

Planning Committee

4 June 2019

Subject: Proposed single-storey retail unit (2,125 sq m GIA), together with parking, landscaping, open space (including paddock), and access from Thanet Way on Land North of Thanet Way, West of the roundabout, junction with Greenhill Road/Greenhill Bridge Road, Herne Bay
(Planning application number CA//18/02242/FUL)

Head of Service: Simon Thomas, Head of Planning

CCC Ward: Greenhill

Summary: At the Planning Committee on 2nd April 2019, it was resolved to defer this planning application for the applicant to consider a number of possible amendments to the application and provide further justification with regard to the need for the development. This report sets out the applicant's response along with an appraisal of this and, having regard to the recent submissions by the applicant, this report recommends that planning permission be refused for the reasons set out in the Officer report on the planning application which is set out at Annex 1 to this report

Background

1. The planning application for the above development was reported to the Planning Committee on 2nd April 2019 with a recommendation for refusal. A copy of the report can be found at Annex 1.
2. At the Planning Committee meeting, members resolved to defer the determination of the application in order to allow the applicant to submit additional information in relation to the following points:
 - potential conditions and draft s106 Agreement should committee be minded to approve
 - potential compensation for the loss of open space and consideration for obtaining Village Green status or the making of a similar protection of open space
 - provision of footpath and cycle path from the Chestfield direction
 - Kent Highways to advise on the potential for the imposition of a no right turn and no u-turns from Greenhill.
 - a full statement of need from the applicant

Further submissions by applicant

3. The applicant states that Village Green status would be inappropriate as this area is not in public use and is unlikely to be. Instead, the applicant has said that the landowner is prepared to make a Unilateral Undertaking to retain the western portion of the site as undeveloped open space.
4. The applicant has made no amendment to the footpath and cycle path arrangements. They considered possible improvements to the west of the site but it was felt that pedestrian trips to / from the west would be unlikely given the distance of Chestfield to the site. KCC Highways and Transportation did not consider it to be necessary or justifiable to upgrade this section of footway to a cycleway as part of the proposed development.
5. The applicant has made no amendment to the access arrangements. They submit that access to and from the site would be served by a junction on A2990 approximately 175m to the west of the Greenhill roundabout. The highways arrangements proposed are the most appropriate and were agreed with the KCC highways team.
6. With regard to need, policy OS9 of the Local Plan sets out the specific circumstances in which proposals involving the loss of protected open space are acceptable, including where there is no material harm arising from the loss. Where material harm arises, this must be balanced against a demonstrable need for the development. The applicant contends that there would be no material harm arising from their proposed development on the protected open space and as such, there is no requirement for them to demonstrate the need for the development. Notwithstanding this, the applicant argues that there is a need for the development as there is a shortfall in the need for convenience provision in the area arising from the reduced convenience floorspace being offered at Sainsburys Altira. The applicant also argues that there is a qualitative need for the proposal, as evidenced by public support, and that there is a need for the supermarket in order to provide local employment.

Assessment of further submission by applicant

7. It is accepted that Village Green status may not be inappropriate in this instance given the size and location of the land. This land is already protected open space in the current Local Plan. This policy, OS9, has recently been supported by Local Plan Inspectors on other sites within the protected open space (which extends along the old Thanet Way between Whitstable and Herne Bay). The recent appeal decisions have confirmed that the land should not be developed as a matter of principle and that policy protection does not rely upon an assessment or consideration of the visual attractiveness of the land as instead the purpose of the policy is to maintain the openness of the land as a matter of principle
8. In respect of the highways issues, officers have consulted with KCC Highways and Transportation. KCC confirms that it raises no objection to the proposal in the form submitted. KCC also states that restricting right-turns from the Greenhill roundabout would add to emissions through increased journey time and could encourage U-turning movements between the Greenhill and Chestfield roundabout. As such, KCC confirms that the arrangement as currently proposed remains the most appropriate. In light of this, officers consider that the proposed means of access would be acceptable. It also considered that it would not be reasonable to seek further pedestrian/cycle works along the west of the A2990 given the majority of pedestrians and cyclists would visit the store from the east. The proposed pedestrian cycle way

improvements linking the site with residential development near Greenhill roundabout to the east are accepted by KCC, who have expressed no requirement for further improvements to the west.

9. In respect of the need for the development, officers remain of the view that the proposed supermarket would result in material harm arising from the loss of protected open space for the reasons set out in the officer's report. The 2017 Local Plan took account of the retail need, factoring in planning permissions granted for Sainsbury's at Altira Park and Aldi in Herne Bay town centre, and concluded that there would be an oversupply of convenience floorspace in the district.
10. The Council's evidence shows that even with the reduced convenience offering at Sainsbury's, there will remain an oversupply in 2020 that is greater than the convenience floorspace proposed by the applicant. As such, the applicant's argument that there is a quantitative need for the development is demonstrably wrong. Indeed, Sainsbury's decision to offer a reduced convenience provision could reasonably be viewed as further evidence of a lack of need in the area. Public support for the proposal is indicative of a want or desire for the development but is not evidence of need and whilst the creation of jobs would be of public benefit, it does not equate to a need for the development either. Officers remain of the view that the applicant has failed to demonstrate a need for the development that would balance against the material harm arising from the loss of protected open space.

Recommendation

11. It is recommended that the planning application be refused for the reasons set out in the officer report on the application at Annex 1.

ANNEX 1

PLANNING COMMITTEE

APPLICATION NUMBER: CA//18/02242/FUL

SITE LOCATION: Land North of Thanet Way, West of the roundabout, junction with Greenhill Road/Greenhill Bridge Road, Herne Bay

PROPOSAL: Proposed single-storey retail unit (2,125 sq m GIA), together with parking, landscaping, open space (including paddock), and access from Thanet Way.

APPLICATION TYPE: FULL APPLICATION

DATE REGISTERED: 05 November 2018

TARGET DATE: 04 February 2019

LISTED BUILDING: NOT LISTED

CONSERVATION AREA: NO

WARD: Greenhill

APPLICANT: Lidl UK GmbH and Simons Developments

AGENT: Planning Prospects Ltd

CASE OFFICER: Chris Pragnell

WEBLINK: https://publicaccess.canterbury.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal= CANTE_DCAPR_120649

RECOMMENDATION: **REFUSE**

SITE LOCATION AND DESCRIPTION

1. The application site is located to the west of the Greenhill roundabout junction near Herne Bay. It is bordered to the south by the A2990 Thanet Way and to the north by the railway cutting. The site extends to approximately 3.55 hectares, which includes the land proposed for the development as well as sections of highway along Thanet Way and the roundabout where associated works are proposed.
2. The application site currently comprises two portions – one featuring open land and the other accommodating a collection of storage sheds on an area of hardstanding. This latter portion sits closest to the roundabout, with the open portion to the west. Further west beyond the application site, the land is open in nature but

accommodates a collection of mobile homes and stable buildings of a modest scale. Beyond these lie pasture land designated as a Local Wildlife Site.

3. While in the urban area of Herne Bay, the application site lies outside the designated town centre and is within a strip of land along the north of the A2990 that is designated in the Local Plan as protected open space. The roadside verge along the site frontage is approximately 4m wide and forms part of a 4km Roadside Nature Reserve.

RELEVANT PLANNING HISTORY

Open area of application site

4. CA/17/02425/FUL - Proposed single-storey retail unit (2,125sqm) together with parking, landscaping and access from Thanet Way.

The application was refused at Planning Committee in March 2018 for the following reason:

The proposed development, by virtue of its scale and location, would result in unacceptable loss of protected open space without sufficient justification. The proposal therefore fails to accord with policy OS9 of the adopted Canterbury District Local Plan 2017 and with the National Planning Policy Framework.

Area containing storage sheds

5. CA/14/00027

Change of use of existing agricultural barns to storage of classic cars and military jeeps (private collection).

The development was granted permission March 2014

6. CAE/08/00012

Certificate of existing lawful use for the stationing and storage of motor vehicles.

The development was determined as 'Was Not Lawful' in Oct 2008 for the following reason:

In the opinion of the Local Planning Authority, insufficient evidence has been submitted with the application to demonstrate that the site has been continuously used for the stationing and storage of motor vehicles for a period of 10 years preceding the date of the application.

7. CAE/07/00006

Certificate of lawful use of land for parking of commercial and funeral vehicles and storage of vintage vehicles.

The development was determined as 'Was Not Lawful' in Oct 2007 for the following reason:

In the opinion of the Local Planning Authority, insufficient evidence has been submitted with the application to demonstrate that the site has been continuously

used for parking of commercial vehicles and/or funeral vehicles and/or storage of vintage vehicles for a period of 10 years.

8. CA/06/00186

Retrospective application for change of use of land to mixed agricultural and business, erection of storage building and proposed tree-planting scheme.

The application was refused in February 2006 for the following reasons:

The design and appearance of the storage container is detrimental to the visual appearance and character of this site which falls within an area of Protected Open Space as defined by policy D38 of the Canterbury District Local Plan 1998 and policy C20 of the Revised Deposit Draft Local Plan 2004.

The use of the site for the storage and parking of vehicles including buses and other commercial vehicles is detrimental to the visual appearance and character of this site which falls within an area of Protected Open Space as defined by policy D38 of the Canterbury District Local Plan 1998 and policy C20 of the Revised Deposit Draft Local Plan 2004.

An appeal was subsequently dismissed in March 2007

9. CA/05/00226

Change of use of land to mixed agri-business and erection of storage building.

The application was refused in July 2005 for the following reasons:

The design and appearance of the storage container is detrimental to the visual appearance and character of this site which falls within an area of Protected Open Space as defined by policy D38 of the Canterbury District Local Plan 1998 and policy C20 of the Revised Deposit Draft Local Plan 2004.

The use of the site for the storage and parking of vehicles including buses and other commercial vehicles is detrimental to the visual appearance and character of this site which falls within an area of Protected Open Space as defined by policy D38 of the Canterbury District Local Plan 1998 and policy C20 of the Revised Deposit Draft Local Plan 2004.

10. CA/95/1049

Erection of two agricultural barns.

The development was granted permission in December 1995.

PROPOSED DEVELOPMENT

11. Full planning permission is sought for a 2,125m² supermarket with 125 associated parking spaces. The proposal also involves the creation of a new access to the site from the A2990 Thanet Way, as well as a pedestrian crossing linking the northern with the southern (Greenhill) side of the road.

12. The proposal represents a revision to the previously refused application CA/17/02425/FUL, which was located on the adjacent site. The current proposal

would see existing storage sheds in the eastern portion of the site demolished and the supermarket structure erected in their place. The associated car parking is to be laid on what is currently open land adjacent to the west. An area of paddock land beyond this, which is within the western-most portion of the site, is to be retained as open land.

13. The applicant also proposes a landscaping scheme around the perimeter of the site to include a new wildlife corridor. The proposal also involves the creation of a pedestrian and cycle path along the A2990 roadside, which is included within the application site boundary.
14. It should be noted that the proposal has been revised during the course of the application to incorporate yellow-stock brick and timber cladding to the supermarket walls, increased glazing around the entrance and a green 'living' organic roof.

CONSULTATIONS

15. **CCC Environmental Health** – No objection, subject to conditions re: further contamination investigations and submission of foundation design and Construction Environmental Management Plan (CEMP).

KCC Highways – No objection, subject to conditions re: provision and retention of car and cycle parking spaces and vehicle loading/unloading and turning facilities, provision and maintenance of visibility splays, implementation of a Travel Plan, the completion of works on the public highway and submission of a CEMP.

Environment Agency – Wish to make no comment.

KCC Ecology – No objection, subject to conditions re: submission of additional ecological enhancements and implementation of the proposed compensation package.

CCC Streetscene (Trees) – Wish to make no comment.

CCC Air Quality – No objection subject to condition re: submission of sustainability statement.

Southern Water – No objection subject to the following informative:

No development or new tree planting should be located within 3 metres either side of the external edge of the public sewer and all existing infrastructure should be protected during the course of construction works. No new soakaways should be located within 5 metres of a public sewer.

REPRESENTATIONS:

16. Letters were sent to neighbouring occupiers and a site notice was posted. Approximately 360 responses were received in support of the application, on the following grounds:
 - Lack of and therefore need for supermarket provision in the vicinity
 - Creation of jobs
 - Reduction in traffic movements to supermarkets further afield
 - Development on an otherwise unused and unattractive site
 - Little or no value recreational value to the current open space
 - Quality and value of Lidl products

Around 20 letters of objection were received, raising the following concerns:

- Unsustainability of the site
- Store accessed by car only
- Increased traffic burden on A2990 Thanet Way
- Impact on viability of Herne Bay town centre
- Proliferation of foot stores in the area

Campaign to Protection of Rural England (CPRE): object to the application on the following grounds:

- Loss of protected open space
- Impact on Local Wildlife Site
- Impact on Air Quality

17. The applicant has also submitted a reported 4,138 response cards resulting from its own public consultation exercise. According to the applicant, the vast majority (3,473) express support for the scheme, while 617 object and 48 are undecided.

DEVELOPMENT PLAN POLICIES:

Canterbury District Local Plan 2017

SP1 – Sustainable Development
SP4 – Development Directed to Urban Areas
TCL1 – Town Centres
TCL6 – Town Centre Uses Outside the Town Centre
OS9 – Protected Open Space
DBE1 – Sustainable Development and Construction
DBE3 – Expectation of High Quality Design
DBE7 – Public realm
DBE8 – Public open space
DBE9 – Outdoor Lighting
HE11 – Archaeology
LB7 – Locally designated Sites
LB8 – Biodiversity networks
LB9 – Ecology mitigation
QL11 – Air quality
QL12 – Potentially Polluting Development
CC1 – Renewable and low carbon energy
CC4 – Flood Risk Assessments
CC11 – Sustainable Drainage Systems
T1 – District Transport Strategy
T9 – Vehicular Parking Provision
T17 – Transport Statements

ASSESSMENT:

18. This application is been called in for determination by the Planning Committee by Councillors A Cook and J Howes. The relevant considerations are:

- Principle
- Character and appearance
- Living conditions

- Highways, access and parking
- Ecology
- Archaeology
- Flood risk and drainage
- Sustainability and air quality
- Contamination

Principle

19. The applicant seeks full planning permission for the erection of a supermarket outside the designated Town Centre and on protected open space. The principle of this proposal can therefore only be considered acceptable provided the applicant sufficiently justifies the siting of a town centre use at this out-of-centre location and sufficiently justifies the loss of the protected open space.

Town centre

20. In general terms, policy SP4 of the adopted Canterbury District Local Plan 2017 steers development towards the urban areas of Canterbury, Whitstable and Herne Bay. However in terms of town centre uses, the adopted Local Plan is clear that the City Council will positively focus new development in the centres themselves. Proposals outside these areas will be assessed according to the sequential test, the requirement for good accessibility by walking, cycling and public transport and their impact on committed and planned public and private investment. Policy TCL6 of the adopted Canterbury District Local Plan 2017 goes on to state that planning permission for main town centre uses outside the identified centre boundaries will be granted where the applicant has successfully demonstrated that there are no other more suitably located and available sites nearer to the identified centres for the town centre use(s) proposed. Where schemes exceed 2,500 square metres, applicants must also submit an impact assessment examining the impact of the proposal on the town centre. This accords with Section 7 of the National Planning Policy Framework (NPPF).
21. The applicant has submitted a Retail Assessment, which applies Sequential Testing to the Herne Bay town centre and edge of town centre area. An independent critique of that Retail Assessment concludes that the applicant has successfully demonstrated that the impact of the proposal on Herne Bay town centre would be acceptable and that there are no suitable and available alternative sites that could accommodate this proposal in or on the edge of the town centre. Therefore based on the evidence submitted, it is considered the applicant has successfully applied the sequential approach to the proposal.
22. Policy TCL6 of the adopted Canterbury District Local Plan 2017 also requires applicants to demonstrate that the site is accessible and well connected to the town centre through a range of transport modes other than the car, including good local public transport services, walking and cycling. It requires applicants to demonstrate that proposed town centre uses outside the town centre would not have a significant detrimental effect on the highway network in terms of congestion, road safety and pollution. These requirements are considered later in the report.

Protected open space

23. The preamble to policy OS9 of the adopted Canterbury District Local Plan 2017 states that due to a district-wide deficiency in open space, the City Council must be determined to prevent the loss of designated protected existing open space within

the urban boundaries, whether publicly or privately owned, by reason of its contribution towards recreational or visual amenity. As a result, certain spaces (including the application site) are afforded special policy protection and their loss is permitted only in exceptional circumstances.

24. It then goes on to state that the protected areas of open space along the Thanet Way A2990 are considered important because they are part of a larger entity of open land, playing fields and farmland on both sides of the Thanet Way. The adopted Local Plan recognises that protected open spaces, including that on which the application site is located, have a positive amenity value for local residents. In such instances, the value is not recreational but visual, with the open space acting as a visual buffer alongside the Old Thanet Way. This mitigates much of the adverse environmental effects of a major highway running through an urban area. The adopted Local Plan warns that open space can be lost by “gradual erosion through development”. Paragraph 11.61 states that in light of these considerations, any development within protected open spaces “is likely to be resisted”. This strategy has been endorsed by the Local Plan Inspector in declaring the Local Plan sound.
25. Policy OS9 of the adopted Canterbury District Local Plan 2017 establishes specific exceptions in which proposals involving the loss of protected open space will be permitted.

Policy exception 1

26. The first exception applies where a proposal would result in no material harm to the contribution the protected open space is making to the visual or recreational amenity of the area. For this exception to apply, the City Council will need to have assessed the protected open space as making no positive contribution to its overall strategy on open space.
27. It is a material planning consideration that a Planning Inspector last year rejected an appeal for development on protected open space alongside the Thanet Way near Whitstable. In dismissing that appeal, the Inspector acknowledged that the appeal site was not attractive, being essentially a fairly featureless strip of poor-quality paddock and scrubland. The Inspector concluded:

“Policy OS9 is not a landscape-based policy, and neither is protected open space a landscape designation. These qualities, of attractiveness and visibility, are therefore not necessarily the most relevant.

“To my mind, what Policy OS9 is principally concerned with is openness. In the case of the Thanet Way sites in particular, their openness is the quality that unites all of the open spaces along this corridor, and gives them the sense of coherence that is identified as a major reason for the designation. Together these sites create a sense of spaciousness alongside the main road, and form an open buffer to it. These functions do not depend on the individual sites being visually attractive, or their interiors being highly visible. Consequently, the appeal site’s contribution to visual amenity turns primarily on its openness, rather than any other attribute.”

28. The Inspector also stated that the policy aspiration – namely the retention of specific areas of open space – is clear evidence that the Council assesses protected open spaces, including the application site, as making a positive contribution to its overall open space strategy.

29. This proposal represents a revised scheme of the previously refused application. As described above, the application site comprises part open land and part previously-developed land. It is accepted that the storage sheds on the previously-developed portion of the site, while largely screened during the summer months, do not make a positive contribution to the character and appearance of the vicinity.
30. The applicant proposes the demolition of the existing structures on the site and their replacement with a significantly larger and more prominent structure, with associated signage and lighting etc. The applicant also proposes the laying of a car park on existing open space alongside. Given that the purpose of policy OS9, as supported previously by a Planning Inspector, is to preserve protected open space for the very reason of its openness (rather than, for example, its recreational value), it follows that development of a substantially larger and more prominent structure on the site, together with an expanse of car parking, would result in a loss of openness and therefore in material harm to the contribution the protected open space is making to the visual or recreational amenity of the area.

Policy exception 2

31. Policy OS9 establishes a further exception where development may be permitted in cases where the harm caused by the loss of protected open space is material. In such circumstances, the harm must be balanced against a demonstrable need for the development. There must be no suitable alternative site to accommodate the proposed development and any harm resulting from it should be offset by the provision of other open space of comparable quality, size, character and usability in a suitable location.
32. There is clear evidence of public support for the proposed retail development. However, policy OS9 requires need rather than support or demand. The bar is a high one, in that need is commonly defined as requiring (something) because it is essential or very important rather than just desirable.
33. The adopted Canterbury District Local Plan 2017 relies on a retail capacity forecast by GL Hearn (2015). Whilst acknowledging at that time that there was not a wide choice of supermarkets in the Herne Bay area (paragraph 6.10), the GL Hearn forecast did not identify a specific need for more supermarkets, noting instead that permission for a Sainsbury's store at Altira Business Park and an Aldi store at Kings Road had been granted and that consumer choice would be improved. The GL Hearn forecast concludes that borough-wide, there is "no current need for convenience floorspace" (paragraphs 8.13 and 8.14). Therefore the most recent and compelling evidence establishes that there is not a need for the proposed development.
34. It must therefore be concluded that despite the public support for the proposal, the applicant has not offered any evidence to contradict the retail capacity forecasts of the adopted Local Plan, which concludes that there is no proven need for such a development, and on which the adopted Local Plan relies. Therefore, the harm identified above is not balanced by a demonstrable need as policy OS9 adopted Canterbury District Local Plan 2017 expressly requires.

Character and appearance

35. Section 12 of the NPPF states that planning should aim to ensure that developments function effectively and contribute to the overall quality of an area. Developments must respond to local character and history, reflect the character, setting and context

of the site and the way the development is integrated into the landscape. This is endorsed by policies DBE3, DBE7 and DBE8 of the adopted Canterbury District Local Plan 2017, which require that development must be of high quality design that enhances the public realm.

36. The proposed supermarket structure is described in the submitted Design and Access Statement as a simple single-storey building with a mono-pitch roof. The proposed building would have a glazed frontage towards the main entrance facing the car parking area to the west. Revised drawings were submitted during the course of the application to show an increased element of glazing in the south-western corner, the render side panels to feature yellow stock brick and additional timber cladding. In terms of its appearance, the proposed supermarket is considered to be of a functional design appropriate for its use. The design changes made during the course of the application are considered to help soften the visual impact the proposal would have on the character of the street scene.
37. As set out above, it is accepted that the existing storage sheds on the previously developed part of the site do not contribute positively to the character and appearance of the area, particularly during the winter months when the trees running alongside the A2990 Old Thanet Way provide little screening. However, the proposal would result in their replacement with a considerably larger, more obtrusive and prominent structure, with associated lighting and signage and a car park on open land alongside. The proposal would therefore introduce a prominent and commercial form of development on a site that derives its value as protected open space in part from being free of substantial development of this nature, scale and prominence. As such, it would result in the further erosion of the visual buffer provided by the area of protected open space alongside the A2990 Old Thanet Way to more significant degree than that which has resulted on the site so far.
38. It is therefore considered that the proposal would have an unacceptable impact on the character and appearance of the vicinity due to the urbanisation of a site that currently serves as protected open space to separate the highway from residential development to the north. It is therefore considered to fail to accord with policy DBE3 of the adopted Canterbury District Local Plan 2017.

Living conditions

39. Paragraph 127 of the NPPF states that planning decisions should aim to secure a good standard of amenity for all existing and future occupants of land and buildings. Policy DBE3 of the adopted Canterbury District Local Plan 2017 states that the council will consider the privacy and amenity of neighbouring buildings and future occupiers, including potential overshadowing, loss of outlook and loss of sunlight. Policy DBE3 also states that development must avoid resulting in an unacceptable impact in terms of polluting elements such as noise, odour, light and air pollution. Policy QL12 states that when granting planning permission for development which could potentially result in pollution, the City Council will impose conditions or seek agreements to ensure subsequent mitigation measures are undertaken.
40. Policy DBE9 of the adopted Canterbury District Local Plan 2017 permits proposals for new outdoor lighting subject to various criteria, including that it does not adversely impact residential amenity.
41. The proposed development is located between a railway and a busy road, in close proximity to a major traffic junction. The closest residential properties are approximately 50m distant on the other side of the highway, which at this point contains street-lighting. The applicant proposes opening hours of 7am to 11pm.

42. Given its distance from neighbouring residential properties and its location next to a busy road, it is considered that the proposed development would not result in any unacceptable impact on the living conditions of neighbouring occupiers in terms of overbearing, overshadowing or loss of outlook or privacy, and in terms of noise and light pollution associated with the operation of a supermarket. The proposal is therefore considered to conform with policies DBE3 and DBE9 of the adopted Canterbury District Local Plan 2017 with regards to living conditions.

Highways, access and parking provision

43. Policy DBE3 of the adopted Canterbury District Local Plan 2017 states that when assessing design quality, safe movement within and around a proposed development must be a consideration. Policy T9 of the adopted Canterbury District Local Plan states that Kent County Council's guide to vehicle parking will be applied when assessing new development.
44. Policy DBE7 of the adopted Canterbury District Local Plan 2017 states that in order to achieve high quality design of the public realm, proposals will be expected to meet a number of criteria including integration with existing pathways, circulation networks and patterns of activity and permeability; and contribution to a safe and secure environment. Policy DBE8 reinforces the expectation that development proposals will retain and incorporate public rights of way and create connected open space and pedestrian/cycle systems.
45. Policy TCL6 of the adopted Canterbury District Local Plan 2017 also requires applicants to demonstrate that the site is accessible and well connected to the town centre through a range of transport modes other than the car, including good local public transport services, walking and cycling. It requires applicants to demonstrate that proposed town centre uses outside the town centre would not have a significant detrimental effect on the highway network in terms of congestion, road safety and pollution.
46. The applicant has submitted a Transport Assessment demonstrating that effect of additional vehicle movements generated by the scheme on the Greenhill roundabout will be minimal. In order to mitigate this, the applicant proposes a series of highways improvements including reduction of the circulatory width of the roundabout and creation of the pedestrian crossing. The applicant also proposes subjecting the development proposal to a Travel Plan seeking to reduce staff car-borne travel to and from the site. A draft Travel Plan is submitted within the Transport Assessment. The applicant also proposes 125 car parking spaces (including 7 spaces for disabled customers and 8no spaces for parents with children), together with loading/unloading and turning facilities.
47. The application also involves the creation of pedestrian cycle crossing across the A2990 Old Thanet Way, a new priority T-junction access point off the A2990 Thanet Way with exit manoeuvres limited to left-turn only and the creation of a 3m wide cycle and pedestrian way along the southern boundary, connecting with infrastructure on the southern side of the Thanet Way.
48. KCC Highways accepts the conclusions of the Transport Assessment, as well as the parking provision proposed and the turning space for vehicles. They also raise no objection to the highways works proposed by the applicant and these physical alterations to the highways would be the subject of separate s278 legal agreement.

49. In summary, it is considered the additional vehicle movements generated by the development could be accommodated by the local road network given the highways alterations proposed, to which KCC Highways raise no objection. The proposal is therefore considered to accord with policies DBE3, DBE7, DBE8, TCL6 and T9 of the adopted Canterbury District Local Plan 2017 in terms of highway safety, access and parking.

Ecology

74. Policy LB9 of the adopted Canterbury District Local Plan 2017 states that all development should avoid a net loss of biodiversity and should actively pursue opportunities to achieve a net gain, particularly where:

1. There are wildlife habitats/species identified as Species or Habitats of Principal Importance;
2. There are habitats/species that are protected under wildlife legislation;
3. The site forms a link between or buffer to designated wildlife sites.

This will be secured by ensuring that a development site evaluation is undertaken to establish the nature conservation value of the proposed development site. Developers will be expected to carry out appropriate ecological survey/s and present outline proposals for mitigation and enhancement prior to the determination of a planning application. Planning permission will be granted where the City Council is satisfied that the avoidance and mitigation measures proposed can give an effective means to conserve, enhance the habitat or species and represent an appropriate response to the habitat or species interest of the site. This accords with Section 15 of the NPPF.

50. The site is located approximately 220m from the pasture land at Chestfield and Greenhill designated as a Local Wildlife Site (LWS). As set out above, the roadside verge along the site frontage also forms part of a Roadside Nature Reserve (RNR), which falls within the application site. Policies LB7 and LB8 of the adopted Canterbury District Local Plan 2017 state that any negative impact on ecology and protected sites should be adequately mitigated.

51. The proposal would involve re-landscaping of the southern boundary, with part of the hedgerow shortened and reinforced with tree planting at 7m intervals. The proposal also involves the removal of part of the RNR in order to create access to the proposed supermarket from the Old Thanet Way. Wildlife corridors of between 3m and 6m in width are proposed to the southern, northern and western boundaries. Additional buffer planting is also proposed at the western boundary. The applicant has submitted a Roadside Nature Reserve survey, following consultation with Kent Wildlife Trust and as with the previously refused application, this recommends the following mitigation measures:

- i. The lowering of the roadside hedge to 1m with intermittent standards planted / allowed to establish;
- ii. The creation of native species hedgerows along the northern and western site boundaries where this habitat is currently lacking;
- iii. Hedgerow species to incorporate species of local provenance, mimicking the species composition present within the roadside hedgerow;
- iv. The re-creation of species-rich grassland within the site to mitigate the loss of the RNR grassland;

- v. A financial contribution (£16,250) towards the continuing management of the RNR grassland to the west of the site
52. KCC Ecology has confirmed that subject to the mitigation measures being secured by condition or legal agreement, they raise no objection. Kent Wildlife Trust has not commented on this application but raised no objection to the previously refused application, which included the same mitigation measures in terms of the RNR.
53. In light of the above, it is considered that subject to the mitigation and compensation proposed by the applicant and supported by KCC Ecology and Kent Wildlife Trust, the proposal would have an acceptable impact on ecology and on locally designated sites, in accordance with policies LB7, LB8 and LB9 of the adopted Canterbury District Local Plan 2017 and Section 15 of the NPPF.

Archaeology

54. Policy HE11 of the adopted Canterbury District Local Plan 2017 states that planning applications on sites where there is or is the potential for an archaeological heritage asset, must include an appropriate desk based assessment of the asset. Canterbury City Council's Archaeological Officer has previously commented that there are no recorded archaeological investigations in the immediate area of the application site, with the majority of surrounding development dating from the post-war decades. Further afield however, archaeological investigation undertaken alongside modern development between 500m and 1km west have recorded evidence of widespread and intensive occupation of the landscape around Herne Bay during the prehistoric and later periods.
55. The applicant has submitted an archaeological assessment of the site, which concludes that any impacts upon potential archaeological remains of heritage significance within the site could be offset through archaeological works, ensuring the preservation by record of any remains present. Canterbury City Council's Archaeological Officer has confirmed that further investigation could be secured by condition. Subject to such a condition, the proposal is considered to accord with policy HE11 of the adopted Canterbury District Local Plan 2017.

Flood risk and drainage

56. Policy CC4 of the adopted Canterbury District Local Plan 2017 states that development proposals within Flood Zones 2 and 3 and sites larger than 1 ha in Flood Zone 1 shall be subject to a Flood Risk Assessment. Policy CC11 states that all development applications should include drainage provision. This will ensure that surface water is appropriately controlled within the development site, manage flood risk on-site and off-site, and not exacerbate any existing flood risk in the locality. Within major development sustainable drainage systems that deliver other benefits, such as biodiversity, water quality improvements and amenity, are expected to be included, except where they are demonstrated to be inappropriate. This accords with Section 14 of the NPPF.
57. The development site is not within a flood risk area. The applicant has submitted a Flood Risk Assessment, which concludes that the site will not be at significant risk of flooding. An indicative drainage scheme has also been provided and KCC Drainage consider this to be acceptable in principle subject to a condition requiring its detailed design to be submitted for approval should permission be granted. It is considered that subject to such a condition, the proposal would accord with policies CC4 and

CC11 of the adopted Canterbury District Local Plan 2017 and Section 14 of the NPPF.

Sustainability and air quality

58. Policy DBE1 of the adopted Canterbury District Local Plan 2017 states that all development should respond to the objectives of sustainable development and reflect the need to safeguard and improve the quality of life for residents, conserve resources such as energy, reduce/minimise waste and protect and enhance the environment. Sustainability statements will be required for all applications for major developments. Non-residential developments should meet a 'very good' BREEAM rating and provide evidence as to why an 'excellent' rating cannot be achieved. Policy CC2 states that development in the district should include proportionate measures to reduce carbon and greenhouse gas emissions.
59. In respect of air quality, policy QL12 of the adopted Canterbury District Local Plan 2017 states that development that could directly or indirectly result in material additional air pollutants and worsening levels of air quality within the area surrounding the development site will not be permitted unless acceptable measures to offset or mitigate any potential impacts have been agreed as part of the proposal. An air quality assessment will be required if the proposal is likely to have a significant effect taking account of the cumulative effects on individual sites.
60. The applicant has submitted a sustainability statement. The proposal, which has been subject to revision, incorporates the following:
- A green roof providing additional insulation as well as wildlife habitat, which slows rainwater run-off thereby contributing to sustainable drainage principles
 - 2 EV charging points
 - Refrigeration cabinets with natural refrigerants (previously with synthetic refrigerants)
 - Heating and lighting controlled with a computerised Building Management System (BMS), which minimises energy consumption by adapting to external temperatures and lighting levels
 - Sector leading performance in terms of recycling and waste to landfill reduction, recovering 100% of recycled cardboard and plastic; this equates to approximately 85,000 tonnes every year across the portfolio
 - Motion Sensor Lighting installed, with highly efficient LED luminaires
 - Refrigeration Waste Heat Recovery Systems installed
 - Night blinds on the chiller cabinets used to reduce overnight energy use
 - The applicant confirms that the development would achieve a 'Very Good' BREEAM rating.
61. CCC's Air Quality Officer requests that should planning permission be granted, a condition seeking EV charging for 10% of all parking spaces be attached. Whilst the proposal currently includes only 2 EV charging points, it is acknowledged that the development incorporates a number of sustainability benefits in later revisions such as the large expanse of green roof. Officers consider that were permission to be granted, a condition could be attached requiring further approval of a revised sustainability statement detailing an enhanced mitigation strategy for the development. Subject to such a condition, it is considered that the scheme accords with policies DBE1, CC1 and QL11 of the adopted Canterbury District Local Plan 2017.

Contamination

62. Policy QL12 of the adopted Canterbury District Local Plan 2017 states that when granting planning permission for development which could potentially result in pollution, the City Council will impose conditions or seek agreements to ensure subsequent mitigation measures are undertaken.
63. The applicant has submitted a contamination report, which concludes that the site poses a low risk to controlled waters and to human health, increasing to moderate/low in the eastern section of the site. The report makes a number of recommendations, including further ground investigation to further assess the potential contamination risks and, where necessary, to provide for mitigation strategies. Officers consider that subject to a condition requiring adherence to the report recommendations, the proposal would accord with policy QL12 of the adopted Canterbury District Local Plan 2017.

Conclusion

64. The applicant has successfully demonstrated that there are no suitable and available alternative sites that could accommodate this proposal in or on the edge of the town centre.
65. The previous application was refused on the grounds that the proposed development would result in an erosion of an area of protected open space through a visually intrusive and prominent structure. The scheme being considered under this application has sought to soften the visual impact of the development by moving the proposed building to an area of part-previously developed land with existing structures, softening the appearance of the proposed building through the introduction of more glazing and different materials and proposing an area of open land to be retained in the western-most portion of the site. Notwithstanding the amendments made, the site is still designated as protected open space, which policy OS9 of the adopted Canterbury District Local Plan 2017 seeks to prevent the loss of by reason of its contribution to amenity. The proposed development would lead to the further erosion of the protected open space contrary to Local Plan policy. As such, the application is recommended for refusal.

REASONS OF REFUSAL

Application No: CA/18/02242/FUL
Proposal: Proposed single-storey retail unit (2,125 sq m GIA), together with parking, landscaping, open space (including paddock), and access from Thanet Way.
Location: Land North of Thanet Way, West of the roundabout, junction with Greenhill Road/Greenhill Bridge Road, Herne Bay

CONDITIONS/REASONS:

- 1 The proposed development, by virtue of its scale and location, would result in further erosion of an area of protected open space through the introduction of a visually intrusive and prominent structure. No overriding justification or need for the proposed development has been advanced to outweigh the identified harm. The proposal therefore fails to accord with policy OS9 of the adopted Canterbury District Local Plan 2017 and with the National Planning Policy Framework.

ANNEX 2

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

REASON: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby approved shall be carried out in accordance with the submitted drawings:

0100 Rev 03 Proposed Site Plan (received March 14 2019)

0200 Rev 07 Proposed Elevations (received March 14 2019)

0103 Rev 04 Proposed Roof Plan (received March 14 2019)

0001 Rev 01 OS Site Plan 0105 (received Nov 05 2018)

7951-L-03 D Landscape proposals (received March 14 2019)

REASON: To secure the proper development of the area.

- 3 No development shall commence until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- The results of the site investigation and the detailed risk assessment

referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

- A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

REASON: To ensure that the proposed site investigation, remediation and development will not cause harm to human health or pollution of the environment, in accordance policy QL12 of the Canterbury District Local Plan 2017 and with the National Planning Policy Framework.

- 4 No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

REASON: To ensure that the proposed development will not cause harm to human health or pollution of the environment, in accordance policy QL12 of the Canterbury District Local Plan 2017 and with the National Planning Policy Framework.

- 5 No development shall take place until a Construction Environmental Management Plan, which shall include the following details:
- Parking and turning areas for construction and delivery vehicles and site personnel
 - Timing of deliveries
 - Details of site access point(s) for construction
 - Dust control measures
 - Site operation times between 0730 – 1800 Monday to Friday, 0800 – 1300 Saturday and at no time on a Sunday or Bank Holiday unless in association with an emergency
 - Demolition and construction waste - storage and removal

- Temporary traffic management/signage
- Details of wheel washing facilities prior to commencement of spoil removal on site and for the duration of spoil removal

has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure pollution prevention measures are in place for all potentially polluting activities during construction in accordance policy QL12 of the Canterbury District Local Plan 2017, the National Planning Policy Framework and in the interests of highway safety.

- 6 No development shall take place until details of the means of foul and surface water disposal, including a detailed sustainable surface water drainage scheme for the site, which is compliant with the non-statutory technical standards for sustainable drainage and shall demonstrate the surface water run off generated up to and including the 100yr critical storm (including allowance for climate change) will not exceed the run off from the undeveloped site following the corresponding rainfall event, and so as not to increase the risk of flooding both on- or off-site, and including details for the long term maintenance of all surface water drainage infrastructure on site, and including the provision of measures to prevent the discharge of surface water onto the highway, have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with such details as are agreed and thereafter maintained.

REASON: To ensure adequate drainage provision and to prevent pollution, in accordance with policies CC11, CC12, CC13 and QL12 of the Canterbury District Local Plan 2017, the National Planning Policy Framework.

- 7 Prior to first occupation or use of the development hereby approved, the following works, as illustrated in drawing 14115-010 rev F:

- Installation of a 3 metre wide shared use footway cycleway from the main entrance into the site, to the junction with Greenhill Bridge Road roundabout and widened pedestrian refuge island with dropped kerbs and tactile paving.
- Provision of the proposed improvements to the Thanet Way / Greenhill Road roundabout, including the widened approaches and circulatory markings.
- Installation of new right turn lane, hatching, traffic islands and arrow markings.
- Installation of a new signalised crossing on the A2990 Thanet Way.

Shall be completed (full details of which are to be agreed under a section 278 agreement with the county highway authority).

REASON: In the interests of highway safety.

- 8 No development, other than demolition, shall take place until the implementation of:
- i. archaeological field evaluation works has been secured in accordance with a specification and written timetable which has first been submitted to and approved in writing by the Local Planning Authority; and
 - ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation, post-excavation assessment, analysis, publication or conservation in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that features of archaeological interest are properly examined and recorded in accordance with policies HE11 and HE12 of the Canterbury District Local Plan 2017 and the National Planning Policy Framework

- 9 Prior to the first occupation or use of the development, the area shown on the deposited plan for the parking and manoeuvring of vehicles shall be operational. The area agreed shall thereafter be maintained for that purpose.

REASON: In the interests of highway safety and in accordance with policy T9 of the Canterbury District Local Plan 2017.

- 10 Prior to the first occupation of the development hereby permitted, the visibility splays shown on the submitted plans shall be provided and thereafter maintained, with no obstructions over 0.9 metres above carriageway level.

REASON: In the interest of highway safety.

- 11 Prior to the first occupation of the development, the secure cycle parking facilities, as shown on the approved drawing shall be provided and thereafter maintained.

REASON: In the interests of promoting increased cycling in accordance with the National Planning Policy Framework and in accordance with policies T1, T9 and DBE4 of the Canterbury District Local Plan 2017.

- 12 Prior to the first use of the supermarket hereby granted, a detailed Travel Plan that accords with the Travel Plan framework submitted, and a programme for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The agreed programme shall thereafter be implemented in full.

REASON: In the interests of highway safety and to facilitate the use of alternative means of transport in accordance with policy T17 of the Canterbury District Local Plan 2017.

- 13 Prior to the installation of any external lighting, full details including fittings, illumination levels and spread of light shall be submitted to, and approved in writing by, the Local Planning Authority. The lighting installation shall then be carried out in accordance with the approved details.

REASON: To ensure that light pollution is minimised in the interest of the visual amenities of the area, in accordance with policies DBE9 and QL12 of the Canterbury District Local Plan 2017.

- 14 Prior to their first use in the development hereby approved samples of the materials to be used in the construction of the external surfaces of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved samples and the materials shall be installed prior to the first use of the development hereby approved.

ON: In the interests of the visual amenities of the area in accordance with policy DBE3 of the Canterbury District Local Plan 2017.

- 15 Prior to its first use in the development hereby approved, details and specifications of the green roof to be used in the construction of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details and the green roof shall be installed prior to the first use of the development hereby approved..

ON: In the interests of the visual amenities of the area and in accordance with policy DBE3 of the Canterbury District Local Plan 2017.

- 16 Prior to the landscaping of the site, full details of both hard and soft landscape works, to include:

- species, size and location of new trees, shrubs, hedges and grassed areas to be planted
- the treatment proposed for all hard surfaced areas beyond the limits of the highway
- walls, fences, other means of enclosure proposed

shall be submitted to, and approved in writing by, the Local Planning Authority.

REASON: In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with policies DBE3 and LB10 of the Canterbury District Local Plan 2017.

- 17 All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 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 a similar size and species, unless the Local Planning Authority gives any written consent to any variation.

ON: In the interests of the visual amenities of the area in accordance with policies DBE3 and LB10 of the Canterbury District Local Plan 2017.

- 18 Within 6 months of commencement of the development hereby approved, an ecological management plan must be submitted to and approved in writing by the Local Planning Authority. The plan must set out how the species rich grassland and the proposed native mixed species hedgerow will be managed. It must include the following:

- Landscape plan
- Overview of the management required
- Timetable to demonstrate when the management will be carried out.
- Details of who will be carrying out the works
- Details of monitoring to ensure the habitats have established
- Details of when reviews of the management plan will be implemented.

The plan must be implemented as approved.

REASON: In the interests of nature conservation in accordance with policy LB9 of the Canterbury District Local Plan 2017 and the National Planning Policy Framework.