

Item 7
HW/FUL/18/00553
Unit 1A Queensgate, Harlow

Correspondence:

A further comment has been received in relation to the Officer Report from a representative on behalf of Tesco . This states that due to the breach of part of policy PR10 criteria (b), planning permission must be refused. As this is a fundamental breach of development plan policy and can not be balanced against other development plan policies or outweighed by material considerations whether national or local in nature.

Officer Comments:

Officers agree that the proposal would not meet one part of one out of three criteria identified by Policy PR10 for development in a retail park.

The Committee Report considers the breach and material considerations and why the latter must be taken into account where policy may otherwise suggest that a scheme could be refused.

A further comment has been received in relation to the Officer Report from a representative on behalf of the applicants as follows:

“The latest objection on behalf of Tesco does not raise any new or different issues that your Officers have not already addressed in the Report. Your Officer’s Report recognizes that the proposals are not in accordance with the development plan because of the breach of policy PR10, para b). However, this does not mean that the application must be refused as Tesco’s representative has suggested. To suggest this is the case is contrary to the statutory duties of the Council as local planning authority under the relevant legislation (reinforced by case law (including the case referenced by Tesco’s representative)) which require the Council to have regard to other material considerations as well as the development plan. In this instance the Council has recognised the breach of policy PR10 para b) and viewed this in the context of other development plan policies before deciding that the proposals are not wholly in accordance with the development plan. Having reached this conclusion, your Officers have gone on to performed the section 38(6) duty (including looking at all other material considerations) before exercising its judgement. In doing so, the Council is entitled to look at any harm caused by breach of the policy and other harm and weigh that up against the benefits of the proposals (and as part of that, instances where the application accords with policy). Your Officers have carried out that exercise in their Report.”

Officer Comments:

No changes required