

Report to Planning Committee 7 September 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Amy Davies, Planner, Ex 5851

Report Summary			
<b>Application Number</b>	22/01298/FUL		
<b>Proposal</b>	Proposed retail unit with parking and amended site entrances		
<b>Location</b>	Tesco Express, Kirklington Road, Rainworth, NG21 0AE		
<b>Applicant</b>	Mr K Nijjar	<b>Agent</b>	Alan McGowan Architects - Mr Alan McGowan
<b>Registered</b>	30 June 2022	<b>Target Date</b>	25 August 2022
		<b>Extension of Time</b>	18 August 2023
<b>Web link</b>	<a href="#">22/01298/FUL   Proposed retail unit with parking and amended site entrances   Tesco Express Kirklington Road Rainworth Nottinghamshire NG21 0AE</a>		
<b>Recommendation</b>	That planning permission is APPROVED subject to the conditions outlined at the section 11.0 of this report		

**This application is being referred to the Planning Committee for determination by the local ward member, Councillor Claire Penny due to the following concerns and objections:**

- **Pedestrian safety within the car park and accessing the store via vehicle entrances, and to those travelling along Kirklington Road and Southwell Road East.**  
Pedestrians use this site as a cut through. An additional retail unit with more cars will create more danger for pedestrians due to the rise in cars accessing the car park from either entrance.
- **Lack of space to manoeuvre delivery vehicles**  
Delivery vehicles are currently unable to access the existing car park at certain times and end up on the road obstructing the highway. An additional retail unit will exacerbate this issue.
- **The central reservation and size of the pavements**

The central reservation is much smaller than shown on the plans. A high number of pedestrians use this reservation to cross the road at very busy traffic periods. Pavements are also very narrow in this area.

- **Safety of children on Kirklington Road**

There is a children's centre/social hub and park and play area opposite the proposed site entrance. An additional retail unit with more cars will put children at greater risk.

There are currently three supermarkets located close to the site and residents do not want another retail store.

## **1.0 Background**

**Members will recall this application being presented to Planning Committee in August, where it was deferred following discussion to enable officers to re-evaluate the proposal in the context of Condition 11 not being enforceable.**

**Condition 11, as previously recommended, sought to restrict deliveries to the retail unit to between certain hours and outside of store opening hours. However, as no such restrictions apply to the existing adjacent store (currently occupied by Tesco Express), concerns were raised over the enforceability of this condition, as deliveries to both units would take place from the same part of the site, which would make it difficult for officers to identify whether there was a potential breach or not.**

**Whilst the applicant, via their agent, has confirmed they would be happy to adhere to the terms of Condition 11, due to this condition not being enforceable, it is not [legally] possible to attach it. The applicant's agent had sought to demonstrate that vans to the site would be identifiable by the 'Heron' logo but as the planning permission, if approved, would apply to the land and not a specific retailer, such a condition cannot be imposed. It is also not lawful to impose a condition to restrict hours of delivery to Tesco store as this also, would not be lawful.**

**Members also raised concerns regarding the car parking space along the proposed roll cage route from the delivery bay to the new store entrance and the need for it to be empty at delivery times to enable deliveries to take place as proposed. Revised plans have now been received showing a delineated roll cage/pedestrian route between the delivery bay and new store entrance, resulting in one less parking space than the previous scheme (now 13-spaces). The proposal has therefore been re-evaluated in light of this revision, with strikethrough text used to represent parts of the report no longer accurate and bold text used to indicate new wording.**

## **2.0 The Site**

The application relates to a fenced off area to the southeast of the former Robin Hood Hotel located on the corner of Kirklington Road and Southwell Road East in the settlement of Rainworth. The ground floor of the former Robin Hood Hotel building is currently in use as a Tesco Express, with its car park sited adjacent to the application site and accessed off Southwell Road East to the west. The application site comprises an unused car park and includes several trees and groups of trees. There is an existing, currently unused, vehicular access off Kirklington Road.

St Simon and St Jude's Church is located to the south of the site and has been identified as Non-Designated Heritage Asset. The site is in Flood Zone 1 where there is a low probability of flooding.

The site has the following constraints:

- Trees;
- Drainage – ground not suitable for infiltration; and
- Adjacent Non-Designated Heritage Asset.

### **3.0 Relevant Planning History**

#### ***Application Site and Former Robin Hood Hotel building (upper floor)***

20/02209/FULM - Conversion of the first floor of the existing building into 4 apartments, comprising 1x3 bed unit, 2x2 bed units and 1x studio, plus the erection of a two storey apartment building to the east side of the existing building to provide a further 8 x 1 bed apartments. The proposed new building would include a hip roof with slightly elevated eaves and would be linked to the existing building by a double height glazed entrance. Application Withdrawn.

#### ***Part of Application Site and Former Robin Hood Hotel building (upper floor)***

19/02237/FUL - Conversion of first floor space into 6 apartment units, 5 x one Beds and 1 x Studio, external entrance and fire exit staircase introduced on the facade facing the existing car park. Refused 30.04.2020.

#### ***Former Robin Hood Hotel building (ground floor)***

11/01795/FUL – External alterations to facilitate permitted change of use (A4 to A1). Approved 16.02.2012.

### **4.0 The Proposal**

The application proposes the erection of a 269m<sup>2</sup> retail unit with associated staff office/store for Heron Foods. The unit would be L-shaped and constructed of bricks, with aluminium glazed windows and a 30-degree pitch profiled zinc/aluminium roof. It would be served by a ~~1211~~-space car park with additional parking provision for disabled vehicles adjacent to the store (~~1413~~-spaces in total). Separate customer vehicular and pedestrian accesses would be provided off Kirklington Road, while deliveries would be directed to use the existing access off Southwell Road East, which is proposed to be widened, and the delivery bay outside the existing Tesco store. **A delineated roll cage/pedestrian route is also proposed between the delivery bay and new store entrance.**

#### **Revised Plans**

Revised plans were received during the course of the planning application to address concerns regarding design, highway safety, parking and impacts on trees. For the avoidance of doubt, the assessment outlined below is based on the following plans and supporting information:

- 0003B Location and Block Plans *received 11 May 2023*
- ~~Swept Path Proposed Plans REV A 1-100 received 20 July 2023~~
- ~~0013J Amended Site Plan 500 received 20 June 2023~~
- ~~0014L Proposed Site Plan 200 received 26 June 2023~~
- **Swept Path Proposed Plans REV B 1-100 received 23 August 2023**
- **0013K Amended Site Plan 500 received 23 August 2023**
- **0014M Proposed Site Plan 200 received 23 August 2023**
- 0015J Amended Roof Plan *received 20 June 2023*
- 0016J Amended Ground Floor Plan *received 20 June 2023*

- 0017G Amended Proposed Elevations *received 17 April 2023*
- Arboricultural Impact Assessment, Method Statement and Tree Protection Plan prepared by Ramm Sanderson dated November 2022 (Ref: RSE\_6574\_R1\_V1\_ARB) *received 29 November 2022*
- RSE\_6574\_TCP V1 Tree Constraints Plan *received 29 November 2022*
- RSE\_6574\_TPP V1 Tree Protection Plan *received 29 November 2022*
- NG210AE-03-XX-DR-A 0004 Existing Plans *received 29 June 2022*
- NG210AE-03-XX-DR-A 0005 Existing Plans *received 29 June 2022*
- Design and Access Statement prepared by Alan McGowan Architects Ltd dated June 2022

## **5.0 Departure/Public Advertisement Procedure**

Occupiers of 8 properties have been individually notified by letter of the submitted and revised schemes. Site notices have also been displayed near to the site.

Site visits undertaken 28 July 2022 and May 2023.

## **6.0 Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 – Settlement Hierarchy  
 Spatial Policy 2 – Spatial Distribution of Growth  
 Spatial Policy 9 – Sustainable Design  
 Core Policy 8 – Retail & Town Centres  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 MFAP1 – Mansfield Fringe Area

#### **Allocations & Development Management DPD**

Policy Ra/DC/1 – Rainworth District Centre Boundary  
 Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
 Policy DM5 – Design  
 Policy DM7 – Biodiversity and Green Infrastructure  
 Policy DM10 – Pollution and Hazardous Materials  
 Policy DM11 – Retail and Town Centre Uses  
 Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2021
- Planning Practice Guidance
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Nottinghamshire Highway Design Guide –  
<https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide>

## **7.0 Consultations**

*NB: Comments below are provided in summary - for comments in full please see the online planning file.*

#### **(a) Statutory Consultations**

##### **NCC Highways –**

The applicant has revised the proposal and some significant changes have been made to satisfy the highway safety concerns listed in our previous reports. These have now been either satisfactorily addressed or the information provided now allows the Highway Authority to make an informative decision and request any outstanding details to be conditioned.

On the basis of the available information, the Highway Authority is content with the proposed development. In coming to this conclusion, the Authority has considered issues of highway access, capacity and safety, parking, servicing and sustainability and we would like to withdraw our previous objection subject to the [recommended] conditions.

**Note: The Highway Authority has been asked to comment on the latest revised plans received on 23 August 2023, with any comments received, reported as a Late Item.**

#### **(b) Parish Council**

**Rainworth Parish Council – Object** (same response submitted in response to the submitted and revised schemes)

Concerns regarding:

- Pedestrian safety within the car park
- Lack of space to manoeuvre delivery vehicles
- Removal of central reservation to facilitate access
- Safety of children on Kirklington Road

#### **(c) Representations**

**Environmental Health Officer –** No objection

**Tree and Landscape Officer –**

Landscaping condition including 10 years maintenance

Tree protection condition

No objection provided the above two conditions are added

**2 representations have been received objecting to the scheme, which can be summarised as follows:**

- There are too many shops available for residents already with some struggling to survive.
- The scheme raises traffic and safety concerns for public and children.

#### **8.0 Comments of the Business Manager – Planning Development**

The key issues in assessing this proposal relate to the

1. Principle of Development
2. Impact on Character

3. Impact on Residential Amenity
4. Highway Safety and Parking
5. Trees and Ecology

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

#### Principle of Development

Spatial Policy 1 'Settlement Hierarchy' of the Amended Core Strategy (Adopted March 2019) identifies Mansfield Fringe Area as a Service Centre and a focus for housing and employment growth in the District. Between 2013 and 2033, 30% of the overall housing growth is expected to be delivered within the Service Centres, including 10% of Service Centre growth within Rainworth (Spatial Policy 2 'Spatial Distribution of Growth'). This growth is expected to increase demand for services and facilities to meet the community's day-to-day needs.

The site lies within the defined built-up area of Rainworth, a Service Centre in the District's settlement hierarchy. Policy MFAP1 of the Amended Core Strategy DPD outlines that the provision of new housing and employment opportunities and the provision of new community infrastructure appropriate to the size of the settlement will be supported in principle. The site also lies within the District Centre Boundary, which was defined through the Allocations and Development Management DPD to promote the strength of Rainworth as a Service Centre. Both Core Policy 8 of the Amended Core Strategy DPD and Policy DM11 of the Allocations and Development Management support new and enhanced retail provision within existing centres, which promote the 'town centre first' approach reflecting national retail policy.

Retail impacts only need to be considered where sites are located outside of defined local centers and so a retail impact assessment is not required for this proposal in line with Policies CP8 and DM11 of the development plan.

Councillor Penny's comments regarding over provision of supermarkets in the area have been noted, however, whether the proposal would introduce a competing retail/food store is not a material planning consideration.

#### Impact on Character

Core Policy 9 'Sustainable Design' of the Amended Core Strategy (Adopted March 2019) requires new development proposals to, amongst other things, *"achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments"*. In accordance with Core Policy 9, all proposals for new development are assessed with reference to the design criteria outlined in Policy DM5 'Design' of the Allocation and Development Management DPD.

The site used to form part of the Robin Hood Hotel car park but has been fenced off and left

undeveloped since the ground floor of the building changed to a Tesco Express over ten years ago. Sections of the fence are now missing, and the former car park has been left unkempt. The site also attracts littering and, overall, has a negative impact on the visual amenity of the area.

The design of the proposed retail unit has been negotiated and amended during the application process to ensure it complements the site in terms of its position, form, and scale and would include materials and architectural features to complement adjacent buildings including the Former Robin Hood Hotel and St Simon and St Jude's Church. The amended proposed Site Plan also incorporates a dedicated pedestrian access, leading from Kirklington Road to the store entrance, and tree planting to compensate for tree loss and provide appropriate landscaping. Notwithstanding the submitted details, it is considered appropriate, should permission be granted, to impose conditions requiring details of materials and architectural features to be submitted to and agreed in writing by the Local Planning Authority prior to being used in the development to ensure the building takes the form and quality envisaged. Subject to such conditions, the proposed development would be successfully assimilated with the site and surrounding area, and sensitively redevelop a vacant and prominent site with the village.

Overall, the proposed development would accord with the relevant provisions of Core Policy 9 and Policy DM5 of the DPD and be acceptable in this regard.

#### Impact on Residential Amenity

Policy DM5 of the Allocations & Development Management DPD requires development proposals to have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.

There are no residential properties adjoining the application site. The proposed opening hours of the retail unit are noted as 8am to 8pm Monday to Saturday and 8am to 4pm on Sunday/Bank Holiday, which fall comfortably within the existing opening hours of the adjacent Tesco Express store, which is open from 6am to 11pm, 7 days a week. The Council's Environmental Health Officer has raised no objections to the proposal.

Rainworth Parish Council's concerns regarding the safety of young children have been noted and the scheme amended to secure safe access and egress and pedestrian priority. Further details are outlined in the 'Highway Safety and Parking' section below.

#### Highway Safety and Parking

Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD requires development proposals to ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems. Opportunities to enhance the pedestrian environment should also be explored. Policy DM5 'Design' of the Allocations & Development Management DPD requires parking provision for vehicles and cycles to be based on the scale and specific location of the development.

Access and parking arrangements have been the subject of lengthy discussions and negotiations during the planning application process. Rainworth Parish Council's concerns regarding access and pedestrian safety have been noted and addressed through revisions to the scheme, as outlined within Nottinghamshire County Council Highway Authority's comments received on 15 May 2023.

These comments are copied in *italics* under relevant sub-headings below followed by a summary of amendments and details provided and/or required where relevant.

### **Amended red line boundary and layout**

*Highways - Proposed layout confusion has been clarified and only one layout has now been submitted.*

The red line boundary has been amended to include the existing Tesco Express car park and entrance, to enable the existing and proposed units to share the Southwell Road East access and Tesco delivery bay for deliveries. This is possible as the site is in single ownership with the units leased to operators on a medium to long term basis.

The decision to utilise the existing Southwell Road East access for deliveries has enabled the proposed Kirklington Road site entrance to become a dedicated customer entrance, with a separate pedestrian access leading up to the store front. Nottinghamshire County Council has raised no objections to this revised layout (see **Delivery vehicle swept path analysis etc.** commentary below for further comments regarding delivery arrangements).

### **Kirklington Road access**

*Highways - The proposed access, however, is still presented in such way that it could be read as both a dropped kerb access and a radii access to the site. A dropped kerb access would be preferred in this location as it would prioritise pedestrian movements on the footway in accordance with NPPF and would be more suitable for the size of the proposed unit, especially as delivery vehicles will not be permitted to use this access. If a radii kerb access is to be installed, this would result in changes to the existing TRO on Kirklington Road outside the access and any additional cost of changing the existing TRO will have to be covered by the applicant.*

This comment concerns the specific design of the proposed vehicular access off Kirklington Road and potential changes to the 'Traffic Regulation Order' on Kirklington Road i.e., the existing double yellow lines along this section of the highway. This is somewhat out of the applicant's control and would be the subject of a Section 278 Agreement with the Highway Authority<sup>1</sup>. The Highway Authority has therefore recommended a condition to secure further details before the development can begin but has, in principle, accepted a vehicular access can be provided in this location to serve the proposed development.

### **Kirklington Road pedestrian central refuge**

*Highways - Pedestrian central refuge on Kirklington Road near the access is now shown on all the newly submitted plans. This refuge is to remain as existing and, for clarification, it is not proposed to be removed.*

Despite being consulted on revisions, Rainworth Parish Council still believe the pedestrian central refuge will be removed to facilitate access, however, this is not the case, and the scheme has been amended accordingly to clarify. Before the scheme was amended to enable the existing and proposed retail units to share the Southwell Road East access for deliveries, the Highway Authority was concerned that delivery lorries would cut across part of the pedestrian central refuge when turning right out of the Kirklington Road access (see comments regarding swept path analysis

---

<sup>1</sup> A section 278 agreement is a section of the Highways Act 1990 that allows developers to enter into a legal agreement with Nottinghamshire County Council, in their capacity as Highway Authority, to make permanent alterations or improvements to a public highway, as part of a planning approval.



below). To confirm, it was never proposed to remove this element of the highway, which is out of the applicant's control.

### **Delivery vehicle swept path analysis etc.**

*Highways - As the previously submitted swept path analysis revealed the lack of space for a delivery vehicle to manoeuvre within the site to enter and exit the highway in forward gear, the applicant has put forward a proposal to use an existing access and delivery bay for current Tesco Extra store on the adjacent site. The red-line location plan was amended in order to accommodate this proposal, and this seems a reasonable solution for the size of the proposed unit. Please note that signs should be erected at the access to the new store prohibiting HGVs to enter the site via the access off Kirklington Road once the store becomes operational. All deliveries must be carried out from the delivery bay adjacent to current Tesco Extra. A delivery method statement should be provided by the applicant, which should secure this arrangement. This can be conditioned.*

Concerns regarding lack of space to manoeuvre delivery vehicles in front of the current Tesco Express have been noted, however, the Highway Authority considers the revised layout reasonable for the size of the existing and proposed units and has highlighted no concerns regarding delivery vehicle manoeuvrability.

The 002 Swept Path Analysis *received 17 April 2023* illustrated there was sufficient space for delivery vehicles to enter and leave the site via the widened Southwell Road East access but did not illustrate how delivery vehicles would manoeuvre within the site. Ahead of June Planning Committee the applicant, via their agent, confirmed that tracking would mirror that which enabled the Tesco store to be approved and provided an updated swept path drawing to reflect this. However, this drawing illustrated potential conflicts between the lorry turning area and proposed tree planting. The scheme was therefore withdrawn from the June Planning Committee Agenda to allow the applicant time to address this conflict.

Revised Swept Path Analysis *received 20 July 2023 (and updated 23 August)* illustrates there is sufficient space for delivery vehicles to enter and leave the site via the widened Southwell Road East access in a forward gear without interfering with proposed tree planting (see image below).

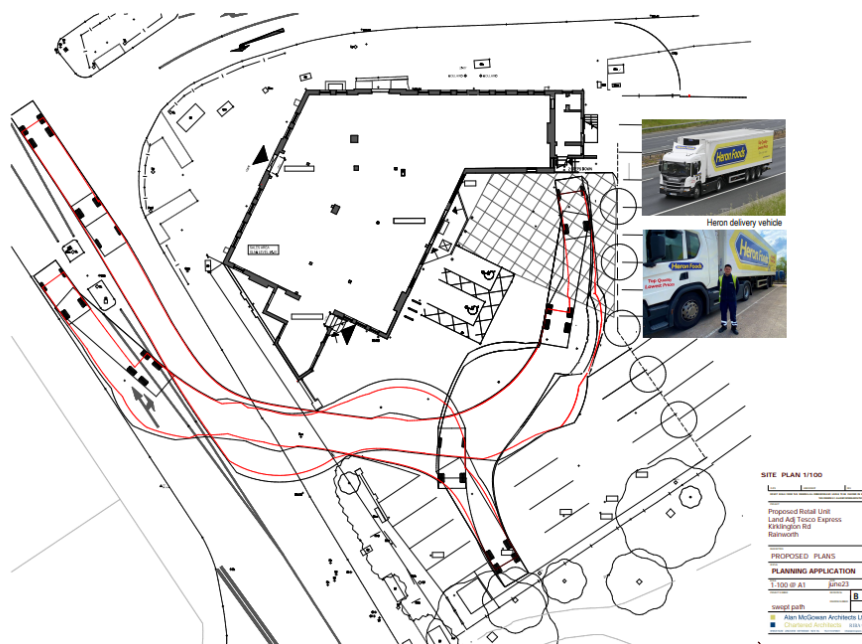


Figure 1 Swept Path Analysis REV B received 23 August 2023

Highways has confirmed this is acceptable. The Council's Tree Officer has also confirmed this is acceptable, subject to a condition to secure lorry proof tree guards, i.e., metal guards that rest on the ground and wrap around tree trunks to protect trees. Such guards are widely used in public areas (**see 0014M Proposed Site Plan 200 received 23 August 2023 for an indicative tree guard image**). Condition 09 requires full details of all proposed tree planting to be submitted to and approved in writing by the LPA prior to first occupation of the retail unit including details of such tree guards.

The end user, Heron Foods, has confirmed the store would receive 1 delivery a week from Head Office along with about three, third party fresh deliveries, e.g., milk and bread, that would come on smaller vehicles throughout the week. **It is understood that all Heron delivery vehicles are tracked and branded as shown on the revised Swept Path Analysis drawing received 23 August.** Regarding the transfer of goods to the store from delivery vehicles once on site, this would be by foot with products pushed across in roll cages. The delineated roll cage route is shown on revised plans received **23 August and would double-up as a pedestrian route/crossing between the two stores.** **This revised proposal would result in one less parking space than the previous scheme, the impact(s) of which are considered under the 'Parking provision' sub-heading below.** Consideration has been given to whether delivery times could be restricted to certain hours, however, as no such restrictions apply to the existing store currently occupied by Tesco Express, who utilise the same delivery bay and entrance, it is not considered such a condition would be enforceable. **Consequently, delivery times to the store would be unrestricted. Notwithstanding this, it is not considered that the additional delivery trips that would be generated as a result of this store would cause any harm, over and above the existing situation, that would warrant refusal.**~~20 & 22 June and 20 July would result in one parking bay being unavailable at the time of delivery. In view of this, it is considered appropriate, should permission be granted, to impose a condition requiring deliveries to take place outside of opening hours of the proposed store, when the car park should theoretically be empty. It is also considered appropriate, should permission be granted, to restrict delivery times further to fall inside of the opening hours of the existing Tesco store (i.e., 6am to 11pm), to ensure deliveries etc. take place during existing active hours. The proposed store opening hours are 8am to 8pm Monday to Saturday and 8am to 4pm on Sundays, Public or Bank Holiday. Consequently, it is considered reasonable to restrict store deliveries and collections to between the hours of 6am-8am and 8pm-11pm, which Heron Foods has confirmed would be workable. Any future occupier of the store, i.e., not Heron Foods, would have to adhere to the agreed restrictions or apply to change them, at which point the Local Planning Authority would consider the impacts of such proposed changes.~~

### **Parking provision**

*Highways - The applicant has submitted further details regarding current off-street parking use for similar sites with comparable off-street provision and requirements previously approved by neighbouring Local Planning Authorities to justify their level of proposed off-street parking for this site. The information provided is helpful and clarifies the proposal. Therefore, on the basis of the submitted details, and after thorough consideration of the submitted details and the proposed site, the Highway Authority is now content with the justification of the number of the off-street parking bays for this site. The amended red line plan also allows for the current Tesco Extra car park, with access off Southwell Road East, to be used for the proposed store, which secures additional parking if required.*

The originally submitted scheme proposed 14 parking bays, which falls short of the numbers recommended in Nottinghamshire County Council's Highway Design Guide i.e., 24 off-street parking

spaces for food retail or 17 spaces for non-food retail. Following confirmation of the end user, Heron Foods, Highways requested parking surveys of existing nearby Heron Foods stores to demonstrate parking provision would meet demand over the course of a typical day, however, the applicant was unable to meet this specific request. Instead, details of existing provision at nearby Heron Foods were confirmed as follows:

Newark = 13 spaces, Aspley (Nottingham) = 6 spaces, Mansfield = 11 spaces

Google Maps shows all of the above stores are similar in size to the proposed, if not slightly larger, and sited adjacent to other commercial businesses and/or local convenience stores. Consequently, the existing stores appear to share parking provision with other stores, similar to what is proposed for this site.

Following **the latest** revisions, the scheme would provide ~~15~~**13** spaces which, when added to the existing Tesco spaces, would provide ~~34~~**30** spaces overall to serve the two stores (which is ~~17~~**18** spaces short of the recommended amount for two new food retail stores). Notwithstanding the shortfall, the Highway Authority is satisfied with the proposed parking provision and has withdrawn their previous objection. It is noted that opening hours of the stores would overlap, although the existing Tesco Express store would be open earlier and later than the proposed Heron Foods store (see 'Impact on Residential Amenity' for details of opening hours). It is also anticipated that some customers would make one visit to shop at both stores, given their proximity and open pedestrian access between the two sites. Indeed, it is not uncommon for retail stores such as this to be sited close together to enhance customer convenience. Given the proposed provision would **match or** exceed the number provided at other stores in similar locations in Nottinghamshire, and Highways no longer object to the scheme, the proposed parking provision is considered acceptable. There is no evidence to suggest that the demand for spaces at any time of day would exceed overall provision across the two sites and lead to unacceptable levels of on-street parking in the vicinity.

### **Pedestrian access to store**

*Highways - The location of the store front has also been amended to face the highway and thus, better accommodates pedestrian movements and encourage trips to the store on foot. The new pedestrian access will be directly off the footway along Kirklington Road and is shown as "delineated" access on the submitted plan. It should be noted that the access should be level with the footway to comply with current accessibility regulations. The existing vehicular access will require reinstating to a footway with a full height kerb. This can be conditioned.*

The new pedestrian access off Kirklington Road would be formed by repurposing the old vehicular access to the Former Robin Hood Car Park. Following revisions, this would be sited directly in front of the store entrance to ease pedestrian access and reduce the potential for pedestrian-vehicular collisions within the car park. Concerns regarding pedestrian safety have been noted, and consideration was given to incorporating a dedicated pedestrian route across the wider site (broadly where trees are proposed to be planted). However, this arrangement had to be discounted as it would have left insufficient space for delivery and customer vehicles to manoeuvre into their respective bays. **Notwithstanding this, and following further revisions, the proposal would include a delineated roll cage route that would double-up as a pedestrian route/crossing between the two stores, which would enhance pedestrian safety.** Overall, it is considered that the proposed car park would be no more unsafe than any other retail car park where pedestrians and vehicles mix. Furthermore, proposed landscaping would obscure the pedestrian desire line across ~~the current~~ **other parts of the** car park and prevent drivers from using the site as a "rat run" between Kirklington

Road and Southwell Road East (see Site Plan 1/200 (Rev L) including Landscaping details enclosed below).

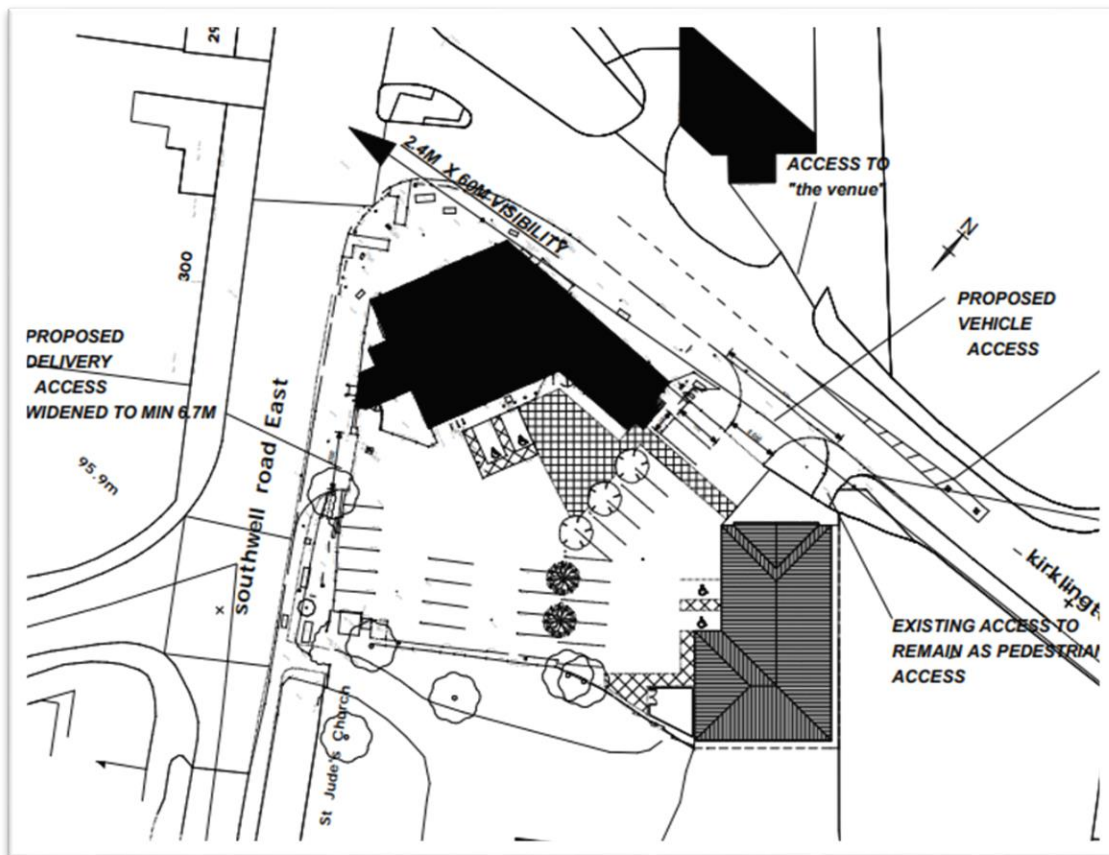


Figure 2 Site Plan 1/500 received 23 August 2023

Works to reinstate the existing vehicular access to a footway with a full height kerb can be secured by condition on an approved application in accordance with Highways advice.

#### **Amended Southwell Road East access**

*Highways - There are no exact details of the amendments to the existing access off Southwell Road East. However, any design changes of the existing access can be conditioned as any works to both accesses will require a Section 278 Agreement with the Highway Authority to carry out off-site works; therefore, a separate technical approval for both accesses will be carried out at a later date. This is a separate process to planning.*

The revised plans indicate the existing access off Southwell Road East would be widened as part of the proposed development. This is welcomed as it would improve the useability of this access and reduce instances of vehicles having to wait on the highway while others exit the site before entering. This would also be the subject of a Section 278 Agreement with the Highway Authority and noted to the applicant as part of an approved application.

#### **Car park layout and landscaping**

*Highways - It is noted that there is no form of physical separation proposed between the two car parks i.e., the proposed site and existing Tesco Extra site except for the projected tree planting scheme. Although this is not a highway safety concern, the applicant may want to consider a knee-high fence, or similar, between the two car parks, with only gaps left large enough to accommodate pedestrians and deliveries, in order to prevent this retail site to become a "rat-run" or a "shortcut"*

*from Kirklington Road and Southwell Road East for other motorists in the interest of the safety of the users of the car-park / retail units.*

The proposed tree planting has been discussed and agreed with the Council's Tree Officer as noted under the 'Trees and Ecology' section below. The Tree Officer has recommended conditions to secure the planting, maintenance, and protection of the trees, which would address the above concerns.

Taking all of the above into account, and subject to the recommended conditions, it is considered the proposed development accords with the relevant provisions of Spatial Policy 7 and Policy DM5 of the DPD and is therefore acceptable in this regard.

### Trees and Ecology

Core Policy 12 of the Amended Core Strategy DPD seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the Allocations & Development Management DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. The NPPF also requires planning decisions to minimise impacts and provide net gains for biodiversity.

The application is supported by an Arboricultural Impact Assessment, Method Statement and Tree Protection Plan prepared by Ramm Sanderson dated November 2022 (Ref: RSE\_6574\_R1\_V1\_ARB) that identifies a number of trees for removal. All trees and group (of trees) to be removed were assessed as low quality (Category C), as such, there will be a low reduction in amenity value on the site as a result of these losses. Indicative landscaping is shown on the Amended Proposed Site Plans (drawing nos. 0013J & 0014L) to compensate for this loss, comprising of one tree every two parking spaces along the boundary between the existing and proposed car parks. The Council's Tree Officer has considered the submitted and revised details and raised no objection subject to conditions to secure tree protection, full details of tree planting, and landscape maintenance. It is also considered appropriate to impose a condition requiring details of other site enhancement measures, such as the provision of suitably sited bat and bird boxes, to be submitted to and agreed in writing by the Local Planning Authority. Subject to the recommended conditions, the proposed development would meet the relevant aims of Core Policy 12 and Policy DM5 of the DPD and the NPPF and is therefore acceptable in this regard.

### Flood Risk and Drainage

The application site is located within Flood Zone 1, as shown on the Environment Agency's Flood Map for Planning and is therefore at low risk of fluvial flooding.

The proposal involves the erection of a building on an existing area of hardstanding and would result in no significant increase in surface water run-off. **Condition 07 requires all new hard surfaces to be constructed with provision to prevent the discharge of surface water to the public highway (i.e., appropriate drainage) as well as being permeable.** The application form indicates wastewater would be appropriately disposed of via the existing drainage system, which is considered an acceptable drainage solution for this site.

## **9.0     Implications**

In writing this report and in putting forward recommendations officers have considered the

following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **10.0 Conclusion**

The proposed development is acceptable and would enhance retail provision within the centre of Rainworth to serve its growing population. The proposed new building has been appropriately sited and designed and overall, the proposed development would have a positive impact on visual amenity. There would be no adverse impacts on the amenities of existing or future residents in accordance with Policy DM5 'Design' of the Allocations & Development Management DPD.

Subject to appropriately worded conditions, whilst there is an overall parking shortfall, it is considered the development would not result in harm to highway safety, nor would it create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems in accordance with Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD and Policy DM5 'Design' of the Allocations & Development Management DPD.

It is therefore recommended that this application is approved subject to the conditions outlined below.

## **11.0 Conditions**

### **01**

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

### **02**

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans reference:

- 0003B Location and Block Plans *received 11 May 2023* (red line boundary)
- ~~Swept Path Proposed Plans REV A 1-100 received 20 July 2023~~
- ~~0013J Amended Site Plan 500 received 20 June 2023~~
- ~~0014L Proposed Site Plan 200 received 26 June 2023~~
- **Swept Path Proposed Plans REV B 1-100 received 23 August 2023**
- **0013K Amended Site Plan 500 received 23 August 2023**
- **0014M Proposed Site Plan 200 received 23 August 2023**
- 0015J Amended Roof Plan *received 20 June 2023*
- 0016J Amended Ground Floor Plan *received 20 June 2023*
- 0017G Amended Proposed Elevations *received 17 April 2023*
- RSE\_6574\_TPP V1 Tree Protection Plan *received 29 November 2022*

Reason: So as to define this permission and ensure adequate protection of trees.

### **03**

Notwithstanding the submitted plans, no part of the development hereby approved shall commence until details of works to install the new vehicular access off Kirklington Road and reinstate the existing redundant access as footway, as indicatively shown on the submitted plans, have been first submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details prior to the development being brought into use and retained for the lifetime of the development.

Reason: To enable vehicles to enter and leave the public highway in a slow and controlled manner, in the interests of general highway safety, and to ensure that the vehicular and pedestrian accesses are provided at an appropriate point in the development.

### **04**

No development above damp-proof course shall take place until samples or specifications of materials set out below have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

- (a) Bricks
- (b) Brickwork specification
- (c) Roof covering

Reason: In the interests of visual amenity

### **05**

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish and/or scaled drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in accordance with the approved details.

- (a) External windows, doors, and their immediate surroundings, including details of glazing and glazing bars
- (b) Treatment of window and door heads and cills
- (c) Ridges, verges, and eaves
- (d) Rainwater goods

Reason: In the interests of visual amenity.

### **06**

Notwithstanding the submitted plans, no part of the development hereby approved shall be brought into use until the existing access off Southwell Road East is widened and upgraded in accordance with the details to be first submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that the vehicular and pedestrian accesses are provided at an appropriate point in the development.

## 07

No part of the development hereby permitted shall be brought into use until the new access off Kirklington Road and widened access off Southwell Road East, parking, and turning areas are:

- a) surfaced in a permeable hard bound material (not loose gravel) in accordance with the details on the approved plans; and
- b) constructed with provision to prevent the discharge of surface water to the public highway in accordance with the details to be first submitted and approved in writing by the Local Planning Authority.

The surfaced accesses, parking, and turning areas shall thereafter be maintained in such hard bound material and provision to prevent the discharge of surface water to the public highway retained for the lifetime of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.) and to ensure surface water from the site is not deposited on the public highway causing dangers to road users

## 08

Once the retail store hereby approved becomes operational, there shall be no HGV access between the Application Site and Kirklington Road. All deliveries and general HGV access shall take place only off Southwell Road East via the delivery access as shown on the approved plans reference:

- ~~— Swept Path Proposed Plans REV A 1-100 received 20 July 2023; and~~
- ~~— 0014L Proposed Site Plan 200 dated June 2022 (incl. no HGV access signage)~~
- **Swept Path Proposed Plans REV B 1-100 received 23 August 2023**
- **0013K Amended Site Plan 500 received 23 August 2023**
- **0014M Proposed Site Plan 200 received 23 August 2023**

The signage shall remain in place for the lifetime of the development.

Reason: In the interest of highway safety

## 09

Prior to first occupation of the retail unit hereby approved, full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of lorry proof guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier, and defect period. The approved planting scheme shall thereafter be carried out within the first planting season following approval of the submitted details.

Any trees that are found to be dead, dying, severely damaged or diseased within ten years of the completion of the building works OR ten years of the carrying out of the landscaping scheme



(whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.

## **10**

The retail unit hereby approved shall not be open to members of the public outside the following hours: -

8am to 8pm Monday to Saturday  
8am to 4pm on Sundays, Public or Bank Holiday

Reason: In the interests of residential amenity.

## **~~11~~**

~~In relation to Condition 09, delivery and collection vehicles to the retail unit hereby approved shall only arrive and leave the site between the hours of 6am – 8am and 8pm – 11pm.~~

~~Reason: To ensure deliveries take place outside of store opening hours and in the interests of residential amenity.~~

## **~~12-11~~**

No gates shall be erected at the access to the development from the public highway.

Reason: To protect the free and safe passage of traffic, including pedestrians, in the public highway.

## Informatives

### **01**

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

### **02**

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

03

#### Access requirements and access Re-instatement Works

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact the Highway Authority on [hdc.north@nottsc.gov.uk](mailto:hdc.north@nottsc.gov.uk) or please call 0300 500 80 80 and ask for Highways Development Control Team for Newark and Sherwood for further details.

04

#### Building Works shall not project over the highway

No part of the proposed building/wall or its foundations, fixtures and fittings shall project forward of the highway boundary.

05

#### Prevention of Mud on the Highway

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

06

#### Signs

Non-statutory signs are not permitted within the limits of the public highway.

07

#### Traffic Regulation Orders

Depending on the final design of the access, the application may affect the existing TRO on Kirtlington Road. Any required amendments to the existing Traffic Regulation Order shall be completed before the development is brought to use to provide safe access/off-site mitigating works. The developer should note that the Order can be made on behalf of the developer by Nottinghamshire County Council at the expense of the developer. This is a separate legal process, and the Applicant should contact the Highway Authority's Customer Services on 0300 500 8080 for further information and guidance.

08

Nesting birds are protected by the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take any wild bird; take, damage or destroy its nest whilst in use or being built; and/or take or destroy its eggs. Normally it is good practice to avoid work potentially affecting nesting birds during the period 1st March to 31st August in any year, although

birds can nest either side of this period.

09

In relation to Condition 09, the following British Standards should be referred to:

- a) BS: 3882:2015 Specification for topsoil
- b) BS: 3998:2010 Tree work – Recommendations
- c) BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
- d) BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- e) BS: 4043:1989 Recommendations for Transplanting root-balled trees
- f) BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations
- g) BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
- h) BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations
- i) BS: 8601:2013 Specification for subsoil and requirements for use

#### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

# Committee Plan - 22/01298/FUL

