

APPLICATION: MA/13/1726 Date: 8 October 2013 Received: 8 October 2013

APPLICANT: Tesco Stores Ltd.

LOCATION: LAND AT STATION APPROACH AND, GEORGE STREET,  
STAPLEHURST, KENT

PARISH: Staplehurst

PROPOSAL: Construction of a class A1 retail store, associated parking and petrol filling station; transport interchange comprising bus and taxi drop-off/pick up facilities, railway station car parking spaces, and covered walkway to existing railway station building (to the south of the railway line); and commuter car park and publicly accessible nature area (to the north of the railway line). Resubmission of application MA/12/0232.

AGENDA DATE: 27th February 2014

CASE OFFICER: Amanda Marks

The recommendation for this application is being reported to Committee for decision because:

- Staplehurst Parish Council wish to see the application reported to Committee.
- If approved, it would be a departure from Policy ENV28 of the Development Plan.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: T7, T13, ENV6, ENV28, ENV49,
- Draft Core Strategy 2011: CS1, CS, CS5, CS6, CS7, CS8
- Draft Integrated Transport Strategy (2012)
- Government Policy: National Planning Policy Framework 2012; Ministerial Planning for Growth Letter; Planning for Town Centres: Practice guidance on need, impact and the sequential approach (December 2009)

## **2. HISTORY**

MA/12/0232 Land at Station Approach, New superstore, petrol filling station, and station car parking Refused 16.5.13 Appeal Pending

**'Site A' – the eastern section of 'land to the north of the railway line'**

MA/97/1102 Application to vary condition 01 of MA/94/0960 to allow a further 3 years for the submission of detailed design and landscaping for the erection of a health centre (incorporating 6 squash courts, ponds and landscaping). Approved.

MA/97/0457 Variation of condition 01 attached to MA/94/0341 to allow a further period in which to commence the development originally permitted under MA/90/1627E. Approved.

MA/94/0960 Application under S73 of the Town & Country Planning Act 1990 to develop land without complying with conditions 1b & 2 of Outline Permission MA/91/0419E.

MA/94/0341 An application to carry out development permitted under MA/90/1627 E without compliance with condition 1 to allow a further time period in which to commence the development. Approved.

MA/91/0419 Outline Application for 2 storey squash and health club with car parking. Approved.

MA/90/1627 Change of use to open air recreation, tennis courts with landscaping. Refused. Allowed on Appeal.

**'Site B' – the western section of 'land to the north of the railway line'**

MA/92/1374 Erection of stable block (portable building) for five horses. Approved.

MA/98/0443 Variation of condition 01 of planning permission reference MA/92/1374s to allow a further time period in which to commence the development of a stable block. Approved.

**Site A and Site B – land to the north of the railway line**

MA/03/1232 Relocation of existing station user car park to provide 600 station user car park spaces, ticket machine, taxi office, waiting shelter, new platform access, enhanced landscaping, security lighting and associated highway improvements. Withdrawn.

**'Site C' – Existing Station Car Park**

MA/03/1282 Redevelopment of land to provide a foodstore with associated parking, transport interchange and highway improvements with means of access, siting and landscaping for consideration now, with external appearance and design reserved for future consideration. Withdrawn.

MA/96/1304 Outline application for demolition of existing garage and erection of new supermarket with means of access and siting to be determined. Approved.

MA/96/0694 Change of use of car park to open market on Sundays only between the hours of 0700 and 1500. Approved.

**'Site D' – Land to the West of the Station Car Park**

MA/08/0895 Stationing of portable office building for use as taxi booking office (Renewal of MA/03/0717). Approved.

MA/05/0836 An application for the prior approval of the local planning authority for the installation of a 15m high telecommunications mast, 6 No panel antennae, 1 No 600mm dish antenna, 1 No 300mm dish antenna, 3 No outdoor Vodafone equipment cabinets, a 2.1m high compound fence and other development ancillary there. Approved.

MA/03/0717 Stationing of portable office building for use as taxi booking office. Approved.

MA/96/0266 Stationing of portable office building. Approved.

MA/92/0035 Change of use from storage and distribution (B8) to retail (market use). Approved.

MA/86/2034 Change of use for siting of tarmac production plant. Approved.

MA/82/0680 Outline application for erection of small industrial units. Approved.

MA/76/1452 Outline application for residential development. Refused.

### **3. CONSULTATIONS**

#### **3.1 Staplehurst Parish Council:** Recommend refusal for the following reasons:

- 1 – The resubmission shows no material change from application MA/12/0232 and fails to address the Parish Council's concerns expressed in its responses to that application;
- 2 – The resubmitted application fails to take account of the new planning context of the permission granted to Sainsbury's. Such a large additional store is far in excess of what is needed to serve Staplehurst and nearby settlements and would potentially attract shoppers from further afield, thereby increasing traffic rather than reducing it;
- 3 – The sustainability and desirability of two supermarkets are questioned by the applicant's forecast that they would only operate at 65% capacity. The case for Staplehurst being able to sustain two supermarkets lacks evidence when there is currently no agreement on what future housing levels will be nor on a core strategy to support any assumptions.
- 4 – As previously stated, the proposed commuter parking north of the railway line is located on completely unsuitable land which is already liable to flooding and would be placed even more at risk; to build here would destroy an important ecological site and contravene existing MBC policies ENV28 and ENV41;
- 5 – The highways issues should be resubmitted for critical examination by Kent Highways at Senior level in the context of the planning permission given to Sainsbury's and potential increased occupation of the nearby industrial estate. The Parish Council also retains serious concerns about safety issues at the George Street A229 junction.
- 6 – The proposed parking arrangements are inadequate for the increasing number of commuters using Staplehurst station. The claim that there is no outer space to increase capacity fails to consider possibly 200 spaces that could be generated by Network Rail installing a second deck above the western parking area, with scope perhaps for a third deck in due course, which would be an option clearly unfeasible on the northern meadow.

#### **3.2 Upper Medway Internal Drainage Board:** 'Although I am not opposed to the principle of the above development proposal, should the Council be minded to approve this application I would be grateful to receive further details of drainage proposals when available (to ensure that downstream flood risk will not be affected).'

**3.3 Kent Highways:** 'The application proposes amendments to a previous application for a Tesco foodstore on this site (application MA/12/0232). The previous application was refused by Maidstone Borough Council, although not on highway grounds.

The amended application proposes a smaller foodstore of 2983m<sup>2</sup>; a reduction of 519m<sup>2</sup> with 203 car parking spaces.

The Kent & Medway Vehicle Parking Standards recommends a maximum parking requirement of 1 space per 14m<sup>2</sup>. This equates to a maximum requirement of 213 spaces. The 203 spaces proposed are not far short of the maximum requirement and are considered to be acceptable.

Cycle parking provision is in excess of the recommended minimum and this too is acceptable.

The new application proposes fewer parking spaces in the station car park north of the railway to allow for more landscaping. 621 spaces are proposed, a reduction in 39 spaces compared to the previous scheme. The station car park to the east of the proposed store would provide 61 spaces. An increase of 22 spaces compared to the previous application.

Overall the number of car parking spaces for the station is reduced from 699 spaces proposed in the previous planning application to 682 spaces in the current planning application, a reduction of 17 spaces. The station currently has space for approximately 650 cars to park comprising of 446 formal spaces and 204 overspill spaces. The current application would therefore see an increase in the station parking provision of 32 spaces when compared to existing.

The traffic generated by this amended proposal will be less than that generated by the previous proposal due to the smaller size of the foodstore.

Capacity assessments were completed at the proposed ghosted right turn lane at the junction of the A229/George Street and the proposed traffic signals at the A229/Station Approach/Market Street junction. The results indicated that the development would not lead to any significant congestion or safety issues. Additionally an assessment was made of the cumulative impact of both the Sainsbury store, which now has planning consent, and the Tesco store at the proposed traffic signals at the A229/Station Approach/Market Street junction and the mini roundabout at the A229/Sainsbury access. The results indicated that the traffic generated by both foodstores would not lead to significant delay at these junctions.

In view of the above I can confirm that I do not wish to raise objection to this application subject to the following conditions:-

1. The agreed highway works are to be provided as part of a Section 278 Agreement, with details to be agreed with Kent County Council (KCC) Highways and Transportation.  
These include the provision of traffic signals and pedestrian crossing facilities at the A229 Station Road / Station Approach / Market Street junction, a ghosted right turn lane at the A229 / George Street junction, widening and footway along George Street between the A229 and the car park access, the extension of the existing speed limit along the A229 Station Road to the north of George Street together with associated gateway treatment, a transport interchange at Staplehurst Station incorporating bus and taxi drop-off/pick-up facilities, and a puffin crossing facility on Marden Road.
2. A Draft Travel Plan has been prepared and a monitoring fee of £5,000 is required. Details of the final Travel Plan shall be approved by KCC prior to any beneficial occupation of the development.
3. Before any work is commenced a Method Statement showing the phasing of the development shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.
4. During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.
5. Prior to the works commencing on site details of parking for site personnel / operatives /visitors shall be submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.
6. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.
7. As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

8. The area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.
9. No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site in accordance with the details shown on the application plan(s) for cycles to be parked.
10. The area shown on the approved plan as vehicle loading, off-loading and turning space, shall be paved and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land or in such a position as to preclude its use.
11. The access details shown on the approved plans shall be completed to the satisfaction of the Local Planning Authority prior to the commencement of any other works authorised by this permission, the occupation of any buildings hereby approved, the use of the site being commenced, and the access shall thereafter be maintained.'

### **3.4 Kent Reptile & Amphibian Group:**

'The comments made in this letter are for and on behalf of the Kent Reptile & Amphibian Group (KRAG). As Kent's specialist amphibian & reptile conservation group I have restricted the comments to factors relating to the legally protected reptile & amphibian species identified in regard to this planning application.

**KRAG wishes to highlight its concern to the council regarding a number of important factors relating to the ecological survey submitted with this planning application and covering Great Crested Newts (GCN), a European protected species.**

- 1) I note that the ecological assessment dated September 2013 ( Aspect Ecology September 2013ECO1272.EcoAss2013.dv3), contains exactly the same habitat assessment and photographs of the site (see PLAN 1272/ECO3a) , which appeared in an earlier ecological assessment ( Aspect ecology January 2012

ECO1272.EcoAss.vf) submitted with planning application MA/12/02320. None of the photographs show a date as to when they were taken and given this site has been reviewed on three previous occasions since 2002, I wonder when the photographs were actually taken: 2002 / 2007 / 2009 / 2011?

**On a visit to the area made on 30th November 2013 I noted that these photographs do not appear to reflect the current state of the site and wonder why both updated photographs and an update habitat assessment were not included in the September 2013 ecological assessment?**

This matter is all the more important if the advice provided to the council by Natural England and KCC ecologists is based upon information which has not been updated by Aspect Ecology, rather than recent site visits by Natural England & KCC. Perhaps the council may feel that an updated habitat assessment with recent photographic evidence relating to the site is an important consideration, before making a decision regarding this planning application.

- 2) It appears that no additional great crested newt survey work appears to have been carried out on this site since 2009, with no great crested newt survey work on surrounding ponds (within 250 – 500m) having been conducted by the ecologists. In Krag's experience this is unusual and I wonder why recent survey work has not been carried out to support this planning application.

Aspect ecology acknowledge that such survey work will need to be conducted as a requirement for any future Natural England great crested newt licence application request, however the council may feel that more up to date information may be required now, rather than later, before deciding on this planning application.

- 3) The size of the area proposed for a great crested newt mitigation proposal appears to be based on the ecologists assessment as to the suitability of the site for great crested newt and indeed I note that they have assessed large parts of the site (situated in the middle of the site and between the main ponds) as 'unsuitable amphibian habitat' (PLAN 1272/ECO5). I fail therefore to understand why this area is planned to be trapped for great crested newts (& reptiles), as suggested in the report PLAN 1272/ECO4. Either it is suitable and needs trapping, or unsuitable and does need trapping.

In addition to this, it is Krag's understanding of current Natural England advice regarding GCN mitigation proposals, that **the whole of the area where habitat is to be lost must be considered when considering mitigated**

**proposals**, particularly when considering the size of any proposed receptor areas.

Natural England standing advice for GCN's, dated April 2011, section 5.9 states : ***'The receptor site will need to support an equivalent population as that of the existing donor site. The receptor site should, as a minimum, be of an equivalent size to the donor site and ideally be significantly greater to compensate for the lower quality habitat that is likely to be present in the short to medium term.'***

PLAN 1272/ECO4 Great Crested Newt and Reptile Capture and Relocation Strategy of the ecological assessment shows that the receptor area is far smaller than the donor area, so I remain uncertain as to how this mitigation plan meets current Natural England guidelines.

The council may therefore wish to seek independent ecological advice to clarify this matter and thus assess if the area being set aside for mitigation is of a sufficient size to meet current Natural England guidelines. If it does not, then the council may consider it prudent to defer making a decision regarding this planning application, until Natural England indicate acceptability of any GCN mitigation plans, for it seems the size of any proposed receptor site is a critical consideration for this planning application.

- 4) The National Planning Policy Framework (March 2012), section 110, indicates that councils should consider the following : *'Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this Framework'*.

According to the ecological assessment the land to the north of the railway, in which the car park is planned to be built, contains a medium population of great crested newts and is classified as a key reptile site for Kent and is therefore of high ecological / environmental value. The reason that a car park is planned to be built on this area is because the existing car park is to be used for a new supermarket store and car park. Therefore if no new supermarket and car park were to be built, the need for a car park on this ecologically sensitive area would not be required.

I ask whether the council has considered if the use of the land for a new car park, fits with NPPF section 110? Is this the best place for a new supermarket within village of Staplehurst, or are other sites available which would cause less environmental damage?'

**3.5 Kent Wildlife Trust:** 'Earlier this year, I wrote in response to application 12/0232 that the applicant at that time had agreed ...

- 1) to fund an appropriate management regime for the wildlife area adjacent to the proposed commuter car park, and



- 2) to make a financial contribution to a living landscape project aimed at ensuring the continued survival of Great Crested Newts in the area of countryside surrounding the proposed development site.

The Trust's proposals for these initiatives were contained in a document (KWT Proposals.Retail store.Staplehurst Station.MBC version.July.12), copy attached. The costs agreed in July 2012 for both the management regime and the living landscape project will not now be the same, in consequence of changes in the cost and availability of resources and equipment. Subject to a revised agreement between the applicant and the Trust, I am mindful to reaffirm the Trust's willingness to accept development on the land in George Street. Unless and until such an agreement is reached, I would ask you to report to Members an **objection** from the Trust on the following grounds. The proposed commuter car park will cause the loss of a significant amount of the most valuable parts of this habitat (drawing 1272/ECO4). Measures recommended for enhancing the habitat undisturbed by the development go some way to providing compensation for this loss and measures to mitigate the impact of development on protected species appear, subject to the endorsement of Natural England, to follow 'best practice'.

However, I am not persuaded that these measures are sufficient to maintain let alone achieve an overall enhancement of local biodiversity. As an example, there will be a loss of 0.87ha of "suitable amphibian habitat" in the development footprint area yet only 0.69ha of "unsuitable amphibian habitat" is available as compensation. It is normal to demonstrate a 2-for-1 replacement in such circumstances. Furthermore, measures to extend the amount of suitable amphibian habitat outside the development footprint will not necessarily provide a suitable and adequate habitat to support other valuable species, such as bats, badgers, hedgehogs and breeding birds.'

**Updated Comments from KWT: Further to the comments above, the following comments have now been received from KWT:**

'I indicated I was prepared to re-affirm the Trust's willingness to accept development on the land in George Street in the event the applicant and the Trust could come to an agreement about the funding of an appropriate management regime for the wildlife area adjacent to the proposed commuter car park. Details of the management regime were contained in a document prepared by KWT in July 2012, a copy of which I attached to my November 2013 letter.

I am able to confirm that an agreement has been reached. The applicant is willing to provide funding for 10 years of on-site management of the undeveloped parts of the George Street site amounting to £8,900.00 per year, in addition to £3,500.00 for the first year only. The applicant had already agreed, additionally, to make a financial contribution to a living landscape project aimed at ensuring the continued survival of the Great Crested Newt metapopulation in the wider area.

The Trust's understanding is that the fund for on-site management would be made available to the Borough Council for allocation to a suitable organisation willing to undertake responsibility for the operation. This may or may not be KWT.

In consequence, I am prepared to withdraw the Trust's holding objection to this planning application **in the event that** the Borough Council secures the management and living landscape project funding **in full** by way of conditions of a planning permission and/or a legal agreement.

**3.6 Southern Water:** No objection

**3.7 Kent County Archaeology:** The site of the application lies close to the projected line of a Roman road and associated Roman remains may survive on the site. The site also lies south of a post medieval farm complex, Moat Farm and a managed stream or "leat" seems to run through the site. Some targeted historic environment enhancement measures would be welcome with consideration of preservation of this water channel to Moat Farm with retention of its historic character.

Archaeological remains may survive on site and I recommend a condition is placed on any forthcoming consent.

**3.8 The Environment Agency:** 'We have **no objection** to the application, subject to conditions requiring the development to be carried out in accordance with the FRA; a contaminated land assessment to be undertaken; and details of underground tank to be submitted.

Additional information

Petrol Filling Station

The applicant has not supplied adequate information in this application to demonstrate that the risks posed to groundwater can be satisfactorily managed. In particular we are concerned about the proposed petrol filling station and the lack of information provided on the detailed design of this development. This is required to enable us to assess the risk to the groundwater environment.

Although this site is situated above an unproductive aquifer, the groundwater is perched across this site and any fuel storage proposed to be constructed below

ground has the potential to be below the water table. This presents a particular hazard to groundwater due to the difficulty associated with detecting and dealing with leaks that may occur. The storage of hazardous substances below the water table is therefore not acceptable.

Our approach to groundwater protection is set out in Groundwater Protection: Principles and Practice (GP3). In implementing the position statement in this guidance we will oppose development proposals that may pollute groundwater especially where the risks of pollution is high and the groundwater asset is of high value. It also states that we will object to storage of hazardous substances below the water table in principal or secondary aquifers. We seek to enable development by ensuring that applicants provide adequate information to demonstrate that the risks posed by development to groundwater can be satisfactorily managed.

We require the construction details for the proposed petrol filling station. This should show what measures are in place to protect the groundwater environment, above ground fuel storage tanks may need to be considered. The information required shall include the full structural details of the installation, including details of: the tank(s), tank surround, and associated pipework, monitoring system, drainage strategy and operating procedures.

The following guidance documents should be used during the design and operational phases of the site - Institute of Petroleum document "Guidelines for soil, groundwater and surface water protection and vapour emission control at petrol filling stations" and our document "Wetstock reconciliation at fuel storage facilities". The applicant should also utilise the information in Pollution Prevention Guidelines (PPG) 7: Refuelling Facilities.

We would welcome communications with the operator regarding the design of the petrol filling station to find a suitable solution for this site.

## **Contamination**

Although the site lies within a relatively low risk groundwater protection area, the nature of the proposed development and previous use of the site are considered to be high risk. The Phase I Desk Study Environmental Assessment, dated December 2011, confirms that contamination was found within the southern half of the site during a previous investigation undertaken in 2001. It also notes that it was recommended at that time to remove the impacted ground from the site, but does not state whether this work was completed. The Phase I report concludes that the previous Phase II report needs to be updated and that groundwater monitoring should also be undertaken.

These recommendations are agreed within in principle, and we look forward to receiving the updated report in due course.

## **Foul Drainage**

We assume that foul water drainage will pass to main sewers. If this changes we wish to be re-consulted.

## **Surface Water Drainage**

Only clean uncontaminated water should drain to the surface water system. Roof water shall discharge direct to soakaway via a sealed down pipes (capable of preventing accidental/unauthorised discharge of contaminated liquid into the soakaway) without passing through either trapped gullies or interceptors. Open gullies should not be used.

There must be no discharge into land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. There must be no discharge to made ground. If permeable paving is to be used, then we would expect it to be demonstrated that any contaminants in run-off from any areas discharging to the paving would be sufficiently attenuated prior to discharge into the groundwater.

In this case we would expect the any sustainable drainage systems to be constructed at a shallow depth as to maintain a suitable unsaturated zone between the drainage system and groundwater.'

- 3.9 Network Rail:** 'I am writing to inform you of Network Rail's response to planning application **MA/13/1726**. After consideration, Network Rail wishes to express our full support for the proposal due to the following reasons:

### **Staplehurst Station**

Staplehurst Station is located on the South Eastern main line connecting London Charing Cross to Ashford International via Tonbridge, approximately 2 trains per hour call at Staplehurst with services to Ashford and 2 trains per hour call at Staplehurst with services to London Charing Cross via Tonbridge. It is also noted the station serves a large catchment of rail users from the outlying villages of Cranbrook, Hawkhurst and Sissinghurst which travel to that station by car.

The proposed site is Staplehurst station car park and land immediately North of the railway line. The development on the existing car park will be offset by the applicant retaining existing spaces and a new 660 space car park, which will result in an increase of 20% in spaces. The new car park will be located on the land North of the railway line. This land is outside the settlement boundary, but

has no designation to suggest any environmental value or that would protect its current state. The benefit of this additional car parking is that it would ease pressure currently placed on the existing station facility.

The applicant has also offered to provide additional ticketing facilities for the station on the North platform. This again would improve the station facility as a whole and allow for better access from the North of the station, where the majority of car parking will be provided.

The development would therefore accord to policies R1, R2 and T3 of the Maidstone Development Plan 2000 Saved Policies document, which is an integral component of Maidstone's development plan.

#### **National Planning Policy Framework (NPPF) Section 4**

The National Planning Policy Framework sets out the guidance to inform plan making and decision making. Section 4 of this document outlines the Government's approach to promoting sustainable transport. Section 4 highlights how patterns of development should facilitate the use of sustainable modes of transport, by concentrating development around transport nodes. Furthermore, the proposed benefits of the station improvements would be supported by the NPPF.

Overall, the planning application clearly demonstrates that the scheme meets all criteria in line with the Government's definition of sustainable development and accords to the policies of the NPPF and Maidstone's development plan.

#### **Further letter from Network Rail:**

We were both surprised and disappointed by the Planning Committee's decision in May 2013, particularly given the clear benefits which would accrue to the local community from the proposal. As you would appreciate, Network Rail's principal interest in the application is the new commuter car park and interchange which the proposal would bring forward. As is shown in paras. 3.12 to 3.18 of the Planning and Retail Statement submitted with the application, the proposal will bring forward a net increase of at least 82 spaces, which as we have indicated previously, is both much needed and cannot be funded by ourselves in the foreseeable future. We are already aware of the parking pressures at Staplehurst Station which are likely to increase in coming years as more new housing comes forward in Staplehurst and the surrounding hinterland. Without additional provision, station users are more likely to be forced to park in nearby residential roads which we expect would not be popular with local residents. As far as the

site of the proposed new commuter car park is concerned, we would like to make it very clear that Network Rail is completely satisfied that the construction method and materials proposed will not lead to flooding problems. Furthermore, as Tesco's Planning Consultants have made clear, we cannot see how the development of the site north of the railway can create a precedent in planning terms as the chances of another railway commuter car park coming forward are for practical purposes non-existent.

**3.10 Kent Police:** No objection

**3.11 Natural England:** is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 06 June 2013.

The advice provided in our previous response applies equally to this resubmission although we made no objection to the original proposal.

The resubmitted application is unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which **significantly** affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

**3.12 Maidstone Borough Council Spatial Policy Team:** No further comments to add to those previously made under application MA/12/0232.

**3.13 Maidstone Borough Council Environmental Health:** The site is in an Industrial Estate with some residential. Whilst the site is outside the Maidstone Town Air Quality Management Area, the scale of this development and/or its site position warrants an air quality assessment. An Air Quality Assessment by URS, ref 47042278-0036-1, has been submitted with this application. This report notes that the Maidstone Town Air Quality Management Area was declared in 2008 with respect to the air quality objective for Nitrogen Dioxide (NO<sub>2</sub>) (annual mean) but does not note that this AQMA was also declared in respect of Particulate Matter (PM<sub>10</sub>) (24 hour mean). Whilst there is currently no particulate matter objective, it is now recognised that there is no absolutely safe level for particulate matter. However, the report does address the issue of predictions in changes of both NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> levels as a result of this development going ahead. It concludes that although local receptors are predicted to experience a

small to medium magnitude change in annual mean concentrations of NO<sub>2</sub> and a small change in annual mean concentrations of PM<sub>10</sub> and PM<sub>2.5</sub> levels, all levels should be well below any Air Quality Objective values. The report also acknowledges the potential for construction phase activities to generate fugitive dust emissions which can be mitigated to a certain extent through relevant site management practices. Environmental Health accepts the validity of this report and its conclusions.

There are 3 areas on the land at Station Approach which have been identified as having had potentially contaminating activities: one area due to coal storage and depot (a low priority), another due to road haulage business (a low priority) and another due to the presence of railway sidings (a medium priority). A Phase I contaminated Land report by Delta-Simons, ref 2588.03 has also been submitted with this application. The Phase I report notes that the site is bisected from east to west by a railway line plus the various current and historical potentially contaminative uses in the area. It is also noted that Delta-Simons (formerly QDS Environmental Ltd) previously undertook an intrusive investigation on the area of land which covers the southern half of the site. The Phase I report concludes that an up to date Phase II Environmental Assessment is required and it's recommendations on how this should be done should be followed.

There is significant potential for noise from the proposed commercial activities on this site to affect local residents, and so I recommend that a noise strategy condition should be imposed on any permission granted.

This development proposal would seem to be a good opportunity to encourage the use of low carbon sustainable transport. This could be done as a component of the Travel Plan, for example the use of gas or electric delivery vehicles and/or the use of a 106 agreement for the installation of electric vehicle charge points for use by the business and/or public. Environmental Health would welcome the opportunity to discuss the travel plan proposals with the applicant.

No objection subject to the imposition of conditions requiring the submission of an acoustic survey and contaminated land investigation.

**3.14 Kent Ecology:** The *Ecological Assessment* report has been submitted in support of this application. No new survey information has been undertaken to inform the ecological appraisal. Given that the site's application history is relatively recent, we do not consider it necessary to require the full suite of surveys to be redone, but we advise that confirmation is sought as to whether the availability and extent of habitats on site remain as previously assessed. In particular we query whether the semi-improved grassland habitat areas remain closely grazed; if these areas have been able to develop into a more ruderal habitat this could have consequences for the ecological impact assessment and in the appropriateness of the proposed mitigation.

If we can be satisfied that the ecological appraisal remains valid, we advise that sufficient ecological information has been provided to inform the determination of this application. We would ordinarily expect protected species survey data to

be no more than 2-3 years old, and while the most recent great crested newt survey is over 4 years old, we agree with the conclusions in the report that there is sufficient, relatively consistent, great crested newt survey result history to adequately inform the determination.

Officer Comment: Confirmation has been received from the applicant's ecologist that the previously submitted information still stands.

#### **4. REPRESENTATIONS**

24 letters of support have been received from residents and 14 letters of objection.

In summary the letters of support state:

- The store will benefit the community;
- The creation of jobs;
- Support new homes planned;
- Tidy up the area;
- Less distance to travel than currently for a supermarket;
- Competition;
- A well thought out scheme;
- Traffic flows will be safer;
- A great idea with the transport interchange.

In summary the letters of objection state:

- Misleading information; TA questionable;
- Flooding;
- Better use of land would be for affordable housing;
- Harm to the countryside and biodiversity;
- Road network will not cope;
- No interrogation of employment numbers and salary bands;
- Prefer a community centre;



- Shoehorning development;
- Inadequate catchment to support two supermarkets;
- Tesco made no contribution to the Parish Council Rural Settlement Planning Event in October 2013.

## **5. CONSIDERATIONS**

### **5.1 Background**

- 5.1.1 This is a full application for planning permission for the erection of a new supermarket and associated car parking, a petrol filling station, and a new station car park. The application is a resubmission of a similar scheme that was refused by Members of the planning committee on the 16 May 2013. The previous application MA/12/0232 is currently at appeal; an Informal Hearing is scheduled for two days commencing on 18 March 2018.
- 5.1.2 The previous application was refused for the following reason:  
*The proposed station car park would result in the loss of a significant amount of open countryside through the provision of hardstanding, and other associated paraphernalia, to the detriment of the character and appearance of the site, located on a primary arterial route into Staplehurst. There is no overriding need for the provision of A1 retail at this location, and as such the proposal would be considered to conflict with Policy ENV28 of the Maidstone Borough Wide Local Plan (2000) and the aim of sustainable development as set out within the National Planning Policy Framework.*
- 5.1.3 It should be noted that the application was initially deferred by Members of the planning committee in order that the applicant could consider amending the scheme to overcome concerns of visual harm that were raised at the meeting. After a site meeting had been held and a revised scheme submitted with additional landscaping, the application was re-reported to committee and refused. The scheme has been amended again and it therefore needs to be considered whether the amendments contained in this current application are sufficient to overcome the previous reason for refusal.
- 5.1.4 The substantial majority of detail contained in the previous reports to planning committee remains the same. Rather than reiterate all the detail, I have included the two previous reports as an appendix to this report. The detail of the previous application was assessed by independent retail impact advisors DTZ. I have been advised that due to the relatively short time lapse between this and the former application, the conclusions drawn on retail issues still stand. The application was not refused on retail grounds.

5.1.5 The description of the site remains as per the previous report unless otherwise stated.

## **5.2 Proposal**

5.2.1 This revised application has not come about through any pre-application discussion between the applicant's and the Council. It has been submitted in response to the previous ground of refusal. The applicant has submitted an updated Design and Access Statement, Planning and Retail Statement and amended plans. The submitted elevational drawings for the proposed superstore are as per those considered under application MA/12/0232. There has been no change in terms of the proposed siting of the supermarket and petrol filling station on the southern part of the application site. Members may recall that the overall size of the store was reduced during the course of consideration of MA/12/0232. The proposed development is summarised in the Design and Access Statement as follows:

- A foodstore extending to 2,983 sq m gross;
- 203 customer parking spaces, including 13 for disabled people and 8 parent and toddler spaces;
- A petrol filling station;
- Junction improvements to accommodate existing and post-development traffic, including a signal controlled junction to reduce the speed of traffic entering the village from the north;
- Servicing to the rear of the store in an enclosed service yard;
- 61 parking spaces (comprising 17 short term and 44 long term including spaces for the disabled) for railway station users to the south of the railway line;
- A purpose built drop-off point for the station;
- A taxi rank and new bus stopping facilities linked to the station entrance by way of a covered walkway;
- A 621-space commuter car park to the north of the railway line, including 30 spaces for disabled people;
- A publicly accessible nature area to the north of the railway line, including measures to create improved habitats for a protected species;

- Trees and landscaping using native species where possible;
- Improved walking routes, including a route between the railway station and the industrial estate; and
- A Network Rail compound to the rear of the service yard to accommodate maintenance vehicles and allow access to the railway line.

5.2.2 The majority of the development set out above is as per the previously considered amended scheme. Changes between that scheme currently at appeal and the scheme subject to this application are as follows:

- The replacement of a strip of car park spaces/hard standing/pick up point with green space on the western side of the application site; additional planting throughout the northern car park comprising green strips to delineate between the rows of parking spaces; additional planting at the northern end of parking spaces on the eastern side of the car park – close to the entrance
- 61 long and short term parking spaces in the southern station car park along with taxi rank and drop off point as opposed to the previous long term spaces
- 621 station spaces in the northern car park as opposed to 660

5.2.3 It is therefore a question of whether the alterations in 5.2.2 overcome the previous reason for refusal.

### **5.3 Principle of Development**

5.3.1 Since the previous report to planning committee, the South East Plan has formally been revoked, the NPPF has been in situ in excess of one year and the emerging Maidstone Borough Local Plan is shortly due to be subject to a consultation.

5.3.2 The balance between assisting economic development and protecting the countryside was previously explored in full. The applicants' place great weight on the NPPF to support this application as it would support the aims of contributing to the local economy and provide jobs for people within the Borough. However, Policy ENV28 of the MBWLP 2000 has not been discarded, it remains a 'saved' policy and the NPPF still affords protection to the countryside. Policy ENV28 is clear in its intention to protect the countryside from inappropriate development. I do not consider there has been any significant change or shift in policy since the previous considerations in the report to planning committee.

5.3.3 In my colleague's previous report the proposed housing projection for Staplehurst and Marden as Rural Service Centre's was given as 195 and 320 respectively. It is now proposed to allocate 905 dwellings over two sites within Staplehurst through the Councils' SHLAA and 550 dwellings in Marden. It has been suggested that the increase in housing numbers would give greater weight to the acceptability of the proposed development. I would disagree. There is now permission for a new supermarket to be built in close proximity to the applicants' site; I understand that work has begun/is imminent on implementing the permission. Until now, the village has managed with the local 'Spa' store in the village centre. Even could an argument be mounted for retail 'Need', this in itself is not a reason to override the Policy and concerns of harm to the countryside.

## **5.4 Visual Impact**

5.4.1 As previously described, the application site is very much in two halves – the previously developed land and that under Policy T7 to the south of the railway line, and the northern meadow very much read as being within the open countryside.

5.4.2 No harm was considered to result from the development proposed on the land to the south of the railway line and the minor changes in station parking layout do not, in my mind, alter this view. The development of the land to the north of the railway line was however the reason the application was refused.

5.4.3 The proposal is for a 621 space car park; this is not an insignificant number of vehicles. In addition to the spaces themselves, there clearly needs to be adequate spacing between rows, entry and exit points, barriers, ticket machines and lighting. Even with the highest quality landscape scheme this is a vast level of hardsurfacing together with use of the site to try and mitigate against.

5.4.4 Since the refusal the applicant has introduced a wider landscape buffer on the western side of the car park. Within this car park there are a greater number of trees within and also green delineating strips. I acknowledge the efforts that the applicant has made in terms of attempting to soften the impact of the development in this northern meadow further. However, this land is very much rural in character; it contains a number of ponds, grassland, shrubs and trees. The applicant has commissioned Aspect Landscape Planning Ltd to undertake a landscape/townscape character and visual appraisal of the site; it is their conclusion that the site has the ability to accommodate the proposed car park development. I am unable to reconcile the views of Aspect Landscape with my own observations of this site.

5.4.5 The demarcation of the railway line is a strong defining feature to the village. Whilst it may not mark the actual outer limit to the village settlement in terms of the local plan (this is set in), it signifies the end of previously developed land and the station itself. The character north of the railway line would be substantially altered by the loss of the very 'green' unmanaged countryside to a significant scale tarmac site. I have walked the public footpath KM290 and along George Street and surrounding areas; I have considered views from the approach to and from the village. It is my view that the development will be visible where presently the land blends into the open countryside north of the railway line.

## **5.5 Residential Amenity**

5.5.1 The revised scheme has no greater/lesser impact than that previously refused.

## **5.6 Highways**

5.6.1 I note that the Parish Council have requested Kent Highways revisit the application in light of the approval for a Sainsburys supermarket on the site to the south. At the time when both applications were being considered in tandem, the highway impact of both schemes and a possible scenario of two permissions being granted/implemented was taken into consideration. Kent Highways raised no objection subject to conditions previously and continue to raise no objection on highway grounds to the current submission.

## **5.7 Landscaping**

5.7.1 I believe that effort has been made to screen the proposal and introduce landscaping where possible on the northern site. However, the reality is that the development requires a significant area of land to replace the existing station car park in order for the supermarket to be built. The number of car park spaces has been reduced on the northern site to allow for greater landscaping and a wildlife area. The scale of the car park required however, is unable to respect the existing character of this site.

## **5.8 Other Matters**

5.8.1 There are no significant changes in terms of the technical studies which have been resubmitted with the current application. The sole reason for refusal related to the visual harm that would be caused to the countryside if the land north of the railway line was developed for a replacement station car park. However, when the previous application was considered by Members of the planning committee one of the matters discussed related to the number of existing car park spaces that the railway station provides and there was a

difference of opinion over the net increase of the existing and proposed station parking numbers. The current submission has revisited this issue in order to provide clarification on the matter. However, whilst helpful for some, I do not consider the additional clarification to have a bearing on the decision made either previously or on the current submission. For information I advise as follows:

- 5.8.2 The applicant has obtained from Network Rail their intentions for the existing site. The plans declared by Network Rail have been in response to the refusal of planning permission, the table below is produced in the supporting statement by the applicants' agent.

<b><u>Baseline</u></b>	<b><u>Spaces</u></b>
Existing laid-out parking areas <i>Less spaces removed to allow for road alignment, taxi rank etc</i>	450 <i>Minus c. 68</i>
Improved (currently informal) area – number of spaces to be marked out	c. 218
<b>Total</b>	<b>600</b>
<b><u>Proposed</u></b>	
North of railway line	621
South of railway line	61
<b>Total</b>	<b>682</b>
<b>Increase</b>	<b>82</b>

- 5.8.3 The table shows an increase of 82 spaces if comparing a proposed scheme by Network rail vs the submitted proposals forming part of the Tesco scheme. I do not consider this to bear any significant weight in reaching a decision on the application. The Network Rail scheme has not been formalised and there is no certainty it would come forward. The needs of Network rail are not justification to substantially relocate a new car park in the open countryside.

### **Ecology**

- 5.8.4 With regard to ecological interest, a number of representations have been received. However, there has been no new evidence or significant change on site from the previous determination of the application to now. Of importance is that application MA/12/0232 was not refused on harm to ecological interests. KCC Ecology have confirmed that they are satisfied that the previous studies undertaken still stand. They have proposed detailed conditions if the application were to be approved to ensure ecological interests are protected, mitigation and enhancement carried out. The comments from Kent Wildlife

confirm that subject to management the proposal does not give rise to objection. The advice of KRAG has been undertaken in terms of gaining confirming from KCC Ecology of their acceptance regarding the GCN community. I see no reason why circumstances would now warrant refusal on ecological grounds.

## **6. CONCLUSION**

- 6.1 The application has been assessed in accordance with the development plan and found to be contrary to Policy ENV28 of the MBWLP 2000. The development of a 621space surface car park with associated hard standing, lighting and paraphernalia cannot be hidden. Regardless of a proposed nature area and a scheme for landscaping both within the car park and around the site boundaries, this proposal would cause harm to the character of the countryside. The amendments of some additional planting within the northern car park and a wider 'green buffer' on the northern edge of this with George Street has minimal impact in terms of softening the harm the development causes. The slight change in proposed car park numbers does not carry any significance in reaching the recommendation. It is therefore considered that the development would still cause harm to the character of the countryside and be contrary to Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

## **7. RECOMMENDATION**

Refuse Planning Permission:

1. The proposed station car park would result in the loss of a significant amount of open countryside through the provision of hardstanding, and other associated paraphernalia, to the detriment of the character and appearance of the site, located on a primary arterial route into Staplehurst. There is no overriding need for the provision of A1 retail at this location, and as such the proposal would be considered to conflict with Policy ENV28 of the Maidstone Borough Wide Local Plan (2000) and the aim of sustainable development as set out within the National Planning Policy Framework.