

**Committee Report**

<b>Application No:</b>	<b>DC/16/01262/FUL</b>
<b>Case Officer</b>	<b>Lois Lovely</b>
<b>Date Application Valid</b>	<b>25 November 2016</b>
<b>Applicant</b>	<b>Sim Trava Limited</b>
<b>Site:</b>	<b>482 Durham Road Gateshead NE9 6LQ</b>
<b>Ward:</b>	<b>Low Fell</b>
<b>Proposal:</b>	<b>Change of use of the ground and lower ground floors from a Bank (A2 use) to a coffee shop (mixed use) external seating and amended shopfront (amended 06/01/17, 03/02/17 and 20/02/17 and additional information received 06/02/17 and 20/02/17).</b>
<b>Recommendation:</b>	<b>REFUSE</b>
<b>Application Type</b>	<b>Full Application</b>

**1.0 The Application:****1.1 DESCRIPTION OF THE SITE**

The application property is the former Barclays Bank and car park located on a prominent corner at the signalised junction of Belle Vue Bank and Durham Road within the main commercial thoroughfare of Low Fell District Centre.

1.2 To the front of the building is an adopted footpath and stub end of road that provides access to the car park. There is a steep gradient from this road up into the car park. To the south of the property is a rear lane known as Edmund Place that gives vehicular access to the garages and rear gates of the residential properties on Belle Vue Bank and Belle Vue Grove. Bins are collected from this rear lane on bin collection day. There is a bus lane on the northbound of Durham Road and a traffic island near to the entrance to the stub end and Edmund Place.

1.3 The Bank has been vacant since February 2016.

1.4 The building has two storeys. It appears as single storey when viewed from Durham Road with three openings; a door, a full height window and a smaller window between the other two openings. It is constructed in stone and has a flat roof with a decorative parapet. The two storeys are evident when viewed from Belle Vue Bank where the windows to the basement are located in the retaining wall that supports the car park to the north of the building. The rear elevation of the building is constructed in brick. The western elevation has four large windows facing the garden and dwelling 1A/ 3 Belle Vue Bank. This is a residential property, that was two flats, now converted to a single dwelling. The house and garden sit at a lower level than the application property. The dwelling has a first floor gable end window that is at the level of the car park.

There is an external yard area to the west of the building that has a boundary with 1A/3 Belle Vue Bank. It is accessed by a gate and steps down into the yard from Edmund Place.

- 1.5 To the north on the opposite side of Belle Vue Bank are dwellings and a flat above the estate agency located on the opposite corner. To the south and on the opposite side of Durham Road the properties are commercial in use.
- 1.6 The property is also located within Low Fell Conservation Area, designated in March 1999. The core of the Conservation Area is the triangle bounded by Kells Lane, Durham Road, Cross Keys Lane and Belle Vue Bank/Denewell Avenue.
- 1.7 **DESCRIPTION OF THE PROPOSAL**  
The proposal is to change the use of the ground and lower ground floors from a Bank (A2 use) to a coffee shop (a mixed A1 and A3 use) with external seating located on the former car park area and an amended shopfront.
- 1.8 Coffee shops do not operate as a standard cafés, that would trade under the A3 Use Class alone, as they also function as a A1 retail unit for the purchase of hot and cold beverages and cold / warmed food to consume off the premises. The sale of goods such as coffee beans and other coffee paraphernalia adds to the retail part of the business. The A3 element relates to the drinks and food consumed on the premises.
- 1.9 The proposal includes the blocking up of the southernmost window on the front elevation to match the existing polished granite plinth to the height of the middle window and both windows are proposed to be replaced with grey finished timber frames. A new door is also proposed. An extension to the existing stone wall at the entrance to the car park is proposed to reduce the width of the access to the proposed external seating area.
- 1.10 The existing two window frames on the north elevation are proposed to be painted in grey.
- 1.11 The internal proposed layout of the ground floor includes the coffee making area service counter, seating, toilets and a dishwashing area at the rear of the property using two of the existing windows and a mezzanine floor area in the northwest rear part of the building with the two existing windows on the west elevation. Internally 35 seats are indicated.
- 1.12 Externally, a seating area is proposed that indicates 8 tables with 4 seats each, and two umbrellas 2.5m high 4m x 4m, a total of 32 seats.
- 1.13 The proposed layout of the lower ground floor is as staff toilets and a staff room. Four 1100 litre euro bins are indicated in the car park area concealed by a 1.6m high acoustic fence from Durham Road and by tree planters from the adjacent dwelling.
- 1.14 The hours of opening are proposed as 6.30am to 10pm from Monday to Friday, 7am to 10pm on Saturdays and 8am to 6pm on Sundays and Bank Holidays.

- 1.15 Whilst the Applicant has indicated that commercial cooking extract ventilation is not required, toilet extraction is proposed through vents in the existing windows on the west elevation. Air conditioning is required and details have been provided for a unit in the same location as the existing unit on the rear ground floor.
- 1.16 An advertisement consent application has been received that indicates that the premises would trade as a Costa. The advertisement consent application is being considered separately.
- 1.17 This application is accompanied by a planning statement.
- 1.18 **PLANNING HISTORY**  
A separate advertisement consent application DC/16/01263/ADV for Display of one fascia sign, one projecting sign (both advertising 'Costa' and externally illuminated) has been received.

## **2.0 Consultation Responses:**

None

## **3.0 Representations:**

- 3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) (England) Order 2015. A site notice was posted on 9th December 2016 and a notice in the press was published on 14th December 2016.
- 3.2 Five letters of objection have been received, three from the nearest neighbour the proposal would most affect. In addition a request from Councillor Duggan that this application be considered by Committee has been received. Cllr Duggan neither supports nor objects to the application. The issues raised have been summarised below:
- Loss of privacy,
  - overlooking,
  - noise,
  - disturbance,
  - highway safety,
  - impact on local traders,
  - insufficient car parking,
  - concerns about deliveries,
  - concerns about where bins would be stored and how they would be collected, and
  - loss of light.

#### **4.0 Policies:**

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS7 Retail and Centres

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

ENV7 Development within Conservation Areas

RCL5 District and Local Centres

ENV61 New Noise-Generating Developments

#### **5.0 Assessment of the Proposal:**

5.1 The main planning issues to be considered are the principle of the use, the visual impact on the Conservation Area, highway issues and impact upon residential amenities.

##### **5.2 PRINCIPLE**

Saved UDP policy RCL5a seeks to grant permission for retail and other shopping centre uses where it would maintain and enhance the vitality and viability of the centre. The proposed use is in accord with RCL5a. However, RCL5b requires the use to not result in an unacceptable impact on residential amenity, the local highway network or road safety.

5.3 As amended the proposal includes an acoustic fence to protect the residential amenities of the adjacent dwelling. The highways impacts of the development are considered below. RCL5c seeks the proposal to be compatible with the scale and nature of the centre. The scale of the proposal in terms of the centre would accord with RCL5c.

5.4 Policy CS7 of the Core Strategy and Urban Core Plan (CSUCP) also seeks to maintain and enhance the vitality and viability of defined centres by promoting retail and a range of supporting uses. This development is considered to be appropriate, as its mixed use retail/cafe use within the defined centre would enhance its vitality and viability. Therefore, subject to other material planning considerations the principle of the change of use accords with the National Planning Policy Framework (NPPF) and policy CS7 of the CSUCP, however for

the reasons given below, it is considered to be contrary to Saved UDP policy RCL5b.

#### 5.5 CONSERVATION AREA

The external changes to the exterior of the building include the reduction of the full height window on the front elevation to enable internal fixing of the service counter. The proposal is to continue the existing plinth.

- 5.6 Other changes include the new signage (the subject of an Advertisement Consent application), redecoration of windows and doors, and an external seating area and two large umbrellas.
- 5.7 The guidance within IPA 17 the Low Fell Conservation Area Character appraisal states that any alterations, should respect the original building and its materials. New work should relate to the old in texture, quality and colour as well as form and detailed design. There will be a presumption that shop fronts which are original on their host building or which contribute to the special character of the area should be retained and be repaired if necessary. New shop fronts should respect their host building in scale, design and materials.
- 5.8 Saved UDP policy ENV3 requires the design, density and scale of new development to make a positive contribution to the established character and identity of its locality.' Further Saved UDP policy ENV7 requires that development within Conservation Areas must preserve or enhance the area's special architectural or historic character or appearance.
- 5.9 CSUCP policy CS15 reflects NPPF Paragraph 132 and seeks development that will contribute to good place-making through...the conservation and enhancement of the historic environment. This will be achieved by:... respond[ing] positively to local distinctiveness and character.
- 5.10 Two 4m square Costa Red umbrellas are proposed over the external seating area. The valence of the umbrella has the text "COSTA" in white. At 2.5m in height it is considered that they will not harm the appearance of this prominent corner site. If planning permission were to be forthcoming a condition would be necessary to limit the size of the umbrellas to 2.5m in height and 4sqm as the information submitted indicates the umbrellas Costa use vary from 2.5 to 10sqm, and larger umbrellas in this location would be likely to be harmful to the appearance of the conservation area.
- 5.11 The proposal to reduce the existing southern opening on the primary façade and to fill with materials to match the existing plinth is acceptable as the building would previously have had a window at the scale proposed in this application. If planning permission were to be forthcoming, a condition would be recommended to secure details of materials to be checked on site to ensure an appropriate match with the existing.
- 5.12 The proposed acoustic fence that would divide the existing car park is necessary to protect residential amenities but also screens the bin store area. Tree planters are proposed to screen the acoustic fence and soften the impact

upon the street scene and conservation area. If planning permission were to be forthcoming conditions would be recommended to ensure the acoustic fence be installed and retained without any gaps, a self closing gate and to secure details of the tree planters and a maintenance plan to ensure the trees are maintained. A further condition is considered necessary to ensure the area is kept free from litter.

- 5.13 There is a significant difference in level between the proposed outdoor seating area and the footway/carrageway level along Belle Vue Bank on the northern edge of the site. There is an existing low-level fence in place and it is proposed to repair this fence and add a kick rail to prevent items falling through onto the public footpath below.
- 5.14 The re-use of a prominent empty building in the Low Fell Conservation Area is welcomed. In general, the proposals do not damage the quality or setting of the Conservation Area and are considered to lead to less than substantial harm to the significance of a designated heritage asset. In such instances, the test in paragraph 134 of the NPPF that requires that this harm is weighed against the public benefit of the proposal. It is considered that the re-use of this prominent, vacant building in the Conservation Area gives sufficient public benefits to outweigh the less than substantial harm arising from the development.
- 5.15 Given the above, if planning permission were to be forthcoming subject to conditions, the proposals are considered would be in accordance with NPPF paragraph 134, Saved UDP policies ENV3, ENV7 and CSUCP policy CS15.
- 5.16 HIGHWAYS  
The property was formerly a bank with a small car park attached to its northern side primarily used by staff. The access into this area is substandard due to the access ramp having a very steep gradient over a short distance. In icy conditions the use of this access/car park could be prejudicial to pedestrian safety. The proposal in highway terms to convert this area to external seating is acceptable however the vehicular dropped kerb access must be reinstated as full-height footway and if planning permission were to be forthcoming a condition would be recommended to secure the details and ensure the work is undertaken.
- 5.17 Whilst the absence of parking for the proposed cafe is undesirable, it cannot be ignored that this is a District Centre with two public car parks and excellent access to public transport. There are extensive waiting restrictions in the area to deter and enforce indiscriminate parking.
- 5.18 Secure and weatherproof cycle storage should be provided for staff and customers in accordance with the 'Gateshead Cycling Strategy'. Durham Road is a major transport corridor, often used by cyclists, and so the installation of cycling facilities may compliment the business operation. Fully enclosed, compact metal lockers are the preferred storage solution, however, it has not been possible to find a suitable location for lockers or a shed for customers use that would not have a harmful impact upon the conservation area, thus cycle hoops are proposed and should planning permission be forthcoming a

condition would be recommended to ensure they are provided. Staff cycle storage is proposed within the building on the lower ground floor.

- 5.19 The Applicant initially proposed to make deliveries to the property with a 7.5 tonne HGV utilising the stub end road at the front of the premises and a swept path detail was requested.
- 5.20 The Applicant provided a swept path to demonstrate the delivery vehicle could manoeuvre in the stub end and Edmund Place. When the bank was in operation the bus lane was not implemented, however the Applicant has stated that the manoeuvring of the Costa delivery vehicle into the slip road would not change drastically from deliveries to the bank and the delivery driver would exercise the same caution when crossing in front of the bus lane as any other driver intending to drive down Edmund Place. When the delivery vehicle is exiting the site, it will be in a forward gear thus the driver will have full view of Durham Road and the associated traffic.
- 5.21 Officers do not agree with this statement. The bank was likely to have been serviced by a transit-sized armoured security van whereas Costa use a 7.5tonne HGV. There is no issue with the principle of a lorry pulling off Durham Road (or onto it) in forward gear; however, there is a concern that the lorry will not be able to reverse into Edmund Place.
- 5.22 In addition, the swept-path drawing submitted in support of the application does not accurately reflect the as-built kerb layout nor is the position of the traffic island correct. Edmund Place was measured on the ground at 4.1m as you first enter, whereas the drawing indicates 4.6m thus the rear lane is tighter.
- 5.23 Thus an amended swept-path drawing is required to be submitted to take account of these inaccuracies and also to display the more technical elements of the manoeuvre i.e. the tracking lines of the wheels and, separately, the tracking movements of the vehicle body/overhang so that the overall movement of the vehicle can be accurately appraised. In addition the drawing key must display vehicle dimensions, weight, axle configuration etc. If a suitable swept-path can be demonstrated there will be an update report recommending grant of planning permission, as the Applicant will have satisfactorily demonstrated that the relevant sized delivery vehicle would not be required to reverse onto Durham Road and therefore that highway safety would not be compromised at this busy junction.
- 5.24 Alternatively, if a suitable swept path cannot be demonstrated, the Applicant has suggested that instead of the manoeuvre proposed, the deliveries could be from Durham Road itself. However, any proposal to load/unload via Durham Road is not acceptable due to the presence of the bus lane and proximity of the traffic signals. The nearest loading bay is to the opposite side of the road and 80m further south (outside the Co-operative foodstore) and then it is only available for loading purposes for one hour in the morning and one hour in the late afternoon. In practice, the Costa lorry driver will be tempted to park indiscriminately near to the property or park in Edmund Place and reverse out onto Durham Road, both of which would be unacceptable. The other nearby

units are mostly banks and estate agents that have few delivery requirements other than a bank armoured vehicle (these are typically transit vans that are able to deliver from in front of the proposed Costa shop and which are small enough to reverse into Edmund Place, and then enter Durham Road in forward gear).

- 5.25 Officers consider the main supplier/distributor for Costa will not want to deliver via a loading bay that is some 80m from the building, across a busy A-classified road.
- 5.26 Officers have previously been advised by distributors in similar circumstances that it would go against their health and safety policy to have large and potentially heavy metal roller cages and trolleys wheeled long distances and/or across a main road, up and down tactile paving, dropped kerbs etc.
- 5.27 For the use of the loading bay outside the Co-operative supermarket to be a viable and safe option, written confirmation has been requested from Costa's distributor that the delivery procedure has been audited, particularly in respect of:
- o Size and type of vehicle to be used.
  - o How goods are packaged and distributed (for example, are large metal roller cages used between the lorry and the shop or is everything carried by hand)?
  - o That they are aware of the need to hand-deliver or wheel goods approximately 80m to the shop along the public footway (including crossing a busy A-classified road); that they have safety audited this for both their staff and members of the public and that they are satisfied that no significant risks exist.
  - o Confirmation that they will not deliver immediately in front of the premises or in the side lane of Edmund Place, nor contravene any other highway restrictions in the area.
  - o Acknowledgement that the loading bay is only operational between 7am and 8am and 4pm and 5pm.
- 5.28 However, as submitted insufficient information has been provided to enable consideration of the proposal in terms of how deliveries would be made without being to the detriment of highway safety and therefore it is recommended that planning permission be refused as the development cannot be shown to be in accordance with saved UDP policy RCL5b and CSUCP policy CS13.
- 5.29 The bin storage as proposed is on the existing car park and the 1100 litre euro bins would be brought onto the stub road for collection. Other businesses store bins in the rear lane. To avoid the bins being left in the rear lane and causing an obstruction to access for the residents and businesses who use the lane, if planning permission were to be forthcoming a condition would be recommended to ensure the bins are returned to the storage area following collection. This would ensure there is no detriment to residential amenity contrary to Saved UDP policy DC2 and in accordance with CSUCP policies CS13 and CS14.



- 5.30 Given the above, whilst the proposal is acceptable in all other transport and highway respects (subject to appropriate conditions), the Applicant has failed to provide sufficient information to allow Officers to assess and confirm that the proposed deliveries would not be detrimental to highway safety, as it has not been possible to demonstrate that the development is in accordance with saved UDP policy RCL5b and CSUCP policy CS13.
- 5.31 **RESIDENTIAL AMENITY**  
The trading hours proposed are from 6.30am to 10pm Monday to Friday (and from 7am on Saturday) and 8am to 6pm on Sundays (these could be secured by condition if planning permission was to be granted).
- 5.32 The Applicant has indicated that the nature of this style of coffee shop is such that no primary cooking facilities would be installed as the only food items served within the premises are pre manufactured off site. The only food to be warmed would be paninis on a panini grill behind the servers, that does not require any extraction or ventilation. If planning permission were to be forthcoming a condition would be recommended to restrict the installation of mechanical ventilation and extraction to prevent the installation of cooking facilities that would be likely to give rise to harm to residential amenities through noise and odours.
- 5.33 The external seating area proposed on the existing car park is screened from the nearest residential property by a 1.6m high acoustic fence that would prevent overlooking into the dwelling and its garden and prevent disturbance to residents from any noise that may result thus protecting residential amenity. The Applicant proposes that the external seating area should be available for customers for the same hours that the coffee shop is open. However, it is considered that if planning permission were to be forthcoming a condition restricting the use of the external seating area to 8am to 6pm Monday to Saturday and 9am to 4pm on Sundays and Public Holidays would be recommended to avoid noise and disturbance into the evening. Furthermore a condition would be recommended to ensure the seats are removed from the external seating area and stored.
- 5.34 The four existing rear windows (western elevation) are large and opening. It is proposed to plaster board two of the windows internally where the WC's and dishwashing area are proposed. However the other two windows to the mezzanine seating area could result in noise nuisance from the windows as the top of the windows open, and give the opportunity for overlooking as the windows currently have a low density obscure glazing. If planning permission were to be forthcoming a condition to prevent the opening of these windows and to apply a more dense opaque vinyl to the four windows on the western elevation would be recommended. The details of the air conditioning unit have been provided, however the noise levels provided do not specify the distance at which the levels were measured and as such if planning permission were to be forthcoming a condition is to ensure officers are satisfied that the noise levels of the unit will not be harmful to residential amenities would be recommended.

5.35 If planning permission were to be forthcoming a number of conditions would be recommended to Members relating to

- Restricting bin collection and deliveries to between 7am to 6pm Monday to Friday and 8am to 4pm at weekends to ensure there is no disturbance to residential amenity.
- A restriction on amplified music being played in the external seating area.
- No open storage on the area of former car park, that will be screened by the acoustic barrier, to protect residential amenities of the adjacent property.
- Hours of construction would be recommended to be restricted to between 8am to 5pm on Mondays to Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.

5.36 It is considered that, subject to the conditions described above, the proposal would not have a detrimental impact upon the residential amenities of the area in accordance with Saved UDP policies DC2 and ENV61 and CSUCP policy CS14.

#### 5.37 OTHER MATERIAL CONSIDERATIONS

Objectors have referred to existing locally owned businesses that will go out of business due to the introduction of a national franchise.

5.38 The proposal is in accordance with NPPF paragraph 23 that states Local Planning Authorities should promote competitive town centres that provide customer choice and a diverse retail offer.

#### 5.39 COMMUNITY INFRASTRUCTURE LEVY

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is for commercial related development. The development is located within a charging zone with a levy of £0 per square metre for this type of development.

## 6.0 CONCLUSION

6.1 Taking all the relevant issues into account, it is considered the proposed mixed use is an appropriate use in this District Centre as it would maintain and enhance the vitality and viability of the centre and, subject to appropriate conditions, the development would have an acceptable impact on the Conservation Area and residential amenity.

6.2 However, insufficient information has been received to enable officers to assess the proposal against saved UDP policy RCL5b and CSUCP policy CS13 in terms of the impact of the development on road safety. It is not

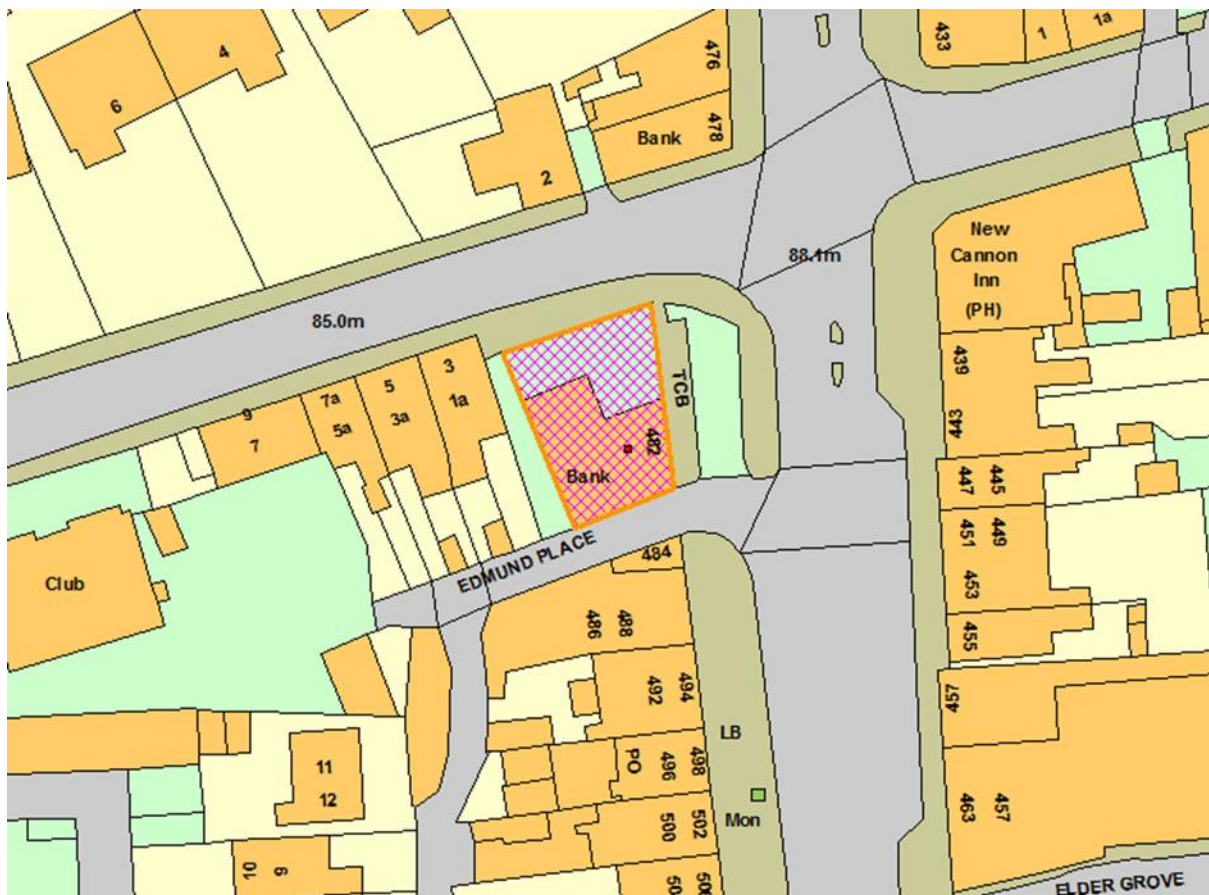
considered that the potential harm to the safety of pedestrians and highway users is outweighed by other material planning considerations and therefore it is recommended that planning permission be refused. Nevertheless, should further information be provided by the Applicant, that then allows officers to properly assess the impact on highway safety, Members will be advised of this in an Update Report where, potentially, a recommendation to grant planning permission may be able to be forthcoming.

## 7.0 Recommendation:

That permission be REFUSED for the following reason(s):

1

The application does not contain adequate information in relation to the safe accommodation and operation of deliveries to the premises, to enable the Local Planning Authority to properly consider the impact of deliveries to this site on highway safety. The proposal would be contrary to saved Unitary Development Plan Policy RCL5b and Core Strategy and Urban Core Plan Policy CS13 in that there is inadequate information available regarding the impacts on the development to demonstrate compliance with these policies.



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