Committee Date: 27/06/2013  Application Number: 2013/01544/PA
Accepted: 05/03/2013  Application Type: Full Planning
Target Date: 04/06/2013
Ward: Handsworth Wood

Former GKN Factory, Old Walsall Road, Hamstead, Birmingham, B42 1HU

Demolition of existing buildings and construction of new food store (5342sqm GIA) (Class A1), employment units (1674sqm GIA) (Class B1, B2, B8), new access and associated highway works, car parking, landscaping and associated works

Applicant: Transforma Solutions and Sainsbury's Supermarkets Ltd
c/o Agent
Agent: Turley Associates
25 Savile Row, London, W1S 2ES

Recommendation
Approve Subject To A Section 106 Legal Agreement

1. Proposal

1.1. This application seeks consent for the demolition of industrial buildings and redevelopment of the site for a new food retail store with associated works including an associated car park for shoppers with access from Hamstead Hill, service yard with access from Austin Way, off-site highway works including a new traffic island to serve the customer access to the site, and associated landscaping. The development also proposes the development of new industrial/warehouse units for B1, B2 and/or B8 use with associated parking and servicing areas.

1.2. The proposed foodstore would create 5342 square metres of gross internal floorspace which includes a small mezzanine area for a café and staff area. The principal elevation of the store including the public entrance would be located on the north elevation facing towards the customer vehicular entrance and the customer car park. The building is designed as two storeys high, with a sloping roof that gradually rises from the front of the store to the highest two storey element to the rear. The design is typical of a building for this use including a mix of metal cladding and glazed sections including a canopy to the front which define the different elements of the store and break the overall massing along the main elevation that faces the car park. A glazed lobby protrudes beyond the façade to offer a distinctive entrance point.

1.3. The proposed car park for the store would provide 302 car parking spaces and parking for cycles. The car park includes a convenient pedestrian route to the store entrance that can be accessed from Hamstead Hill thereby serving those users walking to the site or using the nearby bus stops. The off-site highway works include:


• the proposed new road traffic island on Old Walsall Road to provide access to the customer car park,
• a new pedestrian refuge on Old Walsall Road and associated alterations to accesses serving existing businesses on the opposite side of Old Walsall Road to maintain access to their premises,
• junction improvements at Old Walsall Road/Austin Way (within the application site) to accommodate delivery vehicles,
• junction improvements at Old Walsall Road/Rocky Lane (to provide a pedestrian refuge at the existing signalised junction), and at Old Walsall Road/ Hamstead Road (to provide a new signal controlled junction) to improve pedestrian connectivity and to manage traffic capacity at those junctions. These two junctions are outside the application site.
• the re-siting of existing bus stops that will be displaced by the proposed highway works to create the traffic island.

1.4. The proposed industrial units would provide 1674 square metres of new industrial floorspace (4 units each of 260 sq.m and 2 units each of 317 sq.m) with an associated car park providing 25 car parking spaces.

1.5. The application includes the submission of a planning statement, design and access statement, retail impact assessment, loss of industrial land assessment, transport statement and addendum, Stage 1 safety audit and designers response, interim travel plan, flood risk assessment, noise survey, air quality assessment, lighting assessment, ground contamination assessment, archaeological assessment, ecological survey, tree survey, renewable energy and energy efficiency assessment, statement of community involvement and section 106 heads of terms.

1.6. The applicant is proposing to make a financial contribution of £900,000 towards the delivery of part of the Aston Regional Investment Site, including site reclamation, access works, public realm works and improvements to the facilities at Aston Station and/or Hamstead Station. In addition, the applicant proposes that a commitment to employment of local people be secured as part of the section 106 agreement.

1.7. A screening opinion request has been submitted where it has been concluded that this proposal does not constitute EIA development.

2. Site & Surroundings

2.1. The site is an existing industrial site that has been vacant and unused since 2009. The site comprises a range of large industrial buildings and associated offices, stores etc, which occupy approximately two thirds of the site together with large areas of open yard areas, enclosed by metal palisade fencing and gates. The office buildings to the west of the site are three storeys whilst the other buildings are tall single storey structures.

2.2. The applicant states that the buildings are not fit for occupation and have been de-listed for the purposes of building rates. They state that the problems with the buildings include structural defects, presence of asbestos, severely damaged roofs, irreparable fixtures and fittings and sub-standard services. A survey undertaken in 2011 identified the total cost of repair to be in the region of £1.54 million.

2.3. The site is located within a mixed use area. To the south of the site in Austin Way are several industrial premises that form part of the industrial estate to the south.
The site to the immediate north is a petrol filling station, beyond which is a vacant office building. There are also industrial premises to the west on the opposite side of Hamstead Hill. Further to the north, 200 metres from the site boundary is the local centre of Hamstead, much of which is located within Sandwell. This centre contains local shops and services including local stores, restaurants, takeaways, a post office and a pharmacy.

2.4. Hamstead railway station is located to the north. Services on this line terminate at Birmingham New Street and Rugeley running approximately every 30 minutes. There are also local bus services that stop in the vicinity of the site on Hamstead Hill including the 651, 28, 51 and 886 services.

2.5. There is a large park to the west of the site which contains Hamstead Pavilion.

3. Planning History

3.1. Nothing relevant in respect of the application site.

3.2. Other relevant history

3.3. 2011/03485/PA – Land off Pershore Road/Fordhouse Lane, Stirchley (Former Arvin Meritor Works) – Demolition of remaining buildings on site and erection of food store and associated services areas, car parking, public realm works and landscaping – Refused – 27/09/2012. Appeal Public Inquiry took place in May 2013, decision awaited.

Reasons for refusal include “The loss of the application site from industrial to retail use would increase the existing shortfall in ‘Good Urban’ industrial land and it has not been sufficiently demonstrated that its loss is necessary or that it is unviable for the site to be redeveloped for employment purposes. The proposed development would therefore be contrary to policies 4.19, 4.21 and 4.31 of the Birmingham Unitary Development Plan, paragraph 22 of the National Planning Policy Framework, the loss of the Industrial Land SPD, and Policies SP15, SP16 and S10 of the Consultation Draft Core Strategy.”

4. Consultation/PP Responses

Pre-application consultation

4.1. The applicant held a public exhibition on 29th and 30th June 2012 in Hamstead. Ahead of this 5000 leaflets were delivered to local properties to advertise the exhibition. The event was attended by 188 people and the website has been visited by over 800 individuals. Consultation feedback was supportive with 86% in full support. Comment and concerns focussed on traffic impact and the effect on other shops. The applicant advises that since the public consultation event the scheme has been revised to provide the proposed roundabout access, to increase parking spaces within the car park, and to introduce more landscaping in response to comments raised.

4.2. In addition, the applicant has attended the Handsworth Wood Ward Committee and the Cherry Tree Orchard Neighbourhood Forum to present the scheme and answer questions. Separate meetings have also been convened to explain the proposals to the ward members.
4.3. The applicant has also met with planning officers at Sandwell MBC to discuss the implications of the proposed store on existing centres within their area.

Application consultation

4.4. Press and site notices erected. MP, Ward Members (in Handsworth Wood and Perry Barr wards), residents associations and neighbouring residents/businesses notified. Representations received are summarised as follows:

4.5. 45 representations of support. Comments include:

- Will improve provision for food shopping for local residents and provide more choice of where to shop. There is a need for this type of shop in the area which is currently poorly served by supermarkets
- Will create jobs/investment in the area
- Will develop a vacant and unsightly site
- Improvements have been made to the proposed access
- The store may encourage uptake of the factory units in the area
- The store may encourage the retention of the post office in Hamstead
- The store will complement the existing shops in Hamstead
- It will encourage some local people to walk to shop at the store
- Will contribute to a sense of community. Sainsburys have a good reputation for working with local community groups and schools.
- The store may improve usage of the railway station and thereby secure its future

4.6. 12 representations of comment on the following grounds:

- There should be provision within the development for recycling
- Concerns about traffic impact – existing problems at Rocky Lane junction in peak periods, and traffic congestion on Old Walsall Road, and this will be made worse
- The proposed traffic island is an improvement to the original layout
- There should be traffic lights instead of a roundabout to control traffic
- The works to the junction at Rocky Lane will be a minor improvement for pedestrians, but they don’t adequately deal with the risk especially if several pedestrians attempt to wait there at once. There should be a proper pelican crossing instead to encourage pedestrians use.
- The supermarket should be bigger
- Impacts on residents during construction need to be carefully managed to minimise disruptions
- The supermarket should not be a 24 hour store
- There should be some controls on night-time deliveries to reduce disturbance
- Car park should be locked out of hours to prevent misuse.
- Should ensure landscaping is implemented and retained to reduce environmental impact.
- The store will lead to increased air pollution requiring mitigation in the form of new tree planting in the vicinity of the store along the River Tame and Hamstead Hill playing fields.
- The store should actively engage with local community projects
- The layout of the store should be designed to suit accessibility for the disabled.
- The store should recruit locally
4.7. **7 representations of objection on the following grounds:**

- Traffic impact – existing problems at the Rocky Lane junction in morning and evening rush hour peak periods, and traffic congestion on Old Walsall Road will be made worse. Concerns that the Walsall Road/Old Walsall Road junction (1400 metres to the north) also suffers from congestion and that further traffic travelling north will back up into Hamstead.
- Traffic will have an adverse effect on existing businesses, causing delays for deliveries and departures from their premises. There needs to be substantial improvements including road widening, bridge flattening, bus pull-ins, revised on-street parking and phased pedestrian crossings so as to not hold up traffic.
- The proposed improvements to provide a pedestrian refuge on Rocky Lane and the proposed traffic island will further add to the existing problems of congestion.
- The development is not needed – there should be more focus on helping existing small businesses. It will lead to further closures and more shop vacancies.
- Party wall issues with adjoining business have not been addressed.
- The proposed use is not compatible with adjoining industry that involves metal heat treatment using hazardous substances with by products of noise and fumes.
- There are existing problems of drugs use and anti social behaviour in the nearby park. There are also problems of burglary with intruders gaining access from the park into residents property. The park should be shut at night. The store will sell alcohol adding to these problems. The Council should be addressing these problems.

4.8 Councillor Hamilton comments in support of the application. She considers that the new employment units will assist new business ‘start ups’ or existing businesses to relocate. She states that the scheme is strongly supported by local residents but that there are some concerns about traffic impact, expressing the view that the measures proposed to control traffic are appropriate. She comments that the store will reduce travelling for local people who currently travel out of the area to shop, particularly helping the elderly. She wishes to support the creation of 200 new jobs. She also comments that she is pleased to see that officers have negotiated with Sainsburys to add value to the area. She concludes by commenting that the proposal results in the loss of industrial land, and that the proposed compensation for this is proposed to be used outside the ward, whereas she feels some of this funding should remain in the ward to assist with local infrastructure through a Community Development Trust.

4.9 Transportation Development – Comments Awaited.

4.10 Regulatory Services, Pollution Control – No objections. Recommends conditions relating to ground contamination assessment, remediation and validation, service yard management plan, restrictions on night-time servicing and prevention of home delivery at night, noise levels from plant and machinery and details of biomass boiler and fuel.

4.11 Environment Agency – No objections. Recommends conditions relating to implementation of the flood risk assessment, sustainable drainage details, contamination assessment, remediation and verification,

4.12 Severn Trent Water – No objections. Recommends drainage condition.
4.13 Centro – No objections. Bus stop relocations will require agreement with Centro, BCC and operators. Recommends that travel plan should be conditioned. Opportunities to improve local pedestrian/cycle routes should be fully explored. Inclusion of facilities to display electronic real time information screens within the store should also be included.

4.14 Network Rail – No objections. Seeks conditions relating to risk assessment and method statement for all works within 10 metres of the rail boundary, a minimum 2 metre gap between buildings and the rail boundary, all construction and maintenance works to be undertaken wholly within the site, boundary treatment including high kerbs and crash barriers for the parking adjacent to rail boundary, scaffolding should not oversail rail boundary, any vibro-compaction or piling to be agreed with them, demolition in accordance with agreed method statement, no soakaways with 20 metres of site boundary with railway, no excavation works within 20 metres, lighting must not interfere with sighting of signalling apparatus. Seeks s106 contribution to improve Hamstead station.

4.15 West Midlands Police – No objections. Recommends detailed measures to ensure security of service yard, fire exits, CCTV/lighting/shop design, landscaping, and car park areas.

4.16 West Midlands Fire Service – Inadequate water supplies, requiring additional hydrants within 90 metres of an entry point into the building and not more than 90 metres apart.

4.17 Sandwell MBC – No comments.

5. Policy Context


6. Planning Considerations

6.1. This application raises a number of strategic and detailed issues that need to be balanced in the determination of the planning application. The strategic issues relate to the case for loss of industrial land and the implications for industrial land supply in the City, the assessment of the proposal against the national and local policies on retailing, and the benefits to economic growth and jobs. The detailed issues relate to the traffic impact of the development, design issues, the assessment of impact on environmental factors including flood risk, noise, ground contamination and ecological impacts.

6.2. The site is not allocated for development in the adopted UDP. As an existing industrial site, it has the protection of the industrial land policies in the UDP (paragraph 4.31) which seek to retain industrial land for industrial use to maintain an adequate land supply for industrial uses. The UDP identifies an estimated annual demand of 10 hectares and a ‘minimum reservoir’ requirement of 30 hectares (equivalent to 3 years supply).
6.3. The NPPF states in paragraph 214 that policies adopted after 2004 can be given full weight for a 12 month period, after which due weight is to be given, taking into account the degree of consistency of the policy with the NPPF (the closer the consistency the greater the weight to be given). As 12 months have now passed since the adoption of the NPPF, we are now at the stage of giving due weight rather than full weight to UDP policies. Nevertheless, for reasons explained further below, I am of the view that the application of UDP policy on industrial land is supported by an up-to-date evidence base (2012 employment land review) and Supplementary Guidance (in the SPD) which are consistent with the NPPF, and therefore it remains a significant consideration to be taken into account.

6.4. The Loss of Industrial Land to Alternative Uses SPD provides further details to supplement the UDP policy explained above. The SPD has been retained as part of the Local Development Scheme and therefore can be given weight in determining the application. This sets out those circumstances where a case for change of use of land can be made including justification relating to non-conforming uses, viability and marketing. The SPD also sets out that notwithstanding these tests, it is recognised that there will be occasions where it can be demonstrated that there are good planning grounds to depart from the general presumption against the loss of industrial land (paragraph 5.9).

6.5. The Draft Birmingham Development Plan (BDP) identifies the site as within a Core Employment Area (CEA). This establishes a presumption against change of use to non-industrial uses within the CEA. However, as this policy change has not been adopted, this limits the weight that can be afforded to the policy at this point in time. The BDP options consultation (October 2012) explains that whilst the assessment of the City’s industrial land supply concludes that the overall supply is sufficient to meet the demands from the majority of growth sectors, significant growth in advanced manufacturing could not be accommodated due to a lack of sites of a sufficient quality and scale to accommodate major occupiers. The plan considers the release of Green Belt land to meet the City’s industrial land supply to address the shortfall, particularly where the proposals for HS2 result in the loss of the Washwood Heath site.

6.6. The provisions in the Draft BDP are informed by two assessments of the supply of industrial land undertaken in 2008 and 2010, and there has since been a further review in 2012 that was reported to your Committee on 13th June 2013. The 2012 assessment identifies 16.69 hectares of readily available ‘good urban’ land which is significantly lower than the UDP target of 30 hectares (and less than had been identified in the earlier reports suggesting a trend of diminishing supply). It also identifies 24.52 hectares of not readily available ‘good urban’ land and highlights difficulties with bringing forward several of the identified not readily available sites. The supporting information to policy SP16 (Protection of Industrial land) sets out that the City will need to retain and recycle employment land in existing use, but that the City could afford to lose poorer quality employment sites without compromising its ability to provide jobs and foster a competitive economy.

6.7. The NPPF promotes sustainable economic development. In respect of industrial land, the NPPF sets out that industrial land should not be retained for industrial use where there is no prospect of it coming forward for industrial use during the plan period. It is notable that the NPPF does not differentiate between industrial jobs and jobs created in other sectors such as retailing.

6.8. National and local retail policy promotes an ‘in Centre’ first policy for retailing and other town centre uses. Where a sequential approach demonstrates that there are
no suitable 'in centre' sites, then 'edge-of-centre' locations should be considered. The application site is within 200 metres of Hamstead centre thereby meeting the definition of 'edge-of-centre'. The NPPF requires such retail development in 'edge-of-centre' locations to demonstrate that the development will not have a detrimental impact on existing established centres and existing planned investment within those centres.

6.9. The Aston, Newtown, and Lozells AAP is relevant in respect of the proposed delivery of the Aston Regional Investment Site as a hub for advanced manufacturing. The applicant proposes that the loss of industrial land at Hamstead would be mitigated by a financial contribution towards the delivery of industrial redevelopment at Aston RIS (see section on loss of industrial land). Aston RIS is approximately 10 minutes from the application site via train on the Lichfield to Birmingham line. The planning application therefore contributes to the delivery of the policies in the AAP.

6.10. All of these policies need to be taken into account and given appropriate weight in reaching a decision on this application.

6.11. Loss of Industrial Land

6.12. The applicant has provided an assessment of the implications for the loss of industrial land. Their conclusions are as follows:

- The site should be considered as 'other urban' rather than 'best urban' land. The applicant considers that the site scores poorly in respect of the condition of the existing buildings (being beyond economic repair), local access and site quality, market conditions (a lack of demand for sites of this size which tend to only be of interest for users of smaller "oven ready" units), transport access/supporting infrastructure (being poorly situated to the motorway network and in a location where there is existing congestion on local roads).
- The categorisation as 'other urban' would mean there is a less persuasive case to retain the site for industrial use, and the policy is flexible to allow changes of use in this category without there being a significant effect on industrial land supply and will allow investors to focus attention on better sites elsewhere.
- The Council has more than sufficient employment land to meet its needs over the plan period.
- The potential loss of employment land to HS2 should not be a significant factor in determining this application since HS2 is some way off and has not been formally approved. If HS2 does proceed, the City’s proposals are to seek an alternative site (possibly in the green belt) of much larger size (50 hectares) and greater quality (best urban) than the application site. The loss of the application site will not affect the need for an alternative 50 hectare 'best urban' site.
- In relation to the UDP and SPD policies on industrial land, there are grounds to justify the change of use relating to viability and marketing.
- The existing buildings are derelict and unsuitable for re-use without substantial investment, the cost of which would be un-economic.
- The costs of redeveloping the site for industrial use would render such a proposal unviable whether developed as a single or multiple unit development.
- The site has been vacant for 4 years and proposals for redevelopment for industrial use have not come forward in that time. Taking account of the issues that affect marketability, the site is undesirable to potential investors and will remain undeveloped for the foreseeable future.
• The development will create economic prosperity and new jobs in both the construction of the store and its subsequent operation. The proposed s106 contribution is substantial and outweighs any perceived negative impacts. These are significant material considerations.

6.13 It is the applicant’s view that the proposal accords with the UDP and the SPD as they consider that the circumstances to justify the release of the site from industrial land supply have been met. They comment that the decision to allocate the site within a Core Employment Area (policy SP12) is largely predicated upon the 2008 and 2010 employment land studies, however they point out that the application site was not specifically considered by either study and does not form part of the study’s assessment of industrial land supply. They consider that this means that neither the quality of the site and its constraints to deliverability, nor its availability have been properly assessed and therefore the allocation as Core Employment Area is not informed by a robust evidence base.

6.14 A key element of the applicant’s case is that when considering the value of the site for industrial use, it is not simply a matter of considering the contribution the site makes numerically to employment land supply, but that it is necessary to analyse whether or not the market will take up the site. They point out that industrial investors seek out the best quality sites and that poorer quality sites in the wrong locations will attract little demand and remain on the market. They take the view that businesses seeking to relocate to Birmingham are likely to focus on the economic zones or areas free of constraints without significant amounts of risk, and they contend that the application site could not be considered to meet this brief.

6.15 They also make the case, referring to the Council’s last annual monitoring report, that the supply of industrial land (in all categories) is lasting longer because of reduced rates of take up in recent years. They also point out that supply is not static and that as sites become vacant they add to the current supply of land for recycling. In referring to the site as being within the ‘other urban’ category they make the point that whilst it is important to have a pool of readily available sites for employment, the retention of unattractive sites in the ‘other’ category is not vital to its economic success. They express the view that an oversupply of land is detrimental as that land remains unused and weakens land values, and that it would be better to have greater competition for sites whilst ensuring a steady supply of land at the right moment.

6.16 The applicant’s evidence also refers to policies in the NPPF which support proposals which create jobs and economic growth. They identify that local authorities are discouraged from the long term protection of sites for employment uses where market signals indicate other uses are deliverable. They also make the point that the NPPF does not distinguish between or attach weight to different employment uses. Class A, B and D uses are all considered as employment generators and should be supported where there are genuine prospects for job creation and economic growth.

6.17 The applicant has set out that notwithstanding their view that the proposal accords with industrial land policies, (and therefore there is no impact that would need to be addressed) they recognise that the Local Planning Authority may judge these issues differently and has therefore offered a package of mitigation which involves:

• The provision of 6 new industrial units on site totalling 1674 square metres of floorspace for B1, B2 or B8 use. This would provide some new units for small local businesses retaining some industrial use on part of the site.
- A financial contribution of £900,000 towards investment in the delivery of the East Aston Regional Investment Site, comprising £800,000 towards land reclamation, public realm and access works (or other such works as may be agreed in writing) of part of phase 2, plus £100,000 towards improvements at Aston Station and/or Hamstead Station which will serve to provide a sustainable means of transport to employees at the RIS.

6.18 The financial contribution has been substantially increased from the sum originally offered by Sainsbury’s (which was £350,000) as a result of officer negotiations, reflecting the need to balance the negative impact of the loss of industrial land with the positive contribution of bringing land that is currently ‘not available’ forward for development and therefore be part of the ‘readily available’ land within the ‘good urban’ category.

6.19 I accept some, but not all of the arguments presented by the applicant in favour of the scheme. The existing site was formerly occupied by GKN, but was vacated approximately 4 years ago and has been vacant since that time. The existing premises contain a range of buildings providing over 12900 square metres of floorspace within a 2.33 hectare site. The site is well-located to the existing highway network and forms part of a larger area of industrial premises that extend to the south off Austin Way. The site is not non-conforming. As such, I consider the site falls within the category of ‘good urban’ industrial land which is defined in the UDP as good quality sites suitable for locally based clients.

6.20 The UDP identifies a need to maintain a minimum reservoir of ‘good urban’ land of 30 hectares, equivalent to 3 years supply. The City’s most up-to-date evidence identifies a current reservoir of 16.69 hectares of readily available land within the ‘good urban’ category. There is therefore an issue of a shortage of supply of industrial land in the ‘good urban’ category.

6.21 The existing buildings are acknowledged to be in a poor state and so for the site to be re-used for a wholly industrial use, the site would need to be redeveloped. Whilst the site is not in an established enterprise zone or within one of the 6 economic zones to be promoted through the BDP, I do not accept that this means that smaller areas of established industrial use could not make a contribution to meeting the City’s industrial land needs. I accept that it would be premature to give weight to the proposed Core Employment Area allocation at this stage in advance of the consideration of this allocation at the Development Plan Inquiry. I acknowledge that the NPPF places emphasis on supporting proposals for economic investment and that retail sector jobs are not given any lesser standing than those in industrial sectors.

6.22 The site does not form part of the figures for supply in either the ‘readily available’ or ‘not readily available’ categories as it is a site that is neither allocated for industrial development in the UDP or other development plan document, and it does not have planning permission and has not been the subject of an expired planning permission for industrial redevelopment. Nonetheless, this does not mean that the site is not protected under the industrial land policies in the UDP.

6.23 Whilst it is acknowledged that supply is lasting longer due to reduced take-up measured against predicted demand in recent years due to the recession, it is nevertheless appropriate to maintain a suitable supply of industrial land reflecting longer term trends. There is a deficiency in industrial land supply in the ‘best urban’ and ‘good urban’ categories. Low completion rates are currently hiding supply issues
and a return to pre-recession levels of demand would mean that there would be only sufficient readily available supply for two years as opposed to the three year target.

6.24 The applicant’s evidence of marketing is weak as the site was not appropriately marketed for industrial use in accordance with the requirements of the SPD (ie. 2 years marketing). Instead, DTZ undertook a limited marketing campaign involving the targeting of developers registered enquiries on DTZ’s in-house system and responding to general interest. No particulars were produced, advertisements placed or a board erected on the property. As a purchaser had been identified DTZ did not proceed to a more open marketing of the site as required by the SPD. The lack of a proper marketing campaign is regrettable because if the industrial market had been more thoroughly tested, this would add weight to the case for approval where the applicant’s assertions had been demonstrated by a lack of take-up by an industrial investor.

6.25 In the present market, I accept that redevelopment for industrial use would not be viable and that some form of enabling use is required. This does not preclude an end user from purchasing and developing the site. In recent years the majority of occupiers seeking sites of this size have been limited due to the availability of units that were speculatively built pre-recession, however the supply is running out and it is likely that there will be an upturn in demand in the future. Of itself, I do not feel that the case on viability sufficiently supports the case for approval.

6.26 Members will recall the proposals by Asda for the former Arvin Meritor site in Stirchley that were refused consent, including on the grounds of loss of industrial land. That site has some similarities with this site in terms of being of similar size and both within the ‘good urban’ category. Consent was refused in accordance with my recommendation on grounds of the impact on industrial land supply. The Asda site had not been properly marketed for industrial use, and there was no evidence presented on viability. Given these factors, it is important to carefully consider the balance of issues in order to establish whether or not there is a reasoned material difference in the sites to justify a different decision here.

6.27 In my view, there are clear and distinct differences between the cases at Stirchley for Asda and the application by Sainsburys at Hamstead, notably the proposals for new industrial units as part of the scheme and the important contribution made to the delivery of the Advanced Manufacturing Hub at Aston, which is a key priority for the City. No such benefits were proposed by Asda at Stirchley to offset the impact on industrial land supply. Whilst both sites are ‘good urban’ I concur that the Stirchley site is a more attractive site commercially.

6.28 In my view the proposed package of mitigation is significant. The applicant is committing to the delivery of new industrial units on the site which will make a positive contribution to supply in the ‘readily available’ category. In addition, the proposed contribution to offset the loss of industrial land by providing funding to the Advanced Manufacturing Hub (AMH) is considered to be directly related to the site in terms of use as it will help bring forward industrial land for development. It is considered to be directly related in terms of location as the AMH is less than 10 minutes from Hamstead by train and it is reasonable to assume that people who could have been employed at this site could instead be employed at the AMH. The scale of contribution is considered to be appropriate as this will meet the identified costs for demolition, remediation and public realm works to enable the delivery of phases 2 and 3 of the AMH where some funding has been secured through the Growing Places Fund but where match funding is needed. This will enable 4 hectares of industrial land to be brought to the market.
6.29 Taking all of the above into account, in my opinion, the package of mitigation outweighs the identified policy issues. Whilst there would still be a net reduction of employment land in the ‘good urban’ category, the amount of land that was ‘readily available’ would be improved including a contribution towards the delivery of 4 hectares of industrial land within an important industrial regeneration scheme. In addition, the development secures 220 new jobs at the store, together with those generated through the construction process and there will be additional jobs created for the new industrial units. I am mindful that the local community support the proposal not least due to the proposal providing new jobs. I feel that this outweighs the shortcomings around insufficient marketing, and the issues around overall supply of land in the ‘good urban’ category.

6.30 Retail Policy

6.31 The applicant’s assessment of the retail policy issues can be summarised as follows:

- The site is located within an ‘edge of centre’ location being 200 metres from Hamstead local centre.
- Sequentially, there are no alternative ‘in centre’ sites within the catchment that should be considered ahead of the proposed site. The applicant has considered sites at Bill House on Soho Road, One-Stop shopping centre, BCU campus and Greyhound stadium at Perry Barr but these have been discounted for various reasons including because they are not readily available for development at this time, and/or does not serve the Hamstead catchment.
- The catchment is not well served by foodstores with many people travelling to Asda at Perry Barr and Asda at Queslett to do their food shopping. These stores currently over-trade and there is a lack of choice for consumers.
- The Asda at Queslett serves a catchment north and west, and the Asda at Perry Barr serves a catchment south and east of Hamstead. The proposed store will plug a gap between these catchments, thereby improving choice and reducing the need to travel.
- The impact of the development on existing local centres, including Hamstead will be positive. The local centres serve a different custom providing top-up shopping whereas the food store will tend to generate weekly basket/trolley shopping. They consider Hamstead to be a centre in decline, and that the development will bring people back into Hamstead to work and shop.
- The impact on Perry Barr and Scott Arms will be acceptable.
- The development therefore accords with retail policy in terms of the assessment of the sequential approach and impact. There is no impact that requires specific mitigation via a section 106 agreement.

6.32 In my opinion, there is potential for growth in foodstore provision at Perry Barr when the BCU campus site becomes available. This would be sequentially preferable and would assist with the delivery of the Council’s proposals in the Draft BDP and the Aston, Newtown and Lozells AAP. However, I concur with the applicant that this site could not be considered to be ‘readily available’ at this point in time as the site is not currently available to the market, and so must be discounted from the consideration of sequentially preferable sites.

6.33 I concur with the conclusions of the retail assessment and consider that the proposal is acceptable when assessed against the retail policies in the UDP and NPPF. I have recommended conditions to prevent certain uses being included within the store and
to prevent sub-division/expansion in order to protect existing centres, particularly Hamstead which contains local facilities including a Post Office and a pharmacy.

**Contribution of economic prosperity and creation of jobs**

6.34 The applicant has set out that the proposal will generate 220 new jobs to operate the new store together with 420 new jobs in constructing the development. The applicant proposes to make a commitment in the section 106 agreement to the employment of local people, consistent with similar agreements made with retailers elsewhere in the City.

**Traffic Impact**

6.35 The applicant has submitted a transport assessment and associated documents to assess the impact of the proposed store on the adjoining highway network. The applicant proposes to undertake improvements to the existing highway on Old Walsall Road, involving the creation of a new mini roundabout to facilitate access into the site for customers, particularly right turners into and out of the site. The application proposals also seek to improve pedestrian access between the development and residential areas to the north, as well as providing a wider benefit to rail station users by introducing an uncontrolled pedestrian crossing, refuge and associated carriageway widening on the southern side of the Rocky Lane approach to the junction.

6.36 The key conclusions of this evidence are as follows:

- Additional traffic associated with the proposed development can be accommodated at the altered Old Walsall Road/Rocky Lane junction, the altered Old Walsall Road/Austin Way junction and the proposed site access roundabout junction.
- Junction capacity modelling for the Old Walsall Road/Hamstead Road junction has demonstrated that the existing priority junction already exceeds capacity, and so to accommodate additional development traffic a signal controlled junction which reduces traffic queuing and improves pedestrian movements is necessary.

6.37 More detailed discussions have taken place in respect of the Old Walsall Road/Rocky Lane junction in the context that the Council are currently developing proposals for improvements to this junction. The Council’s proposals would incorporate an ‘all red’ phase for pedestrians and alterations to lane markings to create an additional left turn lane onto Old Walsall Road. These proposals have been subject to public consultation, however they have not yet been allocated funding and have not yet been progressed to a Final Business case. As such, there is no commitment to delivery of these improvements at this time. The application should be assessed on the basis of the submitted proposals.

6.38 I accept that the traffic increase generated by the proposed foodstore could be appropriately accommodated within the existing highway network with the applicant’s proposed improvements. It would therefore be appropriate to require the on-site and off-site highway works to be implemented through an appropriate section 278 agreement and to be substantially completed prior to the first opening of the foodstore. Notwithstanding the various concerns and objections raised by residents and businesses in the area, I do not consider that there is evidence that the proposal would lead to unacceptable traffic congestion or highway safety issues.
6.39 The highway works at the Old Walsall Road/Hamstead Road junction are predominantly located within Sandwell, thereby requiring Sandwell MBC to be party to the Section 278 agreement. Having discussed this with the applicant, they consider that this should not prevent the Council’s ability to enforce the implementation of such works, concurring that a suitable planning condition that prevents occupation until such time as the works are completed would be acceptable to them.

6.40 The applicant has modified their proposals to maintain accessibility for the existing businesses. They propose the installation of a pedestrian refuge on Old Walsall Road in the vicinity of the bus stops to assist pedestrians to safely cross this road. With the existing alignment of the crossovers to Circuit Coatings premises opposite the site, the refuge would inhibit delivery vehicles turning into the neighbouring premises, which could lead to potential congestion on Old Walsall Road. The applicant proposes to modify the existing alignment of the crossovers to suitably address this issue. They also propose to provide keep clear markings to maintain access for HGV’s entering Qualplast’s premises when travelling southbound and thereby crossing the northbound carriageway. All these works should be provided prior to the opening of the store as part of the section 278 works.

6.41 The applicant also proposes to modify the Traffic Regulation Order to extend the parking restrictions around the northern radius of the Old Walsall Road and Rocky Lane junction between the pedestrian refuge and the existing on street parking bays in order to maintain a suitable width of carriageway following the introduction of the new pedestrian refuge.

6.42 In respect of parking, the site provides 302 car parking spaces (including 276 standard spaces, 11 parent/child spaces and 18 disabled spaces) together with cycle parking for 28 cycles for the foodstore. A total of 25 car parking spaces would be provided for the industrial units. The applicant’s modelling evidence indicates that the proposed store car park would be 59% fully occupied at any one time, taking into account arrival and departures of customers during the weekday and Saturday peak periods. This maximises efficiency of the use of the car park allowing for the frequency of turnover. The provision of cycle parking exceeds the City’s guidelines, thereby further promoting sustainable travel alternatives. These levels of parking provision meet the Council’s parking guidelines and are acceptable. I have therefore recommended suitable conditions relating to the implementation of parking facilities.

6.43 I have also recommended appropriate conditions relating to travelwise and maintaining the loading areas for this use.

Urban design, landscaping and trees

6.44 The applicant has discussed the design and layout of the development with my officers at pre-application stage, and has made some alterations to respond to comments I have made. There have also been further alterations made since the submission of the application. These relate to the amount of space for landscaping, the retention of existing trees, and improving pedestrian connectivity and access within the site.

6.45 The proposed layout is a logical response to the site with the employment units located next to the existing industry, the non-active elevations including the service yard being screened by the employment uses and the front of the store facing Old Walsall Road. The proposed architectural approach including elements of glass and cladding is supported subject to agreeing finish materials by condition.
6.46 I am now supportive of the proposed layout subject to conditions to agree landscape details. The tree survey identifies 47 trees, predominantly around the periphery of the site along the rear boundary, and a prominent group of trees of the street frontage. There are 15 predominantly lower category trees that are proposed to be removed to accommodate the building which is acceptable to my tree officer. The trees on the frontage are proposed to be retained and incorporated into the development with the exception of two trees that are required to be removed for the proposed road works. The landscape scheme will compensate for the proposed tree removal including 32 new trees.

Environmental issues – Flood risk, Noise, air quality, ecology, ground contamination

6.47 The applicant’s flood risk assessment demonstrates that the development is completely outside flood zone 3 and only partially within flood zone 2 and therefore the development is of low/medium risk. They consider that the proposed drainage solution will mean that the site is not at risk from surface water flooding and the site will not increase the risk of flooding elsewhere.

6.48 I note the representations from the Environment Agency who support the conclusions and recommendations in the flood risk assessment in respect of limiting the discharge from the site which promotes sustainable drainage techniques in the first instance where ground conditions are appropriate. I concur that the development will have an acceptable impact and recommend a condition relating to implementation of the proposed mitigation measures.

6.49 In respect of noise, the site is not located in close proximity to noise sensitive uses, but delivery vehicles will pass through areas of noise sensitive uses on their route to and from the store. I note that Regulatory Services have no objections in principle, but recommend some conditions to address this issue including an appropriate service yard management plan. I concur that this would appropriately address the concerns raised.

6.50 The applicant proposes a biomass boiler and has submitted an air quality assessment to support the application. Further details have been provided to address comments made by Regulatory Services who are now satisfied that the proposals are acceptable subject to appropriate conditions to agree full details of the design of the proposed boiler, boiler fuel and the bag filtration system.

6.51 In regard to land contamination, the applicant’s phase 1 desk study and Phase 2 Environmental Investigation Report demonstrates that contamination is present and that recommendations are made for further investigations and remediation. Appropriate conditions are recommended by Regulatory Services and Environment Agency, which I concur are necessary to appropriate address this issue.

6.52 The applicant’s ecological surveys identify the site as having negligible ecological value with only the wildlife corridor along the north-eastern boundary worthy of further consideration. Assessments for the presence of protected species have not identified such activity. The assessment recommends precautionary principles during demolition works, completion of an updated protected species survey prior to commencement of development and enhancement of the wildlife corridor along the northern boundary as part of the landscaping of the site. Following negotiations, the alterations to the layout have resulted in a more appropriate scheme of native landscaping. I have recommended appropriate conditions to secure the implementation of the recommendations in the ecological assessment report, an
additional protected species survey with appropriate mitigation where necessary, and an ecological enhancement condition.

Other issues

6.53 The applicant’s archaeology and heritage desk-based assessment identifies potential palaeoenvironmental deposits which would provide information about the past environment. My archaeologist advises a suitable condition for a programme of archaeological work in accordance with a written scheme of investigation is required. I have recommended a suitable condition.

6.54 In respect of the comments from the Fire Service, the applicant has responded by explaining that the foodstore will be fitted with a fire sprinkler system, but that if an additional hydrant is required that this could be agreed through a planning condition in consultation and agreement with Severn Trent Water. I have therefore recommended an appropriate condition to address this issue.

6.55 The applicant’s renewable energy assessment identifies that through the combination of the biomass boiler to provide heating and hot water for the store and air source heat pumps to the customer restaurant and back of house area, 33% of the total anticipated energy usage will come from on-site renewable sources. This results in an annual co2 reduction of 14%. Roof mounted PV panels will also generate 10% of the anticipated energy usage of the employment units.

7. Conclusion

7.1. This is a finely balanced application, where a number of issues need to be considered. The issue of the loss of industrial land is the most significant. I recognise and accept much of the applicant’s evidence though we do not agree on a number of matters, including most significantly the categorisation of the land where I maintain the view that the site should be considered ‘good urban’. I accept that the site has been vacant for 4 years, and that at the present time industrial redevelopment may not be viable, yet the site has not been properly marketed to meet the SPD test, and in a more buoyant economic climate the position on viability may be different. There is a shortage of land in the ‘good urban’ category and this is significant, where the most recent evidence in the 2012 industrial land review points towards a trend of diminishing supply. Were there to be no other material considerations to take into account I would recommend refusal.

7.2. However, in my opinion there are other material factors that weigh in favour of the application, notably the proposed on-site industrial units and the financial contribution towards delivery of the Advanced Manufacturing Hub at Aston which is a strategically important industrial land regeneration project that will improve supply of readily available higher quality industrial land in the City. I am also mindful of the support given by the NPPF to proposals that generate new jobs and economic prosperity and the fact that the NPPF does not distinguish between jobs in industrial sectors and retailing/service sectors. I am also mindful of the strong local support for this store. The proposal will accord with all other relevant UDP policies. For these reasons, I feel there is justification to depart from the presumption against the release of industrial land in paragraph 4.31 of the adopted UDP.

7.3. I do not consider that this would set a precedent for the release of further industrial sites, given the specific package of mitigation involved with this proposal including on site provision of new industrial units.
8. **Recommendation**

8.1. That consideration of planning application 2013/01544/PA be deferred pending the completion of a suitable 106 legal agreement to secure the following:

   a) A financial contribution of £800,000 to be paid upon the serving of the implementation notice (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the delivery of industrial land within the Aston Regional Investment Site (including site remediation, access and public realm works or other purpose as may be agreed in writing) so that the land is readily available for industrial use,

   b) A financial contribution of £100,000 to be paid upon the serving of the implementation notice (index linked to construction costs from the date of the Committee resolution to the date on which payment is made) towards the provision and improvement of passenger facilities at Aston Train Station and/or Hamstead Train Station (including CCTV upgrade, passenger waiting facilities, ticket machines, cycle storage and passenger information systems or other such improvements as may be agreed in writing),

   c) A commitment to engage with the City Council and other agencies to enter into a local training and employment scheme for the construction and operation of the development to target the employment of local people

8.2 That payment of a monitoring and administration fee associated with the legal agreement of £10,000 be secured,

8.3 That the Director of Legal and Democratic Services be authorised to prepare, seal and complete the appropriate agreement,

8.4 That in the event of the s106 legal agreement not being completed to the satisfaction of the Local Planning Authority by 25th July 2013, that planning permission be refused for the following reason:

   In the absence of any suitable planning obligation to secure a financial contribution towards the delivery of industrial land, associated improvements to Aston/Hamstead Train Station(s) and local employment provision, that the proposed development conflicts with paragraphs 4.13-4.32, and 8.50-8.54 of the adopted UDP, the guidance contained in the Loss of Industrial Land to alternative uses SPD and the NPPF.

8.5 That in the event of the above s106 agreement being completed to the satisfaction of the Local Planning Authority by 25th July 2013 that favourable consideration be given to the application 2013/01544/PA subject to the conditions listed below:

1. Requires the prior submission of Palaeoenvironmental/Dendrochronological Archaeological Work

2. Requires the prior submission of a contamination remediation scheme

3. Requires the prior submission of a contaminated land verification report

4. Requires the submission of unexpected contamination details if found

5. Requires the implementation of the Flood Risk Assessment
<table>
<thead>
<tr>
<th></th>
<th>Requires the prior submission of a sustainable drainage scheme</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Prevents infiltration of surface water drainage</td>
</tr>
<tr>
<td>8</td>
<td>Requires the prior submission of level details</td>
</tr>
<tr>
<td>9</td>
<td>Requires the prior submission of sample materials</td>
</tr>
<tr>
<td>10</td>
<td>Requires the prior submission of hard surfacing materials</td>
</tr>
<tr>
<td>11</td>
<td>Requires the prior submission of boundary treatment details</td>
</tr>
<tr>
<td>12</td>
<td>Requires the implementation of the approved landscaping scheme.</td>
</tr>
<tr>
<td>13</td>
<td>Requires the prior submission of a lighting scheme</td>
</tr>
<tr>
<td>14</td>
<td>Requires the prior submission of details of water supplies for firefighting</td>
</tr>
<tr>
<td>15</td>
<td>Requires implementation of the external works prior to first opening of the store</td>
</tr>
<tr>
<td>16</td>
<td>Protects retained trees from removal</td>
</tr>
<tr>
<td>17</td>
<td>Requires the implementation of tree protection</td>
</tr>
<tr>
<td>18</td>
<td>Requires tree replacement within 2 years post development</td>
</tr>
<tr>
<td>19</td>
<td>Requires the implementation of the recommendations contained in the submitted Ecological Assessment Report</td>
</tr>
<tr>
<td>20</td>
<td>Requires the prior submission of an additional ecological survey</td>
</tr>
<tr>
<td>21</td>
<td>Requires the prior submission of a goods delivery strategy</td>
</tr>
<tr>
<td>22</td>
<td>Limits the noise levels for Plant and Machinery</td>
</tr>
<tr>
<td>23</td>
<td>Requires the prior submission of a biomass boiler scheme</td>
</tr>
<tr>
<td>24</td>
<td>Requires the prior submission and completion of works for the S278/TRO Agreement</td>
</tr>
<tr>
<td>25</td>
<td>Requires the delivery and service area prior to occupation</td>
</tr>
<tr>
<td>26</td>
<td>Requires the applicants to join Travelwise</td>
</tr>
<tr>
<td>27</td>
<td>Prevents the provision of a post office, pharmacy, dry cleaners, travel agents, laundrette, bank, building society, estate agents, photo processing centre, key cutting/shoe repairers or DVD/video game rental shop within the store.</td>
</tr>
<tr>
<td>28</td>
<td>Prevents sub-division of the store or additional mezzanine floorspace</td>
</tr>
<tr>
<td>29</td>
<td>Defines the permitted maximum floorspace and net internal retail area</td>
</tr>
<tr>
<td>30</td>
<td>Prevents the use of the car park for temporary buildings, mobile food operators or vehicle washing</td>
</tr>
</tbody>
</table>
31 Requires the completion of the industrial units prior to the first opening of the store.
32 Requires the scheme to be in accordance with the listed approved plans
33 Limits the approval to 3 years (Full)

Reasons for Approval

1 Birmingham City Council grants Planning Permission subject to the conditions listed below. The reasons for granting permission are as stated in the considerations and conclusions of the committee report and specifically that the proposal accords with the following national, regional and local planning policies:

National Planning Policy Framework


Loss of Industrial land to alternative uses (2006), Places for All (2001), which have been adopted as Supplementary Planning Documents/Guidance.

2 The proposed development will result in the loss of industrial land within the 'good urban' category but will not undermine the Council's employment land strategy.

The applicant has demonstrated that the development of the site for industrial use would be unviable and has provided a package of mitigation in the form of on-site new industrial units and a section 106 obligation towards investment in other industrial land at Aston RIS to compensate for the impact on the supply of industrial land within the City. The proposal therefore contribute to the delivery of the policies in the adopted Aston Newtown and Lozells Area Action Plan.

The applicant has demonstrated that there are not any other sequentially preferable sites in a centre for a store of this type, and there would not be a demonstrable detrimental impact on the vitality or viability of existing centres to justify refusal of the application. The site is in an accessible sustainable location, and is close to the catchment it serves thereby reducing the need to travel. The development will deliver new jobs for local people and investment in the local economy.

The application has adequately considered the highways impact of the development and proposes suitable measures to mitigate its proposed impacts on the local highway network.

The application accords with the Council's policies on design and sustainability, and has adequately demonstrated that the development will not give rise to problems of noise and flooding.

Careful consideration has been given to the various representations from the community and other interested parties made against the proposal, but these do not outweigh the above material considerations and conclusions reached in the Planning Committee report.

Case Officer: Stuart Morgans