

Planning Committee

03 April 2024



Application No.	23/01236/FUL
Site Address	The Ash Tree Public House Convent Road Ashford TW15 2HW
Applicant	Sainsbury's Supermarkets Limited
Proposal	Change of use of existing public house (Sui Generis) to Class E(a) (retail) use, new lift-shaft to rear (east) of building, elevation changes including new sliding doors, louvres, removal of pub garden windows, installation of new level access ramp and ATM/bollards to north-west corner. The installation of AC condensers along with proposed timber hit and miss fence and gate (removal of existing garage).
Case Officer	Vanya Popova
Ward	Ashford Common
Called-in	This application has been called in by Councillor Rutherford for the following reason: <ul style="list-style-type: none">• Restricted parking for customers and large delivery vehicles

Application Dates	Valid: 11.10.2023	Expiry: 06.12.2023	Target: Extension of time agreed to 05.04.2024.
Executive Summary	<p>This application seeks the change of use of existing public house (Sui Generis) to Class E(a) (retail) use with other associated alterations. The public house has been empty since it closed.</p> <p>The site is located adjacent to and within close proximity to a local shopping parade which includes a range of retail and commercial uses. The proposal involves the change of use from existing public house (Commercial Use) to a local supermarket store (another Commercial Use) rather than a new build. The principle of a retail use (Use Class E) on the site would be consistent with the National and Local Planning Policies. Furthermore, it is considered that the loss of the public house use would be acceptable.</p> <p>The proposed use would not have a greater adverse impact upon the character and appearance of the area, nor the residential amenity of adjoining properties, compared to the existing use.</p> <p>In terms of highway safety and the proposed parking provision, the County Highway Authority raises no objection, subject to conditions and informatives.</p> <p>The proposal is therefore considered to be acceptable.</p>		

Recommended Decision	Approve the application subject to conditions, as set out at paragraph 8 of this report.
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MAIN REPORT

1. Development Plan

1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:

- SP1 (Location of Development)
- SP4 (Town Centres and Retail Development)
- SP5 (Meeting Community Needs)
- SP6 (Maintaining and Improving the Environment)
- TC5 (Proposals for Retail Development)
- EN1 (Design of New Development)
- SP7 (Climate Change and Transport)
- CC1 (Renewable Energy, Energy Conservation and Sustainable Construction)
- CC2 (Sustainable Travel)
- CC3 (Parking Provision)
- EM2 (Employment Development on Other Land)
- TC4 (Local Shopping Centre and Parades)
- CO1 (Providing Community Facilities)
- EN11 (Development and Noise)
- EN13 (Light Pollution)
- EN15 (Development of Land Affected by Contamination)
- HO1 (Providing for New Housing Development)

1.2 Also relevant is the following Supplementary Planning Document/Guidance:

- Supplementary Planning Guidance (SPG) on Parking Standards 2011

1.3 The National Planning Policy Framework (NPPF) December 2023 is also relevant.

1.4 On 19 May 2022, Council agreed that the draft Local Plan be published for public consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). It was also agreed that the draft Staines Development Framework be published for public consultation. The public consultation for both the Pre-Submission Publication

version of the Local Plan and draft Staines Development Framework ran from 15 June 2022 to 19 September 2022 and the local plan was submitted to the Planning Inspectorate under Regulation 19 on 25 November 2022. An Examination into the Local Plan commenced on 23 May 2023. However, on 6 June 2023, the Council resolved the following: *Spelthorne Borough Council formally requests the Planning Inspector to pause the Examination Hearings into the Local Plan for a period of three (3) months to allow time for the new council to understand and review the policies and implications of the Local Plan and after the three month pause the Council will decide what actions may be necessary before the Local Plan examination may proceed.*

1.5 At the meeting of the Council on 19 July 2023, it was agreed that Catriona Riddell & Associates be appointed to provide 'critical friend' support to inform the options for taking the plan process forward. On 14 September 2023, the Council considered a report following the deferral in June. The Council resolved to extend the pause in the Examination timetable until the proposed changes to the NPPF have been published (expected in the Autumn) before determining the next steps and take immediate legal advice to confirm the validity of the minister's directive. The revised NPPF was published on 19 December 2023 and the Council considered its position in light of the implications on the Local Plan and whether Members wished to propose modifications as a result. At an Environment & Sustainability Committee meeting on 29 February 2024, Members agreed to the proposed modifications relating to Green Belt allocations, flood risk sites and the Staines Development Framework, which have been conveyed to the Inspector for his consideration on whether the examination will be able to resume.

1.6 The NPPF policy states at para 48:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Section 38(6) the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan (unless material considerations indicate otherwise) and not in accordance with an emerging plan, although emerging policies may be a material consideration.

1.7 The following policies of the Pre-Submission Spelthorne Local Plan 2022 – 2037 are of relevance:

- ST1: Presumption in Favour of Sustainable Development
- ST2: Planning for the Borough
- PS2: Designing Places and Spaces
- E4: Environmental Protection
- SP2: Ashford, Shepperton and Sunbury Cross
- EC1: Meeting Employment Needs
- EC2: Retail
- EC3: Local Centres, Shopping Parades and Isolated Retail Units
- EC4: Leisure and Culture
- ID1: Infrastructure and Delivery
- ID2: Sustainable Transport for New Development
- H1: Homes for All

1.8 At this stage, the policies in the Pre-Submission Spelthorne Local Plan carry limited weight in the decision-making process of this current planning application. The adopted policies in the 2009 Core Strategy and Policies DPD carry substantial weight in the determination of this planning application.

2. Relevant Planning History

2.1 The site has the following planning history:

Ref. No.	Proposal	Decision and Date
15/00692/FUL	Continued use of footpath for use for outdoor seating for the public house.	Grant Unconditional 07.07.2015
13/01765/FUL	Change of use of footpath to be used for outdoor seating for the public house.	Grant Conditional 24.01.2014
33/31506/FUL	Erecting new Licensed Premises for Fuller, Smith and Turner Limited.	Grant Conditional 30.01.1957

3. Description of Current Proposal

The application site and surrounding area

3.1 The application site comprises a vacant, detached public house referred as "The Ash Tree Public House" which occupies a square corner plot and is located between the junctions of Elm Tree Close and Convent Road service road (D3262) in Ashford. The site comprises a two-storey building (the public house) in the north-western prominent corner, fronting Convent Road B378. The site also contains a detached outbuilding located within the south-eastern corner. A car-park area is laid out as hardstanding to the east and south,

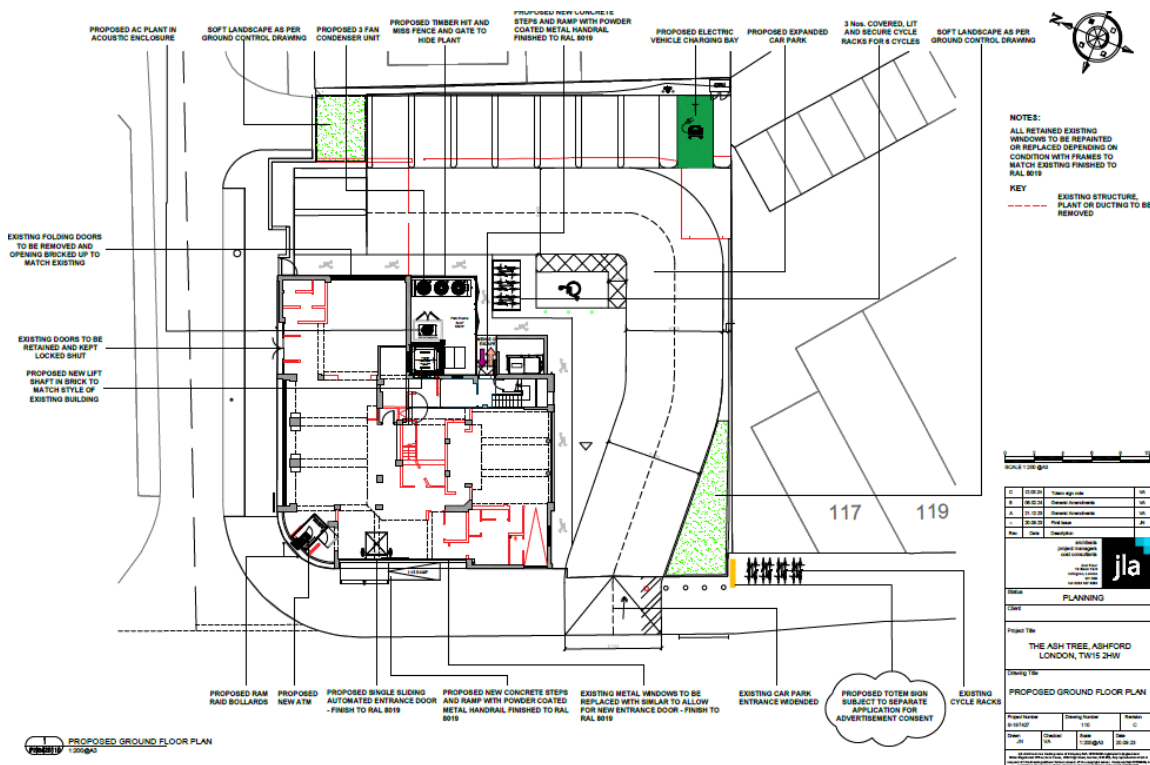
accommodating 12 parking spaces, with the vehicle access leading onto the Convent Road service road (to the south of the public house). There is an external sitting area associated with the pub use adjacent to the north-eastern corner (approx. 5 metres away from the boundary with the residential property, no 11 Elm Tree Close). Internally, the pub building contains a bar/dining area with a separate function room, kitchen and toilets. At the first floor, there is residential accommodation ancillary to the pub use. The former owners of the Ash Tree Public House were the Fuller's company and they officially closed the business on 01 January 2023.

- 3.2 There are existing trees and vegetation along with eastern and southern edges of the site. However, as an existing developed commercial site, there is little soft landscaping on the site at present, which is predominately concrete and hardstanding.
- 3.3 The site is located within the urban area. The existing building is not a heritage building. The southern boundary of the public house is bounded by a three storey terraced flat roofed building with the ground floor area comprising a shopping parade including nine commercial units of mixed use. The first and second floors of the building are in residential use (flats) with first floor external balconies facing onto the roads. To the rear of the neighbouring site is the parking area serving the building. The southern boundary of the application site is also adjacent to the neighbouring row of garages to the rear of the shopping parade. To the east and north of the site are residential properties. The site frontage onto Elm Tree Close is to the north and opposite this cul-de-sac road is 115 Convent Road, a residential property.
- 3.4 The site is located approximately 650m (0.4 miles) away from the Ashford's Town Centre to the north west, where there are a number of existing retail uses within the shopping area of Ashford, including both independent stores and national companies, including Tesco, Sainsburys and Co-Op. There is also a larger Tesco store at the Junction of the A30 adjoining Ashford Hospital. In addition, a Lidl shop has recently occupied a site on the edge of Ashford town centre. It is also relevant to note that approximately 800m (0.5 miles) away is Woodlands Parade, which contains a mixture of retail and commercial uses.

Proposal

- 3.5 This planning application seeks permission for the change of use of the existing public house (Sui Generis Use) to convenience store (Class E(a) Retail Use). Also proposed is a new lift-shaft to the rear (east) of building with alterations to the parking layout, elevation alterations including new sliding doors, louvres, changes to the fenestrations, installation of new level access ramp and new ATM/bollards to the north-west corner. The application also proposes the installation of AC condensers and a proposed timber hit and miss fence and gate and the removal of the existing outbuilding structure. The planning agent acting on the applicant's behalf has advised that the site is to be occupied by the Sainsbury's Supermarkets Limited and the intention would be to operate as a Sainsbury's Local convenience store with a similar size and format as the local store at 6 New Parade within the Ashford Town Centre location. However, the planning permission being requested is a Class E(a) (retail) use. The proposed layout plan illustrates that on site there will be

11 vehicle parking spaces (including 1 x disabled space and 1 x fast charging parking space) and a secure cycle rack accommodating 6 cycles.



Proposed Layout Plan

3.6 The existing public house is approximately 581 sq metres gross floorspace. The submitted information indicates that the local supermarket store would have a retail sales area of 254sq metres (237sq metres when excluding the checkout areas). The store's storage and service facilities area would be located at first floor level (comprising 164sq metres in gross floorspace). The areas which are not proposed to be used for sales areas or storage space, are planned to be used for circulation space, office and staff welfare areas. The exterior would be refurbished including new glazing/openings to reflect the retail use, along with a new ramp and the installation of a new lift shaft at the rear.

3.7 The full set of proposed plans are provided as an Appendix.

4. Consultations

The following table shows those bodies consulted and their response.

Consultee	Comment
Environment Health – Noise and Lighting	No objections subject to conditions and informatives.
County Highway Authority	No objections on highways grounds subject to conditions.
Environment Health - Contamination	Recommend informatives.

5. Public Consultation

- 5.1 A total of 31 properties were notified of the planning application.
- 5.2 The Council has received 206 letters of objection to the application. The Council has also received letters of objection from a planning adviser submitted on behalf of the nearby convenience store within the parade (Nisa Local).
- 5.3 Reasons for objecting include:
- Highway safety
 - On-street parking pressure
 - Anti-social behaviour
 - Too many convenience stores within the area
 - Adverse impact on the local businesses, especially to the small ones
 - Increased traffic
 - Air-pollution
 - Loss of pub
 - The site should be used for affordable housing or other type of retail use
 - Loss of local community asset
 - Impact on the character of the area
 - One convenient store within the nearby parade is enough
 - Increased crime
 - Insufficient parking on site
 - Noise and disturbance
 - Access concerns
 - Increased litter
 - Need more doctors, schools, dentists and community hubs like pubs or restaurants.
 - Late/early deliveries
 - Cause harm on the viability and vitality of the existing designated centres

- Unsuitable location
- Impact on residential amenities
- Highway safety concerns
- Loss of jobs
- Rather see development for flats

5.4 The Council has also received 79 letters of representation, which support the proposal. One of the letters of support raised concerns that many of the objections were submitted by one source, rather than local residents. Reasons for supporting include:-

- Improving the area
- As a local resident, there is support due to vast amounts of anti-social behaviour from the existing pub use
- Rather to see people come and go than people coming and staying
- Welcoming the proposed change of use
- New job opportunities for the local community
- Good use of the space
- Suitable location within walking distance
- Need more supermarkets within the area
- Good to have more competition within the area
- More choices
- ATM is needed within the area
- The current pub is eyesore
- Parking and access are already in place
- Suitable for elderly people within the area
- Better use than housing
- Re-use existing building
- Long term opportunity for the building
- Derelict building
- Good addition to the local shopping parade

- Accessible via public transport

6. Planning Issues

- Principle/ Loss of Public House.
- Character and Appearance.
- Residential Amenity.
- Parking Provision & Highway Impact.
- Other matters

7. Planning Considerations

Principle/ Loss of Public House

- 7.1 The National Planning Policy Framework (NPPF) 2023 in paragraph 97, requires that planning policies and decisions to plan positively for the provision and use of community facilities, including public houses, and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its everyday needs.
- 7.2 It is notable that there are other licenced premises and other buildings within Ashford Town providing opportunities for social interaction, meeting the needs of the community. The loss of the public house, also results in the loss of a community type use. Policy CO1 refers to this and the fact that the use should be re-provided if the need for it is there.
- 7.3 The proposal will include the loss of the commercial use of the public house which would have provided some employment use. The submitted information provided by the applicant states that the site has not attracted any firm offers from potential purchasers for the continuation of the use as a public house since the site has been marketed since January 2023. Following its closure. The loss (change of use) of public houses now requires planning permission following changes to planning legislation. There are other existing public houses in Ashford close to the application site, including the Kings Head and the Freemans Arms, which are between 7 and 11 minutes away by walk providing similar facilities nearby, and the loss of The Ash Tree public house would not leave the local community without a choice of venues to meet and socialise in Ashford Town. The public house is not defined as an 'Asset of Community Value' and given this, the fact that it has been vacant for over a year and there are other facilities nearby, it is considered the loss is acceptable. It should also be acknowledged that there would also be some community benefit through the provision of a local supermarket store (within the building). Whilst it has been noted the proposal would also result in the loss of a residential unit, it is however not considered that an objection could be sustained as the flat has only been ancillary to the public house rather a self-contained unit.
- 7.4 Policy SP4 of the Core Strategy and Policies Development Plan Document (CS&P DPD) states *"It will seek the continued improvement of Staines as the principal town centre serving north Surrey. It will make provision for further*

retailing and related services, and support employment development. Improvements in access to the town centre, particularly by non car-based modes will be encouraged. It will maintain the role of Ashford, Shepperton and Sunbury Cross as local shopping centres and seek opportunities for their improvement. It will also maintain the role of smaller parades in serving their local neighbourhood. The Policy TC5 of the Core Strategy and Policies Development Plan Document (CS&P DPD) advises that for retail proposals for sites outside of the town centre and the edge of centres, it will be necessary to show that they will not conflict with other policies and proposals in this DPD.

- 7.5 Given the proposal would be under the 2,500sq metres gross floorspace (required threshold by para 93 of the NPPF, 2023), the proposal would not require the submission of a retail impact assessment. It would, however, need to be assessed on whether the proposed location is suitable for a main town centre use outside of the town centre, having regard to a sequential test. Outside of defined town centres, retail and other main town centre uses must demonstrate the application of a sequential approach. This reflects the provisions of paragraphs 91 and 92 of the National Planning Policy Framework 2023 (the NPPF).
- 7.6 Paragraph 91 of the Framework sets out the sequential test. It states that main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Amongst other things, paragraph 92 of the NPPF states that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. This is supported by the guidance contained within the Planning Practice Guidance (the PPG) on Town Centres and Retail which reaffirms that *“It may not be possible to accommodate all forecast needs for main town centre uses in a town centre: there may be physical or other constraints which make it inappropriate to do so. In those circumstances, planning authorities should plan positively to identify the most appropriate alternative strategy for meeting the identified need for these main town centre uses, having regard to the sequential and impact tests. This should ensure that any proposed main town centre uses which are not in an existing town centre are in the best locations to support the vitality and vibrancy of town centres, and that no likely significant adverse impacts on existing town centres arise...”*
- 7.7 Both public houses and retails developments are included within the definition of a main town centre use in the Annex 2 of the NPPF under Main Town Centre Uses, however in this case both would be outside of the town centre. The application site is in an existing commercial use (Public House - Main Town Centre Use) and relates to a change of use proposal (to a convenient store-another Main Town Centre Use) rather than a new build (reuses an existing building giving a new life). Furthermore, the site is adjacent to the shopping parade situated at the junction of School Road, Feltham Hill Road and Convent Road containing units with mixed use.
- 7.8 The applicant has submitted a Sequential Statement to support the application. It concludes that no sites within Ashford Town Centre were

identified as being suitable, available and viable for a Sainsbury Local store of this size. It is further stated that given there is already a Sainsbury Local store in Ashford Town Centre (it is indicated that this would remain open) and as such, they consider Ashford Town Centre not to be a suitable alternative viable location to a second Sainsbury Local store. The proposal would be a small scale convenience food store and would provide top-up shopping needs within a relatively small catchment area. As such, it is not considered that it would have a material effect on the vitality and viability of the nearby town centre.

- 7.9 The site is located adjacent to a local shopping parade with other retail uses. As such, it would serve the local community and is in a relatively sustainable location with public transport links. Therefore, the conversion from public house to local supermarket store (retail use) is considered to be acceptable provided other policy requirements are met. Whilst concerns have been raised by the existing nearby convenience store (Nisa Local), planning policy does not seek to prevent competition and as such, it is not considered a refusal could be justified on this ground.
- 7.10 The proposal would not therefore conflict with Paragraph 93 of the Framework, which amongst other things states that planning decisions should plan positively for the provision and use of community facilities. The availability of alternative social venues in the area means that there would be no conflict with the provisions of Paragraph 92 of the Framework, which seeks to promote social interaction. As such, in line with the guidance contained in the NPPF and the PPG, it is considered that there is justification to allow a retail use on this already established local shopping parade and to continue with a commercial use (changed use).

Design & Appearance

- 7.11 At part 12, on '*Achieving well-designed places*', the NPPF 2023, places a strong emphasis on design and states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve, while not preventing or discouraging appropriate innovation.
- 7.12 Policy EN1 of the Core Strategy and Policies Development Plan Document (CS&P DPD) states that the Council will require a high standard of design and layout of new development. Proposals for new development should demonstrate that they will create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines layout, materials and other characteristics of adjoining buildings and land and achieving a satisfactory relationship to adjoining properties.
- 7.13 As already highlighted above, the proposal relates to a change of use rather new build. The physical changes to the appearance of the building would include replacement of some existing windows with sliding doors, an accessibility ramp within the west elevation, along with an Automatic Telling Machine (ATM) at the north-west corner of the building. The installation of a new lift-shaft to the rear elevation of the building (eastern elevation) to be able to facilitate transfer of goods to/from storage area of first floor. The submitted

information shows that the lift shaft element will be in bricks matching the existing building. Whilst it would extend 0.6m above eaves level, it would not however go beyond the building's ridge. There would be the installation of new plant surrounding the new lift-shaft and enclosed with a timber fence. Within the plant area, new louvres at first and ground floor level would be installed. However, it is relevant to note that the proposal would result the removal of the existing vertical extraction flue and existing folding doors within the east elevation to be replaced with bricks.

- 7.14 As already highlighted above, the existing public house contains a vehicular access with an existing parking area along the southern-east (L-shape) boundary which is laid out with hardstanding. The existing landscape on site is limited. There are small areas around the boundaries with shrubs and vegetation along with seven self-seeded trees situated immediately to the boundaries. Revisions to the car parking layout are proposed with parking spaces for 11 vehicles, which would result the removal of all existing trees within the site.
- 7.15 The Council's Tree Officer was consulted and requested the applicant to show a landscape strategy, which included proposed planting of two large new trees as replacements along with smaller vegetation within the north-eastern and south-western corners of the plot (adjacent to the boundaries). After re-consultation with the Council's Tree Officer, no objection was raised with regard to the proposal. The officer noted that the existing self-seeded trees are unsuitable for their locations for long-term life and the provision of the two new trees in prominent locations was considered as a good solution for the long-term tree cover of the site.
- 7.16 It is considered that the proposed design and appearance would be in keeping with the character of the surrounding area and complies with the requirements of Policy EN1 (a).

Residential Amenity

- 7.17 Policy EN1b of the CS & P DPD states that:

"New development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or overbearing effect due to bulk and proximity or outlook."

- 7.18 Policy EN11 of the CS & P DPD states that the Council will seek to minimise the adverse impact of noise by requiring developments that generate unacceptable noise levels to include measures to reduce noise to an acceptable level.
- 7.19 The applicant has submitted Noise Assessment in support of this application, which was also considered by the Council's Environmental Health Officer (EHO). The officer has raised no objection to the proposal subject to a condition relating to mitigating the noise from the deliveries, which will be sited between the shop and the vehicle access on the southern side of the building, in a similar location to the existing pub. The applicant has agreed to the requested condition to restrict the hours of deliveries.

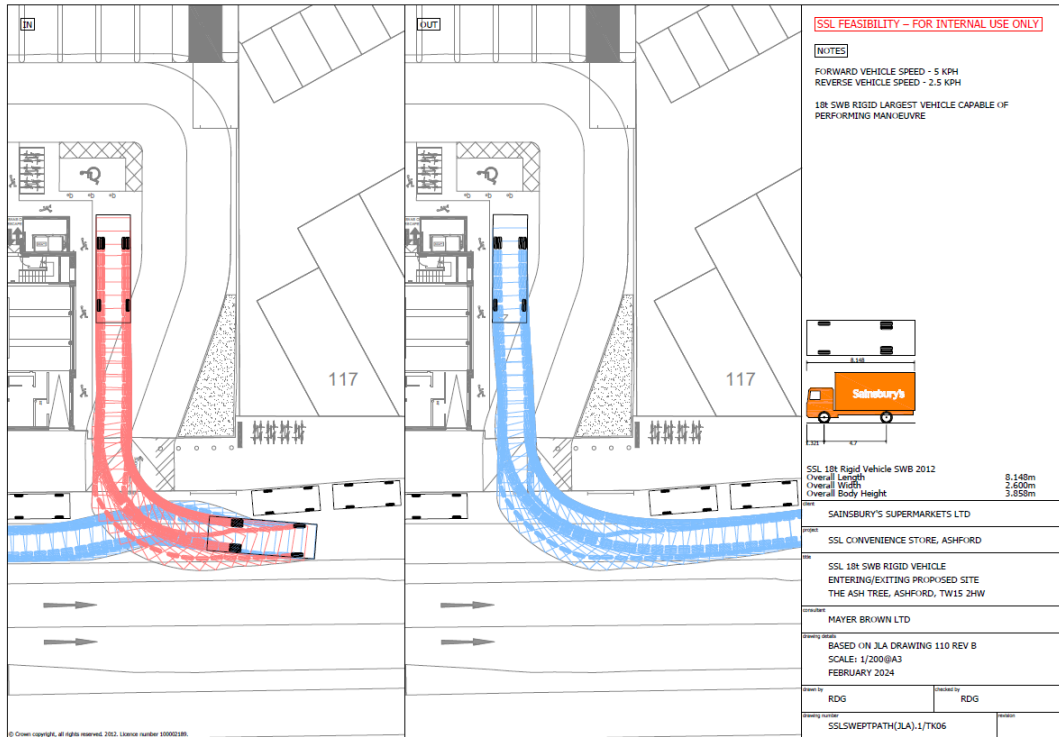
- 7.20 The proposed plans show alterations to the parking layout, in particular near the eastern rear boundary of the site, coming closer to the western flank boundary of No 11 Elm Tree Close. There is currently a small fence that separates the current parking area with the adjacent to the neighbouring flank boundary. It has been noticed that the allocated parking spaces have been moved closer to the neighbouring property due to the proposed layout of the scheme.
- 7.21 Given the proximity of the existing parking area/delivery area of the public house and its associated background noise, it is not considered that there would be a material adverse impact upon the amenity of adjoining properties in terms of noise and disturbance.
- 7.22 As the building is existing, no overbearing impact, loss of light or outlook is considered to arise. However, the proposed plans indicate the construction of a lift shaft with dimensions of 2.5 metres in depth by 2.8 metres in width, and 6.3 metres in height. The enclosed plant room area (around the lift shaft) will be in an area of 64sq metres containing screening panels measuring 2.2 metres in height. Whilst some openings are shown as removed within the rear elevation to accommodate the proposed lift shaft and louvres, no new openings are shown at first floor level.
- 7.23 The proposed lift-shaft would be situated at the rear in two storey height, extending 0.6 metres above the building's eaves (6.3 metres overall height) and would set in 19.7 metres away from no 11 Elm Tree Close's flank elevation. Furthermore, the proposed plant room with a screening panel of 2.2 metres in height which would be 15.1 metres away from the subject neighbouring flank elevation. In terms of the other nearby residential properties, the proposed lift shaft element would be some 19.7 metre away from 115 Convent Road and 22.3 metres from the flatted property no 117A (occupying first and second floor). The proposal is considered to have an acceptable relationship with the neighbouring properties, with no additional material arising from the physical changes or the proposed use.
- 7.24 The Council's Environmental Health team has been consulted and has raised no objection with regard to the lighting. The latest use of the site is a Public House with an existing car-parking area adjacent to residential properties and is surrounded by existing roads.
- 7.25 It is considered that the proposal would create no additional overlooking, noise or disturbance, overbearing impact, nor cause a loss of sunlight or daylight, or materially impact any outlook and therefore respects the amenities of the adjoining neighbouring properties. Therefore, the proposal is considered to have an acceptable impact on the amenity of existing neighbouring residential properties, conforming to the Design SPD and Policies EN1, EN11 and EN13.

Highway and parking provision

- 7.26 Strategic Policy SP7 of the CS & P DPD states that: *"The Council will reduce the impact of development in contributing to climate change by ensuring development is located in a way that reduced the need to travel and*

encourages alternatives to car use. It will also support initiatives, including travel plans, to encourage non car-based travel.”

- 7.27 Policy CC2 of the CS & P DPD states that: *“The Council will seek to secure more sustainable travel patterns by: ... (d) only permitting traffic generating development where it is or can be made compatible with the transport infrastructure in the area taking into account: (i) number and nature of additional traffic movements, including servicing needs; (ii) capacity of the local transport network; (iii) cumulative impact including other proposed development; (iv) access and egress to the public highway; and (v) highway safety.*
- 7.28 Paragraph 115 of the NPPF states that ‘Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.’
- 7.29 Policy CC3 (Parking Provision) of the CS & P DPD states that the Council will require appropriate provision to be made for off-street parking in development proposals in accordance with its maximum parking standards.
- 7.30 The Council’s Parking Standards Supplementary Planning Document (SPD 2011) sets a standard of 1 space per 14sq metres gross floor area. These standards are applied as maximum standards and do not preclude lower provision where justified. It is also noted that the County Highway Authority Vehicular and Cycle Parking Guidance (February 2023) states that food retail (up to 500sq m) should provide 1 space per 30sq metres, equating to 9 spaces, although it is acknowledged that Spelthorne has not adopted CHA parking standards as its own SPD.
- 7.31 The existing permitted use of the site is a public house outside of a town centre location and currently contains 12 parking spaces. The proposal is not a new build, rather a change of use and refurbishment of the existing building and site. The parking proposed is 11 vehicle parking spaces (including 1 x disabled and 1 x fast charging parking spaces) and a secure cycle rack accommodating 6 cycles. The applicant states that the parking spaces will be clearly defined and that these are solely for the use by Sainsbury’s customers. The supporting information states that there will be allocated space for deliveries (between the building and the access of the site) that shows space to accommodate a typical 18t rigid-body, twin axle delivery vehicle (not an articulated HGV). The existing access will be slightly extended to accommodate easier delivery access and the car-park will operate with a two-way flow with the entrance and exit via the same location as the existing permitted public house.



Delivery Area

7.32 The submitted Transport Statement provides a table showing example of Sainsbury's Delivery Schedule.

Delivery	Frequency
Sainsbury's Depot Delivery	Up to two per day
Specialist Bread	Daily
Milk & Main Bread	Included in depot delivery
Newspapers & Magazines	Daily
Cigarettes	Weekly

Sainsbury's Delivery Schedule

7.33 The proposed retail sales area at ground floor level is 254sq metres and is considered that the parking standard should reasonably be applied in relation to this particular area. The proposed first floor area would be used for ancillary purposes. On this basis, the proposed shop would need to have a maximum parking standard of 19 spaces. The proposed parking spaces to serve the site are 11 spaces, which does not exceed the maximum parking standard of 19 spaces. Therefore, the proposed parking on site is acceptable.

7.34 The County Highway Authority (CHA) has raised no objections on highway grounds to the proposal. The CHA has made the following comments:-

The level of on-site car parking provided as part of this development is in line with Surrey County Council (SCC) Parking Standards. The proposed local supermarket would be provided with 11 parking spaces, which is in excess of the SCC parking standards, which recommends 9 parking spaces for a food retail use class, with a floor area of 254m². The CHA acknowledges that there

is concern from residents regarding excess parking demand, where parking could take place around the site. The applicant has undertaken a parking stress survey for the surrounding area. It has been noted that parking already takes place on-street in this vicinity, where there are no parking restrictions. It is therefore considered that overspill car parking can be accommodated on-street within the local area without generating excessive risks in terms of highway safety or capacity should this occur. The applicant has also extracted parking accumulation survey data from two other similar sized sites in the South-East area. The data revealed that there was a high parking turnover on the sites, but capacity was never exceeded.

The CHA concludes that if there is a situation when the parking demand exceeds the number of spaces available on site then this is unlikely to cause highway safety issues. The SCC Parking and Road Safety Teams have been consulted on the scheme. If there are any issues that arise with regard to parking overspill, the SCC Parking Team would be able to take a look. The on-site provision is, as mentioned, compliant with Spelthorne Borough Council and Surrey County Council policies on parking provision, and as such it is not expected that significant overspill into surrounding residential roads will occur. However, residents should be aware that if there are ongoing problems associated with parking provision, the Spelthorne Parking Review is an ongoing opportunity to input into parking restrictions in the borough.

- 7.35 The County Highway Authority is satisfied with the proposed level of parking provision as it exceeds the SCC minimum parking standards (required 9 parking spaces for a food retail use class, with a floor area of 254m²).
- 7.36 The submitted supporting information identifies the opportunities for trips by foot and bicycle routes due to a large catchment of potential staff and customers from the surrounding residential areas and the provision of nearby marked lanes on both sides of School Road (south of the site). In addition, there is a bus stop nearby to the site (Metcalf Road- The Ash Tree stop), which served via number of busses routes. The County Highway Authority considers the site within sustainable in transport terms, with links to surrounding neighbourhoods and that there are opportunities for future occupiers to make journeys by cycle or by foot. The CHA does not see the application as leading to a severe impact on the highway network as it is not considered a necessity for future users to travel by private car.
- 7.37 Given the size of the store proposed, the nature and length of visits to it would be more likely to be akin to those of a neighbourhood store than a much larger supermarket. The site is likely to be used by local people and can be accessed by public transport including buses and is most likely to be used during the evenings when there would be the opportunities to park on the service road. Although the proposal may result in an increase in on-street parking during peak times, it is not considered a material harm to highway safety or neighbours' living conditions. Given the existing pub use within the site, on balance, is considered the provided parking spaces appropriate, especially given it is within walking distance to residential properties. The proposed change of use is acceptable on parking grounds and conforms to policy CC3.

- 7.38 The County Highway Authority has requested a condition requiring improvements to the existing pedestrian crossing points at Feltham Hill Road / School Road / Convent Road signalised crossroads junction and the crossing points at Convent Road service road, together with improvements to the bus stop. However, despite requests from the LPA, no reasoned justification has been provided by the CHA as to why this particular proposal would merit the scale of such works. Given the type of application, which is a change of use of an existing public house, the scale of the proposal and the acknowledged limited highway impact, the LPA does not consider that these requests are necessary or reasonable in all other respects and therefore do not meet the requirements set out in the Government Guidance on the use of planning conditions.
- 7.39 The proposal is, therefore, considered to be acceptable on highway and parking grounds.

Other Matters

- 7.40 The Council's Environmental Health Officer has raised no objection to the proposal on contamination, recommends informatives.
- 7.41 The proposal is utilising an existing commercial site, which already provides economic benefits and employment opportunities.
- 7.42 In terms of waste and recycling, as a commercial premises, waste collection will be a matter for the applicant. As with most retail uses, often plastics, cardboard etc are removed as part of the delivery and collection process and no significant concerns are considered to arise from this process.
- 7.43 Planting and landscaping improvements are limited due to the existing developed nature of the site, although the applicant has submitted a landscaping plan (requested by the Council's Tree Officer) suggesting some additional planting along the eastern and southern boundaries, with 2 large new trees as replacements for the removal of the self-seeded trees. The Council's Tree Officer has not raised any concerns to the removal of these trees due to their unsuitable locations and the provision of the 2 new trees in prominent locations is considered as a good alternative solution for the long-term tree cover of the site.

Equalities Act 2010

- 7.44 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:
- 7.45 The elimination of discrimination, harassment and victimisation; The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it; The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights Act 1998

- 7.46 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 7.47 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.48 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e. peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 7.49 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, Officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

Financial Considerations

- 7.50 Under S155 of the Housing and Planning Act 2016, Local Planning Authorities are now required to ensure that potential financial benefits of certain development proposals are made public when a Local Planning Authority is considering whether or not to grant planning permission for planning applications which are being determined by the Council's Planning Committee. A financial benefit must be recorded regardless of whether it is material to the Local Planning Authority's decision on a planning application, but planning officers are required to indicate their opinion as to whether the benefit is material to the application or not.
- In consideration of S155 of the Housing and Planning Act 2016, the proposal is not a CIL chargeable development and will therefore not generate a CIL Payment.
- 7.51 The proposal will also generate Business Rate payments which are not material considerations in the determination of this proposal.

Conclusion

- 7.52 Accordingly, the application is recommended for approval.

8. Recommendation

GRANT planning permission subject to the following conditions:

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

Reason:- This condition is required by Section 91 of the Town and Country

Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans 101 Received on 03.10.2023, 105 Received on 07.12.2023, 111, 110 Revision C, 100 Revision A, P-197427-201 Revision A, P-197427-202 Revision A, P-197427-203 Revision A and P-197427-204 Revision B Received on 14.03.2024 and J231270-GGC-ZZ-ZZ-D-L-0200 Rev P02 and J231271-GGC-XX-ZZ-D-ARB-0101 Rev P02 Received on 18.03.2024.

Reason:-For the avoidance of doubt and to ensure the development is completed as approved.

3. The lift shaft extension hereby permitted shall be carried out in facing materials to match those of the existing building in colour and texture.

Reason:-To ensure a satisfactory external appearance in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

4. Prior to the occupation of the development hereby approved the facilities for the secure parking of bicycles within the development site shall be provided in accordance with the approved plans. Thereafter the said approved facilities shall be retained and maintained to the satisfaction of the Local Planning Authority.

Reason: The above condition is required in recognition of Section 9 (Promoting Sustainable Transport) of the NPPF.

5. Prior to the occupation, the trees and shrubs shall be planted on the site in accordance with the scheme hereby approved (as shown within the Landscape plan no J231270-GGC-ZZ-ZZ-D-L-0200 Rev P02 Received on 18.03.2024). The planting so provided shall be maintained as approved for a period of 5 years, such maintenance to include the replacement in the current or next planting season, whichever is the sooner, of any trees/shrubs that may die, are removed or become seriously damaged or diseased, with others of similar size and species, unless the Local Planning Authority gives written permission to any variation.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape features in accordance with Policies SP6, EN1 and EN8 of Spelthorne Borough Council's Core Strategy and Policies Development Plan Document February 2009 and the National Planning Policy Framework 2023.

6. No part of the development shall be first opened for trading unless and until the proposed modified access to Convent Road has been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6m high.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highways and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required, in accordance with policy CC3 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

7. The development hereby approved shall not be first opened for trading unless and until space has been laid out within the site in accordance with the approved plans (Drawing No. 110 - Rev. C) for cars to be parked and for cars to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highways and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required, in accordance with policy CC3 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

8. The development hereby approved shall not be first opened for trading unless and until a delivery and servicing plan specifying arrangements for deliveries to and removals from the site, to include details of:
 - (a) The types of vehicles to be used and hours of their operation
 - (b) The design of delivery areas within the development site
 - (c) The dimensions and layout of lorry parking area and turning space(s) have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved details shall be implemented.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highways and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required, in accordance with policy CC3 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

9. The development hereby approved shall not be occupied unless and until the proposal is provided with a fast charge socket (current minimum requirements - 7kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

Reason:-In order that the development makes suitable provision for sustainable travel, in accordance with the sustainable objectives of Chapter 9 "Promoting sustainable transport" of the National Planning Policy Framework 2023, and policies CC2 and CC3 of Spelthorne Borough Council's Core Strategy and Policies Development Plan Document February 2009.

10. The development hereby approved shall not be first occupied unless and until the associated Traffic Regulation Order for new double yellow lines on Convent Road to the south of the access have been designed and

implemented, at the applicant's expense, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highways and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required, in accordance with policy CC3 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

11. Prior to the occupation of the development, details of a scheme of the means of enclosure shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details and maintained as approved.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and the appearance of the locality in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

12. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen) before the hours of 08.00 nor after 22.00 Monday to Saturday and before the hours of 08.00 nor after 18.00 on Sundays and public holidays.

Reason: To protect the amenities of nearby residents in accordance with the National Planning Framework 2023.

13. Condition: The rated noise level from the plant hereby approved shall be at least 10 dB(A) below the background noise level at the nearest noise sensitive property as assessed using the guidance contained within the latest BS 4142 (2014).

Reason: To safeguard the amenity of nearby residential properties.

14. The premises shall be open for the public and used for the purposes hereby permitted between 7 a.m. and 11 p.m. on Mondays to Sundays.

Reason: To safeguard the amenity of nearby residential properties.

Informatives

1. The lighting scheme should comply with the Institution of Lighting Professionals Guidance Note for the reduction of obtrusive light 2021(or later versions). It should be designed so that it is the minimum needed for security and operational processes and be installed to minimise potential pollution caused by glare and spillage.
2. You are advised that the Council will expect the following measures to be

taken during any building operations to control noise, pollution and parking.

- a) Work that is audible beyond the site boundary should only be carried out between 08:00hrs to 18:00hrs Monday to Friday, 08:00hrs to 13:00hrs Saturday and not at all on Sundays or any Public and/or Bank Holidays;
- b) The quietest available items of plant and machinery should be used on site. Where permanently sited equipment such as generators are necessary, they should be enclosed to reduce noise levels;
- c) Deliveries should only be received within the hours detailed in (a) above;
- d) Adequate steps should be taken to prevent dust-causing nuisance beyond the site boundary. Such uses include the use of hoses to damp down stockpiles of materials, which are likely to generate airborne dust, to damp down during stone/slab cutting; and the use of bowsers and wheel washes;
- e) There should be no burning on site;
- f) Only minimal security lighting should be used outside the hours stated above; and
- g) Building materials and machinery should not be stored on the highway and contractors' vehicles should be parked with care so as not to cause an obstruction or block visibility on the highway.

Further details of these noise and pollution measures can be obtained from the Council's Environmental Health Services Unit. In order to meet these requirements and to promote good neighbourliness, the Council recommends that this site is registered with the Considerate Constructors Scheme (www.ccscheme.org.uk/index.php/site-registration).

It should be noted that under the Environmental Protection Act 1990 Councils can serve an abatement notice on people responsible for statutory nuisances. This may require whoever's responsible to stop the activity or limit it to certain times to avoid causing a nuisance and can include specific actions to reduce the problem.

3. The applicant is advised that the site to which this planning permission relates is located on or near land that may contain harmful substances. Under Part C of the Building Regulations you will be required to consider this when designing the foundations of the development.

The applicant is advised to contact Spelthorne's Pollution Control team on 01784 446251 for further advice and information before any work commences.

4. This development is situated within 250 metres of a current or historic landfill site or gravel pit. A gas impermeable membrane should be incorporated within the structure along with a ventilated sub floor area. Any services entering/leaving the structure should be located above the gas impermeable membrane or alternatively, adequate seals will need to be provided if the membrane is to be breached. The details of the gas impermeable membrane and with particular attention to the joins with any existing structure and seals around any services, plus details of the sub-floor ventilation should be submitted to the Local Planning Authority for approval prior to the works being carried out.

The applicant is advised to contact Spelthorne's Pollution Control team on 01784 446251 for further advice and information before any work commences.

5. It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Electric Vehicle Charging Points shall be provided in accordance with the Surrey County Council Vehicular, Cycle and Electric Vehicle Parking Guidance for New Development 2023.
6. The applicant is expected to ensure the safe operation of all construction traffic to prevent unnecessary disturbance obstruction and inconvenience to other highway users. Care should be taken to ensure that the waiting, parking, loading and unloading of construction vehicles does not hinder the free flow of any carriageway, footway, bridleway, footpath, cycle route, right of way or private driveway or entrance. The developer is also expected to require their contractors to sign up to the "Considerate Constructors Scheme" Code of Practice, (www.ccscheme.org.uk) and to follow this throughout the period of construction within the site, and within adjacent areas such as on the adjoining public highway and other areas of public realm.
7. The permission hereby granted shall not be construed as authority to carry out any works on the highway. The applicant is advised that prior approval must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, or verge to form a vehicle crossover to install dropped kerbs. www.surreycc.gov.uk/roads-and-transport/permits-and-licences/vehicle-crossovers-or-dropped-kerbs
8. The permission hereby granted shall not be construed as authority to carry out any works (including Stats connections/diversions required by the development itself or the associated highway works) on the highway or any works that may affect a drainage channel/culvert or water course. The applicant is advised that a permit and, potentially, a Section 278 agreement must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. All works (including Stats connections/diversions required by the development itself or the associated highway works) on the highway will require a permit and an application will need to be submitted to the County Council's Street Works Team up to 3 months in advance of the intended start date, depending on the scale of the works proposed and the classification of the road. Please see <http://www.surreycc.gov.uk/roads-and-transport/permits-and-licences/traffic-management/permit-scheme>. The applicant is also advised that Consent may be required under Section 23 of the Land Drainage Act 1991. Please see www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/flooding-advice.
9. The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing

highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).

10. The scheme to implement waiting restrictions or other relevant works to regulate or restrict the operation of the highway shall first require a Traffic Regulation Order or Notice prior to use. The alteration of the Traffic Regulation Order or creation of a new Order or Notice is a separate statutory procedure which must be processed at the applicant's expense prior to any alterations being made. In the event that the implementation of waiting restrictions or other works requiring an Order or Notice is not successful due to unresolved objections the applicant shall submit an alternative scheme to the Local Planning Authority for its approval prior to first use of the access. Any alternative scheme or works shall be implemented prior to first use.
11. The applicant is encouraged to consider the installation of e-bike charging points. If installed, they should socket timers to prevent them constantly drawing a current over night or for longer than required. Signage should be considered regarding damaged or shock impacted batteries, indicating that these should not be used/charged. The design of communal bike areas should consider fire spread and there should be detection in areas where charging takes place. With regard to an e-bike socket in a non-domestic dwelling, the development should have detection, and an official e-bike charger should be used. Guidance on detection can be found in BS 5839-6 for fire detection and fire alarm systems in both new and existing domestic premises and BS 5839-1 the code of practice for designing, installing, commissioning, and maintaining fire detection and alarm systems in non-domestic buildings.