

### **Background Information**

This application has been notified to the Secretary of State (SoS) because if Members approve the application it would represent a retail development outside of the town centre that is not in accordance with the Development Plan, and that has a floor space of over 5000m<sup>2</sup>.

All the necessary information has been sent to SoS apart from the reason(s) for approval, which must be sent, if the application is approved.

The Secretary of State has confirmed receipt of the documentation and has advised that their decision period for the referral expires on 17 May.

### **Minutes of meeting held on 10 April 2014**

Members will be aware of the discussion that took place at the meeting held on 1 May 2014 regarding the particular draft minute (347) for this application for the meeting held on 10 April.

Councillor Paterson requested that the following words be added to the resolution contained in Minute 347 relating to application MA/13/2099 (Springfield Park) after the first word "That":

“, the Committee being minded not to refuse,”

Councillor Harwood said that during the discussion on application MA/13/2099, he had suggested that should Members be minded to grant permission, delegated powers be given to the Officers to negotiate with the applicant to seek to overcome concerns expressed by local residents about the proposed pedestrian link to Moncktons Lane as this had been closed for some time and was in close proximity to residential property, and there were concerns about possible anti-social behaviour. He would like reference to be made to this within the commentary part of Minute 347.

**RESOLVED:** That the Minutes of the meeting held on 10 April 2014 be approved as a correct record and signed subject to delegated powers being given to the Democratic Services Officer in consultation with the Head of Legal Services to amend Minute 347 as they consider necessary to take account of Councillor Harwood's suggestion relating to the footpath link to Moncktons Lane and Councillor Paterson's concern regarding the amendment of the resolution to include the words "the Committee being minded not to refuse", as well as the earlier reference to that vote.

I would advise that the Democratic Services Officer has now consulted with the Head of Legal Services and that Minute 347 has been amended to read as follows:

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Mr Maddox, an objector, and Ms Davidson, for the applicant, addressed the meeting.

*During the discussion, it was suggested that should Members be minded to grant permission, delegated powers be given to the Officers to negotiate with the applicant to seek to overcome concerns expressed by local residents about the proposed pedestrian link to Moncktons Lane as this had been closed for some time and was in close proximity to residential property, and there were concerns about possible anti-social behaviour.*

Contrary to the recommendation of the Head of Planning and Development, the Committee voted against refusal of the application on the grounds as set out in the report.

Some Members having indicated a strong intention to grant and having received advice, the Committee,

**RESOLVED:** That consideration of this application be deferred (preferably for not more than two meeting cycles) to enable the Officers to report back with reasons for approval, heads of terms for a S106 legal agreement and detailed conditions so that Members can be satisfied that it would be acceptable to grant permission.

Voting:            7 – For            6 – Against            0 – Abstentions

Councillors Hogg and Paine requested that their dissent be recorded.'

These update the draft minutes set out on pages 3 and 4 of the papers.

### **Representations**

A further six representations have been received. The letters are broadly in support of the proposals and the benefits to the community it is stated that would result. However, the majority also object to the opening up of the link between the application site and Moncktons Lane as a pedestrian route. Objections are raised to this link on the grounds of noise and disturbance and reduced security. It is stated that it should be used as an emergency access only.

Representation has also been made directly to NHS England regarding their stance on the provision of the Doctors' surgery as set out in the original report.

A petition signed by 185 people in support of the application/against the proposed allocation of the site and other sites in the vicinity for residential development has also been received.

The applicants have submitted suggested reasons for approval, a legal opinion and a letter of support to Members. These are attached for Members' information at Appendix One.

A draft Unilateral Undertaking has also been submitted on behalf of the applicants today. This addresses the heads of terms discussed in the report.

In addition, a local employment obligation is suggested that seeks to secure 3-5 work placements for local residents during the construction phase and that the applicants would use reasonable endeavours to incorporate into agreements with a prospective operator terms to the following effect: that the operator of the Class A1 retail development undertakes to use reasonable endeavours to source a fair proportion of end-user staff from residents of the Borough of Maidstone.

Solum, the prospective developers of the Maidstone East and former Royal Mail Sorting Office site have also made further representations to Members. These are attached for information at Appendix Two.

Further representations have also been received from agents acting for Peugeot Citroen in respect of Len House Mill Street. These are attached for information at Appendix Three.

### **Officer comment**

Following further discussion with the applicants, and in the event that Members are minded to approve the application, I would wish to amend suggested condition 21 on page 62 to read as follows and add a condition relating to the access to Moncktons lane;

*21. The foodstore and any Use Class A3 unit within the adjacent retail units hereby permitted shall only open to customers within the following times:*

*08.00 to 22.00 Monday to Saturday and in respect of the foodstore only up to 6 hours between 10.00 and 18.00 on Sunday and Bank Holidays. The foodstore café cannot be open outside of the foodstore opening hours.*

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

*26: The access path linking the application site and Moncktons Lane shall be used for emergency purposes only. Details of measures to secure the emergency only use shall be submitted to and approved by the local planning authority prior to the commencement of the development. The subsequently approved details shall be implemented prior to the first use of the open space area required by condition 13 above and maintained thereafter.*

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

I would also seek to impose further conditions relating to tree protection/compliance with the arboricultural survey and also the submission of a long-term landscape management plan as follows:-

*27. The development shall not commence until details of a long term landscape management plan for the site have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.*

*Reason: No such details have been submitted and to ensure a satisfactory external appearance for the development.*

*28. The development shall be undertaken in full accordance with the recommendations and tree protection measures set out in the 'Arboricultural survey and arboricultural impact assessment report rev B dated 22/11/2013' (prepared by Viewpoint Associates) unless otherwise agreed in writing by the local planning authority .*

*Reason: To ensure the retention of trees indicated to be retained and to ensure a satisfactory external appearance to the development.*

**RECOMMENDATION**

My recommendation remains unchanged:

REFUSE PLANNING PERMISSION

# APPENDIX ONE



# AUGURBUCHLER

PARTNERS

Councillor John A Wilson  
Coalbrookdale  
Lower Road  
East Farleigh  
Maidstone  
Kent  
ME15 0JS

02 May 2014

*By post and email (JohnWilson2@maidstone.gov.uk)*

Dear Councillor Wilson

**Re: Planning Application Reference Number: MA/13/2099, Springfield Park, Maidstone**

I write to you ahead of the Special Planning Committee on Thursday, May 8th.

As I'm sure you would appreciate, we have taken legal advice as to the status of the debate that should occur on Thursday and I attach the opinion given by Denton's solicitors in this respect.

More than half of you are expecting to come to the Committee to endorse the reasons for approval for the planning application and review the planning conditions. I believe others are assuming that the principle of the development will be up for a re-debate. In this respect, can I ask you to give due consideration to Denton's advice, which is very clear cut on this matter following the approval of the minutes at the Planning Committee on May 1st.

There is no section 106 agreement to be considered as we have already executed a Unilateral Undertaking in respect of the obligations we had promised. The members at the Planning Committee on April 10th did not take into account these obligations in determining the application.

I also attach the other document that was requested, and noted in the minutes, but is not included in the Officer's report for the May 8th Committee - the reasons for approval.

Much discussion was had at the last committee about the status of the Maidstone East proposals. Mr Jarman assured the committee that there would be a planning application forthcoming in one month. To date that has not occurred. As far as we are aware the Royal Mail sorting office site has not been sold to Network Rail or to their development partners Solam and therefore there is still considerable uncertainty about the viability of this proposal and its ability to come forward in the near future. It would appear that this development aspiration, which has been on the books for over 15 years, is doing more to do frustrate the retail strategy for Maidstone rather than assist it.

We very much hope that the discussion next Thursday will focus on the matters in hand, which are to agree the planning conditions and endorse the reasons for approval for the planning application.

Yours sincerely

**John Henley**  
Augur Buchler – Development Director  
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ALL TRANSACTIONS ARE SUBJECT TO CONTRACT

## **Springfield Park - Reasons for Approval, MA/13/2099**

The Officer's Report for the Planning Committee on 10<sup>th</sup> April 2014 recommended the Springfield Park proposal for refusal on five grounds. The report was discussed and it was concluded that the merits of the proposal were such that the majority of the Committee voted in favour of the proposal.

The first three reasons for refusal related to retail planning policy; reason four to the loss of TPO trees and reason five on design and the impact on Springfield House, a heritage asset.

On the issue of planning policy, the Planning Committee discussed the merits of the other sequential sites that had been identified in the town centre. They were satisfied that the analysis showed there were no more suitable, sequentially preferable locations in the town centre. It was recognised that the application site was in an accessible location and was well connected to the town centre and the local area. It was not felt that the proposal would have a harmful impact on the retail strategy for Maidstone.

In terms of Maidstone East, an edge of centre site, there was no compelling evidence that led the members to believe that a proposal for a foodstore was imminent on this site.

In respect of reason for refusal number 4, although the loss of one grade A tree was unfortunate the mitigation of the substantial number of new trees and shrubs, and the biodiversity benefits of the scheme, ensured the long term improvement of the site. Therefore any harm caused had been mitigated against to the satisfaction of the Committee.

In respect of reason for refusal number 5, in terms of the design of the building and the impact on the designated heritage asset Springfield House, it was felt that this proposal was more sympathetic to the setting of the listed building than the extant, permitted development.

In conclusion, the members did not support the reasons for refusal and made the judgement that the regeneration benefits of the scheme in terms of the physical improvement to this gateway site into the town and the economic and social benefits to the area, were such that the application should be approved.

As such the proposal is in accordance with the adopted Maidstone Local Plan (2000) and Government advice as contained in the National Planning Policy Framework. Accordingly the referral to the Secretary of State is not required under the Shopping Directive.

For the reasons given above and having regard to all other matters raised, including third party representations, the Council considers that planning permission should be granted subject to the conditions set out. It is noted that there is a separate Unilateral Undertaking that has been entered into by the applicants but the obligations set out in this document have not been a determining factor in the decision to grant planning permission.

### Springfield Park, Maidstone

- 1 This Opinion has been prepared on behalf of Blossom Way Limited, the applicant for planning permission at Springfield Park. It addresses two issues:
  - (a) the proper interpretation of the resolution of the committee on 10 April 2014 (the April resolution);
  - (b) depending on your interpretation of the April resolution, the approach that should be adopted by the committee in making a decision on 8 May.

#### Interpretation of Resolution

- 2 At committee on 10 April 2014 members resolved:

"That consideration of this application be deferred (preferably for not more than meeting cycles) to enable the officers to report back with reasons for approval, heads of terms for a section 106 agreement and detailed conditions so that members can be satisfied that it would be acceptable to granted permission."
- 3 We understand that Council officers may be advising committee that the April resolution was only a decision to defer consideration of the application.
- 4 Our view is that such an interpretation would be wrong. In fact, the committee resolved to approve the Springfield Park planning application, subject to an acceptable planning agreement and planning conditions being identified. The direct reference to the requirement to produce reasons for approval is clear evidence of the intention and decision.
- 5 Our view is supported by the following factors:
  - (a) Councillors Hogg and Paine requested that their dissent be recorded. There would be no purpose in recording dissent unless a decision to approve the application, in principle, had been made;
  - (b) the Council have, quite properly, referred the planning application to the Secretary of State on the basis that it has, at least, resolved not to refuse;
  - (c) the committee report for May 8th records in paragraph 5.1.3 that the April resolution is a "*material consideration*" in the determination of the application. Unless the April resolution was a decision, in principle, to grant consent it is difficult to see how it could be a material consideration.
- 6 It is for committee to interpret, properly, the meaning of the April resolution. Our view is that the written terms of the resolution, and the intention of the majority of the members, was clear. There was a decision, in principle, to approve the planning application.

#### Approach to Planning Application on 8 May

- 7 The interpretation of the April resolution is not academic. If, as officers may argue, it was simply a deferral of any determination of the application then there is no constraint on the way in which the committee can approach the application.



- 8 On the other hand, if the April resolution was a decision in principle to grant consent, subject to a planning agreement and detailed planning conditions, then the committee have to recognise, and give weight to, that earlier decision.
- 9 If the April resolution was such a decision then the High Court has made the approach that should be adopted very clear:
- (a) the April resolution is a material consideration;
  - (b) the May committee must approach the application afresh and with open minds;
  - (c) in doing so, the committee must give weight to their earlier decision.
  - (d) the committee should only depart from the earlier decision if there are "*good planning reasons*" for doing so. In the absence of any identified change of circumstance, or any clear basis for giving planning factors different weight, it is difficult to see what could, properly, be treated as a "*good planning reason*" for an alternative decision.
- 10 As the Judge in the main relevant case noted, a rejection of the April resolution, without good planning reason, would leave the Council open to a successful costs claim on appeal.

#### Conclusion

- 11 Our view is that the April resolution, in both substance and context, was a decision in principle to grant planning permission, subject to the satisfactory planning obligations and planning conditions being agreed.
- 12 On that basis, the May committee, while it is lawfully entitled to reach a different conclusion to the April committee, should only do so if there is a "*good planning reason*". On the evidence that we have seen, there is no such good reason and the May committee should reaffirm the April decision if it is satisfied with the proposed conditions and planning obligations.

*Dentons*

Dentons  
2nd May 2014

# **APPENDIX TWO**

To: Members of Maidstone Planning Committee

7 May 2014

Dear Councillors

**Maidstone Planning Committee, 8 May 2014**  
**Item 10: MA 13 2099 Springfield Park, Royal Engineers Road, Maidstone**  
**Update on the status of Maidstone East station**

Ahead of tomorrow's Special Planning Committee that will consider a foodstore at Springfield Park, I am writing with some good news about the progress we are making to bring forward the regeneration of the Maidstone East station area.

- Network Rail and the Royal Mail Group (the site owners) fully support Solum Regeneration to work up and submit a planning application for the re-development of the station car-park and adjacent sorting office sites. The scheme will deliver a new supermarket, substantial non-food retail, a new station with station car parking and improvements to the public realm. We therefore intend to submit a planning application by the end of May.
- Solum Regeneration is in advanced discussions with Asda about becoming the occupier of the supermarket. Tying up an occupier would enable us to commence construction quickly if planning is approved.

As you know, the station site is subject to an emerging allocation in the draft local plan for a substantial quantum of convenience and comparison retail floorspace. The area is identified as the major site within the Town Centre that will bring a new retail offer to the town, including a new supermarket.

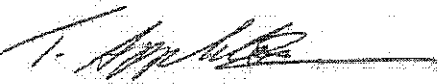
If the Council were to approve the Springfield site, our regeneration scheme would be put at risk.

Furthermore, it is our view that it would open the Council up to other inappropriate and out of town retail applications that would further damage the prospects of the town centre. It would also open itself up to additional and inappropriate housing development applications on the Greenbelt, as the Springfield site has been allocated for 900 much needed homes – these homes would need to be provided somewhere else. Effectively, the Council would be ripping up the core of its local plan and leaving itself exposed to speculative development applications that it would have difficulty stopping through the planning appeal process.

I recognise that Councillors are frustrated that the station site has taken so long to come forward but we are now making real progress. I am confident that with the Council's support, we can bring forward the regeneration of the Station area and be on site in 2015.

If you have any questions or would like any further information please do not hesitate to contact me.

Yours sincerely

  
Simon Rutter  
Director  
Solum Regeneration

To: Members of Maidstone Planning  
Committee



Property Department  
Asda House  
Great Wilson Street  
LEEDS  
LS11 5AD  
Fax: 0113 826 4991

6th May 2014

Dear Councillor Wilson,

As you will know the Maidstone Planning Committee will be deciding on an application for a new supermarket at Springfield Park, Royal Engineers Road on Thursday 8<sup>th</sup> May 2014.

Asda has long held a desire to open a major supermarket and to invest in Maidstone and have a number of sites under serious consideration. We are currently exploring in detail an opportunity to do this in partnership with Solum/Network Rail, in line with the Council's strategy to secure new retail development on the Maidstone East site.

As you will be aware, the proposed development at Springfield Park does not comply with the Council's strategy for future retail development in Maidstone as set out within the Maidstone Borough Wide Local Plan (2000), or within the emerging Maidstone Local Plan.

We feel that any decision taken tomorrow will be premature and conflict with the Council's own adopted Local Plan.

Thank you for taking the time to read this letter and we look forward to being able to invest in Maidstone in the near future and to bring the many positive benefits of an Asda supermarket to the town.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D Wilson', is located below the 'Yours sincerely,' text.

Doug Wilson | Head of UK Property Communications  
Asda Property & Format Development

ASDA STORES LIMITED

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# **APPENDIX THREE**



Development Management  
Maidstone Borough Council  
Maidstone House  
King Street,  
Maidstone  
Kent ME15 6JQ

**By Email:** [steveclarke@maidstone.gov.uk](mailto:steveclarke@maidstone.gov.uk)

Our ref: AWH/A015/08.05.14

8th May 2014

Dear Sirs

**Application Reference: 13/2099  
Springfield Park, Maidstone**

I write on behalf of Peugeot Citroën (as owners of Len House, Mill Street, Maidstone) to submit further representations to the above planning application which is due to be considered by the Council's planning committee.

I am a Chartered Surveyor with over 20 years experience. I specialise in Planning and Development matters with a particular emphasis on the redevelopment of buildings for alternative uses including retail.

I have been instructed by Peugeot to advise on the options for selling its showroom and garage at Len House in Maidstone Town Centre on the basis of redevelopment.

Having reviewed the information submitted by the applicant of Springfield Park, I am writing to correct a factual matter which has been incorrectly reported in the committee report with significant consequences for the decision before Members.

In paragraph 5.4.20 of the previous committee report, Peugeot's site has been incorrectly quoted by the applicant's consultants, White Young Green, as extending to 0.4 hectares. It is not. It is 1.1 hectares, almost 3 times larger than reported to you.

This is a key to the consideration of this site as, contrary to the applicants' analysis, it is easily large enough to accommodate a foodstore whilst preserving the listed building. This is witnessed by the fact that a leading foodstore operator has already designed a scheme for the site that meets its operational requirements.

Peugeot's site is in a far superior location than the application site in sequential terms, being part of the town centre already. The site is available, suitable and viable as a foodstore site.

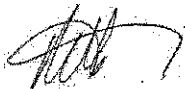
As such, Members should take into account that there are at least two sequentially preferable sites to the current proposal including the Council's preferred location at Maidstone East.

Crucially, Peugeot's site is in single ownership so is far more likely to come forward for development than Maidstone East which has failed to come forward despite being allocated for retail development and is reliant on continued operation of the station and car park.

If Members resolve to grant planning permission on the Springfield Park site the decision is highly likely to meet with strong resistance from competing proposals leading to a decision being made by the Secretary of State.

As such, I urge Members to resolve to refuse planning permission in accordance with advice from the Head of Planning but also in the knowledge that Peugeot's site represents a realistic and deliverable location for a foodstore.

Yours faithfully



**Anthony Horton BSc MRICS**  
Partner  
for and on behalf of dpa<sup>2</sup> LLP

**T.** 020 7583 9924  
**M.** 07450 847648  
**E.** [anthony@dpa2.com](mailto:anthony@dpa2.com)

cc Neil Parsons, Peugeot Citroën Automobiles UK Limited

# **APPENDIX FOUR**



Our Ref: 823/GW/gw

9<sup>th</sup> April 2014

BY EMAIL to [steveclarke@maidstone.gov.uk](mailto:steveclarke@maidstone.gov.uk)  
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Maidstone Borough Council,  
Maidstone House,  
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Maidstone,  
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Property Management Ltd  
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Facsimile 020 7802 5600  
[www.capreg.com](http://www.capreg.com)

**F.A.O. Steve Clarke**

Dear Sirs,

**RE: SPRINGFIELD PARK, ROYAL ENGINEERS ROAD**  
**PLANNING APPLICATION REF: MA/13/2099**

We write to **object** to planning application MA/13/2099 relating to Springfield Park which proposes the following development:

**"Erection of Class A1 retail development (with ancillary cafe), supporting retail (A1-A3), doctors surgery (D1) and associated servicing, car parking, landscaping and access arrangements."**

We have reviewed the application and consider that the application should be **refused** in line with the officer recommendation. Our objections to the application are as follows:

- 1) Sequentially preferable alternative sites exist, which are capable of accommodating a new large foodstore. These sites include the Former TJ Hughes store in The Mall. The application therefore fails to satisfy the sequential test as set out in the National Planning Policy Framework;
- 2) The proposed development would have an unacceptable impact on:
  - a. future investment in the Town Centre, including at The Mall; and
  - b. the vitality and viability of the Town Centre

For the above reasons this application should be **refused**.

Yours faithfully,



GARETH HOLLAND

**The Mall Limited Partnership**

cc: Debbie Snook – MBC Committee Services ([debbiesnook@maidstone.gov.uk](mailto:debbiesnook@maidstone.gov.uk))