Withdrawn 10/02/1998

## 5. CONSULTATIONS

### **Town Council**

No objection and therefore recommend approval.

Following reconsultation:

Recommend approval of the revised proposal.

### **CCC Highways**

Alterations to the access to Gildenburgh Water between the 2 roundabouts are agreed with the solution being to provide a median island link between the 2 roundabouts to prevent right turn movements from this access. Given the close proximity of the 2 roundabouts it is considered that drivers would not be diverted an unreasonable distance in relation to existing.

Alterations to the left hand kerb sweep out of the Gildenburgh Water access were necessary to facilitate a HCV swept path. Tracking provided demonstrates the proposed geometry is acceptable. The proposed visibility splays are acceptable.

Maintain that the previously approved 4 arm roundabout offers a more practical layout than the one proposed, however the proposed highway layout is acceptable in highway safety terms and the highway improvements provide acceptable mitigation against any unacceptable impacts.

The proposed footway along the southern part of the access roundabout is acceptable.

There is no requirement for a controlled pedestrian crossing as the dwellings opposite the site would not generate enough footfall to justify a controlled crossing at this location.

Amendments to the design of the roundabout have removed the overrun area resulting in an increased roundabout ICD and improvements in the entrance and exit geometry.

The delivery and service yard and access arrangement remains as approved under F/YR11/0930/F.

Therefore no highway objections.

**Cambs Police Architectural Liaison**

Request a condition relating to the design, installation and continual operation and maintenance of CCTV. There may be the need for retrospective car park security measures should antisocial behaviour occur when the store is closed. If the conditions can be incorporated there would be no objection to the granting of planning permission.

**FDC Environmental Health**

No objections to the principle of the development. The noise, lighting and ground condition reports are noted and accepted. Recommended that contamination investigation is required if permission is granted. The noise report shows that there should not be an adverse impact on local residents. Require conditions relating to management plans and provides advice relating to the pollution prevention and control act.

**CCC Archaeology**

Request the standard archaeology condition is attached to any permission given

**Natural England**

Initially requested further information to determine that there would be no significant impact on the Nene Washes SSSI. Following receipt of further information:

The proposal is unlikely to have any adverse effect on the Nene Washes SSSI, SAC, therefore NE are satisfied with the information. Will require confirmation that the foul drainage arrangements will not have any adverse effects on the Nene Washes SSSI, SAC.

**The Wildlife Trust**

No response received.

**The Ramblers Association**

No response received.

**CCC Countryside Access Team**

No response received.

**Environment Agency**

Initially objected to the scheme. Following receipt of further information comments are:

Consider that the proposed development is acceptable providing a condition is included relating to a scheme for the installation of the underground tanks.

**Anglian Water**

No assets within the development site boundary. Provides advisory comments in relation to wastewater, foul sewerage network, surface water disposal and trade effluent.

**Middle Level Commissioners**

Initial response received saying comments will be made however no further response received to date.

**Network Rail**

Provides advisory comments to ensure the safe operation of the railway and protection of Network Rail's adjoining land.

**EDF Energy Networks**

No response received.

**National Grid**

Have identified that it has apparatus in the vicinity of the site. Provides advisory comments.

**CCC Waste and Minerals**

No response received.

**Department for Environment, Food and Rural Affairs**

No response received.

**The Whittlesey Charity**

Consider that they have a strong case to state that the verges of Half-Acre Drove constitute a 'ransom strip' over which any developer wishing to gain access into the Country Park will have to negotiate terms for agreement. We are not opposed to the application but are bound by Charity Commission Regulations.

**Local Residents/Interested Parties**

**Objectors**

Letters of objection have been received from 7 separate addresses concerning the following issues (in summary):

- Potential highway impacts resulting from a large vehicle using the Gildenburgh Water access.

- No consideration has been given to the impact the store will have on the immediate residents.
- Concerns over the location of the loading bay and related noise issues.
- Concerns over the devaluation of their property.
- In 2011 the roundabout was positioned as far as possible to the west near to the Gildenburgh Water access and this was supported by the relevant landowners therefore why is the new location and new application necessary?
- Would like the Council to place the planning application on hold.
- Development will prejudice the business activities of long-standing local companies and legitimate traders by restricting their access.
- The Dive-In business is a well-established business which has brought significant trade to the area.
- Any restricted access will devalue the Gildenburgh Water estate.
- Gildenburgh Water is a brownfield site located outside the flood risk zone in an area of Whittlesey identified as suitable for development.
- The amended roundabout is a major move away from the previously approved scheme.
- Concerns over the processes and highway considerations in determining the application.
- Would rather see the original arrangement reinstated or the roundabout to be moved east to permit unrestricted access in and out of Gildenburgh Water.

### **Supporters**

Letters of support have been received from 12 separate addresses with the following points (in summary):

- Very little traffic can be seen using the Gildenburgh Water access and the proposal is unlikely to create a negative impact on this.
- The town needs a supermarket to keep residents spending locally and to bring people in from further afield.
- The development will benefit the town as a whole.
- Should support the application so that progress can be made.
- The development is needed and wanted in Whittlesey.
- The development will create jobs.
- The Country Park will create good lifestyles and green area.
- Let the area grow.
- The left-in, left-out access is the safest available option.

In addition, the Council has been made aware of an online petition in support of the application with over 300 signatures at the time of writing this report.



## **Representations**

Representations have been received from 3 separate addresses and Stephen Barclay MP which make general comments requesting to be kept updated on the application.

## **6. POLICY FRAMEWORK**

### **National Planning Policy Framework (NPPF)**

Paragraph 2: Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 7: There are 3 dimensions to sustainable development: economic, social and environmental.

Paragraph 14: The presumption in favour of sustainable development. Approving development proposals that accord with the development plan without delay.

Paragraph 17: Planning should proactively support and drive sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.

Section 1 – Building a strong, competitive economy.

Section 2 – Ensuring the vitality of town centres.

Paragraph 24: Local Planning Authorities should apply a sequential test to planning applications for main town centre that are not in an existing centre.

Section 4: Promoting sustainable transport.

Section 7: Requiring good design.

Section 8: Promoting healthy communities.

Section 10: Meeting the challenge of climate change, flooding and coastal change.

Section 11: Conserving and enhancing the natural environment.

### **National Planning Policy Guidance (NPPG)**

Design

Ensuring the Vitality of Town Centres

Health and Wellbeing

Noise

Open Space, Sports and recreation facilities, public rights of way and local green space.

Travel plans, transport assessments and statements in decision-taking.

Flood Risk

### **Fenland Local Plan 2014**

LP1 – A Presumption in Favour of Sustainable Development.

LP2 – Facilitating Health and Well-being of Fenland Residents

LP3 – Spatial Strategy, the Settlement Hierarchy and the Countryside.

LP6 – Employment, Tourism, Community Facilities and Retail.

LP11 – Whittlesey.

LP13 – Supporting and Mitigating the Impact of a Growing District.

LP14 – Responding to Climate Change and Managing the Risk of Flooding in Fenland.

LP15 – Facilitating the Creation of a More Sustainable Transport Network in Fenland.

LP16 – Delivering and Protecting High Quality Environments across the District.

LP17 – Community Safety.

LP19 – The Natural Environment.

## **7. KEY ISSUES**

- **Principle of Development**
- **Assessment of Retail Impact**
- **Access And Highway Safety**
- **Design, Layout and the Visual Impact on the Area**
- **Biodiversity**
- **Gildenburgh Water**
- **Station Road Foodstore**
- **Health and wellbeing**
- **Economic Growth**
- **Other Matters**

## **8. BACKGROUND**

The application site has an extant planning permission under reference F/YR11/0930/F. This gave permission for the erection of a food store with café, petrol filling station and car wash with associated parking, landscaping and highway works including formation of roundabouts and change of use of agricultural land to form Country Park with associated landscaping. This current application has been submitted to make amendments to the approved scheme which have been required due to the need for alterations to the access and to the foodstore to reflect current shopping habits.

This application seeks to make the following amendments:

- The proposed roundabout is now a 3-arm rather than the approved 4-arm roundabout.
- Alteration to the footprint and boundary of the site.
- The addition of 2 concessions units within the store.
- Alterations to the Goods Online facility.
- Minor design changes to the store to meet current standards.
- 6 petrol pumps are proposed rather than the approved scheme which had 4 petrol pumps.
- An increase of 12 parking spaces from 386 to 398.

The proposed Country Park element of the scheme remains as previously approved.

## **9. ASSESSMENT**

### **Principle of Development**

Policy LP3 of the Fenland Local Plan, 2014 states that the overall strategy is for sustainable growth, including new housing and job creation, in order to facilitate the health and wellbeing of Fenland's residents. The focus for the majority of growth is in around the four market towns, of which Whittlesey is one of these.

Policy LP6 of the Fenland Local Plan states that retail development will be encouraged to maintain and enhance the vitality and viability of centres, with a requirement that the nature and scale of any retail development should be appropriate to the role and function of the centre in which it would be situated. LP6 also goes on to say that for retail development the Council will embrace a strong town centre first message, support and regenerate the existing Town, District and Local Centres and apply the approach contained within the National Planning Policy Framework. (NPPF)

There is a degree of conflict with Policy LP6 because the proposal is not in the town centre. However, as explained below, the applicant's assessment is that the proposal would support the viability and vitality of the town centre and an assessment by Peter Brett Associates on behalf of the Council confirms that there is no materially greater amount of retail floor space than under the previous approval. It is also not an isolated site and is adjacent to the main settlement of Whittlesey. Therefore, although there is a degree of conflict with this policy, given the limited degree of conflict and the accordence with the development plan in all other respects, it is not considered that there is an overall conflict with the development plan. Any conflict also needs to be balanced against the other material planning considerations relevant to this scheme. The main material planning consideration in this instance is the extant planning permission F/YR11/0930/F. This application seeks to make amendments to the approved planning application and these changes have been detailed within the Background section of this report.

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and the extant approval carries significant weight in this instance. As such the principle of development on this site has been established by the previous consent.

### **Assessment of Retail Impact**

The National Planning Policy Framework (NPPF) states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in existing centres. It goes on to advise that 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. (Paragraph 24).

This application has been accompanied by a retail assessment which considers the health of the town centre of Whittlesey and the impact this store would have on the area, and carries out the sequential test as required by the NPPF. The submitted report identifies that the health of Whittlesey town centre has been reviewed since the previous application and shows the signs of being a vital and viable market town. It identifies that there are, however, limited weekly bulk shopping facilities or modern food stores and therefore the proposal would retain shoppers in the market town and support the viability and vitality of the town centre.

The submitted retail assessment report has been independently assessed by Peter Brett Associates on behalf of the Council and their assessment concluded the following in relation to the impact assessment:

'The key point of relevance to the current application is that planning application ref. F/YR11/0930/F – which sought permission for a new Sainsbury's store at the same site as the current application site – was approved by the Council's Planning Committee on 29 August 2012 with the Planning Decision Notice issued on 27 February 2014. The extant permission effectively represents a 'fall-back' position against which the current application should be assessed. In their assessment of the proposal Peter Brett Associates assess the submitted figures and conclude that the net sales area of the currently proposed foodstore would be 127 square metres greater than the approved foodstore (3,193 square metres compared with 3,066 square metres.'

In terms of the sequential testing of this proposal, Peter Brett Associates have also independently reviewed this and have concluded the following:

'We do not consider it worth rehearsing the earlier discussions regarding the merits of the various application sites given that the Council has already granted permission for a Sainsbury's foodstore at the current application site. If a materially greater amount of retail floorspace was now proposed at the application site than is approved under the terms of the extant permission then it might be necessary to consider whether the additional floorspace could be accommodated at a sequentially preferable site. However, that is not the case and, against the background of the fall-back position, our assessment is that there is no basis for resisting the current application on sequential test grounds.'

In conclusion, the findings of the independent assessment report identify that the current application seeks permission for a foodstore at a site that already benefits from permission for a similarly sized foodstore. The Council has previously deemed the application site to be a sustainable location and this is made clear in the Planning Decision Notice of 27 February 2014. Peter Brett Associates do not consider that the slight increase in net sales area floor space (127 sq.m) would give rise to impact concerns of a scale sufficient to warrant refusal. Similarly, Peter Brett Associates' assessment is that there is no issue in relation to the sequential test. They therefore conclude that there is no retail/town centre policy basis to resist the current application. Officers agree with this conclusion.

As such although there is a degree of conflict with Policy LP6 of the Fenland Local plan 2014, the proposal is considered overall to comply with the Development Plan. It also complies with the requirements of the National Planning Policy Framework (NPPF) in terms of sequential testing and impact assessment, and is in accordance with the principle of development established by the previous consent. The proposal is therefore acceptable in this regard.

### **Access and Highway Safety**

This application has been submitted partly to amend the proposed access into the foodstore/petrol filling station part of the site. Originally, the proposed roundabout for the site was a 4-arm roundabout that would provide access to the store, Gildenburgh Water and access along Eastrea Road. However, this arrangement has now been amended to provide a 3-arm roundabout, removing the 4<sup>th</sup> arm access to Gildenburgh Water. As a result of these changes the Gildenburgh Water access will remain as existing and will be located between the Larkfleet roundabout (currently under construction) and the proposed roundabout for this development.

A transport assessment and travel plan have been submitted with this application to support the new roundabout proposal and these have been assessed by the Local Highway Authority and their strategic and safety audit teams. Following their initial assessment of the submitted plans and reports they requested some changes to the submitted details which has resulted in a median island along the link between the 2 roundabouts to prevent a right turning movement into and out of the Gildenburgh Water access, alterations to the left hand sweep out of the Gildenburgh Water access to facilitate better HCV access, removal of the pedestrian crossing across the A605 to the east of the access, and the removal of the roundabout overrun area which has resulted in an increased roundabout ICD and improvements in entry and exit geometry. Amended plans have been submitted to show these changes.

Following receipt of the amended plans the Local Highway Authority, and related teams, have provided their comments which have been summarised in the consultation section earlier in their report. They identify that the geometry and visibility splays at the Gildenburgh Water access are acceptable. Whilst they note that the 4-arm roundabout may have been a preferable arrangement, nevertheless they have considered the proposal for the 3-arm roundabout in this application and conclude that the proposed highway layout is acceptable in highway safety terms and the highway improvements detailed provide acceptable mitigation of the impacts resulting from this proposed development. They agree that the footway details for the southern part of the access roundabout are acceptable. In addition, they are satisfied with the proposed roundabout itself in highway safety and access terms which will result in improvements in entrance and exit geometry. They note that the delivery and service yard and access arrangement is the same as approved under F/YR11/0930/F. In conclusion the Local Highway Authority have no objections to the proposal. As such the proposed access and highway arrangements are considered to comply with Policy LP15 of the Fenland Local Plan, 2014.

Of the objection letters received, the main concerns raised relate to the highways and access aspects of the proposal. One of the points of objection relates to the reasons for the revised roundabout design and the legal processes that have been on-going between landowners since the original permission. However private legal agreements and processes are not a material planning consideration and the Local Planning Authority have a duty to consider any application they receive. As such, the LPA have considered this application and the submitted highways arrangement regardless of the reasoning behind the changes proposed.

Another point of objection relates to the adverse impact that would be experienced by the users of the Gildenburgh Water access and that they

will lose their unrestricted access by having a left in-left out arrangement imposed upon them. This has been noted and the proposed restriction has been considered by the Local Highway Authority. They conclude that given the close proximity of the two roundabouts to the GBW access it is considered that drivers are not diverted an unreasonable distance in relation to the manoeuvre they currently would perform. The distance between the 2 roundabouts is approximately 100 metres with the Gildenburgh Water access being approximately 35 metres from the Larkfleet roundabout and approximately 45 metres from the proposed roundabout.

It has been requested by an objector that the consideration of this application should be deferred until the Council and County Council have properly considered the full issues surrounding the highway access. This has been noted however the LPA and Highway Teams have fully considered the proposal, particularly in relation to the amended highway arrangements and the Highway Teams have raised no objections to the scheme. As such it would be unreasonable to defer making a decision on this application and there are no reasonable grounds to justify a refusal on highway issues. These are considered to have been adequately addressed and as such the proposal is acceptable in highway terms.

Returning to the proposal, the Local Highway Authority do not object to the proposed arrangements in terms of access or highway safety. The points of objection have been taken into consideration. However, issues such as impacts upon the value or saleability of surrounding sites are not a material planning consideration, and it has been determined that the imposition of a left only manoeuvre into and out of the Gildenburgh Water access would not cause an adverse impact on the users of this access and therefore is an acceptable solution. As such the proposal is considered to comply with Policies LP2, LP15 and LP16 of the Fenland Local Plan, 2014.

### **Gildenburgh Water**

One consideration in the determination of this proposal was the access to and from Gildenburgh Water and other premises that utilise this access. One of the points of objection that has been received in relation to this application was the failure to consider the planning permission F/YR00/0075/F which was for the *formation of diving and leisure centre involving erection of dive centre and shop; 1 x 44-bed hotel; depot; restaurant/social club; relocation of existing clubhouse to south of site to form fishing lodge and associated facilities; additional use of domestic pool for commercial use; formation of running track with associated exercise points; touring caravan and camping area and paintball arena; erection of*

*marquee and associated car parking areas* at Gildenburgh Water. The objection considered that this permission is extant and partially implemented and as such that the highway safety could not be fully considered as the submitted Traffic Assessment hasn't considered the implications of this permission. However, it can be noted that the submitted Transport Assessment has made reference to this permission, specifically within paragraphs 5.11 and 5.15, and therefore this permission has been taken into consideration when determining the level of traffic assessment and analysis required for this proposal.

The Council has obtained external legal advice to consider the status of this 2000 application at Gildenburgh Water. Following assessment of the application file, associated correspondence and photographs from the site the legal advice received has concluded that, on the basis of information received from officers at a site visit made on 1 June 2015, it would appear that certain limited works which are consistent with the permission have been carried out on site. However, there are material differences between certain other works carried out and the 12 approved plans which form part of the permission. The advice is that it is theoretically arguable that material operations 'comprised in the development' (s.56(2) TCPA 1990) have been carried out at the site, if it can be shown that they were carried out before 4 September 2006 (and it appears that certain of the works may have been carried out before that date). However, it is further advised that the development which followed and which was inconsistent with the approved plans would still have to be dealt with and could be subject to enforcement action.

It is further advised that, even if material operations comprised in the development were held to have been carried out, and carried out in time, the permission cannot be said to have been implemented as a matter of law. Conditions 2, 5, 7, 8, 20, and 21 are all worded as conditions precedent and there is no evidence that any of those conditions have been discharged. Any operations were therefore not permitted by the planning permission read together with the conditions and none of the limited exceptions apply. In particular, the Council has been advised that it would not be irrational or an abuse of process for the Council to seek to enforce against the breach of conditions. Back in 2001, the Council was quite clear in correspondence that the conditions had to be discharged or formally varied. That was not done. It is advised that the works which have taken place on site and of which the Council is now aware might well lead the Council to consider enforcement action.

Furthermore, the Local Highway Authority has given consideration to the implications should this 2000 permission be extant and they noted that if it transpires that the planning permissions relating to the GBW dive centre are still valid then they would be happy to review their comments. They



however note that there was no requirement to change the type of access from the current simple priority access as part of previous consents. This would suggest the additional approved trip generation was dealt with in capacity terms by the current simple priority access layout. They have no reason to think that a prohibition of right turns at the GBW access would be prejudicial to the capacity and operation of the access if previous permissions on site were ever to come to fruition, moreover they suggest there would be some improvement to flow and capacity at the GBW access.

In any event, the legal advice received by the Council has determined that the permission is not extant and therefore the submitted transport assessment and related reports and surveys are considered to be acceptable and no further information is required.

### **Design, Layout and the Visual Impact on the Area**

The proposed design and layout of the foodstore and associated works have been outlined in the earlier proposals section of this report. The design and layout of the foodstore and petrol filling station are compliant with the stores seen nationally and are largely the same as the earlier approved scheme. Policy LP16 of the Fenland Local Plan, 2014, and section 7 of the NPPF require proposals to provide good design and contribute to the visual amenities of the area. The proposed design and layout for the foodstore is largely similar to the extant approval on this site and as such the design and layout is considered to be acceptable and will not cause any adverse impacts on the surrounding area. The layout of the Country Park remains as approved previously and will enhance the visual amenities of the surrounding area. The application has been accompanied by a land and visual impact assessment report and landscaping is proposed to the food store to add visual interest and minimise the visual impact of this element of the scheme.

As such the proposed development is considered to comply with the requirements of Policy LP16 of the Fenland Local Plan, 2014 and the NPPF in terms of its design, layout and visual impact.

### **Biodiversity**

The site is located in close proximity to the Lattersey Nature Reserve and Nene Washes and as such Natural England have been consulted on the proposal. Consideration has also been given to the extant permission. Natural England initially requested further information over and above what had initially been submitted, namely the ecological risk appraisal, and upon receipt of the further information they are satisfied that the development will have no adverse impacts on the Nene Washes SSSI,

SAC. They do, however, request confirmation that the drainage arrangements for the site will not have any adverse effects on the Nene Washes SSSI, SAC and therefore it is proposed to impose a condition in relation to this aspect.

The proposed Country Park will be divided into a number of zones to provide a range of facilities and visitor experiences and will include recreational spaces as well as the potential for biodiversity enhancements to the area and new habitats. As such, the Country Park will be of a benefit to local biodiversity.

The proposal is therefore considered to accord with the provisions of LP19 of the Fenland Local Plan, 2014.

### **Station Road Foodstore**

During the consideration of the previous application (F/YR11/0930/F) an additional application was also being considered which was for the Station Road site at Whittlesey and was also for a supermarket (Tesco). It is understood that although the store has not yet been constructed the conditions have been discharged and the permission has been implemented.

Further to their assessment of the retail and sequential impacts, Peter Brett Associates were contacted again for their advice on how this implementation affected their assessment of this application. Their advice was whilst the permission might well have commenced in planning terms, the store clearly has not yet been constructed and occupied. They would be surprised if the store was completed and occupied by a food store operator and even if this did occur the Council has already granted permission for a food store at the Eastrea Road site and the currently proposed store at the same site has only a slightly increased net sales area floor space than that established under the fall-back permission. Accordingly, they do not consider there to be any reason to change the outcome of our latest advice in relation to the retail impact and sequential approach.

### **Health and wellbeing**

Policy LP2 of the Fenland Local Plan, 2014 seeks to facilitate the health and well-being of Fenland's residents by creating an environment in which communities can flourish, creating opportunities for employment in accessible locations, promoting and facilitating healthy lifestyles, providing good access to health, leisure and recreation facilities and providing sustainable and safe transport networks, amongst other things.

This proposal will meet the relevant criteria within this Policy as it will provide opportunities for employment, not only within the foodstore itself, but also during the construction period of the store and the development of the Country Park. In addition the Country Park will provide accessible open amenity space which will allow and encourage people to cycle and walk through this area. As such the proposal complies with Policy LP2.

### **Economic Growth**

The proposed development will provide economic benefits to Whittlesey and the District as a whole through the provision of a new retail area which will attract people to Whittlesey. In addition the new store will provide jobs locally. The proposed Country Park is likely to bring people to the area who are then likely to make related trips to Whittlesey and the nearby areas. As such the development will support the economic growth of the area and therefore complies with Policy LP2 of the Fenland Local Plan, 2014.

### **Other Considerations**

#### Flood Risk

The proposed food store is proposed on the part of the site which is located within Flood Zone 1, an area identified as a low risk flood zone with a low probability of flooding. The development will involve the use of SUDs to prevent the development resulting in an increase in flood risk elsewhere.

The proposed Country Park is located within Flood Zone 3 which is a high risk flood area however, the NPPF technical guide identifies this as a water-compatible development which carries less risk than more vulnerable developments, such as residential accommodation. The application has been accompanied by a Flood Risk Assessment and the proposal also includes flood warning signage for the Country Park.

The flood risk considerations have been balanced against the proposed mitigation and the fact that there is an extant permission on this site and it is considered that the proposal complies with Policy LP14 of the Fenland Local Plan, 2014 and the provisions of the NPPF in terms of Flood Risk.

#### Noise Considerations

It is noted that one of the points of objection relates to the potential for noise and disturbance from the proposed service/loading yard for the food store. This has been considered by the LPA and also the Environmental Health Team. The application has been accompanied by a noise assessment and the Environmental Health Team have advised that there is unlikely to be an adverse impact on local residents. In addition they

have requested a noise management plan condition and they also have their own legislation to enforce against any noise issues that may arise.

### Section 106

As per the previous planning permission, this permission is recommended for approval subject to the completion of a Section 106 to secure the provision of the Country Park and its maintenance, provision of signage to direct people to the town centre, contributions towards a Hopper Bus and bus stop infrastructure and the construction of the roundabout prior to the opening of the food store. Work on the Section 106 agreement is underway.

Recent legislation has been introduced by the Government regarding the pooling of Section 106 contributions under Regulation 123(3). This requires that a maximum of 5 contributions can be pooled towards a single requirement and once 5 contributions have been used towards a specific piece of infrastructure, no further funds can be requested and used towards this. Regulation 123(3) states that:

*(3) Other than through requiring a highway agreement to be entered into, a planning obligation ("obligation A") may not constitute a reason for granting planning permission to the extent that—*

*(a) obligation A provides for the funding or provision of an infrastructure project or [provides for the funding or provision of a] type of infrastructure; and*

*(b) five or more separate planning obligations that—*

*(i) relate to planning permissions granted for development within the area of the charging authority; and*

*(ii) which provide for the funding or provision of that project [or provide for the funding or provision of that] type of infrastructure, have been entered into on or after 6th April 2010*

With regards to this particular Section 106 it has been confirmed that no other developments are contributing to the Country Park, Hopper Bus Service or the provision of bus stops as required by this development.

### General Points

One of the points raised in the objection letters relate to concerns over why Sainsbury's have made these changes and the impacts of the current retail market. The applicants are entitled to make a planning application for consideration and the LPA are duty bound to consider it without concern over the reasons for submitting it.

A further point of objection that has been raised relates to the processes carried out by the relevant authorities in assessing this application. These will be addressed separately with the objector.

The Whittlesey Charity comments (detailed within the Consultations Section of this report) in relation to land ownership and the presence of a 'ransom strip' have been noted. A further letter has been received from Dentons solicitors providing legal information and correspondence and they conclude that the Drove remains highway land and therefore the Whittlesey Charity do not have the ability to control who can pass or re-pass over this route.

## **10. CONCLUSIONS**

The proposed development of a foodstore and Country Park has been fully assessed against the relevant local and national planning policies and has been balanced against the extant planning permission for this site (F/YR11/0930/F). Whilst there is a limited degree of conflict with Policy LP6, it is not considered that there is an overall conflict with the development plan. In any event, the proposal is in accordance with the NPPF and the extant planning permission for a substantially similar proposal carries significant weight.

The key issues for this proposal are the highway arrangement and safety, assessment of the retail impacts of the proposal, the design and layout of the development, visual impacts on the area, biodiversity considerations and the impacts of nearby developments/planning permissions. These issues have been considered and are found to be acceptable in this instance. As such the proposal is therefore recommended for approval.

## **11. RECOMMENDATION**

**Grant Subject to:**

- i) Section 106 Agreement**
- ii) Conditions**

**Conditions:**

<p>1.</p>	<p>The development permitted shall be begun before the expiration of 3 years from the date of this permission.</p> <p>Reason – To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
<p>2.</p>	<p>No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, being submitted to the LPA and receipt of approval of the document/documents from the LPA. This applies to paragraphs a), b) and c) below. This is an iterative process and the results of each stage will help decide if the following stage is necessary.</p> <p>(a) The contaminated land assessment shall include a desk study to be submitted to the LPA for approval. The desk study shall detail the history of the site uses, the proposed site usage, and include a conceptual model. The site investigation strategy will be based on the relevant information discovered by the desk study. The strategy shall be approved by the LPA prior to investigations commencing on site.</p> <p>(b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitable qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology.</p> <p>(c) A site investigation report detailing all investigative works and sampling on site, together with the results of the analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the LPA. The LPA shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end use of the site and surrounding environment including any controlled waters. No development approved by this permission shall be occupied prior to the completion of any remedial works and a validation report/s being submitted to the LPA and receipt of approval of the document/documents from the LPA. This applies to paragraphs d), e) and f) below.</p> <p>(d) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance.</p> <p>(e) If, during the works, contamination is encountered which has not previously been identified then the additional contamination shall be fully</p>

	<p>assessed and an appropriate remediation scheme agreed with the LPA.</p> <p>(f) Upon completion of the works, this condition shall not be discharged until a validation/closure report has been submitted to and approved by the LPA. The closure report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from site, and what has been brought on to site.</p> <p>Reason - To control pollution of land or water in the interests of the environment and public safety and in accordance with policy LP16 of the Fenland Local Plan, 2014 and the National Planning Policy Framework.</p>
<p>3.</p>	<p>Prior to the first use of the development hereby permitted a noise management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following:</p> <p><b>Construction</b>  How noise would be controlled throughout the development phase.  How dust would be controlled throughout the development phase.  How light intrusion would be controlled throughout the development phase.</p> <p>The above management plans should contain how complaints will be responded to and resolved and a point of contact/s detail/s so that the council can respond and resolve complaints/issues raised by the public during the construction phase.</p> <p><b>Operation of the completed development</b>  How noise would be controlled throughout normal operation of the development.  How light intrusion would be controlled throughout normal operation of the development.  How odour would be controlled throughout normal operation of the development.</p> <p><b>Mechanical Ventilation</b>  Further details of the mechanical ventilation to ensure that noise and/or odours will not become an issue.</p> <p>Reason – In the interests of maintaining acceptable noise and odour levels in accordance with Policy LP16 of the Fenland Local Plan, 2014.</p>

4.	<p>Prior to the first occupation of the development hereby approved, the proposed on-site parking shall be demarcated, levelled, surfaced and drained in accordance with the approved plans. 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.</p> <p>Reason - In the interests of highway safety in accordance with Policy LP15 of the Fenland Local Plan, 2014.</p>
5.	<p>Prior to the commencement of the development detailed plans shall be submitted to and approved in writing by the Local Planning Authority which details the construction, drainage, surfaces and street lighting for the proposed access roundabouts, roads and footpaths. The food store hereby approved shall not be occupied until the roundabouts, roads and footpaths associated with the food store have been constructed and surfaced in accordance with the detailed plans to be approved.</p> <p>Reason - In order to ensure that adequate vehicular and pedestrian access is provided in the interests of highway safety in accordance with Policy LP15 of the Fenland Local Plan, 2014.</p>
6.	<p>Prior to the commencement of the development detailed plans shall be submitted to and approved in writing by the Local Planning Authority which details the construction and surface water drainage associated with the proposed footway link between the site and Whittlesey on the southern side of Eastrea Road and as indicatively detailed on plan 110182A_A_04 Rev E. All construction works are to be carried out in accordance with the detailed plans to be approved.</p> <p>Reason - In order to ensure that adequate pedestrian access is provided in the interests of highway safety in accordance with Policy LP15 of the Fenland Local Plan, 2014.</p>
7.	<p>Prior to commencement of the development full details for the provision of a construction method statement shall be submitted to and approved in writing by the local planning authority. The construction Method Statement shall show the following</p> <ol style="list-style-type: none"> <li>a. Parking of vehicles of site personnel, operatives and visitors</li> <li>b. Loading and unloading of plant and materials</li> <li>c. Storing of plant and materials used for constructing the development</li> <li>d. Treatment of relevant pedestrian routes and highways within and around</li> </ol>

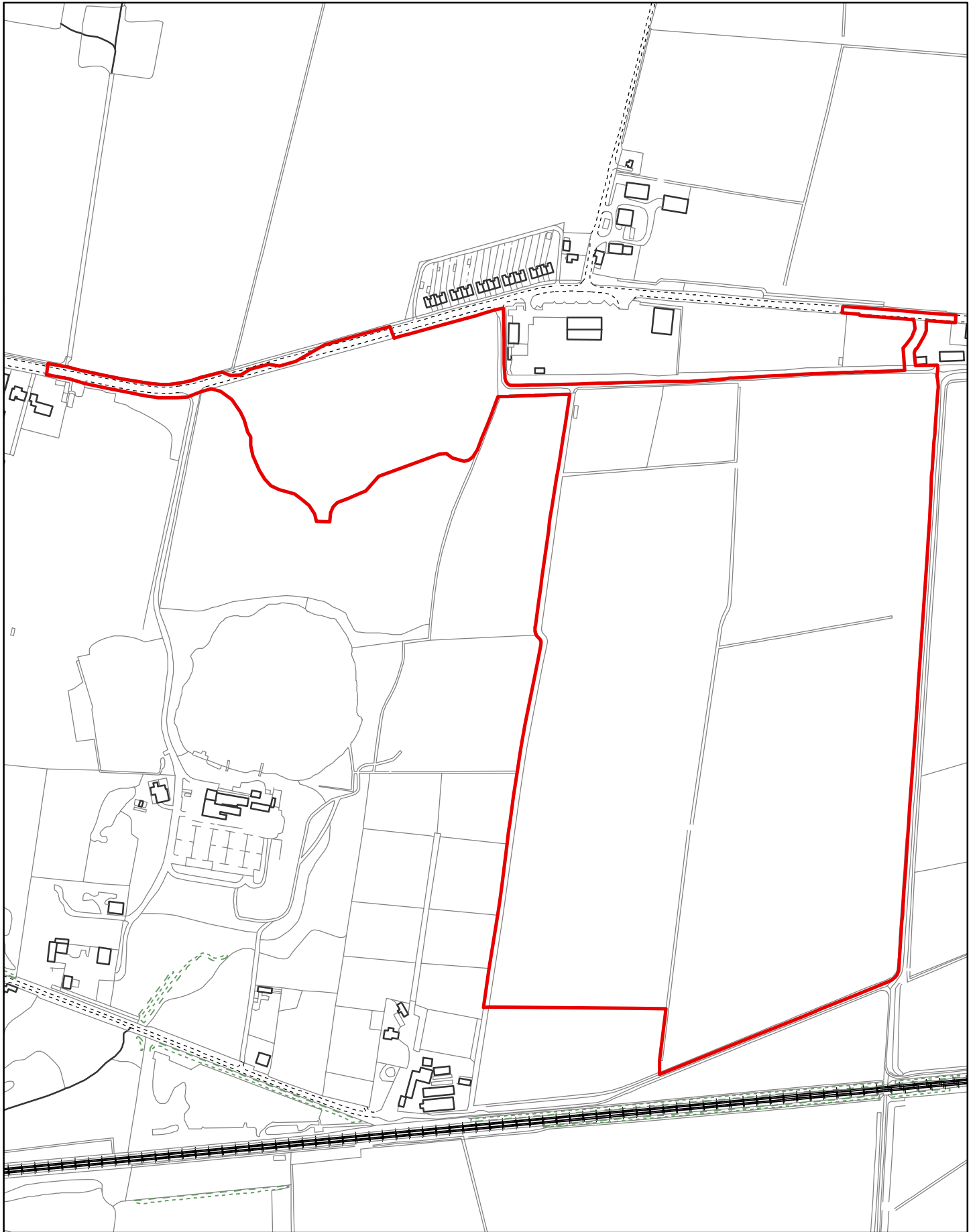


	<p>the site throughout the course of construction and their reinstatement where necessary.</p> <p>e. Times, routes and means of access into the site for construction traffic and delivery vehicles (including the removal of waste from the site and methods of preventing deposition of materials on the public highway).</p> <p>f. Hours of construction</p> <p>g. Methods of ensuring mud doesn't enter the public highway</p> <p>Secure, covered and lockable bicycle parking shall be provided and equipped with secure Sheffield cycle stands in accordance with a layout to be submitted to and approved by the LPA before occupation of the dwellings to which they relate. The approved bicycle storage spaces shall remain in place in perpetuity.</p> <p>Reason - To encourage travel by sustainable alternatives to driving a motorcar in accordance with Policy LP15 of the Fenland Local Plan, 2014</p>
<p><b>8.</b></p>	<p>The development hereby permitted shall not be commenced until such time as a scheme to install the 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: 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.</p> <p>Reason - To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and Environment Agency Groundwater Protection: Principles and Practice (GP3).</p>
<p><b>9.</b></p>	<p>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.</p> <p>Reason - To ensure a satisfactory method of surface water drainage and to prevent the increased risk of flooding in accordance with policy LP14 of the Fenland Local Plan, 2014.</p>

<p><b>10.</b></p>	<p>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 include an assessment of the impacts of the foul water drainage upon the nearby Nene Washes and any required mitigation measures and 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.</p> <p>Reason - To ensure a satisfactory method of surface water drainage and to prevent the increased risk of flooding in accordance with Policy LP14 of the Fenland Local Plan, 2014.</p>
<p><b>11.</b></p>	<p>Prior to commencement of development full details of both hard and soft landscape works including those works associated with the country park shall be submitted to and approved by the Local Planning Authority. 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 minor variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards.</p> <p>Reason - To protect and enhance the visual character of the area and to ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with policies LP16 and LP19 of the Fenland Local Plan, 2014.</p>
<p><b>12.</b></p>	<p>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 5837:2012. 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 completion of the development for Building Regulation purposes.</p> <p>Reason - To ensure that retained trees are adequately protected in accordance with Policies LP16 and LP19 of the Fenland Local Plan, 2014.</p>
<p><b>13.</b></p>	<p>Prior to the commencement of the development hereby approved, a scheme of the provision of CCTV shall be submitted to and approved in writing by the Local Planning Authority. Such approved details shall be installed prior</p>

	<p>to commencement of the use and retained thereafter in perpetuity.</p> <p>Reason – To ensure adequate safety and security on site in accordance with Policy LP16 of the Fenland Local Plan, 2014.</p>
<b>14.</b>	<p>The convenience sales area floor space of the proposed food store hereby approved shall not exceed 2,235 sq.m and the comparison goods sales area floor space shall not exceed 956 sq.m (total 3,193 sq.m). For the purposes of this condition convenience goods are food, non-alcoholic beverages, tobacco, alcoholic beverages, newspapers and periodicals, and non-durable household goods; comparison goods are any other goods, including clothing, shoes, furniture, household appliances, tools, medical goods, games and toys, books, and stationery, jewellery and other personal effects.</p> <p>Reason - In order to ensure that the proposal does not detrimentally affect the vitality and viability of Whittlesey Town Centre in accordance with paragraph 23 of the National Planning Policy Framework.</p>
<b>15.</b>	<p>Prior to commencement of trading from the approved food store, the provision of pathways, highways access, car park and tree planting on the Country Park shall be completed in accordance with the approved plans. The proposed pathways, access and car park shall be maintained and retained in perpetuity.</p> <p>Reason - To ensure delivery of the Country park in accordance with policies LP2, LP16 and LP19 of the Fenland Local Plan, 2014.</p>
<b>16.</b>	<p>The use hereby permitted shall only operate between the hours of 0700 – 2300 hours Mondays to Saturdays, and 1000 - 1600 hours on Sundays and Bank Holidays.</p> <p>Reason - To safeguard the amenities currently enjoyed by the occupants of adjoining dwellings in accordance with policy LP16 of the Fenland Local Plan, 2014.</p>
<b>17.</b>	<p>There shall be no vehicular movements to and from the store in connection with the operation of the Home Delivery shopping service, or within the confines of the application site between the hours of 23.00 and 07.00 on any day.</p> <p>Reason - To safeguard the amenities currently enjoyed by the occupants of adjoining dwellings in accordance with policy LP16 of the Fenland Local Plan, 2014</p>
<b>18.</b>	<p>There shall be no activity carried out within the service yard in connection with the operation of the store, apart from the movement of vehicles</p>

	<p>delivering goods to the store and that necessary to unload those delivery vehicles and no collection of waste from the yard, between the hours of 23.00 and 07.00 on any day.</p> <p>Reason - To safeguard the amenities currently enjoyed by the occupants of adjoining dwellings in accordance with policy LP16 of the Fenland Local Plan, 2014.</p>
<p><b>19.</b></p>	<p>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.</p> <p>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 LP19 the Fenland Local Plan 2014.</p>
<p><b>20.</b></p>	<p>Approved Plans.</p>



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**F/YR14/0991/F**

Scale = 1:5,000





**KEY**

-  Proposed supermarket and petrol filling station
-  Proposed junction layout bars & d
-  Proposed B1 use (Commercial spaces)
-  Proposed A class uses (A2, A3 & A5) (Financial/Professional Services, Cafes/Restaurant, Hot Food Takeaway)
-  Proposed D1 use (Community use)
-  Proposed B1c use (Light industry compatible with residential)
-  Potential future housing (indicative)
-  Proposed country park
-  Potential pedestrian link

**Land south of Eastrea Road, Whittlesey**  
 on behalf of Whitacre Management Ltd and Sainsbury's plc

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 drawn by | BH  
 checked by | AJH



indicative site layout  
 Overall proposals - urban extension  
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