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By email

Your Ref: DC/21/0427/FUL

Dear Ms Hall

APPRAISAL OF RETAIL ASSESSMENT IN SUPPORT OF A PLANNING PERMISSION FOR THE CHANGE OF USE FROM GYM TO RETAIL (CLASS E), SPORTS DIRECT FITNESS, EASTLEA ROAD, BURY ST EDMUNDS IP32 7BY

1. Lambert Smith Hampton ('LSH') was instructed by West Suffolk District Council ('the Council') in September 2021 to provide independent advice on the retail planning (sequential and impact) merits of the application submitted by Wilson Wright in March 2021 on behalf of K/S Cratfield (the 'applicant').
2. The planning application seeks the change of use to the unit and site that is currently occupied by Sports Direct Gym on Easlea Road, Bury St Edmunds. The site is restricted to leisure use (former Use Class D2) in accordance with Condition 2 of the original planning consent (planning application reference SE/00/2145/P). The change of use sought is for unrestricted Class E (Retail).

THE PROPOSAL

3. The unit has a gross internal floor area of 1,667 sqm and no development is proposed as part of this application. The change of use is intended to facilitate the reoccupation of the unit by one of three different types of retail formats as summarised in para. 1.6 of the RIA:

“Scenario A) a discount foodstore (predominantly convenience with limited general comparison goods)

Scenario B) a general mid-sized supermarket (predominantly convenience with limited general comparison goods)

Scenario C) a non-food discounter (predominantly a mix of general and bulky comparison goods with some convenience)”

4. In retail planning policy terms, the change of use will create new retail floorspace at an out of centre location. Therefore, the proposal must satisfy the provisions of national and development plan policy on out of centre retail development, which in summary requires the sequential and impact tests to be addressed.

5. Whilst the applicant disputes the need to satisfy the sequential and impact tests, these have been assessed and presented in a 'Retail Impact Assessment & Sequential Test' ('RIA') prepared by Hargest Planning Ltd ('HPL'). The RIA considers the three retail format scenarios set out above. However, the RIA does not consider the impact of an unrestricted retail use.
6. This appraisal focuses on the outputs of the RIA and considers whether the sequential and impact tests have been robustly assessed.
7. We do not consider other planning aspects relating to the scheme such as design, transport, environment or other considerations.

THE SEQUENTIAL TEST

Policy & Interpretation

8. HPL provide an overview of national and development plan sequential test policy across paragraphs 4.1 to 4.8. Looking first at development plan policy, the requirement to satisfy the sequential test is set out in Policy CS10 of the St Edmundsbury Local Development Framework Core Strategy (2010), Policy DM35 of the West Suffolk Joint Development Management Policies Document (2015) and Policy BV17 of the Bury St Edmunds Vision 2031 (2014) document. These policies support the standard sequential test principle that proposals for main town centre uses that are not in a defined centre should first demonstrate that there are no suitable, viable and available sites in defined centres or edge of centre locations.
9. The development plan policies reflect the provisions for the sequential test in the National Planning Policy Framework (NPPF). Paragraph 86 of the updated (NPPF) states that applications for main town centre uses should be located in town centres first: "*...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*". Paragraph 87 states that "*when considering edge and out of centre proposals preference should be given to accessible sites which are well connected to the town centre, and 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*".
10. Therefore, only if suitable sites in town centres or edge of centre locations are not available (or expected to become available within a reasonable period) should out-of-centre sites be considered. When considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of the potentially suitable town or edge of centre sites should be taken into account.
11. The NPPF is supplemented by further guidance on the application of the sequential approach is set out within the Planning Practice Guidance (PPG), which is referred to by HPL. A 'checklist' for the application of the sequential test is set out in Paragraph 010 of the PPG, including the following considerations.
 - With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered?
 - Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.
 - Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what

contribution more central sites are able to make individually to accommodate the proposal.

12. If there are no suitable sequentially preferable locations, the sequential test is passed.
13. Notwithstanding this additional guidance, recent case law and call-in decisions have also been instructive in providing greater clarity as to how the requirement for 'flexibility' should be applied in practice.
14. There have been many appeal decisions and judgements that have provided different interpretations of the sequential test, particularly regarding the issue of flexibility in format and scale, and the **suitability and availability** of alternative sites. HPL make reference to a number of high profile cases. The first is the *Lidl UK GmbH v North Ayrshire Council and Scottish Ministers* case from 2006 which HPL provide an overview on in paras 4.13 and 4.14 of the RIA. The key interpretation of the sequential test that came from this case that HPL seek to highlight is that the suitability of an alternative site should be based on whether or not the proposed development can fit within the suggested alternative site, rather than assessing how the proposal could be altered to fit within an alternative site. This leads to the second of case prominent cases highlighted by HPL, the judgement from the Supreme Court case of *Tesco Stores Ltd v Dundee City Council* (2012). This often quoted case is highlighted to support the same interpretation of the sequential test highlighted in respect to the *Lidl UK GmbH v North Ayrshire Council and Scottish Ministers* case.
15. The understanding of 'suitability' was considered by the Inspector in the conclusions to the reached on the granting of planning permission for the retail development at Rushden Lakes¹ to the Secretary of State. The concluded that it was reasonable when assessing 'flexibility' to consider: *"...flexibility in a business model, use of multi-level stores, flexible car parking requirements or arrangements, innovative servicing solutions and a willingness to depart from standard formats"* (para 8.49). The Court also held in the Dundee decision that when it comes to flexibility, local planning authorities are expected to consider different built forms and the sub-division of large proposals:

"As part of such an approach, they are expected to consider the scope for accommodating the proposed development in a different built form, and where appropriate adjusting or sub-dividing large proposals in order that their scale may fit better within existing developments in the town centre" (para 28).
16. At the same time, we must acknowledge paragraph 61 of the North Lincolnshire Council Judgement² where it states that it is *"...important to mark that developers, and planning authorities, work in the real world."* This case is highlighted by HPL, who focus on the presiding judge's conclusion that an alternative site was not suitable on the basis that the site could not support the scheme as proposed and that to reduce the size of the scheme was *"neither commercially viable nor suitable for their commercial requirements"*. However, it is doubtful that the judge's comments are meant to preclude an applicant from demonstrating flexibility in format and scale.
17. The need to apply a good degree of flexibility on a case-by-case basis is supported by the Exeter decision³, where in June 2016 the Secretary of State agreed with the Inspector's conclusion and refused the application for a mixed use development. This case came after the

¹ Appeal ref: APP/G2815/V/12/2190175)

² R (Zurich Assurance Limited) v North Lincolnshire Council [2012] EWHC 3708 (Admin)

³ Appeal ref: APP/Y1110/W/15/3005333)

2012 North Lincolnshire Council Judgement. In the Exeter decision the appellant had acknowledged that although an alternative edge-of-centre site could accommodate the quantum of retail floorspace proposed, it would necessitate a reconfiguration of the proposed floorspace. Furthermore, the appellant in this case stated that the alternative site could not accommodate the proposed access road, parking areas or the drive-through aspect of the proposed restaurants. In his conclusions the Inspector found that the configuration of floorspace needed "*would be no more than showing reasonable flexibility*" (para 11.32). He also concluded that it would be "*unreasonable*" to insist on the same requirement for parking and access in a town centre, as the town has ample parking, service roads and excellent links to public transport (para 11.33).

18. In terms of availability, para 86 of the 2018 NPPF update introduced the words "*or expected to become available within a reasonable time period*" which has carried through in subsequent revisions of the NPPF. A reasonable time period was recently been considered in the Secretary of State's decision in respect of the proposed Mall at Cribbs Causeway⁴. In the decision the SoS confirmed (paragraph 19) that "*what would be reasonable and appropriate will depend on the particular circumstances of the sequential site and the proposal that it is expected to accommodate*".
19. We must also refer to the 'Mansfield' Judgment⁵, which related to a developer led scheme with Aldi as the named operator. In this case, the Judgment states that the identity of an applicant is not "*generally*" relevant but acknowledges also that "*there are instances where identity may matter*". This has particular relevance to this CoU application and the complexities raised with applying the sequential test to three different retail format options.
20. Based on their interpretation of relevant policy, case law and planning appeals, HLP set out three principles for assessing the sequential test. The first two align with standard provisions for the sequential test that are covered in development plan and national policy while the third makes particular note of the town centre boundary for Bury St Edmunds as defined in the Bury Vision 2015 proposals map. Here HPL highlight that consideration needs to be given on how edge of centre is defined, which they cover in paras 4.2 to 4.6 of the RIA. HPL refer to the NPPF's definition of edge of centre sites being within 300 metres of the Primary Shopping Area (PSA), but that this applies to all centres irrespective of their size. The main point that HLP seeks to make is that a 300m distance for a city centre is different to a smaller centre, and that a smaller distance of 200-250m would be more appropriate for a town the size of Bury St Edmunds. In addition, HPL argue that distances should also take account of physical barriers that influence the connection of an edge of centre site to the PSA, such as those highlighted in the accompanying bullet points to para 4.4.
21. Turning to out of centre sites, which HPL accept is the correct designation for the application site, they highlight that under Policy DM35 there is no need to compare alternative out of centre sites. It appears that this is the correct interpretation based on the wording of the policy. Therefore, HLP has assessed sites with priority made to those in Bury St Edmunds, followed by edge of centre sites to Bury St Edmunds, and lastly out of centre locations, but with the latter category only relating to the application site.
22. In considering the interpretation of the sequential test we have taken account of the three end user scenarios and how HLP has considered flexibility and format in scale in their assessment

⁴ Appeal ref: APP/P0119/V/17/3170627)

⁵ Aldergate v Mansfield District Council & Anor [2016] EWHC 1670 (Admin)

of alternative sites. It is also important to note that the applicant is seeking unrestricted Class E retail use. However HLP's approach to assessing the sequential test (and impact test) is based on the three particular retail formats and end users as described throughout the RIA. Given the parameters of the sequential test that the HPL has restricted their assessment to (i.e. one of three retail formats) then the Council should be reminded that the sequential assessment is only valid against these three formats. It does not support an unrestricted speculative Class E retail format.

Parameters for Assessment

23. HLP provide an overview in paras 4.12 to 4.19 of the RIA of the operational requirements of the broad types of retailers that fall within the three tested retail formats options, which has informed their approach to demonstrating flexibility in format and scale.
24. The following summarises the key considerations and our response:

Option A: Discount Foodstore

25. Formats are influenced by the need to maintain low operational costs to allow for low prices for goods, service arrangements to allow for an articulated vehicle, increased net to gross ratio to allow for improvements to staff accommodation (compared to previous formats).
26. HLP state that the "*practical minimum size for a viable store that would carry the range of goods necessary to draw trade would need to be at least 1,500 sqm GFA with a net sales area significantly greater than 1,000 sqm*". They go on to say that only in exceptional cases would this minimum threshold be considered. A review is provided on the optimum size of a store and comparisons are made to recently opened LADs in Haverhill which provide accommodation ranging from 1,816 sqm to 2,371 sqm.
 - HLP conclude that a viable store requires the following:
 - A building greater than 1,500 sqm GIA and supporting a net sales area greater than 1,000 sqm
 - Internal layouts that accommodate transfer of goods to shop sales floor via pallet trucks
 - Dedicated and easily accessible off street parking that can accommodate shopping trolleys
 - A minimum site area of 0.65 ha.
27. It should be noted that both Aldi and Lidl have published requirements that set out the minimum store size and site area for new store opportunities. For Lidl, the company's published requirements seek a minimum store size and site area of 1,300 sqm (14,000 sqft) and 0.607 ha. In Aldi's case, the minimum store size and site area required for new stores outside of London is 1,672 sqm (18,000 sqft) and 0.607 (1.5 acres). The minimum site area quoted by HPL is not far off the minimum site area cited in Lidl and Aldi's published requirements. However, we question how HPL can defend a minimum store area of 1,500 sqm GIA when Lidl are happy to consider smaller units of 1,300 sqm GIA. Therefore, in our view the minimum floor area quoted by Lidl should be applied in demonstrating flexibility in format and scale for Option A.
28. It is accepted that dedicated parking or shared adjacent parking is a genuine requirement for the operation of a discount foodstore that serves a trolley shop function, but should not preclude town centres where safe and convenient access to parking for customers making bulk shopping purchases is available. There are many examples of supermarkets that are supported by adjacent public car parks.

29. We agree that configuration of a prospective site for a discount foodstore needs to be able to accommodate a standard format store, albeit a minimum unit size of **1,300 sqm GIA**.

Option B: Mid-Sized Foodstore

30. HPL refer to three examples of mid-sized foodstores operated by mainstream grocers and their trading characteristics and unit size and site parameters, which they rely on to demonstrate flexibility in format and scale. Tesco Metro (albeit this format is to be phased out), M&S Foodhall, and Co-op supermarkets are considered the most comparable formats to what HPL state could be supported within the existing unit under Scenario B.
31. HPL set out the requirements of these three retailers and their comparable formats in para 4.15 of the RIA. The conclusion is that for a mid-sized foodstore to operate viably it requires a minimum store size of circa 1,600 sqm to 1,700 sqm GIA and a minimum site area of 0.65 ha, which is broadly in line with what HPL identified for Scenario A.
32. A review of store requirements for the three retailers is less clear cut than those considered under Option A. For example, M&S have published requirements for new Foodhall formats, which state a minimum store size of 1,442 sqm GIA (15,000 sqft) on sites with a minimum area of 0.809 ha (2 acres). Tesco have a similar store size requirement for their supermarkets as published on their website⁶.
33. Co-op's store portfolio is based on a franchise model and franchise opportunities are assessed based on the catchment potential of a candidate site, locational benefits, as well as store size, and access and parking. According to franchise criteria published on Co-op's website, sites are required to have good visibility on a main route with the potential of picking up the main traffic flows. Whilst store sales area requirements are typically between 196 sqm to 282 sqm (2,500 to 3,000sq ft), consideration will be given to larger stores that can provide 1,115 sqm (12,000 sqft) of sales area in unique locations. It is noted that back of house can extend up to 93 sqm (1,000 sqft) if an in store bakery is provided, which would increase the store size GIA to circa 1,208 sqm, This falls well below the 1,600 sqm minimum floor area applied by HPL.
34. It is accepted that some dedicated parking or shared adjacent parking is a requirement for many mid-sized mainstream supermarkets although it should not preclude town centres where safe and convenient access to parking is available for customers making bulk shopping purchases.
35. In summary, we consider that HPL has not sufficiently demonstrated flexibility in format and scale for Option B. A lower figure of circa **1,300 sqm** would be appropriate if the potential for a mid-sized supermarket is to be seriously considered. It is accepted that some accessible parking would be required but that alternative sites where nearby parking is available and can be safely accessed (e.g. town centre sites adjacent to car parks)

Option C: Non-Food Discounter

36. HPL highlight two different formats for non-food discounters in para. 4.17 of their RIA. The first being smaller formats that are found within town centres and some retail parks and the second type are the larger formats that often have ancillary garden centres. The latter is what could be accommodated on the application site. In identifying site requirements for a larger format non-food discounter HPL rely on the requirements for three of the UK's leading non-food

⁶ <https://www.tescopl.com/contacts/tesco-property/>

discounter brands – B&M, Home Bargains, and The Range. Based on the requirements quoted in the accompanying bullet points to para. 4.17 HPL conclude that in order to operate viability a non-food discounter (in line with the three brands assessed) would require a minimum unit size of circa 1,750 sqm on a site of 0.7 ha.

37. We note from published data that The Range is seeking units in excess of 1,858 sqm (20,000 sqft) at retail park locations⁷. As far as we are aware, The Range does not have requirements for a second store in Bury St Edmunds, particularly given that a new store and garden centre opened at Haldo House on Western Way in March 2018. According to Home Bargains' website, the retailer has a minimum store size requirement of 1,394 sqm (15,000 sqft) or will consider development sites of at least 0.607 ha (1.5 acres). It should be noted that Home Bargains are currently trading within St Edmundsbury Retail Park from a unit that provides 1,140 sqm in ground floor accommodation. There is no published information on B&M, but according to feedback from LSH retail agents, the retailer is seeking minimum store sizes of 1,858 sqm at retail park locations. However, it is unlikely that the unit would be occupied by B&M given that the retailer opened their store on Western Way in November 2021.
38. Three retailers relied on by HPL to inform their sequential assessment for Option C are already trading in Bury St Edmunds, of which two have recently opened new stores. Therefore, less weight can be placed on the parameters used to inform the flexibility in format and scale. There is no reason why a smaller floor area could not be considered for another non-food discounter format operator (either a branded operator, of which there are others, or an independent operator) or whether there is a genuine need to support an ancillary garden centre.
39. It is accepted that dedicated parking or shared adjacent parking is a genuine requirement for non-food discount retailers, but where their product range includes bulky goods. Otherwise, there are many examples of non-food discounters that do not sell bulky goods that trade successfully from retail pitches that do not benefit from dedicated/ adjacent parking (such as those located on high streets and within shopping centres).

Summary on Parameters for Assessment

40. HPL summarise the minimum requirements that will apply to the sites appraisal in paragraph 4.19 of their RIA, which states that candidate sites must be able to accommodate a unit size of circa 1,500 sqm for a discount foodstore, but larger for other format options, have direct access to free surface level parking, a clear and level floorplate for the direct delivery of goods and a minimum site area for development of 0.65 ha.
41. Whilst we broadly agree with the minimum site area for development for Options A and B, we consider that HPL has not fully demonstrated a reasonable level of flexibility in respect to scale in their consideration of potential alternative sites for the three options. Smaller unit sizes than 1,500 sqm could be supported for Option A and B based on published requirements for the comparable retailers that are cited. For Option C in particular, we question the reliance on site requirements quoted for the three retailers given that it is highly unlikely that two of these retailers would occupy the application site. It must also be remembered that there are other non-food discounters, be they other branded operators or independents that could operate from smaller stores and sites.

⁷ <https://www.therange.co.uk/property/>

Sites Assessment

42. HPL has confined their area of search sites within and to the edge of Bury St Edmunds and the sites for consideration have been agreed with the Council's officers.
43. Firstly, HPL consider the potential to accommodate the three retail formats within vacant units in the town centre's shopping streets. A list of units on the market at the time of the assessment is provided in Table 4.1. The largest unit listed measures 520 sqm gross (59 Abbeygate Street). There do not appear to be any adjoining units that could be amalgamated to provide a minimum floor area for a discount foodstore or a mid-sized supermarket.
44. Looking beyond the town's key shopping streets, HPL has considered other vacant units and development sites that site within and on the edge of the Primary Shopping Area:

Robert Boby Way

45. A review of the suitability and availability of the vacant unit adjoining TK Maxx at Robert Boby Way has been undertaken. The unit is discounted by HPL on the basis that it is too small to support the three development options. The unit measures 1,208 sqm, which is just below the minimum threshold that we consider appropriate for Option A and B. However, it could support a non-food discounter. Whilst HPL have identified the unit as being available, the acting agent for the site has confirmed that the unit has now been let to a gym operator. This coincided with planning permission in July 2021 to support the change of use (planning ref: DC/21/0936/FUL).
46. Therefore, whilst we consider that the vacant unit could potentially support Option C the unit is no longer available and can be discounted.

29 Buttermarket

47. The former Argos unit is located between Buttermarket and High Baxter Street. The unit provides 1,265 sqm of retail accommodation, but spread over four floors. The ground floor measures 374 sqm. We agree with HPL's position that the unit is not suitable on the basis of the accommodation arrangement. It is also noted that the unit was identified as available by HPL but we can confirm that the unit is now let. Therefore, the unit can be discounted.

Cornhill Centre, Cornhill Walk

48. The former shopping centre has been vacant for some time and has recently been subject to a planning application to redevelop the site for residential use. Commercial ground floor uses were proposed providing 1,541 sqm of commercial floorspace. As HPL highlight, the planning application was refused planning permission by the Council and subsequently dismissed at appeal on grounds of impact on the character of the Conservation Area and nearby residential dwellings.
49. No comment is made by HPL on the suitability of the site to support the three retail formats. Instead, HPL dismiss the availability of the site on the basis there is uncertainty about the owners' intentions for the site. We broadly agree as any future proposal is likely to be for a full redevelopment of the site rather than the potential to bring forward a single retail unit. Whilst it is for the applicant/ HPL to make enquiries with the site owner on availability we understand that any new scheme coming forward is likely to be residential led. There could be potential to support a discount food retailer or mid-size supermarket at ground floor subject to meeting servicing requirements. However, given that the availability of the site is dependent on a third party bringing forward proposals for a mixed use scheme and the uncertainty of when

proposals will come forward, it is reasonable to discount the site as being unavailable within a reasonable time period.

Land at Tayfen Road

50. The site is allocated in the Local Plan for development including for retail use. The majority of the site is coming forward for residential development, which is currently in progress. The remaining area of land that is not subject to development measures 1.05 ha, which HPL highlight as irregular in shape and is affected in part by a pipeline easement.
51. The undeveloped area of land was being marketed, but according to HPL it is no longer being actively marketed by a property agent; instead being promoted directly by the site owner, National Grid. HPL's conclusion is that the site is not available to new purchasers but that expressions of interest may be submitted by a since expired deadline (June 2021). There is no indication that HPL have contacted National Grid about the availability of the site. We have sought confirmation from BNP Paribas, agents for National Grid, who have confirmed that the site is being progressed to sale. Therefore, at the current time NG are not marketing the site and are not considering other offers. As such, the site is not available.
52. In terms of the site's suitability, HPL highlight a number of development constraints associated with the former use of the site and its topography including contamination and flood risk.
53. BNP Paribas has confirmed that the NG are undertaking remediation works that would allow the site to operate as open storage and any further remediation works to support other uses would be the responsibility of the purchaser. They confirmed that remediation works would only be needed to the area of the site that is developed, such as where underground work is required (e.g. piles). Given that NG are covering a significant amount of the remediation work we consider that development of the site could still be viable for a retail scheme.
54. With regards to flood risk, part of the site is falls within Flood Risk Zones 1 and 2. HPL highlight that development is discouraged from flood risk areas, which follows its own flood risk sequential test for sites. In order to avoid development in Flood Risk Zone 2, this would reduce the area of land for development to 0.65 ha. According to HPL, whilst this area would meet the minimum site area for Option 1 and 2, it would not support the minimum site area for Option 3. Given that we have questioned the parameters used to inform the sequential assessment of Option 3, we do not consider that there is sufficient justification to discount the site on grounds of flood risk.
55. In summary, while we consider that the site is suitable in potentially supporting the three development options, the site is no longer available and can be discounted.

Summary on Sequential Assessment

56. The assessment of sites was based on the potential to accommodate three different retail development scenarios, but subject to demonstrating flexibility in format and scale. We have questioned whether HPL has adequately demonstrated flexibility in format in scale for each development option. For Option 1 and 2, we consider that a smaller unit size should be considered, which correlates to the minimum size of unit sought by the retailers they rely upon to inform their assessment parameters.
57. For Option 3, HPL has relied on the operational requirements of retailers that are already trading in Bury St Edmunds, two of which opened recently, and the third is trading from a unit smaller than what is proposed. Therefore, we do not consider that flexibility in format and scale has been robustly demonstrated for Option 3.

58. Turning to the assessment of sites, it is accepted that there are no suitable or available vacant units in the town centre that could accommodate the three development options even taking account of our reservations of HPL's assessment of Option 3. The largest available unit in the town centre measures just 520 sqm and other units that were subject to further assessment are no longer available to the market.
59. Two development sites have been considered. It is accepted that there is uncertainty on when a new scheme will be submitted for Cornhill Shopping Centre, which is expected to be residential led. Any potential to bring forward retail uses at ground floor will be dependent on the site owner and as such, it is accepted that that site may not be available within a reasonable time period. The second development site considered is at Tayfen Road and whilst we consider that the area of the site outwith Flood Risk Zone 2 is large enough to support the three development options and that remediation costs are largely covered by the site owner, the site is being progressed to sale and can be confirmed as no longer available.
60. Therefore, we consider that the sequential test has been passed in line with paragraph 86 of the NPPF and Policy CS10 of the St Edmundsbury Local Development Framework Core Strategy (2010), Policy DM35 of the West Suffolk Joint Development Management Policies Document (2015), and Policy BV17 of the Bury St Edmunds Vision 2031 (2014) document.

RETAIL IMPACT ASSESSMENT

61. HPL's assessment of the 'solus' impact of the three proposed retail development options is set out in Section 2 of their RIA, although key assumptions that have informed the impact assessment are covered first in Section 1. The assessment considers impact on Bury St Edmunds Town Centre, St Edmundsbury Retail Park, and The Bartons Retail Park. Our appraisal only considers HPL's assessment of impact on Bury St Edmunds Town Centre.
62. Our review and appraisal has been carried out in accordance with the main policies and provisions of the recently revised NPPF (paragraphs 89-90), relevant local plan policies and other material considerations. Paragraph 90 of the NPPF is clear that where an application is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.
63. The PPG is an important material consideration in this case as it helpfully provides clarification on the interpretation and implementation of impact (paras 014-018) and a checklist for applying the impact test (para 018).
64. The following first sets out our review of HPL's impact approach and our appraisal of the potential impact of the proposed development on in-centre trade/turnover. We then consider the implications for the vitality and viability of Bury St Edmunds Town Centre, including the impact on existing, committed and planned investment. Finally we consider whether the 'cumulative' impacts have been properly assessed and if not, how this may affect the overall impact conclusions.
65. HPL's assessment of the 'solus' impact of the proposed retail development on the trade/turnover performance of existing centres and stores within its defined catchment is necessarily based on a series of assumptions and judgements on their part. The following summarises our review and comments on the robustness of some of these key inputs to their economic impact assessment.

Evidence Base & Catchment Areas

66. HPL have relied on evidence from the St Edmundsbury Retail and Leisure Study 2016 ('2016 Study') to inform the catchment and market share data. We appreciate that the 2016 Study is the most up to date evidence base available to the public. The only issue with relying on the study evidence is that there have been considerable changes in the retail and leisure markets since the study was completed, particularly in the last two years as a result of the COVID-19 pandemic.
67. Therefore, we would expect HPL to adjust forecasts on expenditure to take account of higher rates of online expenditure and adjust online market share at forecast years. **Further clarity is needed from on HPL on how market shares identified in the 2016 Study have been adjusted at the base (2021) and design year (2023).**
68. In addition, we would expect HPL to take account of new store openings and major store closures that are likely to have impacted on market shares for Bury St Edmunds. New store openings include The Range, B&M, and an extension to Glasswells. HPL stated that Table 2.2 (Floorspace and Turnover in 2021 and 2023) has been adjusted to take account of these stores openings. **Further clarity is need on how market shares have been adjusted to take account of trade diversion from other stores. In addition, HPL should confirm whether Bury St Edmunds comparison goods turnover has been adjusted to take account of the closure of Debenhams and other anchor high street stores (e.g. TopShop / TopMan).**
69. In identifying the catchment area for the proposed foodstore development options (Scenario A and B) HPL highlight how the 2016 Study market shares for convenience goods expenditure shows that the majority of expenditure in Zones 1 to 3 are retained in by supermarkets in these zones.
- 70.
71. For Scenario C, HPL has relied on the market share data to highlight how comparison goods expenditure turnover for stores in Bury St Edmunds and the retail parks is mainly drawn from Zones 1 to 3.
72. HPL conclude that as the application site is located close to St Edmundsbury Retail Park that the Scenario C operator would have a similar catchment. This is would not necessarily be the case given the differences in retail offer. However, we accept that the market share evidence indicates that comparable non-food discounters are drawing most of their trade from Zones 1 and 3.
73. In summary, we accept that Zones 1 to 3 is an acceptable catchment area for assessing impact of the three development scenarios, but only against the formats described for each scenario. However, the catchment cannot be used to support a retail format without any restrictions on the sale of retail goods.

Base, Design & Forecast Years

74. HPL have adopted a base year of 2021 and a design (assessment) year of 2023. This would result in one year to implement the consent and one year to achieve a settled pattern of trading. We would normally advise on an 18 month period to achieve a settled period of trading. However, in this case we will accept a 12 month period.

Proposal Turnover

75. The forecast turnover for the three retail format scenarios is set out in Tables 2.4A, 2.4B and 2.4C of the RIA. The turnover of each scenario is based on the average turnover of identified comparable stores, which were highlighted before as part of the sequential assessment. A summary is provided below on turnover assumptions:
- **Scenario A** – a sales density of £11,219 p/sqm has been applied to both convenience and comparison floorspace at 2023, which generates a total turnover of £13.09m. The sales density is based on company averages for LADS (i.e. Lidl and Aldi).
 - **Scenario B** – a sales density of £11,816 p/sqm is applied to convenience floorspace in 2023 and £7,680 p/sqm to comparison goods floorspace, which is informed by company averages for Co-op, M&S Foodhalls and Tesco. The Tesco sales density appears to relate to the average for their superstore formats. This generates a total turnover of £10.98m in 2023.
 - **Scenario C** – a sales density of £4,213 p/sqm has been applied to both convenience and comparison floorspace at 2023, which generates a total turnover of £5.27m. The sales density is based on company averages for B&M, Home Bargains, Poundland, and Wilko. It is noted that company averages are not published in Mintel Retail Rankings for Poundstretcher and The Range, but we would expect these stores to achieve similar trading levels to Poundland and Wilko, respectively.
76. HPL has not provided estimates for the 2021 base year sale density and instead has only quoted the design year figure. It appears that the same rate of productivity growth has been applied to both convenience and comparison turnover. There are considerable differences in productivity growth between the two retail types, which should be accounted for.
77. At this stage, we are unable to verify the productivity rate that has been applied and at this stage we cannot confirm that HPL has appropriately assessed the turnover of the proposed scheme. Therefore, **we request that HPL provide more clarity on the base year sales density figures and review forecast turnover to take account of differences in growth for convenience and comparison goods.**
78. When reviewing forecast turnover we advise that productivity growth rates are applied to the base year sales density rate and separately for convenience goods and comparison goods. We defer to the latest Experian Business Strategies Retail Planning Briefing Note (No.18, published in October 2021) for the most up to date forecasts.

Trade Diversion and Impact

79. We have reviewed the trade draw and trade diversion assumptions that inform impact for the three development scenarios.

Scenario A

80. Trade diversion assumptions for Scenario A are set out in Table 2.5A of the RIA. We note the principles that have informed HPL's assumptions on the distribution of trade diversion of Scenario A convenience goods and comparison goods turnover, which are explained in para.2.24.
81. We agree that under this scenario that turnover will mainly be diverted from edge and out of centre supermarkets and superstores (80%) that have a main food and top-up function. Although, we consider that within this, trade diversion would be substantially higher than what is quoted for Aldi and less than what is quoted for Sainsbury's. However, overall, we do not dispute the aggregated trade diversion estimate for 'Other Major Foodstores'. HPL has assumed that 16% of the proposed store's turnover would be drawn from Bury St Edmunds,

which we consider a reasonable estimate given the profile of convenience turnover in the town centre.

82. It is noted that HPL has assumed that comparison goods turnover would mainly be drawn from Bury St Edmunds (75%) and to a lesser degree the supermarkets and superstores (6.5%). This is an acceptable position, although we would expect a greater potential to draw trade for like for like comparison goods products from other supermarkets, particularly Aldi.
83. The resulting impact of the proposed Scenario A development option on the convenience and comparison goods turnover of Bury St Edmunds (The Arc, Robert Boby RP and the remainder of the City Centre) is set out in para. 2.31 of the RIA with the economic assessment provided in Table 2.6B, but only for total retail turnover. For transparency, HPL should have provided the economic tables for impact on convenience and comparison goods.
84. Using the data in Table 2.5A we have estimated impact by retail type. Trade diversion from the town centre would have an impact of **-4.3%** on convenience goods turnover and an impact of **-0.6%** on comparison goods. Combined, Scenario A would have an impact of **-1.1%** on Bury St Edmunds total retail turnover.

Scenario B

85. Trade diversion assumptions for Scenario B are set out in Table 2.5B of the RIA. HPL have applied the same principles to their assumptions on trade diversion that informed Scenario A.
86. There are differences in the distribution of trade diversion between Scenario A and Scenario B, which is to be expected given the variances in trading characteristics and retail offer. HPL have assumed that over a fifth (21.5%) of Scenario B's convenience goods turnover would be diverted from stores in Bury St Edmunds, particularly Waitrose (15%) at Robert Boby Retail Park. Whilst this may be the case if the store is occupied by Co-op or Tesco, we would expect a higher level of trade diversion if the store is occupied by an M&S Foodhall. This has not been taken into account by HPL and highlights the difficulty in assessing trade diversion for a speculative scheme.
87. Further still, M&S operate a Foodhall within their department store on Buttermarket. M&S attracts brand loyalty with customers and if the application site was occupied by an M&S Foodhall we would expect a significantly higher level of trade diversion from the town centre. There is also the potential that the existing M&S Foodhall in Bury St Edmunds would close, which would follow a similar pattern of store relocations from town centre sites undertaken by M&S in recent years.
88. Looking beyond Bury St Edmunds Town Centre, HPL have assumed that over three quarters (76%) of Scenario B's convenience goods turnover would be diverted from 'Other Major Foodstores', particularly from Sainsbury's and Tesco. These estimates would be acceptable if the store is occupied by Tesco, Co-op or any other mainstream grocer that is not currently trading in Bury St Edmunds Town Centre. However, if the store was occupied by M&S then trade diversion would be lower from 'Other Major Foodstores' listed to account for a higher level of trade diversion from Bury St Edmunds Town Centre.
89. For Scenario B's comparison goods turnover, HPL has assumed that 60% would be diverted from the town centre, including 19% from stores in The Arc, just 1% from Waitrose, and 40% from other stores in the rest of the town centre. The remaining 40% would be diverted from out of centre retail locations including St Edmundsbury Retail Park (10%), 'Other Major Foodstores' (15.5%), and Other Major Non-foodstores (14%). We consider that comparison goods purchases made at supermarkets are typically linked to convenience goods purchases

made at the same venue. Therefore, we would expect trade diversion for comparison goods to broadly mirror that for convenience goods trade diversion.

90. As such, even considering the potential that HPL has under estimated the potential for trade diversion from Bury St Edmunds Town Centre in respect to convenience goods (linked to the potential for the site to be occupied by M&S Foodhall), they have applied what would identify as an upper limit for trade diversion from the town centre. Whilst we would expect trade diversion to be lower if the application site was occupied by supermarket that is not already trading in the town centre, it would be representative of potential trade diversion if the store was occupied by an M&S Foodhall.
91. The resulting impact of HPL's assumptions on trade diversion on Bury St Edmund's Town Centre retail turnover is set out in Table 2.5B, which results in an impact of -1.2% in 2023. Again, HPL has not provided a breakdown of impact by retail type. However, using the calculations from Table 2.5B we can identify impact separately for town centre convenience goods (-4.8%) and comparison goods (-0.6%) turnover.
92. These levels of impact are tolerable, but only if the store was occupied by a supermarket that is not already trading in Bury St Edmunds Town Centre. HPL has not taken into account the potential for the store to be occupied by M&S Foodhall or Waitrose. Therefore, trade diversion and impact is underestimated for Scenario B.
93. In summary, we do not consider that HPL has robustly assessed the potential impact of Scenario B. Given that M&S Foodhall is an example format identified by HPL to inform the sequential and impact assessments we consider that the potential occupation of the site by M&S Foodhall under development Scenario C should be taken into account in respect to potential impact on the town centre. **We advise the Council seeks a response from HPL and that the impact assessment is modelled to take account of this potential outcome.** This should include the potential closure of the existing M&S Foodhall in the town centre and consequences of this loss of turnover from the town centre.

Scenario C

94. Trade diversion assumptions for Scenario C are set out in Table 2.5C of the RIA. No explanation is given on the principals that have informed the trade diversion assumptions. We will assume that trade diversion is based on the 'like-for-like' principal and reflecting the type of goods sold by key discount multi-goods retailers (i.e. B&M; Home Bargains; The Range; Poundland, Poundstretcher; Original Factory Shop and Wilko) as described in para. 1.14 of the RIA (i.e. "*furniture, garden equipment/plants, general household goods, stationery and convenience goods*"). It should be noted that an assumption on goods sold at these retailers does not apply to all. For example, Poundland, Poundstretcher and Original Factory Shop primarily retail convenience and non-bulky comparison goods. As far as we are aware, Poundland do not offer bulky comparison goods in-store (i.e. only available online).
95. Trade diversion is applied separately to Scenario C's convenience goods and comparison goods turnover. Looking firstly at convenience goods turnover trade diversion, HPL have assumed that 20% of the store's turnover would be diverted from Bury St Edmunds including Waitrose (10%) and other stores that sell convenience goods (10%). The latter is likely to include Wilko and Poundland, which are highlighted as example formats for Scenario C (para.1.14, RIA). Therefore, trade diversion estimates from Bury St Edmunds Town Centre could be higher.
96. HPL has assumed that the majority of Scenario B's convenience goods turnover would be diverted from the District's 'Other Major Foodstores', particularly Sainsbury's and Tesco. HPL

have assumed 0.5% from B&M despite the retailer being highlighted as an example of the type of operator that would occupy the Scenario C scheme. We would expect a higher level of trade diversion from this store. Notwithstanding our comments on trade diversion from the town centre, we agree that the majority of convenience turnover for Scenario C would be diverted from edge and out of centre stores within the defined catchment.

97. Turning to comparison goods turnover trade diversion, HPL have assumed a higher rate of trade diversion from stores in Bury St Edmunds Town Centre (50%) of which 21.5% would be diverted from stores in The Arc and 53.5% from other stores in the town. Given the profile of retailers in The Arc, we question the trade diversion assumption. Fashion retail makes up the vast majority of The Arc's retail offer. It is more reasonable to assume that a higher rate level of trade diversion would apply to like-for-like retailers in the rest of the town centre, such as Wilko and Poundland.
98. Based on HPL's assumptions of trade diversion, Scenario C would result in an impact of -1.2% on Bury St Edmunds' total retail turnover in 2023. HPL has not identified impact separately for convenience goods and comparison goods. Using the trade diversion estimates and turnover for Bury St Edmunds quoted in Table 4.5C we can estimate these impacts at -0.7% and -1.3%, respectively, in 2023.
99. It must be noted that the impact figures quoted for Scenario C are only valid for the retail formats that have informed this particular scenario (i.e. a non-food discounter) and the associated breakdown of retail floorspace (i.e. ratio between convenience and comparison goods).
100. Whilst the impact figures are considered low in percentage terms, we are concerned that HPL has under estimated trade diversion from Wilko and Poundland, which we consider to be anchor stores for the town centre. Similar to our queries on Scenario B, there is a potential that a Scenario C scheme could be occupied by Poundland or Wilko. This is not an unreasonable assumption given that no end user has been identified. Under this scenario, we would expect a higher level of trade diversion from the town centre and this should be considered by HPL in a revised assessment.

Sensitivity Analysis

101. The sensitivity assessment findings are set out in Table 2.7 and summarised in para 2.37 of the RIA. It should be noted that the results only relate to impact on total retail turnover and we have not been able to consider how the sensitivity assessment impacts on convenience and comparison goods separately.
102. The sensitivity analysis on impact considers variances in:
 - the turnover of the three development scenarios by increasing by +25% and decreasing by -25%;
 - catchment penetration by reducing from 100% to 90%; and
 - trade diversion from Bury St Edmunds Town Centre by increasing and decreasing estimates.
103. We consider each of the sensitivity tests and their results in turn:

Increase in Scheme Turnover

104. By increasing the turnover of each of the three development scenarios we assume this would equate to the use of a higher sales density given that the size of the unit is fixed.

105. The increase in turnover for each development scenario would result in the same impact of -1.5% on Bury St Edmunds' total retail turnover in 2023.
106. Using the assessment figures on trade diversion for Scenario A, B and C we have been able to test the impact on the town centre's convenience and comparison goods turnover separately.

	Convenience Goods	Comparison Goods
Scenario A: Impact on HPL Estimate of BSE Turnover:	-4.3%	-0.6%
Scenario B: Impact on HPL Estimate of BSE Turnover:	-6.0%	-0.6%
Scenario C: Impact on HPL Estimate of BSE Turnover:	-0.9%	-1.3%

107. For Scenario A, it is expected that impact on Bury St Edmund's convenience and comparison goods turnover would be -4.3% when based on the turnover identified for Bury St Edmunds in the 2016 Study.
108. For Scenario B, we have identified an impact of -6% on the town's convenience goods turnover. This level of impact is expected to be higher if the store was occupied an M&S Foodhall and it would increase further if it lead to the closure of the existing M&S Foodhall at Buttermarket.
109. Under Scenario C, an increase in turnover by 25% would still result in a minimal impact on convenience and comparison good turnover. However, this is based on the pattern of trade diversion applied by HPL, which is informed by the potential for Scenario C to be occupied by a non-food discounter. It must be noted that if the store's turnover was higher as a result of a different range of goods on sale (e.g. where the store primarily retails clothing, electricals, etc) then alternative scenarios for trade diversion should be considered. This is considered later in the report.

Reducing the catchment penetration from 100% to 90%

110. We do not consider that this is a realistic scenario for Options A and B, given that convenience retail catchments are more localised. For Scenario C, it is possible that a store under this scenario could draw an element of turnover from passing trade, although in this case we consider it would more likely to be 5% than 10%.
111. Nonetheless, applying a 90% catchment penetration to Scenario C would result in HPL's Central Case impact on Bury St Edmunds Town Centre reducing by a 0.1% of a percentage point.

Increase Vs Reduction of Trade Diversion from Bury St Edmunds Town Centre

112. We do not consider that a reduction trade diversion from Bury St Edmunds is a realistic option for consideration in any of the development scenarios. A more likely scenario is an increase in trade diversion if the format proposed for Scenario B and C changes or an open retail consent is allowed. For example, if the application site is occupied by M&S Foodhall we could reasonably expect trade diversion from Bury St Edmunds to increase by potentially a third (33%). However, we would also have to consider related impacts, such as the potential closure of the existing M&S Foodhall in the town centre. This would reduce the town's overall convenience turnover, if the store is not reoccupied for the sale of convenience goods, and result in a higher level of impact.

113. Under Scenario C, an increase trade diversion from Bury St Edmunds could apply under a number of scenarios where it deviates from the formats that inform the Central Case. For example, if the store was occupied by a clothing retailer, footwear sports clothing retailer, etc., particularly a brand already trading in the town centre, this could increase trade diversion by potentially a third (33%). We would also have to consider a higher sales density to reflect a broader range of comparison goods sold.

Impact on the Vitality and Viability of Bury St Edmunds

114. Before considering trade diversion and impact we have reviewed HPL's health check assessment of Bury St Edmunds, which is needed to interpret impact figures.

115. HPL's assessment has considered the findings of the health check assessment contained in the 2016 Study and updated indicators by way of a site visit and an analysis of the latest Experian Goad survey.

116. The assessment is based on a review of the following indicators: retail composition and diversity of uses, multiples and representation; street market provision; vacancies; retailer requirements; retail rents; customer perceptions (based on the 2016 household survey); and environmental qualities. It should be noted that the other KPIs recommended for assessment in the Planning Practice Guidance are not assessed. However, we consider that the indicators assessed provide a sufficient basis to establish the performance of the town centre.

117. HPL's health check assessment concludes that despite the impact of the pandemic, an increase in vacancies since 2015 and change in diversity of uses, Bury St Edmunds is a very healthy and vibrant town centre. Whilst the town centre has seen areas of growth despite the pandemic (particular within the independent retail and leisure sector) the impact has yet to be fully realised. In addition, the town centre is vulnerable to a loss of retailers as a result of the closure of Debenhams and a number of other major retailers in the Arc (e.g. TopShop/ TopMan).

118. As the scheme is speculative (i.e. has no confirmed retailer attached) there is concern that the scheme could facilitate the relocation of an anchor town centre retailer.

119. HPL's overall conclusion is that the retail impact figures for Scenarios A, B and C on Bury St Edmunds would not undermine the vitality or viability of the town centre as a whole.

120. We consider that HPL has provided a case to support the conclusion that the development of Scenario A (discount foodstore) would not have a significant adverse impact on town centre vitality and viability.

121. In contrast, we consider that HPL has not adequately assessed the potential impact of Scenario B and C. We have queries on how the turnover of Scenario B and C has been assessed and on trade diversion estimates.

122. Particular issues also arise in attempting to assess the impact of a speculative supermarket and non-food discounter; particularly the potential for the application site to be occupied by an anchor retailer that is already trading in the town centre.

123. Whilst it is helpful that HPL has undertaken sensitivity analysis on the three scenarios they raise more questions on the robustness of assessing speculative retail schemes. There are still many unknowns about the potential end users for Scenario B and C and we consider that further consideration is need to ascertain the potential impact on Bury St Edmunds under these two scenarios.

124. Contrary to HPL's statement in para. 3.25 of their RIA, the impact assessment does not provide a robust assessment in support of an open retail consent. This can only be achieved by considering a broader range of retail format scenarios.

Impact on Existing, Committed and Planned Public and Private Investment

125. The applicant was advised by the Council to consider how the proposal could impact on the redevelopment of the Cornhill Shopping Centre.

126. We note the response given by HPL in para. 3.23 of the RIA and we agree that the redevelopment of the site is unlikely to be undermined by proposal but on in respect to the parameters that have informed the three retail format scenarios.

127. With regard to impact on the delivery of the Bury St Edmunds Town Centre Masterplan we will reserve our opinion on this until further clarification is given to queries raised on the economic impact assessment.

CONCLUSIONS AND RECOMMENDATIONS

128. In conclusion, the applicant in this case is seeking permission for a change of use of the existing Sports Direct Fitness at Eastlea Road from leisure (former Class D2) to open Class E, with the intention to provide 1,667 sqm (internal floor area) for the sale of unrestricted retail goods.

129. This is an out-of-centre location in retail policy terms and therefore to be in accordance with planning policy it needs to be shown both that there are no sequentially preferable sites available to accommodate the development and that the proposal will not have a significant adverse impact on one or more town centres in its catchment area.

130. The scheme is speculative with no end user identified. Instead, for the purpose of assessing the sequential and impact tests three development scenarios have been assessed by Hargest Planning Ltd (HPL).

131. Based upon our review of HPL's sequential assessment against the three development scenarios we are satisfied that the sequential test has been passed. However, our conclusions on the sequential assessment only relate to the retail formats described under the three development scenarios. HPL's sequential assessment does not support an open Class E retail consent as sought under the planning application.

132. We have the following queries on HPL's methodology that should be answered:

- **Online Market Share** – HPL should confirm whether online market share has been adjusted to take account growth experienced nationally and if not, why not.
- **Bury St Edmunds Comparison Goods Turnover** - HPL should confirm whether the town's comparison goods turnover has been adjusted to take account of the closure of Debenhams and other retail anchors.
- **Scenario Turnover** - Base year sales density used to assess base year turnover (2021) and application of separate productivity growth rates for convenience and comparison goods retail turnover for the three scenarios.

133. Despite the above queries, we conclude that Scenario A/ discount foodstore is unlikely to result in a significant adverse impact on the vitality and viability of Bury St Edmunds Town Centre.

134. However, we do not consider that HPL has fully considered the potential impact on Bury St Edmunds associated with Scenarios B and C. Therefore, without further testing of these two

scenarios planning permission should not be not supported. We consider that further consideration / clarity is need on:

- **Potential occupation by M&S Foodhall** – assess the potential for Scenario B to be occupied by an M&S Foodhall including the potential impact on the loss of turnover from the town centre if the Buttermarket Foodhall closes.
- **Trade diversion from The Arc** – further justification is required to support comparison goods trade diversion assumptions from The Arc to a Scenario C scheme.
- **Trade diversion from Wilko and Poundland and potential occupation by either store** – review trade diversion from these stores for Scenario C and assess the potential for Scenario C to be occupied by Wilko or Poundland.

135. Without addressing the above queries we do not consider that the applicant has robustly assessed retail impact.

136. Furthermore, whilst we accept HPL's assessment of impact for Scenario A we do not consider that an assessment of the three scenarios is a reliable approach to assessing the potential impact of an open Class E retail scheme.

137. Notwithstanding our recommendations, if the local planning authority was to allow the proposed, additional reasonable and necessary conditions would need to be imposed that reflect the development scenarios assessed, including restrictions on goods sold. We would also advise on a condition that prevents the sub-division of the unit into smaller units and the insertion of additional mezzanine space without the Council's permission.

138. It will be for the local planning authority as the decision-taker in this case to assess the retail (sequential and impact) planning merits of the application proposal, and to weigh our advice against any wider impacts and/or benefits arising from the application.

Yours sincerely



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