

**REFERENCE NO - 18/502144/FULL**

**APPLICATION PROPOSAL**

Erection of a Class A1 Retail Store and associated servicing, parking, landscaping and access arrangements.

**ADDRESS** Plot 9, Eclipse Park, Sittingbourne Road, Maidstone, Kent

**SUMMARY OF REASONS FOR RECOMMENDATION –  
(APPROVE SUBJECT TO LEGAL AGREEMENT & CONDITIONS)**

- Whilst the site is not allocated for retail use, and the Local Plan seeks to direct such uses towards the town centre, policy DM16 does allow for out of town proposals where criterion are met. In this instance, we are satisfied that the criterion are met as follows:
  - The sequential test has been met showing that the proposal could not be accommodated on a site within the town centre or on its edge.
  - The proposals would not have a 'significant adverse impact' upon Maidstone town centre or any other retail centres.
  - The site has good accessibility by public transport and improvements would be made.

The terms of policy DM16 and the National Planning Policy Framework are therefore met.

- Notwithstanding this, the proposals would have some limited negative impact upon Maidstone town centre and or other local retail centres, and mitigation against this of £300,000 towards town centre projects would be secured.
- The site partly falls within an employment allocation for B class uses but there is not considered to be a reasonable prospect for such uses in the medium term future, and so the terms of policy SP22 are met.
- The proposals are considered to represent a high quality development through the design of the building and materials to be used.
- There is no other harm caused by the development, or conflict with the Development Plan.

**REASON FOR REFERRAL TO COMMITTEE**

The application is for a major retail proposal outside of the town centre which the Head of Planning considers should be referred to Planning Committee.

**WARD**

Boxley

**PARISH COUNCIL**

Boxley

**APPLICANT**

Marks And Spencer Plc &  
Gallagher Properties Ltd

**AGENT** MD Associates

<b>DECISION DUE DATE</b> 18/09/18		<b>PUBLICITY EXPIRY DATE</b> 19/07/18	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/503863	Construction of a Class A1 Retail Foodstore and associated servicing, parking, landscaping and access arrangements (WAITROSE STORE)	APPROVED	05.05.17
09/0017	Change of use of land to provide extension to and remodelling of existing Park and Ride car-park site to provide approximately 150 (net) additional vehicle parking spaces for a temporary three year period	APPROVED	20.02.09
97/1305	Change of use of land from highways/contractors depot to provide a Park and Ride car park and access	APPROVED	30.10.97

## **1.0 DESCRIPTION OF SITE**

1.01 The site is a roughly rectangular parcel of land of some 1.8ha, in the northeast corner of 'Eclipse Park'. It is immediately south of Junction 7 of the M20 (J7) and to the west of the A249 link road to J7. The western part of the site was the former park and ride and has access off a roundabout to the south, and this part is largely covered with hardstanding. The site is approximately 9m lower than J7 and 4m lower than the A249, and rises approximately 5m from the roundabout to the northeast corner.

1.02 Eclipse Park is a mixed use area with four storey offices at the west end, a 'Hilton' hotel on the south side, a 'Next' retail store in the southeast corner, and another five storey office block on the east side (Towergate) which is immediately south of the site. There is an extant permission for offices within the centre and permission for a six storey hotel to the west of application site which the applicant states has commenced. There is also extant permission for 50 houses further west within the Local Plan housing allocation site H1(29). To the east, on the other side of the A249 is the Newnham Court shopping complex.

1.03 The site falls within the defined urban area in the Local Plan and the eastern half within an allocated employment site for B1 use. There is a small group of trees located towards the north of the site which are protected by a Tree Preservation Order (TPO). The southern boundary of the Kent Downs AONB is to the north of J7 and the M20, around 145m north of the site.

## **2.0 BACKGROUND**

2.01 Permission was granted under application 16/503863 for a 'Waitrose' store with a floorspace of 3,900m<sup>2</sup> and 284 car parking spaces in May 2017 at the application site. This permission is extant.

### 3.0 PROPOSAL

3.01 The application seeks permission for a retail unit for 'Marks & Spencer' with associated servicing, parking, landscaping and access arrangements. The building would have a gross internal floor area of 7,808m<sup>2</sup> that would be arranged over two levels with food sales, fashion and household goods sales, and a café. The indicative breakdown of the proposed floor areas are set out below:

Floorspace	Gross Floorspace	Net Sales Floorspace
Food Hall <i>Convenience goods</i>	7,808 sqm	1,045 sqm
General Merchandising (Fashion and Household) <i>Comparison goods</i>		4,390 sqm
Café		297 sqm
<b>Total</b>		<b>5,732 sqm</b>

3.02 The remaining circa 2,000m<sup>2</sup> would be used for storage, servicing, toilets, circulation space, staff facilities etc.

3.03 The building would be sited on the east part of the site with the car park on the west, where access would be taken off the roundabout with a separate access for service vehicles. The building would be set over two storeys with a roof height of 11.2m. There would be a projecting glazed section on the front, west elevation of the building that would protrude slightly above the main roof, and on the northeast corner of the building would be a ragstone feature that would protrude above the main roof to an overall height of 18.5m to create a focal gateway feature. The building would be mainly clad in white glass cladding with some grey metal cladding near the service areas. The front would feature a canopy with glazing on the ground floor and ragstone. A cut and fill exercise would be required due to the change on levels at the site. More detailed discussion on the design and landscaping will be carried out in the appraisal below.

3.04 The applicant outlines that Marks and Spencer currently operate from two stores in the town centre on Week Street. One store is freehold and the other (the ladies clothing store) a leasehold, with the lease expiring in 2022. The intention is that the leasehold store will close either at the end of the lease or, ideally, to allow staff to transfer to the new store at Eclipse Park. It is stated

that, operationally, having two stores within a town centre is far from ideal. The intention would be to significantly improve the freehold store opposite Fremlin Walk and it would continue to sell clothing and food as well as having a café. This store would therefore provide for visitors to the town centre and those living and working there. It would also allow for click and collect and better internet shopping from that store.

#### **4.0 POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP4, SP21, SP22, SP23, DM1, DM2, DM3, DM6, DM8, DM16, DM21, DM23
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Planning Guidance (2018)
- MBC Public Art Guidance (2018)
- EIA Regulations 2017

#### **5.0 LOCAL REPRESENTATIONS**

5.01 **Local Residents:** No representations received.

5.02 **Cllr Harwood:** Makes the following (summarised) observations:

- Limited solar PV proposed.
- Loss of trees and oak should be provided to compensate.
- No green wall/roof proposed.
- Lack of biodiversity enhancements such as swift or bat bricks; pollinators should be used in the landscaping scheme; wildlife friendly drainage gullies are essential; cordwood should be retained.
- Pond is welcomed.
- Trees close to the building would help keep it cool.
- Muted greens, greys or other natural colours could soften the appearance.
- Planters should be utilised around the building for security, landscape, biodiversity and cooling.
- Public art within the new East Station public realm should be considered.
- Car parking charges should be considered to fund an ambitious green travel plan and public transport link to the new store to ensure greater sustainability.

5.03 **Nu-Venture (bus operator):** Consider bus stops/shelters should be provided outside the site or shelters provided on Sittingbourne Rd, and funding of a 7 days a week regular circular bus service.

5.04 **Kent Invicta Chamber of Commerce:** Fully supports the application.

5.05 **Locate in Kent:** Strong support for application.

5.06 **Capital & Regional (Operator of the Mall shopping centre):** Strongly objects and makes the following (summarised) points:

- Contrary to Local Plan Town Centre retail strategy (policy SP4) which should attract significant weight.
- Lack of robust reasons to discount the vacant premises in the Mall for the proposed development.
- The Council previously considered sites in the Mall were sequentially preferable for the scheme as Notcutts, and the Waitrose and Next applications.
- Policy SP4 refers to redevelopment of the Mall as a medium to long term aspiration and decisions made now will influence commercial decisions made by retailers in future years.
- Approval will create uncertainty regarding the future of the town centre.
- Disagree with the retail impact assessment in terms of trade draw levels from the town centre and health checks.
- Cannot guarantee that main town centre M&S store stays open and other locations in the UK have seen town centre store closures.
- Town centre would be put at risk.

5.07 **M&G Real Estate (Operator of Fremlin Walk shopping centre):** Objects and makes the following (summarised) points:

- Further out-of-centre retail will fundamentally affect our ability and those of other stakeholders in Maidstone, to retain and attract retailers to the town centre.
- It does not accord with adopted and emerging local or national planning policy;
- The proposal fails to satisfy the sequential or impact tests.
- Were the Council minded to recommend approving the planning application, that appropriate conditions are imposed to ensure that the proposal is suitably controlled
- It is unclear how many new jobs will actually be created by the proposal if the existing staff are to be relocated or how the proposal could increase overall employment capacity on the site.
- Contrary to policy SP21.
- The applicant does not demonstrate any flexibility in terms of reducing the site area; scale or format of the proposal; or car parking numbers.
- We consider that both the Maidstone East and Former Royal Mail Sorting Office and Former Bhs store in the Mall are available and potentially suitable to accommodate the proposal or something broadly similar.
- Maidstone has not benefited from significant investment and renewal in 'recent' years.
- Below national average level of vacancies in the town centre and the pressure for out of centre premises leads us to question the statement that the town centre has remained '*relatively stable since 2012*' (RIA, para 4.40).
- Overestimating the turnover of the Maidstone town centre;

- Overestimating the inflow of comparison expenditure from beyond the extensive catchment area;
- Overestimating the 'trade draw' of the proposal from outside Zone 1 (Maidstone town centre) and underestimating the trade diversion from Maidstone town centre (only 1/3 of the proposal's overall turnover at 2021); and
- Not evidencing the alleged overtrading of foodstores within the catchment area.
- Trade draw from town centre is underestimated.
- Conditions should include restricting the scale of the proposal and specially identifying net and gross floorspace; restricting the use class of the proposal; preventing the installation of mezzanines; and preventing the amalgamation of units.

5.08 **One Maidstone (Town Centre Management Body):** Raise objections and makes the following (summarised) points:

- Threat to economic health of town centre.
- Eclipse Park was never intended for this purpose.
- Site is conducive to destination shopping.
- If approved there should be considerable s106 contributions to mitigate the impact.

## **6.0 CONSULTATIONS**

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

6.01 **Boxley Parish Council:** *"Whilst Boxley Parish Council welcomes this development, members have concerns that the local infrastructure is inadequate and this development will have a detrimental impact on the local traffic."*

6.02 **Highways England: No objections.**

6.03 **Natural England: No objections/comments** to make.

6.04 **Environment Agency: No objections/comments** to make.

6.05 **KCC Highways: No objections** subject to securing the following (that pass the CIL and conditions tests) - bus shelters at the pair of bus stops on Bearsted Road; reconfiguration of the Bearsted Road/Eclipse Park junction traffic signal operation; Travel Plan; financial contribution for the monitoring of the Travel Plan; provision of a bus stop in the immediate vicinity of the site; financial contribution to facilitate improvements to local off-peak bus services; provision and permanent retention of the vehicle and cycle parking spaces;

provision and permanent retention of the vehicle loading/unloading and turning facilities.

6.06 **KCC Lead Local Flood Authority: No objections** subject to condition requiring the detailed SUDs scheme, maintenance, and verification.

6.07 **KCC Ecology: No objections** subject to enhancements.

6.08 **MBC Landscape: No objections** to the landscaping scheme.

6.09 **MBC Environmental Health: No objections** subject to conditions relating to contamination, noise, extraction maintenance, air quality emissions reduction, and installation of electric vehicle charging points.

6.10 **MBC Economic Development:** Supports the application and makes some main points as follows:

*"It has been well documented that Town Centre shopping has been heavily influenced by a rapid change in shopper trends over the past decade, driven by the explosion in digital devices as well as increased broadband speeds that are available to consumers on mobile devices.*

*Online shopping has led to a new generation of 'digital shoppers' who use this technology to their advantage to obtain the best price in the market for goods or clothes. This in turn has driven greater competition between retailers to the detriment of many who have not been able to adapt in the face of rising cost pressures.*

*It is apparent that there will be an adverse impact on the Town Centre when the new store opens according to the Retail Impact Assessment carried out by the applicant and challenged by the Council's own retail consultants. It estimates that the trade draw impacts of both convenience and comparison shopping on the Town Centre will be 2.8%. In a town centre, where vacancy levels remain at around the national average and footfall remains strong, it is considered that the impact will not be "significant" on the health of the town centre.*

*It is expected that the Business Rates payable on the new store will be in region of £480,000 per year. This is relevant as currently an element of the growth in business rates across the Borough is captured locally and can be spent on delivering the Council's adopted Economic Development Strategy, which includes initiatives to support the Town Centre.*

*Trying to hold back the inevitable changes occurring in the retail sector will mean investment leaving the Borough. This proposal will create 260 new jobs at a flagship store at Eclipse Business Park and retain an M&S presence in the town centre, at least for the medium term. It will draw trade away from the town centre but not significantly.*

*ED supports the application.”*

- 6.11 **Ashford Borough Council: No objections** but consider the zone of influence could well cover more parts of urban Ashford as well as rural parts of the borough than suggested.
- 6.12 **Dartford Borough Council: No objections.**
- 6.13 **Gravesham Borough Council: No objections** but refer to conflict with policy SP22; potential impact of the proposal in combination with others recently permitted in the North Kent area; consider Maidstone East is not rejected on sound grounds; question convenience trade diversion from Bluewater and Gravesham; question suggested trade draw; question impact alongside Bluewater expansion.
- 6.14 **Medway Council: Raises objections.** Refers to conflict with policy SP22; lack of commentary of the impact on Medway and other neighbouring authorities and therefore real concerns about the impact of this proposal on its centres; the M&S proposed in Eclipse Park has direct implications for the M&S store in Hempstead Valley Shopping Centre; would have significant impact on Medway; the proposal could have a significant impact on drawing trade away from Maidstone town centre; and consider it would have a significant impact on Medway’s growth strategy, its economy, the sustainability of its centres and ambitions of sustainable development partly centred on supporting the growth and sustainability of Chatham and its 5 district centres.
- 6.15 **Swale, Tunbridge Wells, and Tonbridge & Malling Borough Councils:** No comments made
- 6.16 **Southern Water:** Can provide foul sewage disposal to service the development.
- 6.17 **Kent Police: No objections.**

## **7.0 APPRAISAL**

7.01 The main issues for this application are considered to be as follows:

- Conflict with policy SP22 of the Local Plan as the site partly falls within land allocated for B1 employment uses.
- Being a major retail proposal outside the town centre, compliance with policy DM16 and the NPPF in terms of the sequential test; retail impact upon the town centre or other retail centres; and sustainable connections to retail centres.



- Design and appearance; landscaping; highways; ecology; drainage; and air quality.

### Employment Allocation

7.02 The eastern part of the site is allocated as an employment site for B1 uses (offices, R&D, light industry) under policies SP21 and SP22. This policy states that a change of use or redevelopment for non B class uses will not be permitted unless it can be demonstrated that there is no reasonable prospect of their take up or continued use for B1 use in the medium term. The applicant has provided marketing information showing there has been no take up for this site for office purposes in the past 9 years and considers that given the office market in Maidstone and the availability of existing vacant offices in the town centre, it is unlikely that this site will be required for office uses in the foreseeable future. There has also been no uptake of the planning permissions for three office buildings totalling 5,118m<sup>2</sup>, which were granted planning permission in September 2017 (Ref 16/507366/OUT) just to the south of the site.

7.03 There is no specific commentary of market trends for the next 5 years (medium term) but I consider it highly unlikely that there is going to be such a significant change in market conditions in the near future to alter this position. This is a view shared by the Council's Economic Development section and who state, "*there is little demand for larger office space on traditional lease terms and certainly not enough to encourage speculative development.*" This was also the position accepted by the Council for the Waitrose application in November 2016 in the context of the previous Local Plan, which allocated the site for B1/B2 use, and the emerging policies of the current Local Plan which allocated the site for B1 uses, and I see no grounds to divert from this conclusion, notwithstanding the continued allocation of the site in the Local Plan. I therefore consider the terms of policy SP22 have been met. It must be noted that the employment expected from the proposal is 300 full and part time jobs (approximate mix of full time (30%) and part time (70%)), so whilst not a B class use, this would still provide a significant number of jobs within the employment allocation.

### Sequential Approach

7.04 Policy DM16 states that proposals such as this development should be located in an existing retail centre (Maidstone town centre or other retail centres) unless by means of a sequential approach it can be demonstrated that it can't be accommodated here, and secondly that it can't be accommodated at an 'edge of centre' site. Only then can an alternative 'out of centre' location be considered, which should be accessible by public transport. This follows paragraph 24 of the NPPF which states that Local Planning Authorities should apply a sequential test to planning applications that are not in an existing centre and are not in accordance with an up-to-date Local Plan.

7.05 Eclipse Park is located outside of Maidstone town centre and is not allocated for retail use in the Local Plan. The application site is considered to be 'out of centre' and so the applicant has assessed sites within the Town Centre (TC) and on its edge.

7.06 National Planning Policy Guidance (NPPG) provides a checklist that sets out considerations that should be taken into account in determining whether a proposal complies with the sequential test as follows:

- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre.
- Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
- If there are no suitable sequentially preferable locations, the sequential test is passed.

7.07 In terms of assessing alternative sites, the applicants approach is that sequentially preferable sites should be capable of accommodating the development proposed *by this application*, being a full range M&S store (i.e. it cannot be reduced or divided into separate components for example the food element being separated from fashion). They seek to justify this approach based on various cases high court and appeal decisions. The Council's retail consultants 'Cushman & Wakefield' (CW) agree that applying the sequential test to the proposed development as a whole is the correct approach in this case.

7.08 CW agrees with the five alternative sites assessed by the applicant and I am not aware of any others that would be suitable. The five sites are as follows:

1. Newnham Park, Bearsted Road
2. Maidstone East and Former Royal Mail Sorting Office
3. King Street Car Park (incl. Former AMF Bowling)
4. Powerhub Building and Baltic Wharf
5. Former BHS Store and Former TJ Hughes, The Mall

7.09 These sites must be assessed for their suitability, availability and viability. I and CW agree that the Newnham Park shopping complex is not currently available and moreover it is not a sequentially preferable site. King Street Car Park is a retail allocation in the Local Plan for up to 1,400m<sup>2</sup> but is not large enough for the development proposed. The 'Powerhub building and Baltic Wharf' is also allocated for retail in the Local Plan but it is agreed that is not

suitable mainly given the need to retain the listed building. Redevelopment and the simultaneous refurbishment of the listed Powerhub building make this a very difficult site to bring forward for any retail scheme given the site's limitations and CW agree with this, as do I. The vacant TJ Hughes store in the Mall is too small to be suitable (1,449m<sup>2</sup>).

7.10 Maidstone East is the Council's primary retail allocation allowing for up to 10,000m<sup>2</sup> comparison and convenience retail. Whilst in principle the site would be suitable, MBC (who joint own a significant part of the site) have confirmed that the likelihood of the site being available for a retailer is at least 5/7 years away (2023/2025) and therefore this takes it beyond the time period for when M&S have targeted their new regional stores to be open (2020). On this basis, it is not considered to be available prospect at this time or deliverable within a reasonable timeframe.

7.11 The former BHS store has a floorspace of 6,751m<sup>2</sup> arranged over 3 levels (approximately 2,250m<sup>2</sup> per floor). The proposed M&S is 7,808m<sup>2</sup> over 2 levels (3,904m<sup>2</sup> each). Therefore, the floor plate sizes do not match M&S's requirements. The applicant considers the fundamental issue with this unit is the configuration (spread over 3 floors) and that it is in a covered shopping centre. This means that the store does not have the prominence or presence that M&S would want from a new, regional store. The applicant states that covered Shopping Centres that were developed in the 1980s around an anchor tenant such as BHS, are difficult to adapt when that tenant leaves to suit the requirements of another retailer. They point out that trading on multi levels in such centres is difficult, as TJ Hughes have found. TJ Hughes have relocated onto one level and vacated the lower level. They also consider having split level frontages can affect customer's attraction and footfall into the store. Reference is also made to the lack of immediate free surface level car parking and the servicing arrangements and plant area facilities do not meet M&S's requirements. Even if M&S were to adapt their format significantly to be able to take these premises, it is stated that the UK Property Director has assured that he would not be able to convince his Board to accept such a compromised location. The applicant concludes that given the above, the BHS unit is unsuitable for the proposed development. CW advises that they have sympathy for the applicant's position and, on balance, consider that the unit would not satisfy their commercial requirement.

7.12 Therefore for the above reasons it is considered that the sequential test has been met showing that the proposal could not be accommodated on a site within the town centre or on its edge in accordance with policy DM16.

#### Retail Impact

7.13 Policy DM16 requires an impact assessment to demonstrate that:

- The proposal would not result in significant adverse impact (*my emphasis*), cumulative or otherwise, on the vitality and viability of an existing centre (within or outside of MBC); or
- Undermine the delivery of a site allocated for the use proposed.
- The accompanying text states that the assessment should also follow the approach in the NPPF and NPPG which includes assessing:
  - The impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
  - The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

7.14 Policy DM17 seeks to maintain and enhance the existing retail function of defined district centres. The district centres most likely to be affected by the proposal are the Mid Kent Centre, Allington and Grovewood Drive, Grove Green.

7.15 The planning application has been accompanied by a retail impact assessment which covers the following main aspects:

- Health check analysis of the relevant designated centres (Maidstone Town Centre, and Allington (Mid-Kent) and Grove Green District Centres) (in order to understand the potential impact of the development on the centres);
- Household surveys (to assess current shopping patterns across the catchment area)
- Trade Draw/Diversion of convenience and comparison shopping (to understand the proportion of trade the development is likely to receive from customers within and outside the catchment area)
- Retail Impact (an assessment of the likely impact on the vitality and viability of retail centres, and upon existing, committed and planned investment)

7.16 The applicant's assessment of trade diversion of both convenience and comparison shopping upon local retail centres is set out below. This shows the existing turnover of the town centre and district centres, and predicted turnover for 2021 (without the proposal). So for example, for the town centre, it is predicted there will be a £49.2m increase in turnover between 2018 and 2021. Of this increase, the proposed new store is expected to divert £16.5m of trade. Therefore with the development in place, it is predicted that the turnover of the town centre from 2021 would be 2.8% lower than it would have been without the new store. This is the impact upon which the proposal must be judged and is shown in the final column.

Destination	Existing Turnover at 2018 (£m)	Existing Turnover at 2021 (£m)	Trade Diversion (£m)	Post-Development Turnover at 2021 (£m)	Impact from Proposal (%)
<b>Maidstone Town Centre</b>	£532.8m	£582.0m	£16.5m	£565.6m	<b>2.8%</b>
<b>Allington (Mid-Kent) District Centre</b>	£15.0m	£15.4m	£1.0m	£14.5m	<b>6.2%</b>
<b>Grove Green District Centre</b>	£42.7m	£43.9m	£1.0m	£42.9m	<b>2.2%</b>

*(Any discrepancies due to rounding of figures)*

7.17 The applicant considers this would not result in a significant adverse impact on the vitality and viability of the town centre or local centres. In this regard, the NPPG advises that,

*"A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact."*

7.18 The applicant considers that the town centre has a good range and offer and is a healthy and vibrant centre with the town centre's comparison retail offer providing a significant draw to Maidstone, and the town centre has remained relatively stable since 2012 (date of Council's own retail study). The town has 25 of the 29 major retailers in the UK and in the 'Javelin Venuescores index' which ranks 3,077 retail venues within the UK, Maidstone Town Centre has remained at 52<sup>nd</sup> as it was in 2013/14. As the Local Plan points out in the explanatory text to policy SP4, the town centre has a good balance of major, national retailers alongside a strong, independent offer.

7.19 The applicant points out that the proportion of vacant units has fallen over the past 6 years to below national averages (11% in comparison to 11.2%). It must be noted however that the actual amount of vacant floorspace is slightly higher than the UK average (12.6% compared to 9.8%), which is largely made up of the former TJ Hughes and BHS stores. Pedestrian flows through the town centre have risen year on year since 2015. Recent investment by the Council on public realm improvements in the High Street and those to come on Week Street are also positive aspects contributing to the environmental quality within the town centre. Clearly, many town centres are facing challenges due to changes in retail patterns, particularly online shopping, however, for the above reasons, it is considered that the town centre is a relatively healthy and

vibrant centre with a good range and offer, and which does not have high levels of vacancies.

7.20 For the Allington and Grove Green district centres, the applicant considers Allington is healthy and vibrant being based around the Waitrose store with varied independent shops/services, and only one vacant unit. In the case of Grove Green, this is also considered to be healthy with the anchor Tesco store serving day to day needs and with no vacancies.

7.21 The applicant refers to two tests that have been given weight in appeal decisions in considering whether significant adverse impacts have occurred ('Rushden Lakes' & 'Scotch Corner', which were for a mixed use development and designer outlet centre respectively). Firstly, one looks at whether the town centre would continue to turnover more at the test year (post completion and implementation of the proposal 2021) than it does in the base year (2018). In those appeal decisions, turnover would either be marginally lower, or more than the base year and the Secretary of State agreed that the impact would not be significant. The second test assesses whether the proposal is likely to result in any stores closing or cease trading as a result of the development and whether consumer choice would be affected.

7.22 Clearly, each case is judged on its own merits but in terms of turnover, both Maidstone town centre and Grove Green are predicted to turnover above the current levels post completion of the development in 2021 so would still increase trading despite the development. For Allington, the turnover would fall to 96.6% of 2018 trading levels but this is not a significant fall.

7.23 Turning to whether any stores would be at risk, the two district centres are anchored by supermarkets. The Tesco at Grove Green currently overtrades well above benchmark levels and so would not be at threat by the proposals so nor would the district centre. The Waitrose store at Allington currently trades at around 26% above benchmark levels and is predicated to overtrade by 22.5% as a result of the development. This continued overtrading means that the anchor store would not be at risk as a result of the development and so nor would the district centre. For the town centre, the Sainsbury's at Romney Place trades well above its benchmark so is not at risk. It is not possible to assess the impact upon individual comparison goods stores because it is not practicable to survey people on which stores they last used for the various categories of comparison goods.

7.24 CW originally sought further clarification/refinement on some of the retail impact analysis carried out. The applicant responded to this but there are still some areas of disagreement and on this basis, CW do not agree with the applicant's conclusion on the scale of trade diversion. However, and importantly, they advise that if the assessment was altered to their agreement, it would not forecast significantly higher proportions of trade diversion from, or retail impacts on the town centre, or district centres. There is often disagreement on the scale of impact for retail assessments from

consultants but on balance, they advise that they do not consider the proposal would have a significant adverse impact on the vitality and viability of Maidstone town centre, or any other centre.

- 7.25 I agree with this conclusion and therefore the proposal complies with this part of criterion (ii) of policy DM16 of the Local Plan and the impact test within the NPPF. However, there will still obviously be some limited negative impact and so mitigation is proposed which will be discussed below. Also, the NPPG advises that where there would be no likely significant impact on a town centre, the local planning authority must then consider all other material considerations in determining the application, as it would for any other development. I will return to this balancing exercise in the conclusion below.
- 7.26 In terms of whether the proposals would undermine the delivery of a site allocated for the use proposed (second part of criterion (ii)) or existing, committed and planned investment (NPPF)), Maidstone East is the Local Plan's primary retail allocation but this site is a number of years away from potential development and so the proposal would not undermine this site allocation. Newnham Court only allows for replacement retail floorspace of the amount that exists (and a recent permission has been granted for redevelopment of the garden centre and café), and the proposals would not compromise potential redevelopment of this allocation. King Street is a smaller site and more suitable for smaller users so would not be compromised. The Powerhub and Baltic Wharf is not suited to such a store and so the proposals would not compromise this allocation. Representations on behalf of 'The Mall' shopping centre consider that the development will have a bearing on investment decisions for the shopping centre. Policy SP4 refers to the medium to longer term aim of promoting a comprehensive retail redevelopment centred on The Mall but this is envisaged for the latter part of the Plan period (post 2026) and so is not considered to represent existing, committed or planned investment at the moment.
- 7.27 In terms of the Medway Council objection, C&W have confirmed that the applicant has adequately assessed centres within Medway, and based on the assessment it is considered that the likely trade impacts upon such centres are low such that significant adverse impacts would not be caused. Nor would there be any significant impacts upon any other centres outside the Borough.

#### Mitigation

- 7.28 Whilst the proposal would not have a 'significant adverse impact' on the vitality and viability of Maidstone town centre or any other centre it would still divert trade and have some limited negative impact, and as such mitigation has been negotiated with the applicant. The Council currently has a number of projects/initiatives for the town centre, details of which have been provided from the Economic Development Section, as follows:

1. Study into managing the transition of the Town Centre - Cost £30,000

2. Town Centre Marketing initiative - £90,000 (£30k/year x3)
3. Maidstone Shop Front Improvement Scheme - £120,000
4. Public realm works to Earl Street - £1m

7.29 I also consider potential public art provision in the town centre is appropriate bearing in mind the Council's adopted Public Art Guidance 2018.

7.30 There is no formula for working out an appropriate amount of money to mitigate the impact of retail development and the applicant is agreeable to a sum of £300,000 which is based on covering the costs of the first 3 town centre projects and additional monies towards public art/realm projects. I consider this is proportionate to the impact of the development on the town centre (circa 2.8% trade diversion) and this would provide clear benefits for the town centre. This would leave £60,000 towards public art and Earl Street works. The public art guidance seeks £3 per square metre and so would be in the region of £23,400 leaving £36,600 towards Earl Street. A legal agreement can secure this financial contribution but allow some flexibility should any of the projects or their costs change so that monies can still cover the projects, or be used in a different combination.

7.31 A legal agreement would therefore secure £300,000 to be used towards the town centre projects as set out below:

1. Study into managing the transition of the Town Centre - £30,000
2. Town Centre Marketing initiative - £90,000
3. Maidstone Shop Front Improvement Scheme - £120,000
4. Public Art provided within the town centre - £23,400
5. Public realm works to Earl Street - £36,600

7.32 The applicant is also agreeable to committing to investment of £300,000 on the freehold town centre store to be used towards re-fitting and upgrade works within 3 years of the first occupation of the proposed store. Whilst this is not necessary to make the development acceptable (and so is not a reason for granting permission), it is being proposed by the applicant and will therefore be included in the legal agreement.

7.33 Whilst not mitigation, the applicant (Marks & Spencer) is already proposing to contribute an additional 1.5% of their business rates annually towards Maidstone's business improvement district (BID) which is to facilitate improvements to the town centre.

#### Design, Appearance & Landscaping

7.34 Such retail units inevitably start as a 'box' shape for practical reasons but this has been broken up with visual interest, for example on the front west elevation with the provision of a two storey projecting glazed section which also protrudes above the roof. Either side are projecting canopies at single and two storey height which also wrap around the south side of the building where



it is exposed to view. Materials are also used to break the building up and are of high quality including ragstone on the ground floor to the front and south side, and white glass 'rainscreen' cladding, which would also be used on the east side of the building where it would be visible from the A249. The colours of the materials are also considered to complement one another. Windows are also used on the east side to break up the elevation and provide an active frontage to the A249. Timber effect cladding would be used on the supports for canopies and their undersides which would also provide a high quality finish. The north elevation is plainer as this would be screened from view by the embankment. A key feature of the building is the tall ragstone tower in the northeast corner which will provide a distinct and quality finished element to the building on this gateway to Maidstone from J7. The building would also meet a 'BREEAM Very Good' level in accordance with policy DM2 and solar PV is proposed and has been increased since submission. Overall, the building is considered to be of high quality in terms of its design and appearance.

- 7.35 The applicant (Gallaghers) is also proposing a digital display within Eclipse Park for advertisements in relation to Eclipse Park but this could also be used for Maidstone and town centre promotional material should the Council or One Maidstone wish to approach the applicant. The precise location is not yet decided and this requires separate advertisement consent. As this is part of the proposal and is a positive feature of the development, an advert consent application can be sought by condition.
- 7.36 Surface materials would include buff coloured paving around the entrance to the building, block paving for parking spaces and tarmac for circulation space in the car park and service areas. This would ensure variation and interest in surfacing. Ragstone walling would also be used for the ramped access near the southwest corner of the building.
- 7.37 Landscaping includes new trees and hedging around the perimeter of the parking area with a more substantial landscape buffer along the site frontage. Within the parking areas would be hedges and trees to break up the hardstanding areas. Around the rear and side of the building would structural planting and trees. Improvements have been made including additional trees, ivy trellis planting, and ragstone planters. The species proposed are predominantly native and overall it is considered the landscaping scheme is of good quality and would provide a good setting to the development. The Landscape Officer also concurs with this view. The applicant is also proposing new trees to the west of the application site along the road frontage. Whilst this is not strictly necessary, it is part of the applicant's proposals and will be referred to in the approved plans.
- 7.38 Lighting would be in the form of columns within the car park and wall mounted lights on the building. Details can be provided by condition to ensure a limited visual impact and quality units.

- 7.39 Boundary treatments would be 2.4m high secure green powder coated metal fencing to all boundaries to the service yard with the remainder either timber knee rails or 1.1m high powder coated metal fencing similar to that on the Next store. Specific details can be secured by condition.
- 7.40 In terms of the impact upon the setting of the AONB, the scale of the development being essentially 2 storeys, in the context of neighbouring existing or approved development (which is taller), in my view would not have a harmful impact upon the setting of the AONB both in terms of views from and views towards, particularly with the M20 motorway and J7 between.
- 7.41 For the above reasons the proposals are considered to comply with policies DM1, DM2, and DM3 of the Local Plan.

#### Highways & Sustainable Travel

- 7.42 Kent Highways have assessed the access and impact of traffic upon the local highway network and Highways England on the M20. Both consultees raise no objections in terms of capacity or safety. This is based on a small change to the traffic signals at the Eclipse Park/Bearsted Road junction to provide a left turn filter for vehicles exiting Eclipse Park, which would be secured by condition. Parking provision would be a total of 282 spaces that are to be available to staff and customers (including for the mobility impaired and cycle parking), and it has been demonstrated that this would meet the usual peak demand for parking. There is the potential for more pronounced peaks in demand to occur on occasion, such as at weekends and during the Christmas period but KCC Highways would not regard these instances to justify a higher level of parking provision in view of the need for compliance with maximum parking standards and the scope for such situations to be effectively monitored and managed. Electric vehicle charging points would also be provided in accordance with policy DM23 and on this basis, the parking is considered acceptable.
- 7.43 In terms of sustainable travel, the site is served by new bus stops on the Bearsted Road (around 300m) which provide a frequent (30 mins) bus service to and from the town centre. In off-peak evenings and on Sundays the service is more limited but I consider it is still a sufficient to serve the development. Based on the current service, I also consider that monies towards town centre projects is more appropriate than towards bus improvements. I agree with Kent Highways that the provision of shelters for the existing bus stops is appropriate and the potential provision of a bus stop outside the site should bus services come into the site (something that the bus companies do not currently propose). This is proportionate to comply with criterion 2 of policy DM16.
- 7.44 A draft Travel Plan has been submitted which provides a basis for encouraging sustainable travel patterns and reducing vehicle trips over time. It includes a range of measures and initiatives that are largely focused around group

participation in travel schemes (e.g. Cycle to Work, Kent Journey Share Scheme), the availability of travel related information (e.g. travel information board, welcome leaflets, bus timetables), the provision of cycle parking and potential discounts on bicycle purchases. Implementation will be overseen by a Travel Plan Co-ordinator. This can be secured by condition and a monitoring fee of £5,000 secured alongside this through a legal agreement.

- 7.45 For the above reasons the proposals are considered to comply with policies SP23, DM16, DM21 and DM23 of the Local Plan.

### Other Matters

#### *Ecology*

- 7.46 The ecology survey outlines that the habitats within the site that consist of hardstanding, recolonising ground, woodland, amenity grassland and amenity planting are in the main species poor and of low biodiversity value, and their removal is of little ecological significance. There would be no impact upon protected species and so no harmful ecological impacts. The landscaping scheme will provide biodiversity enhancement and a pond is also proposed along the frontage to provide enhancement. Other measures such as swift bricks, cordwood and wildlife friendly drainage are also proposed and can be secured by condition.

#### *Drainage*

- 7.47 Surface water would be drained via soakaways and with the use of permeable paving which KCC consider is acceptable subject to conditions covering the specific details, verification, and maintenance.

#### *Air Quality*

- 7.48 An assessment has been provided which concludes that the development is predicted to result in a negligible impact on air quality with no predicted risk of exceedance of air quality standards. As such, the overall effect on air quality (human health) from the proposals is considered not to be significant. The Environmental Health section has reviewed the assessment and agrees with its conclusions that the impact will be negligible. Measures to lessen any impact would be through the Travel Plan, electric charging points, and bus shelters which is considered proportionate to the impact in this case.

#### *Environmental Impact Assessment*

- 7.49 The proposals would result in more than 1ha of 'urban development' taking into account the new retail building and surrounding development and so would fall within Schedule 2 of the EIA Regulations 2017. This does not mean an EIA is required but that an assessment needs to be carried out as to whether the proposal is "*likely to have significant effects on the environment*".

The site falls within the setting of the AONB, defined as a 'sensitive area' under the Regulations but does not affect any other 'sensitive areas'. It is considered that the size and nature of the development means that it would not have any significant effect upon natural resources, the production of waste, population and human health, pollution or nuisances, any risk of major accidents or to human health, or would not result in harm to the AONB landscape, or to the natural environment including biodiversity, land, soil, water, air and climate, or cultural heritage. The impact of the development would be localised and would not be so significant or wide-ranging so as to warrant an EIA. On this basis, it is considered that an EIA is not required.

## **8.0 BALANCING OF ISSUES/CONCLUSION**

8.01 Whilst the site is not allocated for retail use, and the Local Plan seeks to direct such uses towards the town centre, policy DM16 can allow for out of town proposals where criterion are met. The sequential test has been met showing that the proposal could not be accommodated on a site within the town centre or on its edge, and proposals would not have a 'significant adverse impact' upon Maidstone town centre or any other retail centres. The site has good accessibility by public transport and improvements would be made. The site partly falls within an employment allocation but there is not considered to be a reasonable prospect of its use for offices in the near future so policy SP22 is met.

8.02 The proposals would nonetheless still have some negative impact upon Maidstone town centre and or other local retail centres. Balancing this against mitigation of £300,000 towards town centre projects, the economic benefits of the net job creation of a predicated 260 (full and part-time) jobs created in store (40 staff employed at leasehold store will be offered the opportunity to work from the new store), and a further 200 jobs created in the construction and fit out of the development, the high quality design of the development, and the lack of any other harm caused by the development or conflict with the Development Plan, it is considered that the proposals are acceptable.

8.03 I have considered all representations received on the application and for the above reasons it is considered the proposals are in accordance with the relevant policies of the Development Plan and permission is recommended subject to the following Heads of Terms and conditions.

## **9.0 RECOMMENDATION:**

Subject to the prior completion of a legal agreement to provide for the Heads of Terms set out below and subject to the conditions as set out below, the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION**, and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

## Heads of Terms

1. Financial contribution of £300,000 to be used towards the town centre projects as set out below. Should any projects or their costs change the contribution can be used in any alternative combination or different amounts for all or some of the projects listed:
  - a) Study into managing the transition of the Town Centre - £30,000
  - b) Town Centre Marketing initiative - £90,000
  - c) Maidstone Shop Front Improvement Scheme - £120,000
  - d) Public Art provided within the town centre - £23,400
  - e) Public realm works to Earl Street - £36,600
2. Securing that the applicant spends £300,000 on the Marks & Spencer freehold store in the town centre to be used towards re-fitting and upgrade works within 3 years of the first occupation of the development hereby approved.
3. £5,000 to be used for monitoring of the Travel Plan.

## Conditions

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

Reason: In accordance with the provisions of Section 91 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 permitted shall be carried out strictly in accordance with the following approved plans:

0301-Rev 02, 0302-Rev 05, 0303-Rev P04, 0304-Rev 02, 0305-Rev P03, 0310-Rev 01, 0320-Rev P06, 17-77-PL-201 B, 17-77-PL-202 B, 17-77-PL-203, and 17-77-PL-204

Reason: To ensure a high quality development and to clarify which plans have been approved.

3. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from

the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

4. No development shall take place until details of the proposed slab levels of the building and associated development and the existing site levels have been submitted to and approved in writing by the local planning authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site.

5. No development above slab level shall take place until details for the provision of 5 publicly accessible electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. The approved charging points shall be provided and fully available for use prior to the occupation/operation of the retail store and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

4. No development above slab level shall take place until details of the trolley bays have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To ensure a high quality appearance to the development.

5. No development above slab level shall take place until details of all boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development.

6. No development above slab level shall take place until a sample panel for the ragstone facing of the building, walling, and planters as shown on the approved plans has been submitted to and approved in writing by the Local

Planning Authority. Such details as approved shall be fully implemented on site.

Reason: To ensure a high quality appearance to the development.

7. No development above slab level shall take place until details of wildlife friendly drainage gullies and ecological enhancements including swift bricks, retention of cordwood on site, and maintenance/management of the approved pond have been submitted to and approved in writing by the Local Planning Authority. Such details as approved shall be fully implemented on site.

Reason: To ensure a high quality appearance to the development.

8. The development hereby permitted shall not be occupied until a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed in accordance with the DEFRA publication Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems January 2005. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first operation of the premises and these shall thereafter be operated and retained in compliance with the approved scheme.

Reasons: In the interests of local amenity.

9. The development hereby permitted shall not be occupied until details of lighting have been submitted to and approved in writing by the local planning authority. Details shall include designs, heights, luminance levels and measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To ensure a high quality appearance to the development.

10. The development hereby permitted shall not be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme has been submitted to and approved in writing by the local planning authority. The manual at a minimum shall include the following details:

- A description of the drainage system and its key components
- A general arrangement plan with the location of drainage measures and critical features clearly marked
- An approximate timetable for the implementation of the drainage system
- Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities

- Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction), as per the requirements of paragraph 103 of the NPPF and its associated Non-Statutory Technical Standards.

11. The development hereby permitted shall not be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to and approved in writing by the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with the National Planning Policy Framework.

12. The development hereby permitted shall not be occupied until a final Travel Plan in accordance with the Planning Practice Guidance and following the principles of the submitted draft Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be thereafter implemented and maintained.

Reason: In the interest of sustainable transport.

13. Within 6 months of occupation, an advertisement consent application for the proposed digital display, within either the application site or land outlined in blue on the site location plan, shall be submitted to the Local Planning Authority.

Reason: To facilitate delivery of this positive aspect of the applicant's proposals.

14. The building hereby approved shall be constructed strictly accordance with the facing materials and colours as shown on drawing no. 0320-Rev P06 and as listed in the 'Notes' section on that drawing unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a high quality appearance to the development.



15. The development shall be carried out strictly in accordance with the ground surface materials and colours as shown page 31 of the Design & Access Statement unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a high quality appearance to the development.

16. The development shall be carried out in accordance with the approved landscaping scheme as shown on drawing nos. 17-77-PL-201 RevB (Landscaping 1 of 2), 17-77-PL-202 RevB (Landscaping 2 of 2), and 17-77-PL-204 (Tree Planting along the Western Approach Road) unless otherwise agreed in writing with the Local Planning Authority. No development above slab level shall take place until details of the implementation and long term management of the approved landscaping scheme, commensurate with the development/occupation of the site, has been submitted to and approved in writing by the Local Planning Authority, and the planting shall be carried out in accordance with the approved details. Any planting, seeding or turfing which fails to establish or any trees or plants which, within five years from its planting, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

17. The recommendations of the Lustre Consulting Report reference 1498\ML\12-2015\422 shall be implemented in full. A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in the report. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto site should be suitable for use via risk assessment for both human health and controlled water. Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of human health.

18. The approved details of all vehicle parking/turning and cycle parking areas shall be completed before the commencement of the use of the land or buildings to which they relate and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall

be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety and sustainability.

19. The retail unit shall achieve a Very Good BREEAM Retail 2014 rating. A final certificate shall be issued to the Local Planning Authority for written approval to certify that a Very Good BREEAM Retail 2014 rating has been achieved within 6 months of the first occupation of the development.

Reason: To ensure a sustainable and energy efficient form of development.

20. The building or land shall be used for A1 retail use only and for no other purpose (including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any statutory instrument revoking and re-enacting those Orders with or without modification);

Reason: To clarify the permitted use and to accord with the terms of the retail impact assessment and to safeguard the primary function of Maidstone Town Centre and local centres.

21. The development shall not exceed:

- (a) 7,808 square metres gross internal area;
- (b) 5,732 square metres net internal retail area, of which:
  - (i) no more than 1,045 square metres net shall be used for the sale of convenience goods; and
  - (ii) no more than 4,390 square metres net shall be used for the sale of comparison goods.
  - (iii) no more than 297 square metres net shall be used as a café, the use of which shall be ancillary to the retail sale use within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987, as amended;

Reason: To accord with the terms of the retail impact assessment and to safeguard the primary function of Maidstone Town Centre and local centres.

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 7, Class A to that Order shall be carried out without the permission of the local planning authority;

Reason: To accord with the terms of the retail impact assessment and to safeguard the primary function of Maidstone Town Centre and local centres.

23. No additional floorspace shall be created through the use of mezzanies or otherwise.

Reason: To accord with the terms of the retail impact assessment and to safeguard the primary function of Maidstone Town Centre and local centres.

24. The use hereby permitted shall only open to customers within the following times:

07.00 to 22.00 Monday to Saturday and up to 6 hours between 10.00 and 18.00 on Sunday and Bank Holidays. The café shall not be open outside of the store opening hours.

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers.

25. Deliveries shall only take place or be accepted at the store within the following times:

06:00 to 22:00 Monday to Saturday or between 09:00 and 18:00 on Sundays/Bank/Public Holidays.

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers.

26. The retail building hereby permitted shall not be occupied until the off-site highways works under (i) and (ii) below have been fully implemented, and the details for (iii) have been approved in writing by the Local Planning Authority. The details for (iii) shall be carried out as approved and maintained thereafter.

(i) The provision of bus shelters at the two bus stops on Bearsted Road;

(ii) Reconfiguration of the Bearsted Road/Eclipse Park junction traffic signal operation as outlined in the Transport Assessment.

(iii) Details for the provision and implementation of a bus stop near to the application site.

Reason: In the interests of highway safety and sustainable transport use.

Case Officer: Richard Timms