

<b>REFERENCE NO - 22/505560/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Erection of a new food store (Use Class E(a)), with access, car and cycle parking, landscaping and associated works.		
<b>ADDRESS</b> Land at Newnham Court Way, Weaving, Kent, ME14 5LH		
<b>RECOMMENDATION – REFUSE PERMISSION</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>The application site is upon land allocated in the Maidstone Local Plan 2017 for a 'medical campus' with specialist medical facilities and associated uses in order to attract high value, knowledge intensive employment, and create a specialist knowledge cluster to support the council's vision for economic prosperity. The proposal for a food store is therefore contrary to the Local Plan and specifically policies SS1, RMX1 and RMX1(1).</li> </ul> <p>Section 38(6) of the Planning and Compulsory Purchase Order 2006 states that,</p> <p><i>"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."</i></p> <p>For the reasons outlined in the report there are not considered to be any material considerations that outweigh the clear conflict with the Development Plan and so the application is therefore recommended for refusal.</p> <ul style="list-style-type: none"> <li>The proposed layout has the access road and elevated car parking areas dominating the front of the site which would be highly visible from nearby public vantage points. This creates a poor frontage and gateway into the wider site allocation and represents poor design which fails to respond positively to character of the local area contrary to policy DM1 of the Maidstone Local Plan and paragraph 130(b) of the NPPF.</li> <li>The application fails to quantify the level of biodiversity net gain in accordance with the latest Natural England biodiversity metric and therefore net gains for biodiversity have not been sufficiently demonstrated contrary to paragraph 174(d) of the NPPF.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
<ul style="list-style-type: none"> <li>The Head of Development Management has reported the application to Committee due to it being a controversial major application.</li> </ul>		
<b>WARD</b> Boxley	<b>PARISH COUNCIL</b> Boxley	<b>APPLICANT</b> Aldi Stores Limited <b>AGENT</b> Avison Young

<b>CASE OFFICER:</b> Richard Timms	<b>VALIDATION DATE:</b> 02/12/22	<b>DECISION DUE DATE:</b> 31/08/23	
<b>ADVERTISED AS A DEPARTURE: NO</b> (as being recommended for refusal)			
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
23/500762	Screening Opinion relating to application 22/505560/FULL (Erection of a new food store (Use Class E(a)), with access, car and cycle parking, landscaping and associated works).	EIA NOT REQUIRED	06/03/23
13/1931	Demolition of existing buildings and redevelopment of site to provide new retail development comprising food store (A1), general A1 retail units, A3 cafes/restaurants and A3 conversion of existing oasthouse with associated highway works, closing up of existing site access, formation of new access via New Cut Roundabout and Newnham Park spine road, associated earthworks, parking and landscaping	REFUSED	12/06/14
Adjacent to the site there is an extant outline permission for uses associated with the 'Kent Medical Campus'. Together with a previously constructed building (Cygnet Hospital) this can allow for a total of up to 98,000m <sup>2</sup> of floorspace.			

## **1.0 DESCRIPTION OF SITE**

- 1.01 The application relates to a parcel of land on the west side of Newnham Court Way the road that provides access to the KIMs Hospital, Innovation Centre, Cygnet Hospital, and Bearsted Primary and Snowfield Academy Schools. The land is grassed and is not defined by any physical boundaries. It gently rises from the road westwards to edge of the Newnham Court Shopping Village (NCSV) by around 7m. The south edge of the site is curved and will abut the approved new access road to NCSV (KCC planning permission) and the west will adjoin the approved new service road once they are constructed.
- 1.02 The local topography is undulating and surrounding land generally rises west of Newnham Court Way and drops eastwards to a stream before rising once again further east. The site is visible from Newnham Court Way close to the site and Gidds Pond Way further east. It is also visible from the south end of New Cut Road and Bearsted Road and Weaving Heath which is on higher land to the southeast.
- 1.03 The site falls within a 'medical campus' allocation (policy RMX1(1)) in the Local Plan where the policy refers to 'specialist medical facilities set within an enhanced landscape structure'. An outline permission for such uses exists but the application site falls outside that permission. The Kent Downs AONB is approximately 415m to the north and the site is considered to be within

its setting. Newnham Court Farm a Grade II listed pub/restaurant is around 30m west of the site.

Planning History - Outline Planning Permission(s)

- 1.04 Permission was originally granted in April 2013 adjacent to the application site which facilitates the 'medical' part of policy allocation RMX1(1). The 'Cygnet Hospital' was the only building/use built under that permission which expired in April 2016.
- 1.05 This was in effect renewed with a new outline permission in 2017 and there is currently an extant outline planning permission (18/506609/OUT) which again facilitates the policy allocation allowing permission for the following:
- Hospital facilities, clinics, consultation rooms and a rehabilitation centre
  - Education and training facilities with residential accommodation
  - Keyworker accommodation for nurses and doctors
  - Pathology laboratories
  - Business uses
  - Ancillary retail services
  - Up to 116 bed class C2 neuro-rehabilitation accommodation
- 1.06 Built under the 2017 and later permissions are a care facility (comprising a mixture of step-down residential, nursing, dementia, rehabilitation and respite care) and the Maidstone Innovation Centre described on its website as providing a hub and serviced offices suitable for businesses in the Med-Tech, Life Science and Healthcare sector.
- 1.07 The latest permission requires any reserved matters details for further development to be submitted by June 2027.

**2.0 PROPOSAL**

- 2.01 Permission is sought for a food store (Use Class E(a)) with a retail food area of 1,315m<sup>2</sup> and an ancillary warehouse, freezer store, and loading bay together totalling 340m<sup>2</sup>. The store is predominantly for the sale of convenience goods (e.g. food and grocery) with around 20% of the floorspace for comparison goods. The proposed operator is 'Aldi' who are regarded as a 'deep discount retailer'.
- 2.02 The building is proposed at the higher northwest part of the site with parking to the south/southeast of the building. Access is proposed off Newnham Court Way in the northeast corner. The land slopes upwards from the road and it is proposed to cut the development downwards by around 2.95m in the west part and raise the land by around 3.8m on the east side.
- 2.03 There would be a total of 128 parking spaces inclusive of 14 EV charging and 9 accessible spaces, and 14 cycle parking spaces. Pedestrian access points are shown on the west and south boundaries which would link with the new

KCC approved road, and another to the east linking with Newnham Court Way.

2.04 The design of the building has evolved through the pre-application process and will be discussed in more detail in the report.

2.05 The application was submitted in December 2022 and 6 month decision timeframe was agreed under a Planning Performance Agreement to allow the applicant to respond to statutory consultees and has been extended to allow for committee consideration.

### **3.0 POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP4, SP18, SP21, SP23, RMX1, ID1, RMX1(1), DM1, DM2, DM3, DM4, DM6, DM8, DM16, DM17, DM21
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Guidance
- Maidstone Local Plan Review (Regulation 22): LPRSS1, LPRSP1, LPRSP11, LPRRMX1(1), LPRSP11(B), LPRSP11(C), LPRSP12, LPRSP13, LPRSP14(A), LPRSP14(B), LPRSP14(C), LPRSP15, LPRCD1, LPRTRA1, LPRTRA2, LPRTRA4, LPRENV1, LPRQ&D1, LPRQ&D2

The Regulation 22 Local Plan Review submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is therefore a material consideration and attracts some weight. However, this weight is limited as although Stage 1 and 2 Hearings have recently concluded, the Plan is still in Examination.

### **4.0 LOCAL REPRESENTATIONS**

4.01 **Boxley Parish Council:** Object to the application for the following reasons:

- The current road infrastructure is already at/over capacity causing problems for residents.
- The promised road improvements meant to be in place before the new schools opened are still not even started.
- BPC are not convinced the local road upgrades will solve the congestion issues particularly as all the traffic from Newnham Court and The Medical Campus will enter and leave via the main roundabout on the junction of New Cut Road and Bearsted Road.
- New Cut Road is at full capacity currently in peak times and this causes considerable issues for residents. This has been made worse by the new schools and new businesses in the area. BPC would like to see New Cut Road which is used as a Maidstone Eastern bye-pass upgraded to a dual carriageway before further development takes place.
- The road infrastructure issues need to be fixed before any further development in this area takes place.
- On the edge of the AONB and no appropriate lighting scheme has been submitted.

- The Parish Council would like to see some evidence of proposals for bio-diversity net gain.
- BPC are happy with the extensive consultation on this application and feel that the design of the building, car parking provision and general appearance are excellent. The provision of new employment opportunities and another shopping choice is welcomed.

4.02 **(Neighbouring) Detling Parish Council:** Strongly object as they have grave concerns regarding the traffic volumes on local roads and the impact on the A249, Ware Street, and Hockers Lane.

4.03 **Local Residents:** 239 representations received (of which 174 are in support) raising the following (summarised) points:

- Will increase traffic/congestion in an area which is well over capacity.
  - Will cause highway/pedestrian safety issues.
  - Roads cannot cope.
  - Unsightly addition to the area.
  - No need for another food store or more customer choice.
  - Harmful impact upon protected species.
  - Run off from car park/vehicles will cause pollution to River Len.
  - Pollution, noise, and littering.
  - Land is approved for specialist medical purposes only.
  - Contrary to Local Plan.
  - Will harm the town centre.
  - Large scale warehousing style buildings are not acceptable under policy.
  - Inadequate landscaping and inappropriate species.
  - Aldi have not looked after landscaping at their existing store.
  - Might cause closure of the other Aldi store.
  - Lack of SUDs water features.
  - Glass and lighting will harm wildlife.
  - Lack of net gain for biodiversity.
  - Unsustainable location and car dependant.
  - Lack of buses to site.
  - Harmful to the landscape.
  - Prominent site near to Kent Downs AONB.
  - Claimed benefits do not materialise from approved developments.
  - Request the application is heard at Planning Committee.
- 
- Support application.
  - No objections.
  - Support if transport infrastructure is in place.
  - Will provide lower cost option in this area and better customer choice.
  - Visitors are spread across the day rather than all at peak times.
  - Will provide employment.
  - Within walking distance of local neighbourhoods and good access for disabled/elderly people.
  - Good location.
  - Will boost economy.
  - Modestly sized store.
  - Positive for the area.

**4.04 Borough Councillor Harwood:** Raises the following (summarised) points:

- Requests the application is considered by Planning Committee if minded to approve due to the significant public interest and impact re. traffic and on retail in North Ward.
- Policy RMX1(1) zones the site for 'specialist medical facilities' and states 'large scale retail warehousing style buildings will not be acceptable in this sensitive location'.
- Sustainable urban drainage features such as swales or balancing ponds are not used.
- Water run-off to the River Len will inevitably become contaminated by pollutants from the development.
- Vital that the Environment Agency address the relevant risk to the tributary and River Len from surface water.
- Potential conflict with pedestrian movements from traffic.
- Limited landscaping scheme, non-native trees and shrubs, and invasive species.
- Landscape management relies on herbicide applications; very high level of cuts for grassland areas; regular pruning of shrubs and trees; no woodpiles or other cover for wooded areas; heavy reliance on mulch which will prevent ground flora; and a more sympathetic approach should be taken.
- Road salt should not be used on site.
- Traffic generation, hours of operation and lighting is a significant consideration.
- Potential littering is a key consideration.
- Any biodiversity net gain assessment must take into account likely on and off site negative impacts.
- I maintain an open mind on the application but felt it important to raise these observations.

**4.05 Vinters Valley Nature Reserve Trust:** Raise objections and the following (summarised) points:

- Believe that surface water will run onto a culvert which directly feeds into the north end of the nature reserve and into the lake.
- Over the last 30 years more frequent flash flooding has occurred including increase water borne pollution from the surrounding road network, business and housing developments harming ecology.
- Welcome additional clarification of how the underground attenuation tanks will work and be maintained. Previous experience is inadequate design and maintenance.
- Problems would not be visible as they are underground.
- Lagoons or ponds would be better.
- How will a fuel spill, salt etc. be prevented from entering the water system.

**4.06 Martin Robeson Planning Practice (on behalf of Tesco Stores Ltd):** Raise the following (summarised) points:

- Fundamental conflict with policy RMX1(1) for medical employment uses which is being carried forward unchanged in the Local Plan Review.

- Any decision that departs from the allocation could have far-reaching consequences and reject the significance of the plan-led system.
- Applicant's justification is erroneous and in many cases contradictory.
- Questions the amount of floorspace permitted under the outline permission for the medical campus.
- The landowners deliberate refusal to promote the site for its allocated use does not make the principle of other uses acceptable or mean that medical uses would never come forward.
- The fact that the outline permission includes some commercial uses does not support the application but would actually prejudice it.
- May prejudice replacement retail facilities within/draw demand away from the NCSV also part of policy RMX1(1).
- NCSV would be a sequentially preferable site.
- Concerns re. prematurity of the development given the state of preparation of the Local Plan Review.
- Maidstone Town Centre should not be excluded from the sequential test search as this is inconsistent with the fundamental purpose of 'town centre first' policy and a 5 minute drive time catchment is not appropriate.
- The Maidstone East retail allocation has not been assessed and this results in a failure of the sequential test and the impact upon it has not been assessed.
- Consider there would be an adverse retail impact upon the Maidstone East allocation/site.
- No material considerations have been put forward to outweigh conflict with policy.

## **5.0 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)*

**5.01 National Highways: No objections.**

**5.02 KCC Highways: No objections** subject to conditions and a financial contribution towards bus services.

**5.03 KCC Minerals: No objections**

**5.04 Environment Agency: No objections** subject to conditions.

**5.05 KCC Ecology: No objections** subject to conditions.

**5.06 KCC LLFA: No objections** subject to conditions.

**5.07 KCC Archaeology: No objections** subject to condition.

**5.08 MBC Conservation Officer: No objections.**

**5.09 MBC Landscape Officer:** The planting scheme should be more native and taller native tree species used to reduce impact and provide more structure recommended. No objections in terms of any impact on trees or Ancient Woodland.

- 5.10 **MBC Economic Development:** Question, *"whether this type of use is appropriate for a gateway site into the Kent Medical Campus, a high-quality campus style strategic employment site and the owner's vision of delivering a fully integrated centre of excellence for health, science and education in the south east."*
- 5.11 **Environmental Health: No objections** subject to conditions including on delivery hours.
- 5.12 **Kent Downs AONB Unit:** Provide some observations and advice to limit impact on the AONB.
- 5.13 **Kent Police:** Provide advice re. crime prevention measures.
- 5.14 **Southern Water:** Can facilitate foul sewerage.

## **6.0 APPRAISAL**

6.01 The key issues are considered to be the following:

- Policy Context & Assessment
- Sequential Test and Retail Impact
- Impact on the character and appearance of the area/setting of Kent Downs AONB
- Building Design
- Transport Impacts
- Impact on Listed Building
- Biodiversity
- Other Matters including Drainage, Consultees and Representations

### Policy Context & Assessment

6.02 The site falls within Maidstone Local Plan 2017 retail and mixed use allocation RMX1(1). This policy includes the Newnham Court Shopping Village (NCSV) and land to its north and east.

6.03 The allocation is split in two with the NCSV allocated for a replacement retail centre of up to 14,300m<sup>2</sup> and the remainder for a medical campus/specialist medical facilities up to 100,000m<sup>2</sup>. The application site falls within the medical part of the allocation and Criterion 1 states:

***"Phased provision of a maximum of 100,000m<sup>2</sup> of specialist medical facilities set within an enhanced landscape structure of which 25,000m<sup>2</sup> will provide for associated offices and research and development."***

6.04 Strategic policy SS1 (Spatial Strategy) states in the accompanying text:

***"The Kent Institute of Medicine and Surgery (KIMS) is now completed at junction 7 of the M20, and the local plan identifies this location for the expansion of medical facilities to create a cluster of associated knowledge-driven industries that need to be in close proximity to one another."***

(Paragraph 4.24)

6.05 Criterion 3 of strategic policy SP1 (Maidstone Urban Area) states ***"a medical campus of up to 100,000m2 floorspace is allocated in accordance with RMX1(1)"***.

6.06 Strategic policy SP21 (Economic Development) states in the accompanying text:

***"The proposed strategic site allocation at Junction 7 is a particular opportunity to create a hub for medical related businesses, capitalising on the development of the Kent Institute of Medicine and Surgery, to attract high value, knowledge intensive employment and businesses as a boost to the local economy. This site will also deliver additional general office space in a high quality environment. Outline consent has recently been granted for the medical hub."***

(Paragraph 4.141)

6.07 Strategic parent policy RMX1 states in the accompanying text:

***"Expanded hospital facilities and associated development to form a medical campus will create a specialist knowledge cluster that will attract a skilled workforce to support the council's vision for economic prosperity"***.

(Paragraph 4.201)

6.08 In terms of landscape impact and design the accompanying text to RMX1 states:

***"In all cases buildings should be designed and sited to respond to the site's undulating topography and should avoid any significant site levelling in the creation of development platforms for example by the use of terracing."***

6.09 It is clear the Local Plan allocates the site for a very specific type of 'medical' employment in order to *"attract high value, knowledge intensive employment"* to build upon the KIMS Hospital.

6.10 The application site falls within the medical part of the allocation and the proposals for a food store are therefore contrary to the Local Plan and specifically policies SS1, RMX1 and RMX1(1). There are no other policies within the Local Plan which refer to alternative development within this part of the allocation. Section 38(6) of the Planning and Compulsory Purchase Order 2006 states that,

***"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."***

6.11 It therefore needs to be considered whether there are any material considerations that outweigh the clear conflict with the Local Plan and mean a decision contrary to the Development Plan is justified. These include the applicant's case for the development and potential economic benefits.

*The Applicant's Case for the Development*

6.12 The applicant considers the (summarised) issues bulleted in italics are reasons why the development is acceptable with the officer's assessment below them:

- *The applicant considers the principle of 'development' at the site is established by the allocation and the site has the potential to provide alternative uses (where they meet the relevant policy considerations).*
- *The outline planning permissions can deliver 98,000m<sup>2</sup> of medical floorspace and the applicant considers there is no evidence to suggest this cannot be provided on the remaining undeveloped plots or that it won't come forward and points out the application site falls outside the outline planning permissions.*
- *In the opinion of the applicant, policy RMX1(1) sets a limit of 100,000m<sup>2</sup> of floorspace as criteria 1 states a 'maximum' and so there is only potential to provide a further 2,000m<sup>2</sup> of floorspace. Notwithstanding this the applicant considers there is space to provide around 5,000m<sup>2</sup> within the KIMs site (which falls within the allocation).*
- *The applicant considers the proposed development will not preclude delivery of the medical campus and allocated floorspace of 100,000m<sup>2</sup>.*

6.13 The principle of development is acceptable but this is either retail within the retail part of the allocation or medical uses within the medical part. The application proposes a food store in the medical part which is contrary to the policy and thus Local Plan.

6.14 It is correct the application site falls within the medical allocation but outside the outline planning permission but this does not alter the fact it falls within the allocation where only medical uses are permitted and so is contrary to the Local Plan.

6.15 The applicant refers to the specified 100,000m<sup>2</sup> of floorspace being a maximum and their view that this cannot be exceeded. Criterion 1 of the site policy is a maximum but this is the only time it is stated and other references in the Local Plan refer to 'up to' and 'approximately'. However, the whole area is allocated for medical development and a limit on the amount of floorspace would normally only be based on a certain level being judged as unacceptable because it can't be accommodated without causing planning

harm. For example, a certain level may not be acceptable for design reasons, landscape impact, or transport impact reasons. There is no evidence to suggest that if medical floorspace was provided at the application site it would have an unacceptable impact differently from other parts of the allocation or the outline permission site, subject to complying with the site allocation requirements.

- 6.16 Moreover, the site is allocated because the Local Plan identifies the location for *"the expansion of medical facilities to create a cluster of associated knowledge-driven industries"* and *"to create a hub for medical related businesses, capitalising on the development of the Kent Institute of Medicine and Surgery, to attract high value, knowledge intensive employment and businesses."* Even if it was regarded as a breach of the policy (which, in some parts says "approximate" and "up to" rather than "maximum"), the planning balance would consider the benefits of further medical facilities against the 'breach'. If additional floorspace can be accommodated without causing harm, it is considered the balance could well be in favour of the medical uses which would clearly provide the opportunity to deliver the Local Plan's aims.
- 6.17 The outline permissions can deliver up to 98,000m<sup>2</sup> of floorspace, and to date the Cygnet Hospital, Invicta Court Care Home, and the Innovation Centre have been built totalling approximately 13,325m<sup>2</sup>. These developments have taken up approximately 22% of the area allowed for built development under the outline permission (land use parameter plan) but only provide around 14% of the maximum floorspace permitted.
- 6.18 Two of these buildings are 3 storeys and the other is 4 storeys which are the maximum heights allowed under the permission. There is still around 31% of the outline permission site where 4 storey buildings can be allowed but the majority (47%) is limited to 3 storeys. This would suggest that the 98,000m<sup>2</sup> of floorspace is unlikely to be delivered under the outline permission. This is not surprising as the outline permission cannot be precise in the amount of floorspace that will be delivered and sets a maximum amount. On this basis the application site is entirely appropriate for medical uses to meet the aims of the allocation.
- 6.19 It is also noted that the approved new access to NCSV takes up further space within the allocation.
- 6.20 Considering the above, the application site is not considered to be surplus to requirements to provide medical development in line with the allocation as is being suggested by the applicant.
- 6.21 Other points made by the applicant are as follows:
- *The applicant states commercial uses (ancillary retail) are approved as part of the outline permission and considers the proposals could provide these and unlock additional space within the outline permission for medical floorspace.*

- *The applicant states the application site has never been promoted for medical floorspace by the landowner and so considers there is no realistic prospect of the site coming forward for 'medical' development.*
- *The applicant states the Council has previously granted permission for a Marks and Spencer's at Eclipse Park in 2017 which formed part of a wider allocation for employment (office and industrial) uses and permission for a care home which could have come forward on the KMC site as a medical use.*

6.22 The Planning Statement(s) within the outline applications refer to a maximum amount of 1,000m<sup>2</sup> for ancillary retail uses with no single unit greater than 500m<sup>2</sup>. These uses are allowed to provide ancillary facilities associated with the approved uses such as a café or shop for workers, students or visitors rather than a standalone food store which wouldn't provide a café. As such, this is not considered to be a sound argument in favour of the development.

6.23 Whilst the site has not been promoted for medical uses the landowner's circumstances can change particularly if they are unsuccessful in obtaining permission for alternative development/uses. The landowner could also change with a new owner having different ambitions for the site. I consider this attracts very limited weight.

6.24 Policy SP22 designates Eclipse Park for B1 uses but the policy can allow for alternative uses if it is demonstrated there is no reasonable prospect of their take up or continued use for the designated uses in the medium term (5 years ahead). As such, this designation can potentially allow for alternative uses unlike the medical allocation under policy RMX1(1). Each application must be judged on its own merits, and this policy was assessed under the 'Marks and Spencer' application and the proposals were judged to meet its terms.

6.25 The new care home falls outside the employment designation. The LPA must decide on whether a development is acceptable on the site it is proposed and cannot refuse permission because it might be acceptable on another site.

6.26 For the above reasons none of the applicant's arguments for the development are considered to represent material considerations to warrant a decision contrary to the Development Plan.

#### Economic Benefits

6.27 The applicant lists the following benefits:

- Creating circa 40 -50 jobs at pay levels which exceed the Government's National Living Wage and Living Wage Foundation's recommended national rate. The applicant seeks to recruit staff from the local area, and this will contribute to creating a diversity of job opportunities in this part of Maidstone;

- The construction of the new store will create employment opportunities, and working with their chosen contractor the applicant is often able to identify individuals that are seeking work placements and may be able to accommodate these during the project;
- Multi-million pound investment in Maidstone;
- Further shopping choice and diversity at a time when there is a cost of living crisis;
- Provide complementary development to support the wider development of the Kent Medical Campus and provide the opportunity for linked trips between the uses in the wider area;

6.28 The first two are considered to be economic benefits through the provision of employment but the remainder are not and the investment in Maidstone is not quantified.

6.29 The development could help to meet two of the five priorities (1 and 4) of the Council's Economic Development Strategy (EDS) (2021), and also strategic priorities for the Council set out in the adopted Strategic Plan 2019-2045 'Embracing Growth and Enabling Infrastructure' and 'A Thriving Place' (2023). However priority 2 of the EDS seeks to diversify the economy with 'high quality employment opportunities' and reference is made to the Kent Medical Campus. The proposals result in the loss of allocated land for these potential jobs/uses.

6.30 Paragraph 81 of the NPPF states that planning decisions should help create conditions in which business can invest, expand and adapt and significant weight should be placed on the need to support economic growth and productivity.

6.31 The proposals will result in some economic benefits through employment and meet some of the priorities of the EDS which attracts some weight but they would also result in the loss of land that could meet another priority of the EDS for 'high quality employment'. Overall, they are not considered sufficiently strong material considerations to outweigh the conflict with the Development Plan. Clearly, the allocated 'medical' uses would bring about such benefits if not even greater, whereby they are specifically identified in the EDS as a priority.

6.32 In conclusion, the Maidstone Local Plan is clear the application site falls within an allocation for a 'medical campus' with specialist medical facilities and associated uses in order to attract high value, knowledge intensive employment, and create a specialist knowledge cluster to support the Council's vision for economic prosperity. The Council is carrying this allocation forward in the Local Plan Review demonstrating a continued commitment to achieving these aims. Priority 2 of the Council's Economic Development Strategy seeks to diversify the economy with 'high quality employment opportunities' and reference is made to the Kent Medical Campus. The proposal for a food store is contrary to Local Plan and specifically policies SS1, RMX1 and RMX1(1) and there are not considered to be any material considerations to outweigh this clear conflict.

## Sequential Test and Retail Impact Assessments

### Sequential Test

- 6.33 Local (policy DM16) and National policy/guidance requires a sequential assessment for retail proposals that are 'out of centre' as is the case here. This must assess whether there are any suitable sites for the development in an existing retail centre (Maidstone town centre or other retail centres), secondly whether there are 'edge of centre' sites, and only then can 'out of centre' locations be considered, which should be accessible by public transport from local centres under local policy.
- 6.34 National Guidance provides a checklist that sets out considerations in determining whether a proposal complies with the sequential test as follows (summarised):
- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered?
  - Is there scope for flexibility in the format and/or scale of the proposal?
  - If there are no suitable sequentially preferable locations, the sequential test is passed.
- 6.35 In terms of flexibility the applicant considers the inherent nature of the applicant's operation as a 'deep discount' food retailer must be borne in mind and there are a number of key areas where it is not possible to alter the core design of the store as to do so would undermine the operational efficiency of the business model and hence its viability in their view. They outline the fundamental requirements of their food store are a circa 1,300m<sup>2</sup> retail sales area in a rectangular shape to enable efficient transfer of products; the necessary size and location of service and storage areas; and customer car parking as most stores primary function is to cater for 'bulk' food shopping needs and therefore many customers will be visiting to undertake a 'weekly' shop and for potential larger comparison items.
- 6.36 With this in mind, they consider to be flexible in assessing alternative sites that a store of at least circa 1,600m<sup>2</sup> is required with around 100 car parking spaces. This represents an 11% reduction in floorspace and a 25% reduction in car parking from the proposed development. They adopt a minimum site area 0.7ha to accommodate the development.
- 6.37 The Council's retail consultant (Lichfields) advises the sequential analysis must take account of commercial realities and that non-deep discount operators have different store formats with them not generally opening new stores with sales areas of significantly less than 1,300m<sup>2</sup> net. Some operators are currently focusing on much smaller (less than 500m<sup>2</sup>) but these are for basket rather than bulk food shopping convenience or larger stores (over 2,000m<sup>2</sup>) suitable for trolley based bulk food shopping trips. They advise the commercial reality is that discount food operators are unlikely to occupy a store of significantly less than 1,600m<sup>2</sup> gross in Maidstone. On this basis it is

considered the applicant has demonstrated sufficient flexibility in their parameters for assessing alternative sites.

6.38 The following sites within/near to the Town Centre (TC) have been assessed by the applicant and/or officers.

1. Maidstone East and Royal Mail Sorting Office – Policy RMX1(2)
2. Newnham Park (NCSV) - Policy RMX1(1)
3. King Street Retail Allocation – Policy RMX1(3)
4. Powerhub Building and Baltic Wharf, St Peters Street – Policy RMX1(5)
5. Mote Road – Policy RMX1(6)
6. Gala Bingo/Granada House – Draft LPR allocation LPRSA147
7. Len House – Draft LPR allocation LPRSA145
8. Former Marks & Spencer store, Week Street
9. Vacant Unit in The Mall Shopping Centre (around 2,400m<sup>2</sup>)
10. Former Lidl store in the Broadway Shopping Centre
11. Forge Lane/Bearsted Green Business Centre

6.39 Maidstone East is the Council's primary retail allocation allowing for up to 10,000m<sup>2</sup> comparison and convenience retail which could obviously accommodate the development. The allocation has a split ownership between MBC (around 34%) and Network Rail (66%) but around 22% of the Network Rail part includes non-developable areas being the railway tracks/sidings and station buildings. The emerging draft policy for the site (LPRSA146) refers to 2,000m<sup>2</sup> of retail floorspace.

6.40 MBC carried out a public consultation on redevelopment in March 2023 for a mixed use scheme with predominantly residential and around 2,000m<sup>2</sup> of business or other town centre uses. However, more detailed plans the planning department is aware of through pre-application discussions show the commercial floorspace split into three separate spaces with the largest around 1,000m<sup>2</sup> which would not be large enough to accommodate the development. The site is allocated for up to 10,000m<sup>2</sup> of retail in the Local Plan but the landowners' current intentions would not facilitate the proposed development and so it is not reasonably available at this present time.

6.41 The remainder owned by Network Rail (NR) is used for commuter car parking with a large area north of the station and a narrow area immediately north of Brenchley Gardens. The latter area is not a suitable size/shape to accommodate the development. The applicant has not contacted NR but comment that NR would seek to retain the commuter car parking and this is required under the adopted and draft policies for the site. They consider this will limit the space available for development and raise viability issues; the site is a poor location with minimal road presence due to existing trees; it is some distance from the primary shopping area; the site would serve a different catchment to the proposed store so is not a suitable alternative; and the availability of the site is in question as it is not being marketed on NR's property website.

- 6.42 It is not agreed these issues mean the development could not be accommodated at the site but the availability of the site in a reasonable time period is questionable. Under the 'call for sites' exercise for the Local Plan Review (LPR) the landowner is promoting predominantly residential uses and it is noted the direction of travel under the LPR is for only 2,000m<sup>2</sup> of retail floorspace across the whole allocation. With these factors in mind it is not considered the NR part of the allocation is available for the proposed development in a reasonable time frame.
- 6.43 This Maidstone East site has been carried forward as the primary retail allocation in the draft LPR. Whilst it could accommodate the development it is apparent from both landowners that their current plans or intentions mean that neither site is available or for the development.
- 6.44 NCSV could in theory accommodate a discount food store of the size proposed. The applicant suggests it may be unsuitable because it is too large. This does not rule out the site for a discount store as part of wider development which would involve linked trips so may be more sustainable. However, this location is also 'out of centre' in retail policy terms and is not technically sequentially preferable to the application site. The availability of the site for the development is also uncertain.
- 6.45 The King Street retail allocation is not large enough (0.2ha) to accommodate the proposal. The Powerhub and 'Baltic Wharf' building is allocated for mixed use including retail in the Local Plan and was previously granted permission for a food store. However, the food store has never come forward and it is not considered suitable mainly given the need to retain the listed building and its interior. The Council is also aware of redevelopment proposals which include a commercial element but this would be too small at around 1,100m<sup>2</sup>. Mote Road is irregular in shape and too small (0.4ha).
- 6.46 The Gala Bingo/Granada House site is irregular in shape and less than 0.4ha so is too small and is currently occupied. Len House is currently being converted to a mixed use scheme of residential and commercial floorspace and there is permission for development on the remainder of the site. The largest commercial space is 1,156m<sup>2</sup> so would not be large enough, notwithstanding the listed building not lending itself to use as a modern food store.
- 6.47 Officers agree with Lichfields that the former Marks and Spencer store is not suitable for a discount food store due to the configuration of the building (too narrow). According to their website there are a number of vacant units in 'The Mall' in the town centre and the largest and most suited is understood to be around 2,400m<sup>2</sup> over two levels. The applicant considers the operational restrictions/limitations due to the service access via a delivery bay at basement level and trading over multi levels would require a move away from the standardised store model and would not be a suitable or viable option. The Council recently accepted this argument for the proposed Lidl store application on St Peters Street and it would be unreasonable to reach a different conclusion in this case.

- 6.48 The former Lidl store in the Broadway Shopping Centre is vacant but as another discount store operator considered this shopping centre does not fit the non-deep discount business model it would be unreasonable to conclude that it is suitable for the applicant's development. The access to the Forge Lane/Bearsted Green Business Centre is unsuitable for a discount food store.
- 6.49 Based on the above there are not considered to be any sequentially preferable sites that could suitably accommodate the development or that are available in a reasonable timeframe.

*Retail Impact on the Town Centre and District/Local Centres and Committed and Planned Public and Private Investment in the Catchment Area of the Proposal*

- 6.50 The floorspace of the food store (1,655m<sup>2</sup>) is actually below the Local Plan (policy DM16) and NPPF threshold of 2,500m<sup>2</sup> where a retail impact assessment on the TC, and other retail centres is required. However, policy RMX1(1) states that proposals for retail floorspace above the existing floorspace at the NCSV require an impact assessment and so the applicant has provided one.
- 6.51 Policy RMX1(1) states the retail impact assessment must demonstrate no significant adverse impact on town, district and local centres including those in adjoining boroughs. Policy DM16 in relation to impact also states that retail development must not undermine the delivery of a site allocated for the use proposed. The NPPF (paragraph 90) adds that an assessment of impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and 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) is also required.
- 6.52 Policy DM17 seeks to maintain and enhance the existing retail function of defined district centres. The district/local centres most likely to be affected by the proposal are Sandling Lane, Penenden Heath; Grovewood Drive, Grove Green; Snowdon Parade, Vinters Park; and The Green/The Street, Bearsted.

*Town Centre*

- 6.53 The applicant predicts the development alone will result in a -1.9% impact upon convenience goods trade in the TC and a combined cumulative impact with other recent retail developments (M&S, Eclipse Park and Lidl relocation, St Peters Street) of the same. However, the Council's retail consultant (Lichfields) considers this has been underestimated and they predict a -4.2% from the proposed development alone and -9% cumulative impact on convenience trade.
- 6.54 To put this into context, the Council's evidence (EDNS Addendum) outlines a convenience goods turnover of £56.39 million in the TC in 2019. Lichfields advise that a -4.2% (-£2.61 million) impact on convenience goods trade is unlikely to be considered significant in terms of the overall reduction in retail

trade in the TC because some of this reduction is likely to be offset by future population growth. They advise impact on the TC will be focused on the Sainsbury's and Lidl stores and impact on small convenience goods shops is likely to be negligible. The Lidl store is expected to continue to trade significantly above the company average. The Sainsbury's store is expected to trade 24% below the company average but Lichfields' sensitivity figures suggest the impact on this store will be counter-balanced by the redistribution of trade from the closure of the M&S foodhall in the TC. They advise it is unlikely Sainsbury's would choose to close the store (with still a significant turnover of £27.9 million) and so no reduction in local consumer choice in the TC is expected.

- 6.55 In terms of the cumulative impact of -9% (-£5.92 million), Lichfields advise that convenience goods trade only represents a relatively small proportion (about 11.5%) of the TC's trade and so impacts upon convenience trade would not undermine the TC as much as impacts upon comparison trade might. A cumulative net reduction in convenience goods trade of £5.92 million would have a combined impact of around -1.2% on the TCs total retail trade, which they advise will be offset by population and expenditure growth between 2022 and 2025 and therefore no significant adverse impact is expected in terms of the cumulative loss of retail trade.
- 6.56 They also advise the majority of the convenience goods trade diversion (£3.31 million of the £5.92 million) relates to the closure and relocation of the M&S foodhall to Eclipse Park, a solus impact of -5.1%. The new M&S opened in August 2020 and the impact of this relocation will have already been felt in the TC. Lichfields advise that health check analysis in October 2022 does not suggest an increase in the shop vacancy rate between 2019 and 2022 or a significant reduction in the number of convenience goods outlets or a significant adverse impact on the TCs overall health. They advise the impact on small convenience goods shops in the TC is likely to be negligible.
- 6.57 The applicant has not tested the impact of the (20%) comparison goods sales floorspace, however, Lichfields advise the nature of comparison goods sold within the central aisles of an Aldi store varies significantly and in this respect trade diversion is likely to be dispersed amongst many retail outlets.
- 6.58 There is no set percentage impact that forms a threshold or tipping point to constitute a 'significant adverse impact' and based on Lichfields advice, and on balance, it is agreed that a predicted cumulative overall impact of -1.2% would not have a 'significant adverse impact' on the TC, would not harm its vitality and viability or local consumer choice, and that the Sainsburys store is unlikely to close due to the predicted impact. On this basis the impact on the TC is not considered to be contrary to policies RMX1(1) or DM16 of Local Plan or the NPPF.
- 6.59 However, there will still be a negative impact which it is considered should be mitigated. Whilst permission is not being recommended the applicant is agreeable in principle to paying a financial contribution to mitigate the impact upon the Town Centre provided this is reasonable and proportionate. The Council's Economic Development Section have provided information on some

potential town centre schemes and costs but as permission is not being recommended this has not been taken further, however, the applicant's position of being agreeable in principle is noted.

#### District/Local Centres

- 6.60 The applicant considers the proposals will not have a significant adverse impact upon Sandling Lane, Penenden Heath; Snowdon Parade, Vinters Park; and The Green/The Street, Bearsted as these centres are performing well (based on health check assessments) and the potential level of impact will be relatively low. Lichfields do not disagree with these conclusions.
- 6.61 The proposal will have more impact on the Grovewood Drive, Grove Green centre due to the trade diversion from the anchor Tesco food store. This is predicted as a cumulative impact of -5.5% (-£3.33 million) but Lichfields advise the turnover for the store would still be expected to trade significantly above the company average benchmark at £57.24 million. They consider the Tesco store will not experience trading difficulties and will continue to trade healthily and there will be no reduction in local consumer choice in this district centre.
- 6.62 I agree with this advice that the proposed development will not have a 'significant adverse impact' on any district or local centre, harm their vitality and viability or local consumer choice, so the proposals are not contrary to policies RMX1(1) or DM16 of Local Plan or the NPPF. In view of there not being an unacceptable impact upon nearby retail centres there would not be any unacceptable impact outside the Borough where any centres are a further distance away.
- 6.63 For the above reasons and based on Lichfields advice, the retail impact of the proposal is not considered to be of such a level that would adversely impact upon any existing, committed and planned investment in the TC or district centres including draft allocations in the Local Plan Review and the Council's five 'Town Centre Opportunity Sites'.
- 6.64 In conclusion, the adopted Local Plan makes its primary allocations in the town centre and this passed examination as it was in line with the NPPF and NPPG. Effectively, the draft LPR continues this approach as national retail policy remains the same in broad locational terms although the amount of retail floorspace is lower. However, the allocated retail sites in the town centre are considered to either be unsuitable or unavailable at this time for the development. Lichfields advise the cumulative impact of the development would not have a significant adverse impact upon the TC, any local centres, or upon any existing, committed and planned investment in these areas.

#### Impact on the Character and Appearance of the Area/Setting of Kent Downs AONB

- 6.65 The site is at the base of the scarp slope of the North Downs escarpment and much of the site itself is elevated and so it is prominent due to its location and topography. The prominent location of the wider allocation site including its undulating nature was fully recognised by the Inspector at Examination

and so paragraph 4.205 of the Local Plan outlines that, “buildings should be designed and sited to respond to the site’s undulating topography and should avoid any significant site levelling in the creation of development platforms for example by the use of terracing”.

- 6.66 The site is prominent from Newnham Court Way, Gidds Pond Way to the east, roads to the south and open space north of Shepherd’s Gate Drive to the southeast (Weaving Heath). The principle of development is established under the site allocation policy, including 2 storey buildings in this location, so a level of impact on the local area is accepted. However, the proposal is to position the building at the rear, highest part of the site with a maximum cut of around 2.6m in the north corner lowering to around 1.5m in the southwest from the highest point. One main platform for the building and car park is proposed through raising parts of the east half of the site to a maximum of around 3m in the south corner reducing northwards to around 1m and then cutting into the land towards the north end of the site.
- 6.67 Being proposed at the highest part of the site the impact of the building could be further reduced with a greater depth of cut and the use of gradual terracing to align with the accompanying text to the policy rather than one main platform as proposed. The result of this is also a fairly steep 1:3 bank on the south corner adjacent to Newnham Court Way. This is a negative in overall planning balance but is not considered sufficient to be a ground to refuse the development noting the building is relatively low height (8.5m) and there is some cut proposed.
- 6.68 However, the layout with the building at the rear results in the long access road and car park, much of which is elevated on a plateau, being the ‘face’ of the development on the east and south sides with a new raised bank at the front which would be steeper than the existing landforms. This is considered to represent a poor design and layout on this prominent gateway site to the wider site allocation. Safety barriers may be required for the access due to its elevated position and corners which would add to the poor frontage. The building itself is considered to be of suitable quality as explained below but the access road and parked cars will dominate the frontage. This is contrary to policy DM1 of the Local Plan which requires development to respond positively to, and where possible enhance, the local area.
- 6.69 Landscaping is proposed including tree planting which would reduce some impact but it is weak and sparse with the extent of tree planting too low and would not sufficiently mitigate or screen the access and parking areas to the front. Even if it was more robust it would not hide or overcome the harmful impact of the access and car park and cannot be relied upon in perpetuity.
- 6.70 Whilst the building is at the highest part of the site and could be cut lower to reduce its impact, in views towards the AONB, I agree with the applicant’s LVIA assessment that the building would not affect the appreciation of the rising scarp slope in the distance beyond and it would not break the horizon or cause any significant harm to its setting. In any public views from the AONB this would at some distance (over 1.5km) and if glimpsed, the building

would be seen in the context of surrounding development and would not be prominent or harmful to the AONB.

### Building Design

- 6.71 The building's design has evolved through pre-application discussions where officers advised that a bespoke and high quality building was required. The building is well articulated with different heights and projecting sections and variation in materials, including a large two storey curved ragstone corner on the south side and ragstone section on the front north side. The prominent southeast corner has glazing and timber effect panelling above with a projecting canopy with timber clad supports which provides a statement feature on these elevations. The result is the standard 'box' required for such food stores is largely hidden on the main public elevations. The building is considered to be of high quality in that it provides good interest and layers to the building and uses quality vernacular materials. For these reasons the development is not considered to be a 'large scale retail warehousing style building' which is not supported by the site policy.
- 6.72 However, as stated above the layout means that the access and car parking will dominate the frontage of the site and form the 'gateway' to the wider site allocation rather than the building.
- 6.73 The hard surfacing would be mainly tarmac for the roads and parking areas with block paving around the entrance which is acceptable. Ragstone gabion walling would be used for the retaining walls along the west boundary.

### Transport Impacts

- 6.74 National Highways have raised no objections in terms of the traffic impact upon Junction 7 of the M20 including construction traffic.
- 6.75 KCC Highways raise no objections to the proposed access or the traffic impact on the local road network including construction traffic. This is based on the County Council's planned local road improvements being in place prior to occupation as the traffic modelling took these into account. They recommended a 'Grampian' condition that the store cannot be occupied until these works (upgrade of A249 Bearsted Road and New Cut Road roundabouts and widening between) have been completed, which is considered to be necessary, and the applicant would be agreeable if the Council was minded to approve permission. The parking provision exceeds the parking standards by 9 spaces (128 spaces against 119) but on balance is considered acceptable.
- 6.76 In terms of public transport, this is poor for this location. The proposed store standard opening hours (8am-10pm Mon-Sat and 10am-6pm Sun) will extend beyond the operational hours of the number 9 Arriva bus service in the evenings. This will mean that staff and customers wishing travel to/from the store will not have a convenient public transport option at these times. KCC Highways consider it is essential for public transport access to be provided and have requested a financial contribution for bus access. However, they have recently stated there is currently no service that can be

adapted to serve the development and a whole new service would be needed with a financial contribution of £720k requested for 4 years. It is considered improved public transport access is necessary and appropriate for this scale and type of development in line with policies SP23 and DM16 of the Local Plan but the need for a whole new service and the costs have not been fully justified. The applicant is agreeable in principle to a financial contribution for evening services but also does not consider this has been sufficiently justified. As permission is not being recommended this has not been taken any further at this stage but the applicant's position of being agreeable in principle is noted.

#### Impact on Listed Building

6.77 The Grade II listed Newnham Court Farm pub/restaurant is around 30m west of the site. I agree with the Conservation Officer that the development will have a limited impact upon the setting of this building in part because its setting is largely dominated by the surrounding modern development and a car park to its east. The proposed building is positioned northwards of the listed building and landscaping is proposed along the west boundary which would limit the impact. For these reasons the proposals would not harm the setting of this listed building.

#### Biodiversity

6.78 The applicants ecological report outlines that the majority of the grassed site has low potential to be used by protected/notable species due to the regular on going management (mowing) however the longer grassland and trees along the western boundary of the site could be utilised by protected/notable species including great crested newts, reptiles, breeding birds and hedgehogs. Therefore a 'precautionary approach' (areas cleared by trained ecologists in a systematic manner to encourage displacement of any animals) is proposed to ensure no harm to these species. KCC Ecology raise no objections and consider this is acceptable subject to being secured by condition.

6.79 Draft LPR policy LPRSP14A requires a minimum of 20% biodiversity net gain (BNG) but only refers to new residential development. The applicant has not submitted a BNG assessment to demonstrate a specific level of net gain on the basis there is no adopted policy which requires this; the emerging policy does not have sufficient weight; and achieving 10% net gain does not become mandatory until November this year.

6.80 This is all correct but the NPPF paragraph 174(d) states that, "*Planning policies and decisions should contribute to and enhance the natural and local environment by: (d) minimising impacts on and providing net gains for biodiversity.*"

6.81 In order to demonstrate net gains BNG is assessed/calculated through the biodiversity metric produced by Natural England and is now commonplace on major applications. The applicant's ecological appraisal refers to measures which would offer biodiversity gains such as retaining/strengthening the field margin; meadow grassland; species rich lawn; a new native hedgerow; log

piles; and bat/bord boxes. However, this has not been quantified under the BNG metric and so net gains for biodiversity have not been sufficiently demonstrated in accordance with the NPPF. The absence of this is considered to be grounds for refusal.

6.82 The site is over 200m from Ancient Woodland to the northeast and at this distance would not result in any harm.

#### Other Matters including Drainage, Consultees and Representations

##### Drainage

6.83 Surface water would be stored on site using underground tanks with discharge at a controlled rate to a nearby watercourse to the southeast to ensure no flood risk occurs. KCC LLFA raise no objections to these proposals subject to conditions to secure the detailed design.

6.84 Representations have been made with a view that on site water features such as ponds should be provided (not just tanks) and concerns regarding potential pollution of the local water network. The applicant has responded stating that as it is necessary to form a relatively flat plateau with embankments at the boundaries it will not be possible to provide SUDs water features within the embankments without introducing significant retaining structures. This is because the applicant has decided to develop the site in this way, however, the surface water drainage hierarchy under national guidance is to firstly infiltrate into the ground but investigations indicate that soakaways are unlikely to be feasible due to ground conditions (granular deposits). The second is to drain to a surface water body/watercourse which is proposed so officers do not raise an issue with this.

6.85 In terms of pollution, the applicant has advised the system would have trapped gullies and drainage channels with silt trap manholes that collect coarse pollutants such as litter and silt and prevent them from entering the watercourse. In addition, fuel and oil separators which are designed to capture and physically separate any remaining silt as well as any fuel or oil that enters the system would be used. For this reason officers do not raise an issue with this.

##### Consultees

6.86 No objections are raised by KCC Archaeology subject to conditions. Environmental Health have no objections in terms of impact on air quality and noise subject to the deliveries not taking place outside of the hours assessed within the noise report (6am to 11pm), to which the applicant has no objections. No objections are raised by KCC Minerals or the Environment Agency.

##### Representations

6.87 Many representations have been received but the issues raised are generally covered in the different sections of the assessment.

## Environmental Impact Assessment

- 6.88 The applicant submitted a separate screening opinion application (23/500762/ENVSCR) for the development where it was concluded by the LPA that an Environmental Statement was not required as the characteristics, scale, or location of the development is not likely to give rise to significant effects on the environment. There have been no material changes since that decision to now reach a different conclusion.
- 6.89 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

## **7.0 CONCLUSION**

- 7.01 The proposals are considered to pass the retail sequential test required under local and national policy. Based on Lichfield's advice, it is considered the proposals would not have a 'significant adverse impact' on Maidstone Town Centre or any district or local centres or harm their vitality and viability in accordance with local and national policy, although some mitigation would be required if approval was being recommended.
- 7.02 However, the Maidstone Local Plan is clear the application site is allocated for a 'medical campus' with specialist medical facilities and associated uses in order to attract high value, knowledge intensive employment, and create a specialist knowledge cluster to support the Council's vision for economic prosperity. The Council is carrying this allocation forward in the Local Plan Review demonstrating a continued commitment to achieving these aims. Priority 2 of the Council's Economic Development Strategy seeks to diversify the economy with 'high quality employment opportunities' and reference is made to the Kent Medical Campus.
- 7.03 The proposal for a food store is therefore contrary to Local Plan and specifically policies SS1, RMX1 and RMX1(1). There are no other policies within the Local Plan which refer to alternative development within this allocation. Section 38(6) of the Planning and Compulsory Purchase Order 2006 states that,
- "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."***
- 7.04 For the reasons outlined in the report there are not considered to be any material considerations that outweigh the clear conflict with the Local Plan and mean a decision contrary to the Development Plan is justified.
- 7.05 The proposal to position the building at the highest part of the site with a low depth of cut and much land raising of land to create one main platform for the building and car park does not align with the accompanying text to policy RMX(1). This weighs against the proposals but on balance is not considered grounds for refusal.

7.06 The proposed layout has the access road and elevated car parking areas dominating the front of the site which would be highly visible from nearby public roads. This creates a poor frontage and gateway into the wider allocation which represents poor design and fails to respond positively to character of the local area contrary to policy DM1 of the Maidstone Local Plan and paragraph 130 (b) of the NPPF.

7.07 The application outlines proposal to provide biodiversity gains but fails to quantify this so net gains for biodiversity have not been sufficiently demonstrated in accordance with to paragraph 174(d) of the NPPF.

7.08 The application is therefore recommended for refusal for the following reasons.

## **8.0 RECOMMENDATION**

**REFUSE PLANNING PERMISSION** for the following reasons:

1. The proposed development of a food store is contrary to policies SS1, SP1, RMX1, and RMX1(1) of the Maidstone Local Plan which allocate the site for a specific type of employment development being for specialist medical facilities and a medical campus. The development would not provide high value, knowledge intensive medical related employment as sought under the Local Plan and any economic benefits from the development are not considered sufficient to represent material considerations to outweigh this conflict with the Development Plan.
2. The proposed layout has the access road and elevated car parking areas dominating the front of the site which would be highly visible from nearby public vantage points. This creates a poor frontage and gateway into the wider site allocation and represents poor design which fails to respond positively to character of the local area contrary to policy DM1 of the Maidstone Local Plan and paragraph 130(b) of the NPPF.
3. The application fails to quantify the level of biodiversity net gain in accordance with the latest Natural England biodiversity metric and therefore net gains for biodiversity have not been sufficiently demonstrated contrary to paragraph 174(d) of the NPPF.