

[THIS IS AN EXTERNAL EMAIL]

Dear Gareth

I have had more time to review the comments raised in Dan Hewitt's email and I have responded directly to each item raised.

1. LSH concluded that, at para 60, the proposal satisfies the sequential approach. Therefore, do officers agree that no further regarding this is required? **No comment.**

2. In relation to the retail impact assessment:

- a. LSH raise a limited number of detailed points e.g. seeking clarification re derivation of turnover of specific stores (paras 67 & 68); base year sales density figures (para 77). These are detailed matters and will not make a significant change to the quantified retail impact figures beyond the maximum impacts identified in para 2.37 of the RIA. LSH summarise their position in para 132. However, we can provide responses to the matters raised if necessary. **We disagree. It is for the applicant to demonstrate transparency in their retail assessment.**
- b. At various points LSH state that impacts on the town centre as a whole cannot be identified from the tables and therefore LSH, using the info from the Tables, calculate the impact on the town centre as a whole. This is presented as a criticism at para 83 of the review. For the record the LPA should note that Tables 2.6A, B and C all identify completely clearly the impact on the City Centre as a whole (shown immediately above the first thick horizontal line in the tables). The figures in these tables are the mathematically correct calculation of impact using the assumptions set out in the RIA – in most instances, but not all, LSH have identified the same calculated impacts for the three scenarios. **Accepted.**
- c. LSH accept that Scenario A for a discount foodstore would not be expected to significantly affect the V&V of the City Centre. The identified impacts for this scenario are, on a worst-case calculation (i.e. direct impact ignoring expenditure change between 2021 and 2023) -4.3% convenience goods, -0.6% comparison goods, -1.1% all goods. **Accepted.**
- d. By way of comparison Scenario B identifies -4.8% convenience goods, -0.6% comparison goods and -1.2% all goods. In effect there is no material difference in the impacts identified between scenarios A & B. **There is on convenience turnover. While an impact of -4.8% is acceptable the issue we have is that there is no end tenant identified for this type of foodstore format. If the end user is M&S Food then trade diversion and impact would be greater. This is discussed further in the response to point (f)(i).**
- e. In terms of Scenario C the impacts identified are: -0.8% convenience goods; -1.3% comparison goods and -1.2% all goods. Again the difference in impacts on the City Centre as a whole for Scenario C is very similar to that identified in the earlier two scenarios. **But only in relation to total retail turnover impact and subject to further clarification on information requests made in the LSH appraisal, which have not been fully addressed.**
- f. In relation to Scenarios B&C, although LSH raise some limited points regarding sales densities and trade diversion, they key factor that leads to LSH questioning the significance of impact is if the proposed operator within the proposed development is one of three named operators (i.e. M&S Foodhall, Poundland and Wilko). Planning permission is granted for a specific land use and not an individual. On this basis it is difficult to see any justification for providing an RIA for a named operator when there is no indication, at all, that the named company would actually be trading from the proposed unit. **The applicant is seeking open retail use but has limited the impact assessment scenarios to three specific retail formats. The applicant**

themselves have use the turnover of these three retailers (along with others within the respective retail categories to inform their retail impact assessment. It is reasonable to assume that M&S, Poundland and Wilko could be the future operator, which we would see as a worst case scenario for these options given they are already trading in the town centre. Therefore, it is reasonable to request that the application considers these operator scenarios for Scenarios B and C. Furthermore, in relation to these operators:

- i. M&S has a large general merchandising store in the City Centre. For a settlement of this size M&S would typically operate both a GM store and out-of-centre foodhall units. The only issue is the extent to which convenience turnover would reduce in the City Centre and whether or not M&S choose, as a commercial decision to replace the City Centre in-store foodhall with additional GM floorspace. **We know that M&S are rationalising GM stores, not expanding them. Plenty of examples of M&S closing GM stores and relocated out of centre with MS Foodhalls. It is a reasonable request for the applicant to consider this scenario given they have not identified an end user for Scenario B. If the applicant is resistant to assessing impact associated with M&S as tenant then the Council may want to seek a unilateral undertaking that prevents M&S from occupying the application site. The Council should seek legal advice on this option.**
  - ii. Although both Poundland and Wilko are significant units in terms of floorspace both stores have only low sales densities. In terms of the functioning of the City Centre neither can properly be regarded as “anchor units”. **Completely disagree. This simply is not just a case of impact associated by loss of turnover but relates to the potential closure of one of these two stores if relates to a relocation situation. Hargest Planning may not see the value in these brands as anchors but they are key stores for those seeking affordable goods. There is no single anchor store now that Debenhams has closed. Instead the town is now anchored by a number of important retail stores that draw shoppers to the town.**
  - iii. In relation to Wilko, it is not conceivable that the company would relocate to a significantly smaller unit at the application site. **It is not inconceivable in the current market where brands are downsizing from larger units. A unilateral agreement could be put in place to prevent Wilko occupying the unit. The Council should seek legal advice on this option.**
- g. Therefore it is questioned whether it is appropriate, on planning grounds, to provide additional impact information relating to these particular operators given the above. **It is a reasonable request given the speculative nature of this scheme. Without further review (and alongside other clarifications made in the LSH appraisal) we do not consider that a robust impact assessment has been made.**
- h. Finally, it should be noted that RIA provide, at best, indications of the scale of impact only. For this reason the RIA submitted identifies the range of impacts that could arise given that there will, inevitably, be uncertainties regarding turnover, trade diversion and so on. Para 2.37/Table 2.7 identifies very clearly the full possible range of impacts arising, even with quite radical adjustments to assumptions. In this way the worst possible impact on the City Centre is identified to be -2% direct impact for all goods in the City Centre – this occurs even with turnover 25% above the estimated turnover of the development and with maximum trade diversion from stores in the City Centre. In this context the scale of impacts is negligible. Equivalent figures for retail sectors (i.e. convenience and comparison) can be

provided. Disagree. The impacts assessed relate to only three types of retailer. **It does not assess the full spectrum of retail categories that would be supported under an open retail use. An open A1 consent should not be supported based on the assessed parameters of the applicant's RIA.**

3. Finally, if the LP has particular concerns about specific sectors within the City Centre, although from the healthcheck undertaken for the City Centre none has been identified in particular, it is quite reasonable for conditions to be applied that limit total and retail sector sales floorspace in accordance with that assessed in the RIA and, if necessary, impose conditions regarding matters such as minimum/maximum units size. However, for the LPA to propose these, it would be incumbent on them to explain the justification for such restrictions. **It is for the applicant to demonstrate that there will be no impact on any of the retail sectors if they are to seek an open A1 consent. As highlighted above, the applicant has chosen to only assess three types of retail operator. Therefore, it is entirely reasonable to apply conditions that limit the sale of goods associated with the assessed retail sectors.**

At this stage, we do not consider that the applicant has provided a fully compliant impact assessment. Wilson Wraight has ignored the majority of clarification requests raised in the LSH appraisal. Those that have not been addressed to date include the three clarification requests made in para 132 of the LSH appraisal:

- *“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.”*

In addition, we still consider that the three additional clarification requests cited in para 134 of the LSH appraisal are still warranted to verify the impact assessment findings for Scenario B and C. They included:

- *“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.”*

#### **Further response from LSH:**

A response was provided to two of the three clarification requests in Wilson Wraight's email response. As we highlighted above, we are not satisfied with their justification to discount these clarification requests. No response has been given to the third clarification request which sought further justification to support comparison goods trade diversion assumptions from The Arc to a Scenario C scheme.

In summary, while we agree that the sequential assessment has been passed we do not support the impact assessment. There are too many outstanding queries.

If the Council do want to proceed and grant permission then we strongly advise that an open Class E retail consent is not provided. Instead, conditions should limit the sale of goods to reflect the retail operator type that has been assessed under Scenarios A, B and C. We can assist you with the wording of these conditions which are very typical when it comes to speculative schemes.

We would also advise that the Council seek a unilateral undertaking or similar to prevent town centre anchors that fall within the limited retail categories assessed from relocating to the application site. However, the Council may want to get legal advice on whether UUs can be followed through. They have been used in the past.

I'm conscious that the response may not fit with your draft report so I'm very happy to talk through it if you wish to call me. I don't work on Fridays but I am available today up to 5:30pm and then available from 11am on Monday.

Kind regards

Blathnaid



**Bláthnaid Duffy**

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**From:** Durrant, Gareth [<mailto:Gareth.Durrant@Westsuffolk.gov.uk>]

**Sent:** 12 January 2022 17:11

**To:** Duffy Bláthnaid

**Subject:** FW: DC/21/0427/FUL - Sports Direct Fitness, Easlea Road, BSE

Hi Blathnaid,

**Ref Planning application DC/21/0427/FUL - Sports Direct Fitness, Easlea Road, BSEdmunds**

Happy new year. I hope all is well.

You recently critiqued an impact assessment submitted with this planning application and made various recommendations.

The previous case officer, Marianna Hall, has recently left the Council and I have been passed the planning application to deal with.

There are a couple of matters that I would like you to comment on if possible please.

Firstly, the applicant has responded to your report. This is set out at the very bottom of this e-mail. I would be grateful for any general comments in relation to points 2 and 3 of their e-mail.

Secondly (and with respect to point 1 of the applicants e-mail), I have challenged the applicants appraisal of potentially sequentially suitable sites for the retail floorspace they are proposing in the planning application. This is set out in the e-mail directly below. I note you were not concerned about the applicants approach to the alternative sites so I would be grateful if you could consider the sites and points I have made to the applicant (i.e. is it worth pursuing further?).

I am not sure what arrangement you came to with Marianna for any 'spin-off' matters after your report had been shared with the applicant. If your initial quotation did not cover these additional matters I would be grateful if you could provide a quote for the further advice. I will then seek authority to approve the work and raise a new Purchase Order for you.

I look forward to hearing from you,

Kind regard

Gareth Durrant

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Gareth Durrant  
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**From:** Durrant, Gareth

**Sent:** 12 January 2022 16:49

**To:** Dan Hewett <[DHewett@wilsonwright.co.uk](mailto:DHewett@wilsonwright.co.uk)>

**Cc:** Robertson, Samantha <[Samantha.Robertson@Westsuffolk.gov.uk](mailto:Samantha.Robertson@Westsuffolk.gov.uk)>

**Subject:** RE: DC/21/0427/FUL - Sports Direct Fitness, Easlea Road, BSE

Dear Mr Hewett,

**Ref: DC/21/0427/FUL – Sports Direct Fitness, Easlea Road, BSE – Retail matters**

Thankyou for your email as set out below. I repeat my previous apologies for the delay in my reply.

I have taken the opportunity to read through the background evidence material (regarding town centre impact) including our specialist's advice.

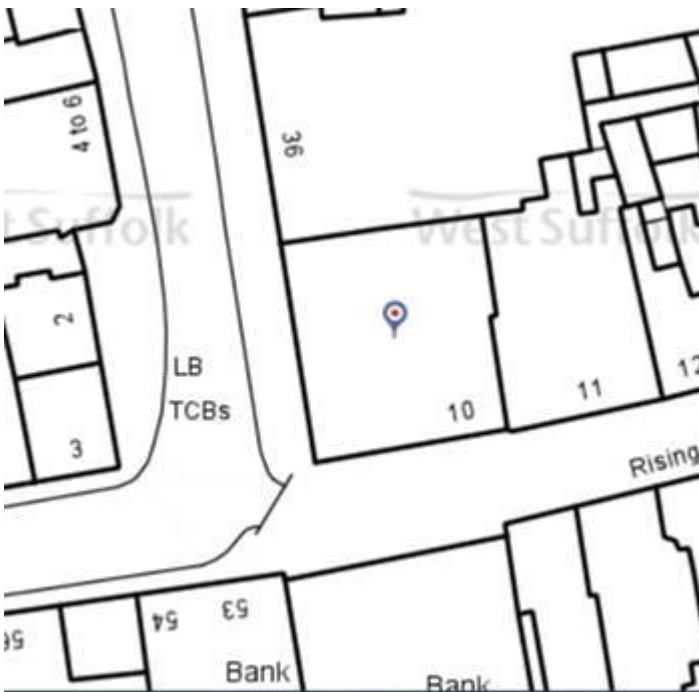
My comments in response to the numbered points in your e-mail (below) are as follows:

**Point 1** – Officers are not yet in a position to agree that the NPPF 'town centre first' sequential approach to town centre uses policy has been satisfied. There are a couple of other sites that need to be included in the assessment and I have some comments to make with respect to the 'Tayfen Road' site.

The other sites that I consider need to be need to be included in the appraisal of alternative sites are i) the site of the former Debenhams department store in 'The Arc' component of the town centre and ii) the former Palmers department store on the Buttermarket.

The former Debenhams building is a flagship town centre store that is, unfortunately, presently vacant following the rationalisation of the Debenhams chain and its recent move to on-line retailing. The building is around 6 or 7 times the size (floorspace) of the application building in Easlea Road but we understand the owner is likely to rationalise the floorspace into smaller units. It would appear that this building could accommodate any retailers interested in the Easlea Road site and be made available to the market in a potentially similar time period.

There is a second large recently vacated multi-storey retail department store within the town centre. This is the former 'Palmers' department store (see below for further details). Planning permission has been granted for mixed use redevelopment of the shop with the ground floor remaining in commercial/retail use (reference DC/20/0004/FUL), but there might still be scope to retain all (or more) of its floorspace in retail use (I have not visited the town centre recently to establish if the planning permission has been implemented and if so, how far it has got). Whilst this particular premises might not be comparable directly to the gymnasium site building at Easlea Road, it ought to be included and properly considered.



**Tayfen Road site (former gas holder site)** I am concerned that this site has seemingly been discounted on the basis of its location. The site is allocated (within the relevant Masterplan document) for retail or retail led use. The relevant planning policy (BV9 of Bury Vision 2031) which is linked in with the current Masterplan document allocates the land for (inter alia) retail warehouse floorspace and/or a food store. The comments within the sequential appraisal about the include of the site to the primary retail area of the town centre is noted. Whilst this is a negative aspect of the site locationally, the appraisal fails to acknowledge the location of the site on a major distributor road (with potential for linked trips by car), its location within reasonable distance (certainly walking distance) of i) the town train station, ii) the town bus interchange and iii) a large town centre car park. These are shown on the plan below. In light of i) the policy and land allocation context and ii) the site context I do not consider this site should be ruled out so quickly. Further justification is required.





**Points 2 and 3** – I will need to return to our retail specialist for further advice before commenting on these aspects. I will request further advice and come back shortly.

In the meantime, I would be grateful to receive the applicants further thoughts, particularly in relation to the three sites discussed above.

Kind regards,

Gareth Durrant

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**From:** Dan Hewett <[DHewett@wilsonwright.co.uk](mailto:DHewett@wilsonwright.co.uk)>  
**Sent:** 24 November 2021 09:16  
**To:** Hall, Marianna <[marianna.hall@westsuffolk.gov.uk](mailto:marianna.hall@westsuffolk.gov.uk)>  
**Cc:** Durrant, Gareth <[Gareth.Durrant@WestSuffolk.gov.uk](mailto:Gareth.Durrant@WestSuffolk.gov.uk)>; Beighton, Dave <[dave.beighton@westsuffolk.gov.uk](mailto:dave.beighton@westsuffolk.gov.uk)>  
**Subject:** RE: DC/21/0427/FUL - Sports Direct Fitness, Easlea Road, BSE

[THIS IS AN EXTERNAL EMAIL]

Hi Marianna

Thank you for your email. I have now had the chance to discuss this with Keith Hargest, the author of the RIA. We would make the following comments/observations in response to the points raised by LSH:

1. LSH concluded that, at para 60, the proposal satisfies the sequential approach. Therefore, do officers agree that no further regarding this is required?
2. In relation to the retail impact assessment:
  - a. LSH raise a limited number of detailed points e.g. seeking clarification re derivation of turnover of specific stores (paras 67 & 68); base year sales density figures (para 77). These are detailed matters and will not make a significant change to the quantified retail impact figures beyond the maximum impacts identified in para 2.37 of the RIA. LSH summarise their position in para 132. However, we can provide responses to the matters raised if necessary.
  - b. At various points LSH state that impacts on the town centre as a whole cannot be identified from the tables and therefore LSH, using the info from the Tables, calculate the impact on the town centre as a whole. This is presented as a criticism at para 83 of the review. For the record the LPA should note that Tables 2.6A, B and C all identify completely clearly the impact on the City Centre as a whole (shown immediately above the first thick horizontal line in the tables). The figures in these tables are the mathematically correct calculation of impact using the assumptions set out in the RIA – in most instances, but not all, LSH have identified the same calculated impacts for the three scenarios.
  - c. LSH accept that Scenario A for a discount foodstore would not be expected to significantly affect the V&V of the City Centre. The identified impacts for this scenario are, on a worst-case calculation (i.e. direct impact ignoring expenditure change between 2021 and 2023) - 4.3% convenience goods, -0.6% comparison goods, -1.1% all goods.
  - d. By way of comparison Scenario B identifies -4.8% convenience goods, -0.6% comparison goods and -1.2% all goods. In effect there is no material difference in the impacts identified between scenarios A & B.

- e. In terms of Scenario C the impacts identified are: -0.8% convenience goods; -1.3% comparison goods and -1.2% all goods. Again the difference in impacts on the City Centre as a whole for Scenario C is very similar to that identified in the earlier two scenarios.
  - f. In relation to Scenarios B&C, although LSH raise some limited points regarding sales densities and trade diversion, the key factor that leads to LSH questioning the significance of impact is if the proposed operator within the proposed development is one of three named operators (i.e. M&S Foodhall, Poundland and Wilko). Planning permission is granted for a specific land use and not an individual. On this basis it is difficult to see any justification for providing an RIA for a named operator when there is no indication, at all, that the named company would actually be trading from the proposed unit. Furthermore, in relation to these operators:
    - i. M&S has a large general merchandising store in the City Centre. For a settlement of this size M&S would typically operate *both* a GM store and out-of-centre foodhall units. The only issue is the extent to which convenience turnover would reduce in the City Centre and whether or not M&S choose, as a commercial decision to replace the City Centre in-store foodhall with additional GM floorspace.
    - ii. Although both Poundland and Wilko are significant units in terms of floorspace both stores have only low sales densities. In terms of the functioning of the City Centre neither can properly be regarded as “anchor units”.
    - iii. In relation to Wilko, it is not conceivable that the company would relocate to a significantly smaller unit at the application site.
  - g. Therefore it is questioned whether it is appropriate, on planning grounds, to provide additional impact information relating to these particular operators given the above.
  - h. Finally, it should be noted that RIA provide, at best, indications of the scale of impact only. For this reason the RIA submitted identifies the range of impacts that could arise given that there will, inevitably, be uncertainties regarding turnover, trade diversion and so on. Para 2.37/Table 2.7 identifies very clearly the full possible range of impacts arising, even with quite radical adjustments to assumptions. In this way the *worst possible* impact on the City Centre is identified to be -2% direct impact for all goods in the City Centre – this occurs even with turnover 25% above the estimated turnover of the development and with maximum trade diversion from stores in the City Centre. In this context the scale of impacts is negligible. Equivalent figures for retail sectors (i.e. convenience and comparison) can be provided.
3. Finally, if the LP has particular concerns about specific sectors within the City Centre, although from the healthcheck undertaken for the City Centre none has been identified in particular, it is quite reasonable for conditions to be applied that limit total and retail sector sales floorspace in accordance with that assessed in the RIA and, if necessary, impose conditions regarding matters such as minimum/maximum units size. However, for the LPA to propose these, it would be incumbent on them to explain the justification for such restrictions.

Can the Council confirm how they intend to proceed and whether they are now able to recommend approval?

Best regards

Dan

**Dan Hewett MRTPI MRICS**  
Head of Planning

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**From:** Hall, Marianna <[marianna.hall@westsuffolk.gov.uk](mailto:marianna.hall@westsuffolk.gov.uk)>  
**Sent:** 16 November 2021 14:20  
**To:** Dan Hewett <[DHewett@wilsonwright.co.uk](mailto:DHewett@wilsonwright.co.uk)>  
**Cc:** Durrant, Gareth <[Gareth.Durrant@WestSuffolk.gov.uk](mailto:Gareth.Durrant@WestSuffolk.gov.uk)>; Beighton, Dave <[dave.beighton@westsuffolk.gov.uk](mailto:dave.beighton@westsuffolk.gov.uk)>  
**Subject:** DC/21/0427/FUL - Sports Direct Fitness, Easlea Road, BSE

Dear Dan,

Please find attached the appraisal by Lambert Smith Hampton of the Retail Impact Assessment and Sequential Test submitted.

The appraisal concludes that the sequential test has been passed under the three retail formats described, but does not support an open Class E retail consent as sought under the planning application. In terms of the retail impact assessment, the appraisal raises a number of queries on the methodology used by Hargest Planning. Despite these queries, it concludes that Scenario A (discount foodstore) is unlikely to result in a significant impact on the vitality and viability of the town centre. The consultant does not consider however that the potential impacts associated with Scenarios B (general mid-sized supermarket) and C (non-food discounter) have been fully considered, for the reasons set out in the appraisal. We would welcome a response to the points raised within the appraisal once you have had the opportunity to review and consider them.

I will be leaving the authority next month, and my colleague Gareth Durrant (copied in) will now be the case officer for this application going forward. Gareth and I have discussed the proposals, and as you know Dave Beighton has also been involved and can assist if needed.

Kind regards,

Marianna

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