



APPENDIX 1



**BRIDGEND LOCAL DEVELOPMENT PLAN DEPOSIT DRAFT
REPRESENTATIONS ON BEHALF OF WATERSTONE ESTATES LIMITED IN RESPECT OF:**

- **PARAGRAPH 5.2.21**
- **POLICY REG 5**
- **PROPOSALS MAP 27 (Bridgend South)**

SUMMARY

Waterstone Estates Limited **OBJECTS** to the above elements of the Deposit Draft Local Development Plan (LDP) on the basis that there is greater need for additional convenience goods floorspace than the LDP indicates; and that the South Wales Police Headquarters site at Cowbridge Road represents the sequentially preferred location upon which to meet that identified need.

It considers that the South Wales Police Headquarters should be allocated for food retail development.

Each issue is considered in turn briefly below.

RETAIL NEED

The basis for the retail policies of the LDP is the findings of the Bridgend County Retail Needs Update 2010 prepared by CACI in June 2010. We consider that this Study is an unsound basis for the assessment of convenience goods retail capacity in Bridgend, for a number of reasons. We note a number of key concerns below:

1. Deductions for special forms of trading (SFT)

By 2021 CACI estimates (at Figure 3.2) that some £25.7 million of locally generated convenience goods expenditure in Bridgend is spent on 'home delivery channels'. It then simply removes this from the pool of available expenditure to support new convenience goods floorspace, with total expenditure generated by Bridgend residents falling from £140.7 million (including tourism/visitor spending) to £115.0 million.

This is a serious error. Home delivery of groceries is an activity that is almost exclusively store based. In Bridgend, the two principal stores offering convenience goods home deliveries (Asda and Tesco) draw stock from the shelves of their local stores and not a central warehouse. The only difference between this home delivery spend and 'in store'

spend is that the customer has opted for someone else to undertake the goods selection and transport on their behalf and it is entirely inappropriate to remove it.

The effect of excluding this expenditure is to underestimate the actual turnovers of existing stores in Bridgend, masking the high levels of overtrading that are being experienced by the principal foodstores in the town.

By using the CACI Study's benchmark sales density figure of £7,500 psm it can be seen that the consequence of this misjudgment in capacity terms is to underestimate convenience goods capacity in Bridgend by 3,426 sq m net at 2021.

2. Existing convenience goods floorspace and turnover

CACI identifies at Figure 3.18 of its report that existing stores in Bridgend provide a total of 17,738 sq m net convenience goods floorspace.

This figure is an overestimate. The figure quoted for Asda of 5,011 sq m net convenience goods floorspace represents the total net area of that store including comparison goods. Convenience goods are sold only at the ground floor level of the store which extends to 3,808 sq m in total. Excluding non-food sales at that level and checkouts, the net sales area devoted to convenience goods sales is much lower, at circa 2,500 sq m.

This overestimate is compounded in the estimated turnovers of existing provision given in Figure 3.19. It is evident that the estimates of existing turnover have been derived not from independent survey assessment of shopping patterns but a broadbrush application of sales density estimates. An independent survey of existing stores would in our professional judgment be likely to show that the Asda store does not trade anywhere as near as well as Tesco. This reality check has not been applied. As a consequence, the turnover of the Asda store is likely to be overestimated by as much as £15 million.

We would also note that the turnovers of the existing Sainsbury's store and Tesco store at Brewery Lane are indicated at above the company averages of both operators, despite both stores trading relatively poorly. Again, this reflects the absence of an independent assessment of shopping patterns.

Overall, therefore, our corrections to the convenience goods spending at existing stores bring the existing spend in Bridgend stores down from £163.4 million to £138.4 million.

3. Balance of trade (Market share)

CACI make the assumption that by 2021 existing stores will trade at £181.39 million, 140.1% of the level of locally generated convenience goods expenditure of £116.67. We have however illustrated above that, if errors in respect of home deliveries and the floorspace and turnover of existing stores (notably Asda) are taken account, the correct market share is actually about 98%.

In order to meet local convenience goods requirements, therefore, there is a baseline need for a further £2.3m of convenience goods turnover, or a further 307 sq m net floorspace.

We also note however that CACI make the judgment that the market share of Bridgend will be reduced by 5.9% as a consequence principally of the new foodstore in Porthcawl. In such circumstances the self-sufficiency gap increases by £8.96 million, generating a further requirement for convenience goods floorspace within Bridgend of 1,194 sq m.

Conclusions on need

The above brief review of CACI's convenience goods capacity assessment has highlighted serious flaws in the judgments leading to its conclusions on convenience goods capacity in Bridgend.

Taken together, the errors highlighted suggest that capacity has been underestimated by up to 7,417 sq m net at 2021.

Within this context we consider that the evidence basis for the LDP's assessment of retail needs is unsound and needs to be re-evaluated.

In particular we consider that Paragraph 5.2.21 be revised to reflect the correct capacity position and a need confirmed in Policy REG5 for a further foodstore of a size comparable to existing stores (approximately 4,000 sq m net convenience goods floorspace). This will also leave capacity to support improvement to other convenience provision in Bridgend across the plan period.

SEQUENTIAL TEST

In the context of the identified need above, there is a demonstrable requirement for a further large foodstore in Bridgend. This quantitative need is supported by empirical evidence of qualitative needs to maintain a sustainable self sufficiency in convenience goods provision and to address overtrading at some existing stores, notably Tesco.

Planning Policy Wales (PPW) at paragraph 10.2.12 notes that where a need is identified for new retail floorspace:

"Local planning authorities should take a positive approach, in partnership with the private sector, in identifying additional sites ... In allocating sites for different types of retail developments they should take account of such factors as floorspace, quality, convenience, attractiveness and traffic. They should not however prescribe rigid floorspace limits, whether for town centres or other development, that would unreasonably inhibit the retail industry from responding to changing demand and opportunity."

The need identified above is for a foodstore with a net convenience goods floorspace of 4,000 sq m. Allowing for ancillary non food sales, non trading areas and warehousing, this typically equates to a store with a gross area of circa 9,000 sq m.

Within this context the identified requirement is for a level site of a minimum of 3.5 hectares with good road access. We have considered the edge of centre bulky goods retail

site REG 11(4) at the Brewery Field but this does not meet the minimum site area requirements.

As such, the subject site represents an appropriate out of centre location that is well related to the established out of centre retail development allocated under REG10 and meets the requirements of the sequential test.

CONCLUSIONS

We have identified that the need exists in Bridgend for a further foodstore to compete with existing stores and we have also identified the South Wales Police Headquarters site as an appropriate location to meet that need.

We therefore request that the LDP be revised to allocate the South Wales Police Headquarters for a foodstore of circa 4,000 sq m net convenience goods floorspace and consequential changes made to supporting text and the proposals map.

Mango Planning & Development Limited
8 September 2011



**REPRESENTATIONS TO THE DEPOSIT BRIDGEND LDP
ON BEHALF OF WATERSTONE ESTATES LIMITED**

**IN RESPECT OF PROPOSED ALLOCATION OF THE SOUTH WALES POLICE
HEADQUARTERS SITE FOR CONVENIENCE RETAILING**

**STATEMENTS IN RESPECT OF SUSTAINABILITY AND HABITATS REGULATION
ASSESSMENT**

SUSTAINABILITY STATEMENT

The subject site falls within the defined urban area of Bridgend within easy walking and cycling distance of residential areas. It is also well related to the established retail shopping destination at Cowbridge Road.

The allocation of this site for convenience retailing will bring about a number of sustainability benefits including:

- Creating significant direct and indirect local employment, meeting Objective 3b of the LDP;
- Clawing back trips for food retailing presently made to locations further afield to a location well related to residential areas and on main public transport routes, assisting Objective 1f in respect of road congestion; and
- Providing increased range and choice for local people without access to private transport, in accordance with Objective 4a of the LDP.

The proposed allocation change will require the exclusion of the site from its current allocation under Policy COM 1 (5) for residential development. We do not consider that this materially affects the sustainability of the LDP strategy.

HABITATS REGULATIONS STATEMENT

The subject site falls beyond 2km of any identified SAC.

The subject site is presently allocated for residential use under Policy COM 1(5) and the effect of that allocation upon existing SACs was considered by the local planning authority in its SEA of that allocation and no concerns were identified.

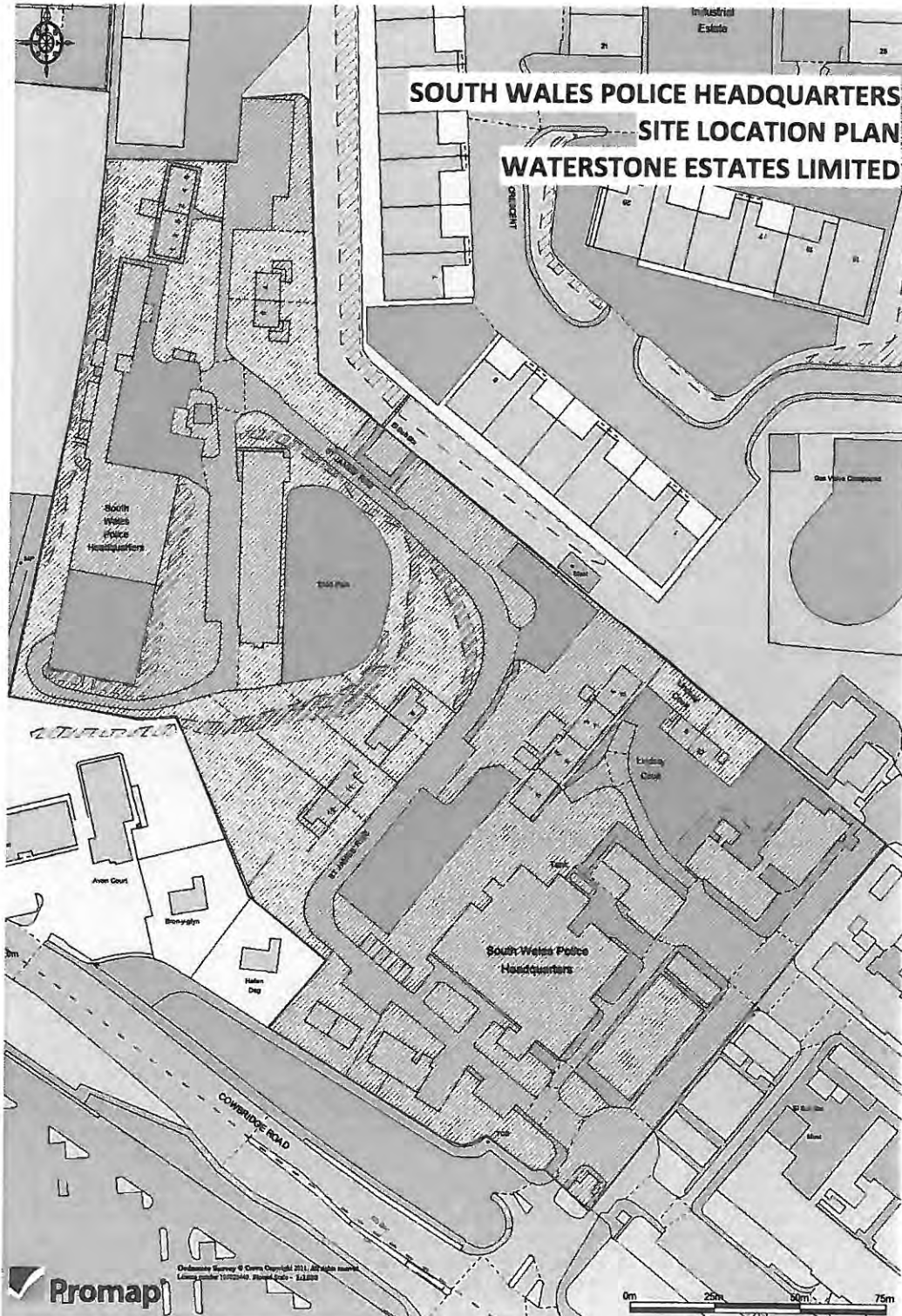
The subject site comprises land contained by existing built development within the urban area. It is considered to have no relationship with any SAC in physical, visual or functional terms.

Given the existing context of the site, the existence of similar uses on both sides of it already, its scale and its previous assessment by the local planning authority, it is not considered that the development of this site in this manner will have any effect upon any SAC.

Mango Planning & Development Limited
8 September 2011



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APPENDIX 2

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SJ/CB/W108/005

20 November 2012

Mr A Hughes
Director
Mango Planning & Development Limited
Number One
Waterton Park
BRIDGEND
CF31 3PH



Waterstone Estates

Dear Arfon

SOUTH WALES POLICE HEADQUARTERS, WATERTON, BRIDGEND

I am writing to confirm that Waterstone Estates Limited has secured the support of the South Wales Police to deliver a Morrisons foodstore on the northern part of the existing headquarters site at Waterton, together with residential development. I understand that the Police will be confirming their position separately to the Inspector in advance of the hearing session on 6 December.

I can also confirm that as part of the agreement, Waterstone Estates Limited would also acquire the existing police station site at Cheapside in the town centre of Bridgend and would seek to secure planning consent for its redevelopment for mixed use retail, leisure and offices.

If you require any further information please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Simon Jehu', is written over a circular stamp. The signature is fluid and cursive.

SIMON JEHU
Director

Mobile: 07879 692555

Email: simon.jehu@jehu.co.uk



APPENDIX 3

WELSH RETAIL CONSORTIUM
for successful and responsible retailing

Welsh Retail: Serving Our Communities

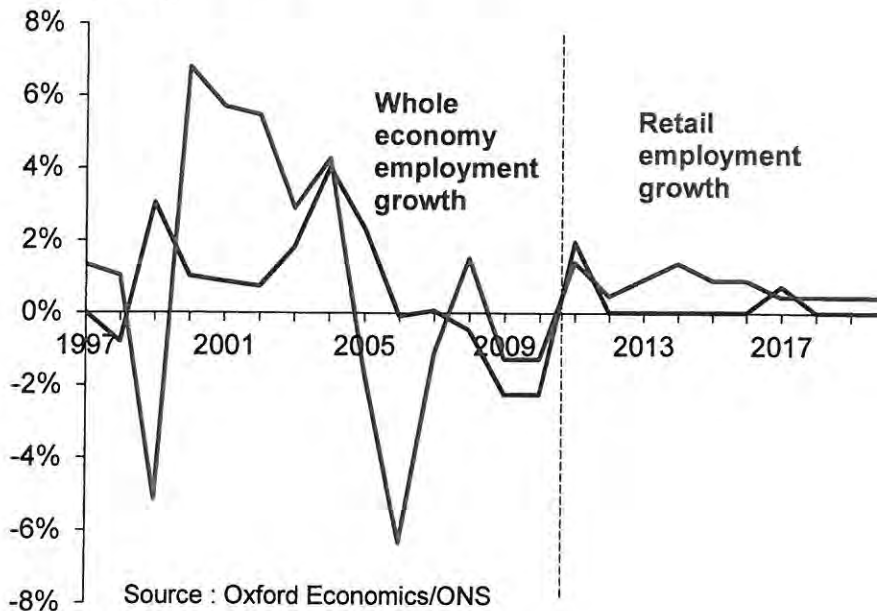


WHAT VALUE DO RETAIL JOBS HAVE FOR THE WELSH ECONOMY?

Retail remains the largest private sector employer in Wales, employing around 131,000 people. Overall the proportion of total employment accounted for by retail has declined from 11.5 per cent to 11.3 per cent between 1998 and 2008, as competition has honed retail operations and other parts of the economy have grown at a faster pace. The outlook over the next 6-8 years is that retailing will grow slightly faster than the economy as a whole, but in both cases growth is projected at less than one per cent per annum for most of the period, in line with the rest of the UK. Retailing will remain fragile, emphasising the need to ensure that additional costs are not imposed, avoiding losses of retail jobs. People and property are the main input costs for retailers and, therefore, the two primary areas to realise savings when margins are under pressure.

Employment growth in Wales

% on year ago





APPENDIX 4



Hilary Term
[2012] UKSC 13
On appeal from: [2011] CSIH 9

JUDGMENT

Tesco Stores Limited (Appellants) v Dundee City Council (Respondents) (Scotland)

before

**Lord Hope, Deputy President
Lord Brown
Lord Kerr
Lord Dyson
Lord Reed**

JUDGMENT GIVEN ON

21 March 2012

Heard on 15 and 16 February 2012

Appellants

Martin Kingston QC
Jane Munro
(Instructed by Semple
Fraser LLP)

Respondents

Douglas Armstrong QC
James Findlay QC
(Instructed by Gillespie
Macandrew LLP)

*Interveners (Asda Stores
Limited and MacDonald
Estates Group PLC)*
Malcolm Thomson QC
Kenny McBrearty
(Instructed by Brodies
LLP)

LORD REED (with whom Lord Brown, Lord Kerr and Lord Dyson agree)

1. If you drive into Dundee from the west along the A90 (T), you will pass on your left a large industrial site. It was formerly occupied by NCR, one of Dundee's largest employers, but its factory complex closed some years ago and the site has lain derelict ever since. In 2009 Asda Stores Ltd and MacDonald Estates Group plc, the interveners in the present appeal, applied for planning permission to develop a superstore there. Dundee City Council, the respondents, concluded that a decision to grant planning permission would not be in accordance with the development plan, but was nevertheless justified by other material considerations. Their decision to grant the application is challenged in these proceedings by Tesco Stores Ltd, the appellants, on the basis that the respondents proceeded on a misunderstanding of one of the policies in the development plan: a misunderstanding which, it is argued, vitiated their assessment of whether a departure from the plan was justified. In particular, it is argued that the respondents misunderstood a requirement, in the policies concerned with out of centre retailing, that it must be established that no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centres.

The legislation

2. Section 37(2) of the Town and Country Planning (Scotland) Act 1997, as in force at the time of the relevant decision, provides:

“In dealing with [an application for planning permission] the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.”

Section 25 provides:

“Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise –

(a) to be made in accordance with that plan...”

The development plan

3. The development plan in the present case is an “old development plan” within the meaning of paragraph 1 of Schedule 1 to the 1997 Act. As such, it is defined by section 24 of the 1997 Act, as that section applied before the coming into force of section 2 of the Planning Etc. (Scotland) Act 2006, as including the approved structure plan and the adopted or approved local plan. The relevant structure plan in the present case is the Dundee and Angus Structure Plan, which became operative in 2002, at a time when the NCR plant remained in operation. As is explained in the introduction to the structure plan, its purpose is to provide a long term vision for the area and to set out the broad land use planning strategy guiding development and change. It includes a number of strategic planning policies. It sets the context for local plans, which translate the strategy into greater detail. Its preparation took account of national planning policy guidelines.

4. The structure plan includes a chapter on town centres and retailing. The introduction explains that the relevant Government guidance is contained in National Planning Policy Guidance 8, *Town Centres and Retailing* (revised 1998). I note that that document (NPPG 8) was replaced in 2006 by *Scottish Planning Policy: Town Centres and Retailing* (SPP 8), which was in force at the time of the decision under challenge, and which was itself replaced in 2010 by *Scottish Planning Policy* (SPP). The relevant sections of all three documents are in generally similar terms. The structure plan continues, at para 5.2:

“A fundamental principle of NPPG 8 is that of the sequential approach to site selection for new retail developments ... On this basis, town centres should be the first choice for such developments, followed by edge of centre sites and, only after this, out of centre sites which are currently or potentially accessible by different means of transport.”

In relation to out of centre developments, that approach is reflected in Town Centres and Retailing Policy 4: Out of Centre Retailing:

“In keeping with the sequential approach to site selection for new retail developments, proposals for new or expanded out of centre retail developments in excess of 1000 sq m gross will only be acceptable where it can be established that:

- no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centres;
- individually or cumulatively it would not prejudice the vitality and viability of existing city, town or district centres;
- the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of the above centres;
- the site is readily accessible by modes of transport other than the car;
- the proposal is consistent with other Structure Plan policies.”

5. The relevant local plan is the Dundee Local Plan, which came into operation in 2005, prior to the closure of the NCR plant. Like the structure plan, it notes that national planning policy guidance emphasises the need to protect and enhance the vitality and viability of town centres. It continues, at para 52.2:

“As part of this approach planning authorities should adopt a sequential approach to new shopping developments with first preference being town centres, which in Dundee’s case are the City centre and the District Centres.”

That approach is reflected in Policy 45: Location of New Retail Developments:

“The City Centre and District Centres will be the locations of first choice for new or expanded retail developments not already identified in the Local Plan. Proposals for retail developments outwith these locations will only be acceptable where it can be established that:

- a) no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres; and

- b) individually or cumulatively it would not prejudice the vitality and viability of the City Centre or District Centres; and
- c) the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres; and
- d) the site is readily accessible by modes of transport other than the car; and
- e) the proposal is consistent with other Local Plan policies.”

6. It is also relevant to note the guidance given in NPPG 8, as revised in 1998, to which the retailing sections of the structure plan and the local plan referred. Under the heading “Sequential Approach”, the guidance stated:

“12. Planning authorities and developers should adopt a sequential approach to selecting sites for new retail, commercial leisure developments and other key town centre uses ... First preference should be for town centre sites, where sites or buildings suitable for conversion are available, followed by edge-of-centre sites, and only then by out-of-centre sites in locations that are, or can be made easily accessible by a choice of means of transport ...

13. In support of town centres as the first choice, the Government recognises that the application of the sequential approach requires flexibility and realism from developers and retailers as well as planning authorities. In preparing their proposals developers and retailers should have regard to the format, design, scale of the development, and the amount of car parking in relation to the circumstances of the particular town centre. In addition they should also address the need to identify and assemble sites which can meet not only their requirements, but in a manner sympathetic to the town setting. As part of such an approach, they should 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 might offer a better fit with existing development in the town centre ...

14. Planning authorities should also be responsive to the needs of retailers and other town centre businesses. In consultation with the private sector, they should assist in identifying sites in the town

centre which could be suitable and viable, for example, in terms of size and siting for the proposed use, and are likely to become available in a reasonable time ...

15. Only if it can be demonstrated that all town centre options have been thoroughly addressed and a view taken on availability, should less central sites in out-of-centre locations be considered for key town centre uses. Where development proposals in such locations fall outwith the development plan framework, it is for developers to demonstrate that town centre and edge-of-centre options have been thoroughly assessed. Even where a developer, as part of a sequential approach, demonstrates an out-of-centre location to be the most appropriate, the impact on the vitality and viability of existing centres still has to be shown to be acceptable ...”

The consideration of the application

7. The interveners’ application was for planning permission to develop a foodstore, café and petrol filling station, with associated car parking, landscaping and infrastructure, including access roads. The proposals also involved improvements to the junction with the A90 (T), the upgrading of a pedestrian underpass, the provision of footpaths and cycle ways, and improvements to adjacent roadways. A significant proportion of the former NCR site lay outside the application site. It was envisaged that vehicular access to this land could be achieved using one of the proposed access roads.

8. In his report to the respondents, the Director of City Development advised that the application was contrary to certain aspects of the employment and retailing policies of the development plan. In relation to the employment policies, in particular, the proposal was contrary to policies which required the respondents to safeguard the NCR site for business use. The Director considered however that the application site was unlikely to be re-developed for business uses in the short term, and that its re-development as proposed would improve the development prospects of the remainder of the NCR site. In addition, the infrastructure improvements would provide improved access which would benefit all businesses in an adjacent industrial estate.

9. In relation to the retailing policies, the Director considered the application in the light of the criteria in Retailing Policy 4 of the structure plan. In relation to the first criterion he stated:

“It must be demonstrated, in the first instance, that no suitable site is available for the development either within the city/district centres or, thereafter on the edge of these centres ... While noting that the Lochee District Centre lies within the primary catchment area for the proposal, [the retail statement submitted on behalf of the interveners] examines the potential site opportunities in and on the edge of that centre and also at the Hilltown and Perth Road District Centres. The applicants conclude that there are no sites or premises available in or on the edge of existing centres capable of accommodating the development under consideration. Taking account of the applicant’s argument it is accepted that at present there is no suitable site available to accommodate the proposed development.”

In relation to the remaining criteria, the Director concluded that the proposed development was likely to have a detrimental effect on the vitality and viability of Lochee District Centre, and was therefore in conflict with the second criterion. The potential impact on Lochee could however be minimised by attaching conditions to any permission granted so as to restrict the size of the store, limit the type of goods for sale and prohibit the provision of concessionary units. The proposal was also considered to be in conflict with the third criterion: there was no deficiency in shopping provision which the proposal would address. The fourth criterion, concerned with accessibility by modes of transport other than the car, was considered to be met. Similar conclusions were reached in relation to the corresponding criteria in Policy 45 of the local plan.

10. In view of the conflict with the employment and retailing policies, the Director considered that the proposal did not fully comply with the provisions of the development plan. He identified however two other material considerations of particular significance. First, the proposed development would bring economic benefits to the city. The closure of the NCR factory had been a major blow to the economy, but the re-development of the application site would create more jobs than had been lost when the factory finally closed. The creation of additional employment opportunities within the city was considered to be a strong material consideration. Secondly, the development would also provide a number of planning benefits. There would be improvements to the strategic road network which would assist in the free flow of traffic along the A90 (T). The development would also assist in the re-development of the whole of the former NCR site through the provision of enhanced road access and the clearance of buildings from the site. The access improvements would also assist in the development of an economic development area to the west. These benefits were considered to be another strong material consideration.

11. The Director concluded that the proposal was not in accordance with the development plan, particularly with regard to the employment and retailing

policies. There were however other material considerations of sufficient weight to justify setting aside those policies and offering support for the development, subject to suitable conditions. He accordingly recommended that consent should be granted, subject to specified conditions.

12. The application was considered by the respondents' entire council sitting as the respondents' Development Quality Committee. After hearing submissions on behalf of the interveners and also on behalf of the appellants, the respondents decided to follow the Director's recommendation. The reasons which they gave for their decision repeated the Director's conclusions:

"It is concluded that the proposal does not undermine the core land use and environmental strategies of the development plan. The planning and economic benefits that would accrue from the proposed development would be important to the future development and viability of the city as a regional centre. These benefits are considered to be of a significant weight and sufficient to set aside the relevant provisions of the development plan."

The present proceedings

13. The submissions on behalf of the appellants focused primarily upon an alleged error of interpretation of the first criterion in Retailing Policy 4 of the structure plan, and of the equivalent criterion in Policy 45 of the local plan. If there was a dispute about the meaning of a development plan policy which the planning authority was bound to take into account, it was for the court to determine what the words were capable of meaning. If the planning authority attached a meaning to the words which they were not properly capable of bearing, then it made an error of law, and failed properly to understand the policy. In the present case, the Director had interpreted "suitable" as meaning "suitable for the development proposed by the applicant"; and the respondents had proceeded on the same basis. That was not however a tenable meaning. Properly interpreted, "suitable" meant "suitable for meeting identified deficiencies in retail provision in the area". Since no such deficiency had been identified, it followed on a proper interpretation of the plan that the first criterion did not require to be considered: it was inappropriate to undertake the sequential approach. The Director's report had however implied that the first criterion was satisfied, and that the proposal was to that extent in conformity with the sequential approach. The respondents had proceeded on that erroneous basis. They had thus failed to identify correctly the extent of the conflict between the proposal and the development plan. In consequence, their assessment of whether other material considerations justified a departure from the plan was inherently flawed.

14. The respondents had compounded their error, it was submitted, by treating the proposed development as definitive when assessing whether a “suitable” site was available. That approach permitted developers to drive a coach and horses through the sequential approach: they could render the policy nugatory by the simple expedient of putting forward proposals which were so large that they could only be accommodated outside town and district centres. In the present case, there was a site available in Lochee which was suitable for food retailing and which was sequentially preferable to the application site. The Lochee site had been considered as part of the assessment of the proposal, but had been found to be unsuitable because it could not accommodate the scale of development to which the interveners aspired.

15. In response, counsel for the respondents submitted that it was for the planning authority to interpret the relevant policy, exercising its planning judgment. Counsel accepted that, if there was a dispute about the meaning of the words in a policy document, it was for the court to determine as a matter of law what the words were capable of meaning. The planning authority would only make an error of law if it attached a meaning to the words which they were not capable of bearing. In the present case, the relevant policies required all the specified criteria to be satisfied. The respondents had proceeded on the basis that the proposal failed to accord with the second and third criteria. In those circumstances, the respondents had correctly concluded that the proposal was contrary to the policies in question. How the proposal had been assessed against the first criterion was immaterial.

16. So far as concerned the assessment of “suitable” sites, the interveners’ retail statement reflected a degree of flexibility. There had been a consideration of all sites of at least 2.5 ha, whereas the application site extended to 6.68 ha. The interveners had also examined sites which could accommodate only food retailing, whereas their application had been for both food and non-food retailing. The Lochee site extended to only 1.45 ha, and could accommodate a store of only half the size proposed. It also had inadequate car parking. The Director, and the respondents, had accepted that it was not a suitable site for these reasons.

Discussion

17. It has long been established that a planning authority must proceed upon a proper understanding of the development plan: see, for example, *Gransden & Co Ltd v Secretary of State for the Environment* (1985) 54 P & CR 86, 94 per Woolf J, affd (1986) 54 P & CR 361; *Horsham DC v Secretary of State for the Environment* (1991) 63 P & CR 219, 225-226 per Nolan LJ. The need for a proper understanding follows, in the first place, from the fact that the planning authority is required by statute to have regard to the provisions of the development plan: it

cannot have regard to the provisions of the plan if it fails to understand them. It also follows from the legal status given to the development plan by section 25 of the 1997 Act. The effect of the predecessor of section 25, namely section 18A of the Town and Country (Planning) Scotland Act 1972 (as inserted by section 58 of the Planning and Compensation Act 1991), was considered by the House of Lords in the case of *City of Edinburgh Council v Secretary of State for Scotland* 1998 SC (HL) 33, [1997] 1 WLR 1447. It is sufficient for present purposes to cite a passage from the speech of Lord Clyde, with which the other members of the House expressed their agreement. At p 44, 1459, his Lordship observed:

“In the practical application of sec 18A it will obviously be necessary for the decision-maker to consider the development plan, identify any provisions in it which are relevant to the question before him and make a proper interpretation of them. His decision will be open to challenge if he fails to have regard to a policy in the development plan which is relevant to the application or fails properly to interpret it.”

18. In the present case, the planning authority was required by section 25 to consider whether the proposed development was in accordance with the development plan and, if not, whether material considerations justified departing from the plan. In order to carry out that exercise, the planning authority required to proceed on the basis of what Lord Clyde described as “a proper interpretation” of the relevant provisions of the plan. We were however referred by counsel to a number of judicial dicta which were said to support the proposition that the meaning of the development plan was a matter to be determined by the planning authority: the court, it was submitted, had no role in determining the meaning of the plan unless the view taken by the planning authority could be characterised as perverse or irrational. That submission, if correct, would deprive sections 25 and 37(2) of the 1997 Act of much of their effect, and would drain the need for a “proper interpretation” of the plan of much of its meaning and purpose. It would also make little practical sense. The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained. Those considerations point away from the view that the meaning of the plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that in principle, in this area of public administration as in others (as discussed, for example, in *R (Raissi) v Secretary of State for the Home Department* [2008] QB 836), policy statements should be interpreted

objectively in accordance with the language used, read as always in its proper context.

19. That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse (*Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, 780 per Lord Hoffmann). Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean.

20. The principal authority referred to in relation to this matter was the judgment of Brooke LJ in *R v Derbyshire County Council, Ex p Woods* [1997] JPL 958 at 967. Properly understood, however, what was said there is not inconsistent with the approach which I have described. In the passage in question, Brooke LJ stated:

“If there is a dispute about the meaning of the words included in a policy document which a planning authority is bound to take into account, it is of course for the court to determine as a matter of law what the words are capable of meaning. If the decision maker attaches a meaning to the words they are not properly capable of bearing, then it will have made an error of law, and it will have failed properly to understand the policy.”

By way of illustration, Brooke LJ referred to the earlier case of *Northavon DC v Secretary of State for the Environment* [1993] JPL 761, which concerned a policy applicable to “institutions standing in extensive grounds”. As was observed, the words spoke for themselves, but their application to particular factual situations would often be a matter of judgment for the planning authority. That exercise of judgment would only be susceptible to review in the event that it was unreasonable. The latter case might be contrasted with the case of *R (Heath and Hampstead Society) v Camden LBC* [2008] 2 P & CR 233, where a planning authority’s decision that a replacement dwelling was not “materially larger” than its predecessor, within the meaning of a policy, was vitiated by its failure to understand the policy correctly: read in its context, the phrase “materially larger” referred to the size of the new building compared with its predecessor, rather than

requiring a broader comparison of their relative impact, as the planning authority had supposed. Similarly in *City of Edinburgh Council v Scottish Ministers* 2001 SC 957 the reporter's decision that a licensed restaurant constituted "similar licensed premises" to a public house, within the meaning of a policy, was vitiated by her misunderstanding of the policy: the context was one in which a distinction was drawn between public houses, wine bars and the like, on the one hand, and restaurants, on the other.

21. A provision in the development plan which requires an assessment of whether a site is "suitable" for a particular purpose calls for judgment in its application. But the question whether such a provision is concerned with suitability for one purpose or another is not a question of planning judgment: it is a question of textual interpretation, which can only be answered by construing the language used in its context. In the present case, in particular, the question whether the word "suitable", in the policies in question, means "suitable for the development proposed by the applicant", or "suitable for meeting identified deficiencies in retail provision in the area", is not a question which can be answered by the exercise of planning judgment: it is a logically prior question as to the issue to which planning judgment requires to be directed.

22. It is of course true, as counsel for the respondents submitted, that a planning authority might misconstrue part of a policy but nevertheless reach the same conclusion, on the question whether the proposal was in accordance with the policy, as it would have reached if it had construed the policy correctly. That is not however a complete answer to a challenge to the planning authority's decision. An error in relation to one part of a policy might affect the overall conclusion as to whether a proposal was in accordance with the development plan even if the question whether the proposal was in conformity with the policy would have been answered in the same way. The policy criteria with which the proposal was considered to be incompatible might, for example, be of less weight than the criteria which were mistakenly thought to be fulfilled. Equally, a planning authority might misconstrue part of a policy but nevertheless reach the same conclusion as it would otherwise have reached on the question whether the proposal was in accordance with the development plan. Again, however, that is not a complete answer. Where it is concluded that the proposal is not in accordance with the development plan, it is necessary to understand the nature and extent of the departure from the plan which the grant of consent would involve in order to consider on a proper basis whether such a departure is justified by other material considerations.

23. In the present case, the Lord Ordinary rejected the appellants' submissions on the basis that the interpretation of planning policy was always primarily a matter for the planning authority, whose assessment could be challenged only on the basis of unreasonableness: there was, in particular, more than one way in

which the sequential approach could reasonably be applied ([2010] CSOH 128, para 23). For the reasons I have explained, that approach does not correctly reflect the role which the court has to play in the determination of the meaning of the development plan. A different approach was adopted by the Second Division: since, it was said, the proposal was in head-on conflict with the retail and employment policies of the development plan, and the sequential approach offered no justification for it, a challenge based upon an alleged misapplication of the sequential approach was entirely beside the point (2011 SC 457, [2011] CSIH 9, para 38). For the reasons I have explained, however, even where a proposal is plainly in breach of policy and contrary to the development plan, a failure properly to understand the policy in question may result in a failure to appreciate the full extent or significance of the departure from the development plan which the grant of consent would involve, and may consequently vitiate the planning authority's determination. Whether there has in fact been a misunderstanding of the policy, and whether any such misunderstanding may have led to a flawed decision, has therefore to be considered.

24. I turn then to the question whether the respondents misconstrued the policies in question in the present case. As I have explained, the appellants' primary contention is that the word "suitable", in the first criterion of Retailing Policy 4 of the structure plan and the corresponding Policy 45 of the local plan, means "suitable for meeting identified deficiencies in retail provision in the area", whereas the respondents proceeded on the basis of the construction placed upon the word by the Director of City Development, namely "suitable for the development proposed by the applicant". I accept, subject to a qualification which I shall shortly explain, that the Director and the respondents proceeded on the latter basis. Subject to that qualification, it appears to me that they were correct to do so, for the following reasons.

25. First, that interpretation appears to me to be the natural reading of the policies in question. They have been set out in paras 4 and 5 above. Read short, Retailing Policy 4 of the structure plan states that proposals for new or expanded out of centre retail developments will only be acceptable where it can be established that a number of criteria are satisfied, the first of which is that "no suitable site is available" in a sequentially preferable location. Policy 45 of the local plan is expressed in slightly different language, but it was not suggested that the differences were of any significance in the present context. The natural reading of each policy is that the word "suitable", in the first criterion, refers to the suitability of sites for the proposed development: it is the proposed development which will only be acceptable at an out of centre location if no suitable site is available more centrally. That first reason for accepting the respondents' interpretation of the policy does not permit of further elaboration.

26. Secondly, the interpretation favoured by the appellants appears to me to conflate the first and third criteria of the policies in question. The first criterion concerns the availability of a “suitable” site in a sequentially preferable location. The third criterion is that the proposal would address a deficiency in shopping provision which cannot be met in a sequentially preferable location. If “suitable” meant “suitable for meeting identified deficiencies in retail provision”, as the appellants contend, then there would be no distinction between those two criteria, and no purpose in their both being included.

27. Thirdly, since it is apparent from the structure and local plans that the policies in question were intended to implement the guidance given in NPPG 8 in relation to the sequential approach, that guidance forms part of the relevant context to which regard can be had when interpreting the policies. The material parts of the guidance are set out in para 6 above. They provide further support for the respondents’ interpretation of the policies. Paragraph 13 refers to the need to identify sites which can meet the requirements of developers and retailers, and to the scope for accommodating the proposed development. Paragraph 14 advises planning authorities to assist the private sector in identifying sites which could be suitable for the proposed use. Throughout the relevant section of the guidance, the focus is upon the availability of sites which might accommodate the proposed development and the requirements of the developer, rather than upon addressing an identified deficiency in shopping provision. The latter is of course also relevant to retailing policy, but it is not the issue with which the specific question of the suitability of sites is concerned.

28. I said earlier that it was necessary to qualify the statement that the Director and the respondents proceeded, and were correct to proceed, on the basis that “suitable” meant “suitable for the development proposed by the applicant”. As paragraph 13 of NPPG 8 makes clear, the application of the sequential approach requires flexibility and realism from developers and retailers as well as planning authorities. The need for flexibility and realism reflects an inbuilt difficulty about the sequential approach. On the one hand, the policy could be defeated by developers’ and retailers’ taking an inflexible approach to their requirements. On the other hand, as Sedley J remarked in *R v Teesside Development Corporation, Ex p William Morrison Supermarket plc and Redcar and Cleveland BC* [1998] JPL 23, 43, to refuse an out-of-centre planning consent on the ground that an admittedly smaller site is available within the town centre may be to take an entirely inappropriate business decision on behalf of the developer. The guidance seeks to address this problem. It advises that developers and retailers should have regard to the circumstances of the particular town centre when preparing their proposals, as regards the format, design and scale of the development. 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 with existing

development in the town centre. The guidance also advises that planning authorities should be responsive to the needs of retailers. Where development proposals in out-of-centre locations fall outside the development plan framework, developers are expected to demonstrate that town centre and edge-of-centre options have been thoroughly assessed. That advice is not repeated in the structure plan or the local plan, but the same approach must be implicit: otherwise, the policies would in practice be inoperable.

29. It follows from the foregoing that it would be an over-simplification to say that the characteristics of the proposed development, such as its scale, are necessarily definitive for the purposes of the sequential test. That statement has to be qualified to the extent that the applicant is expected to have prepared his proposals in accordance with the recommended approach: he is, for example, expected to have had regard to the circumstances of the particular town centre, to have given consideration to the scope for accommodating the development in a different form, and to have thoroughly assessed sequentially preferable locations on that footing. Provided the applicant has done so, however, the question remains, as Lord Glennie observed in *Lidl UK GmbH v Scottish Ministers* [2006] CSOH 165, para 14, whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.

30. In the present case, it is apparent that a flexible approach was adopted. The interveners did not confine their assessment to sites which could accommodate the development in the precise form in which it had been designed, but examined sites which could accommodate a smaller development and a more restricted range of retailing. Even taking that approach, however, they did not regard the Lochee site vacated by the appellants as being suitable for their needs: it was far smaller than they required, and its car parking facilities were inadequate. In accepting that assessment, the respondents exercised their judgment as to how the policy should be applied to the facts: they did not proceed on an erroneous understanding of the policy.

31. Finally, I would observe that an error by the respondents in interpreting their policies would be material only if there was a real possibility that their determination might otherwise have been different. In the particular circumstances of the present case, I am not persuaded that there was any such possibility. The considerations in favour of the proposed development were very powerful. They were also specific to the particular development proposed: on the information before the respondents, there was no prospect of any other development of the application site, or of any development elsewhere which could deliver equivalent planning and economic benefits. Against that background, the argument that a different decision might have been taken if the respondents had been advised that

the first criterion in the policies in question did not arise, rather than that criterion had been met, appears to me to be implausible.

Conclusion

32. For these reasons, and those given by Lord Hope, with which I am in entire agreement, I would dismiss the appeal.

LORD HOPE

33. The question that lies at the heart of this case is whether the respondents acted unlawfully in their interpretation of the sequential approach which both the structure plan and the relevant local plan required them to adopt to new retail developments within their area. According to that approach, proposals for new or expanded out of centre developments of this kind are acceptable only where it can be established, among other things, that no suitable site is available, in the first instance, within and thereafter on the edge of city, town or district centres. Is the test as to whether no suitable site is available in these locations, when looked at sequentially, to be addressed by asking whether there is a site in each of them in turn which is suitable for the proposed development? Or does it direct attention to the question whether the proposed development could be altered or reduced so as to fit into a site which is available there as a location for this kind of development?

34. The sequential approach is described in National Planning Policy Guidance Policy 8, *Town Centres and Retailing*, para 5.2 as a fundamental principle of NPPG 8. In *R v Rochdale Metropolitan Borough Council, Ex p Milne*, 31 July 2000, not reported, paras 48-49, Sullivan J said that it was not unusual for development plan policies to pull in different directions and, having regard to what Lord Clyde said about the practical application of the statutory rule in *City of Edinburgh v Secretary of State for Scotland* 1998 SC (HL) 33 at p 44, that he regarded as untenable the proposition that if there was a breach of any one policy in a development plan a proposed development could not be said to be “in accordance with the plan”. In para 52 he said that the relative importance of a given policy to the overall objectives of the development plan was essentially a matter for the judgment of the local planning authority and that a legalistic approach to the interpretation of development plan policies was to be avoided.

35. I see no reason to question these propositions, to which Mr Kingston QC for the appellants drew our attention in his reply to Mr Armstrong’s submissions for the respondents. But I do not think that they are in point in this case. We are concerned here with a particular provision in the planning documents to which the

respondents are required to have regard by the statute. The meaning to be given to the crucial phrase is not a matter that can be left to the judgment of the planning authority. Nor, as the Lord Ordinary put it in his opinion at [2010] CSOH 128, para 23, is the interpretation of the policy which it sets out primarily a matter for the decision maker. As Mr Thomson for the interveners pointed out, the challenge to the respondents' decision to follow the Director's recommendation and approve the proposed development is not that it was *Wednesbury* unreasonable but that it was unlawful. I agree with Lord Reed that the issue is one of law, reading the words used objectively in their proper context.

36. In *Lidl UK GmbH v The Scottish Ministers* [2006] CSOH 165 the appellants appealed against a decision of the Scottish Ministers to refuse planning permission for a retail unit to be developed on a site outwith Irvine town centre. The relevant provision in the local plan required the sequential approach to be adopted to proposals for new retail development out with the town centre boundaries. Among the criteria that had to be satisfied was the requirement that no suitable sites were available, or could reasonably be made available, in or on the edge of existing town centres. In other words, town centre sites were to be considered first before edge of centre or out of town sites. The reporter held that the existing but soon to be vacated Lidl town centre site was suitable for the proposed development, although it was clear as a matter of fact that this site could not accommodate it. In para 13 Lord Glennie noted that counsel for the Scottish Ministers accepted that a site would be "suitable" in terms of the policy only if it was suitable for, or could accommodate, the development as proposed by the developer. In para 14 he said that the question was whether the alternative town centre site was suitable for the proposed development, not whether the proposed development could be altered or reduced so that it could fit in to it.

37. Mr Kingston submitted that Lord Glennie's approach would rob the sequential approach of all its force, and in the Inner House it was submitted that his decision proceeded on a concession by counsel which ought not to have been made: [2011] CSIH 9, 2011 SC 457, para 31. But I think that Lord Glennie's interpretation of the phrase was sound and that counsel was right to accept that it had the meaning which she was prepared to give to it. The wording of the relevant provision in the local plan in that case differed slightly from that with which we are concerned in this case, as it included the phrase "or can reasonably be made available". But the question to which it directs attention is the same. It is the proposal for which the developer seeks permission that has to be considered when the question is asked whether no suitable site is available within or on the edge of the town centre.

38. The context in which the word "suitable" appears supports this interpretation. It is identified by the opening words of the policy, which refer to "proposals for new or expanded out of centre retail developments" and then set out

the only circumstances in which developments outwith the specified locations will be acceptable. The words “the proposal” which appear in the third and fifth of the list of the criteria which must be satisfied serve to reinforce the point that the whole exercise is directed to what the developer is proposing, not some other proposal which the planning authority might seek to substitute for it which is for something less than that sought by the developer. It is worth noting too that the phrase “no suitable site is available” appears in Policy 46 of the local plan relating to commercial developments. Here too the context indicates that the issue of suitability is directed to the developer’s proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer’s assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism to which Lord Reed refers in para 28, above, they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest doing so.

39. For these reasons which I add merely as a footnote I agree with Lord Reed, for all the reasons he gives, that this appeal should be dismissed. I would affirm the Second Division’s interlocutor.



APPENDIX 5

Ross Bowen <ross.bowen@rpsgroup.com>

5 November 2012 15:45

To: Arfon Hughes

Bridgend LDP - SW Police HQ site

Arfon,

Thanks for your email, the Council have responded to advise me that due to pressures in producing submission statements for the first seven sessions of the examination, and responding to statements which they will receive they have little time to deal with the issues relating to the South Wales Police HQ session.

They do not consider that the Inspector requires Statements of Common Ground to be submitted with statements, and given this, they consider that we should await the exchange of statements so that any areas of common ground can be identified and agreed before being presented to the Inspector prior to the submission.

Kind regards

Ross

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Ross Bowen <ross.bowen@rpsgroup.com>
To: Arfon Hughes <arfon@mangoplanning.com>
RE: Bridgend Retail Study

26 October 2012 13:46

1 Attachment, 6 KB

Hi Arfon

Thanks for your email. I'll raise the issue with the Council and look to come back to you as soon as I can.

Kind regards
Ross

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From: Arfon Hughes [<mailto:arfon@mangoplanning.com>]
Sent: 26 October 2012 09:50
To: Ross Bowen
Subject: Bridgend Retail Study

Ross

I understand that you are advising Bridgend on a review of the CACI retail study that forms the basis of their LDP. As you will know, we have a session on 6 December with the Inspector to consider convenience retail issues and need to submit statements to him within the next three weeks. As part of the hearing, we have been asked to seek to agree common ground with you/the LPA in advance. I appreciate that you have some work to do before being ready to meet and discuss this, but can we get a date in the diary, in anticipation?

Many thanks

Regards

Arf

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APPENDIX 6



Retail Expenditure Guide

Covering the 2011- Based Expenditure Release
2012/2013

PRODUCT GUIDE

Conceptual Issues

As mentioned earlier, the advent of the internet has raised conceptual as well as measurement issues relating to the way that Non Store Retail sales are treated in a retail planning context. One element of this is how to treat sales that are made online but where the goods are either taken by store-staff from the shelves of company stores (as with Tesco) or where they are picked up from the store (as with a number of large retailers). Tesco's (who source most, though not all, of their online convenience goods sales from existing stores) online sales in the UK in 2011 are estimated to be around £2.74bn, so it is quite possible that the majority of the estimated £5.3bn difference between the Broad and narrow estimates of Non-Store sales of convenience goods in 2011 was sourced from the shelves of existing stores.

Table 3.2

Non-Stores Sales of Convenience Goods
(% of Total Spending on Convenience Goods)

	Total	Adjusted*	of which:	
			Narrow Definition	Part of Non-Narrow Definition
2002	2.3	2.0	2.0	0.0
2003	2.3	1.8	1.8	0.0
2004	2.7	1.9	1.8	0.1
2005	2.8	1.8	1.7	0.1
2006	3.1	1.8	1.6	0.1
2007	3.4	1.8	1.6	0.2
2008	4.1	1.7	1.4	0.3
2009	4.5	1.5	1.1	0.3
2010	5.1	1.6	1.2	0.4
2011	5.7	1.7	1.2	0.4
2012	6.0	1.7	1.2	0.5
2013	6.2	1.7	1.2	0.5
2014	6.4	1.8	1.2	0.5
2015	6.5	1.8	1.2	0.5
2016	6.5	1.8	1.2	0.5
2017	6.6	1.8	1.2	0.5
2018	6.6	1.8	1.2	0.5
2019	6.7	1.8	1.2	0.5
2020	6.7	1.8	1.2	0.5
2021	6.7	1.8	1.2	0.5
2022	6.7	1.8	1.2	0.5

* Adjusted for sourcing from existing stores

Table 3.2 shows the impact of assuming that 90% of internet sales by companies who also have a conventional store-based presence (e.g. Tesco), source from existing stores. This has a big impact on the implied reduction in spending to allow for Special Forms of Trading/Non Store Retail Sales. This falls from 5.7% in the Broad Definition to just 1.7% in the adjusted version with only a modest

increase after 2011. The 90% assumption may not, of course, hold into the future. Tesco are already starting to source from "dark" stores (i.e. warehouses existing purely to serve the online market). Waitrose, on the other hand are now sourcing from stores now that their agreement with Ocado has come to an end.

A more difficult conceptual issue is how to deal with multichannel retailing. In some retail business models, stores can be seen as showrooms for internet sales rather than as sales points in their own right. The increased use of smart phone technology has started to blur the store/internet boundary even further. Customers can now visit a store and place an order over the internet, possibly from a different retailer, while in situ. There are obviously viability and sustainability issues if a company starts to simply act as a showroom for other companies' sales but the increasing popularity of the multi-channel model implies that the phenomena is likely to be around for some time to come.

The implication is that the "retail needs model" whereby the potential spending in-stores in a location relative to sales densities is an indicator of the need for retail space may no longer appropriate. Another way of looking at this is to say that it is not appropriate to deduct the full extent of estimated non store sales from local spending when estimating spending available for local store-based sales; although it is difficult, if not impossible, to say what share is appropriate.

Sales Densities

Sales densities are the value or volume of retail goods sold through retail outlets divided by the available floor space. By implication, any increase in sales densities reduces the future need for retail floor space all else being equal.

Measurement of changes in sales densities is problematic due to data constraints but it is clear that in the pre-recession years, rapid growth of retail expenditure far outstripped the increase in available floor space leading to rapid growth in sales densities. Blake, Morley and Bach (Future of Retail Property: How Much Space, BCSC 2008) attempted to estimate sales density changes between 1987 and 2005 for convenience and comparison goods and to spell out the relationships between gross and net space and the impact of the changing age and in-town/out-of-town mix of retail space. The results show an exceptionally rapid growth in (net) sales densities between 2000 and 2005 of 1.6% and 3.9% per annum for convenience and comparison goods respectively which represented a substantial acceleration on the 1.2 and 2.5% per annum increases recorded between 1987 and 2000.

The authors, however, argue that it would be incorrect to extrapolate recent trends into the future as they were very much driven by the consumer spending boom and were unlikely to be either sustainable or desirable in the long-run. Instead, they base their future assumptions on the growth rates in the earlier, 1987-2000, period. These were further adjusted down to allow for the increase in convenience densities that was due to the replacement of old space with new space with higher sales densities and for the impact of Sunday trading which was also thought of as a one-off event. The final assumptions used for future sales density growth were 0.6% and 2.2% per annum for convenience and comparison goods respectively.

Longer-Run Trends

From as early as 1964 comparison goods have accounted for an increasing share of household spending. As household incomes have risen, annual growth rates in spending on comparison goods have been much higher compared to convenience goods. The average annual growth rates for comparison goods spending per capita over the period 1996-11 was 6.4% per annum compared to just 0.2% per annum for convenience goods (calculated by fitting a log linear trend to the data - see Table 3.2). Having experienced some very rapid growth rates in the earlier part of the 2000s, the 2008-9 slowdown has dragged average growth rates down. Over the period of 1964-2011 the average rate of increase of spending per capita on comparison goods (chain linked volumes) was 4.7% per annum. As a result of this strong growth, comparison goods values represented almost 62% of all retail goods expenditure in 2011.

Historically growth in expenditure per capita on convenience goods has been much slower. In fact, over the past ten years spending per capita has on average fallen by 0.4% per year, with robust annual growth rates in the earlier part of the decade countered by falls of 3.6% and 3.9% in 2008 and 2009 respectively and then by another big fall in 2011. Over the period of 1964-2011 the average rate of increase of spending per capita on convenience goods (chain linked volumes) was 0.5% per annum.

Longer-Run Trends

Table 3.2: UK annual average consumer retail expenditure by goods type (chain linked volumes, 2009 prices)

	Constant (2009) Prices, per Capita Consumption (£)						Price Deflators, 2009=100		
	Convenience goods	Comparison goods	All goods	Growth rates (%)			Convenience goods	Comparison goods	All goods
				Convenience goods	Comparison goods	All goods			
1980	1,620	626	2,246	-0.5	-2.9	-1.2	34.6	83.9	48.3
1981	1,599	623	2,222	-1.3	-0.6	-1.1	37.8	89.2	52.2
1982	1,586	642	2,228	-0.8	3.1	0.3	40.7	93.5	55.9
1983	1,604	679	2,283	1.2	5.8	2.5	42.7	98.2	59.2
1984	1,587	712	2,299	-1.1	4.9	0.7	45.5	101.6	62.9
1985	1,599	754	2,353	0.7	5.8	2.3	47.6	106.4	66.4
1986	1,634	816	2,450	2.2	8.2	4.1	49.4	110.1	69.6
1987	1,668	884	2,553	2.1	8.4	4.2	50.9	112.7	72.3
1988	1,696	959	2,656	1.7	8.4	4.0	52.9	116.6	75.9
1989	1,721	995	2,716	1.4	3.8	2.3	55.7	120.8	79.5
1990	1,717	1,016	2,733	-0.2	2.1	0.6	60.0	125.7	84.5
1991	1,695	1,014	2,710	-1.2	-0.2	-0.8	64.2	132.1	89.6
1992	1,692	1,050	2,743	-0.2	3.5	1.2	66.1	134.3	92.2
1993	1,711	1,099	2,810	1.1	4.7	2.4	67.5	135.1	94.0
1994	1,724	1,180	2,904	0.8	7.4	3.4	68.2	134.5	95.2
1995	1,709	1,227	2,936	-0.9	4.0	1.1	70.8	137.3	98.6
1996	1,764	1,295	3,059	3.2	5.5	4.2	73.2	139.8	101.4
1997	1,786	1,374	3,160	1.3	6.1	3.3	74.6	137.6	102.0
1998	1,778	1,497	3,275	-0.4	9.0	3.7	76.2	135.1	103.1
1999	1,832	1,629	3,461	3.0	8.8	5.7	77.0	133.4	103.6
2000	1,868	1,807	3,676	2.0	11.0	6.2	77.3	127.6	102.0
2001	1,835	1,956	3,791	-1.8	8.2	3.1	79.8	124.1	102.7
2002	1,861	2,154	4,015	1.4	10.1	5.9	80.4	120.9	102.1
2003	1,879	2,344	4,223	1.0	8.8	5.2	81.7	117.2	101.4
2004	1,937	2,499	4,436	3.0	6.6	5.0	82.2	113.9	100.1
2005	1,970	2,598	4,569	1.7	4.0	3.0	83.1	110.2	98.5
2006	1,972	2,771	4,743	0.1	6.6	3.8	85.3	107.3	98.2
2007	1,959	2,918	4,877	-0.7	5.3	2.8	88.5	105.2	98.5
2008	1,889	2,990	4,879	-3.6	2.5	0.0	95.0	102.0	99.3
2009	1,815	2,984	4,799	-3.9	-0.2	-1.6	100.0	100.0	100.0
2010	1,800	3,058	4,858	-0.8	2.5	1.2	103.3	100.7	101.7
2011	1,741	3,073	4,814	-3.2	0.5	-0.9	109.9	101.4	104.5
2012	1,722	3,084	4,805	-1.1	0.4	-0.2	114.3	101.5	106.1
2013	1,709	3,161	4,869	-0.8	2.5	1.3	118.1	100.2	106.4
2014	1,723	3,309	5,032	0.8	4.7	3.3	121.5	99.3	106.9
2015	1,742	3,477	5,219	1.1	5.1	3.7	124.8	98.7	107.4
2016	1,764	3,667	5,431	1.2	5.5	4.0	128.1	98.1	107.8
2017	1,783	3,867	5,650	1.1	5.4	4.0	131.5	97.5	108.2
2018	1,802	4,072	5,874	1.0	5.3	4.0	135.1	97.1	108.8
2019	1,819	4,278	6,097	1.0	5.1	3.8	138.8	96.9	109.4
2020	1,835	4,483	6,318	0.9	4.8	3.6	142.6	96.9	110.2
2021	1,851	4,693	6,544	0.9	4.7	3.6	146.4	96.9	110.9
2022	1,866	4,903	6,769	0.8	4.5	3.4	150.3	97.0	111.7
Average annual growth rates (calculated by fitting a log-linear regression line by the method of least squares to give a compound growth rate)									
1964-11	0.5%	4.7%	2.1%				6.0%	3.8%	5.4%
1976-11	0.6%	5.6%	2.7%				3.9%	1.2%	3.0%
1981-11	0.6%	6.0%	3.0%				3.1%	0.1%	2.0%
1986-11	0.6%	6.1%	3.2%				2.7%	-0.8%	1.2%
1991-11	0.5%	6.5%	3.8%				2.3%	-1.8%	0.4%
1996-11	0.2%	6.4%	3.5%				2.5%	-2.5%	-0.1%
2001-11	-0.4%	4.5%	2.4%				3.3%	-2.2%	0.0%



APPENDIX 7

3.0 Convenience Goods Assessment

Convenience Goods Market Analysis

- 3.1 Using Census population projections and the results of the Expenditure and Food Survey (EFS) based expenditure data; estimates of 2007 convenience goods expenditure for each of the planning zones have been derived. Figure 6 summarises the key statistics.

Fig. 6 Study Area Zone Statistics 2007

Planning Zone	Residential Population	Resident Spend per capita (per annum)	Resident Convenience Spend (£'s per annum)
Barry	57,530	£2,419	£123.2m
Bridgend	89,251	£2,498	£192.2m
Cardiff	241,392	£2,491	£527.4m
Cowbridge	14,497	£2,868	£33.3m
Llantwit Major	14,627	£2,404	£29.4m
Penarth	44,671	£2,416	£94.9m
Total	461,698	£2,485	£1.0006bn

- 3.2 In terms of estimating growth in residential spend, CACI will only apply assumptions of population growth. This is because the current trends on convenience spend per capita are complex, due to food prices deflating in many areas, mainly attributable to supermarkets finding more ways to reduce costs from economies of scale.
- 3.3 In addition to housing growth specifications provided by the council for the area, CACI will apply the trend-based projections of population growth for the study area as a whole, which has not been disaggregated by study zone, as:
- 2007-2011: 2.4%
 - 2011-2016: 2.8%
 - 2016-2021: 5.6%
- 3.4 To take into account home delivery sales channels (otherwise known as Special Forms of Trading) it has been assumed for this study that in the base year of 2007, 3.86% of all retail sales take place over home delivery sales channels for convenience goods.
- 3.5 It is assumed that this figure of 3.86% increases by 1% per year to 2016, after which it is assumed that the market will stabilise around this level of impact. The effect of increases in home delivery sales will need to be monitored over the Development Plan period as more research becomes available in order to plan for their effects.



APPENDIX 8

Table 1. Population and expenditure

	Total population	Average per capita expenditure	Total available expenditure	Tourism/inflow	Total	Total excluding small shops @10%
2009	167,276	1794	300.04	54.50	354.54	319.09
2011	169,289	1794	303.71	57.59	361.30	325.17
2016	173,737	1794	311.68	66.12	377.81	340.03
2021	178,124	1794	319.55	66.12	385.68	347.11

Notes:

2009 population as per 2010 Study. Population growth rate as per 2010 CACI Study Assumptions (0.5% to 2012, 0.6% pa thereafter)

Average per capita expenditure per CACI Report 2010 (Supermarket and small stores). No growth, as per CACI Study Assumptions

Tourism expenditure per CACI 2010 Study Table 3.1 and grown as per CACI notes

SFT at PB recommended rate of 1.5% at 2009, rising to 1.7% at 2011 and 1.8% post 2013

Table 19: Existing provision

	Total net sales area	Convenience goods sales area	Benchmark sales density	Total turnover
Tesco, Maesteg	3,437	2234	12275	27.42
Co-op, Maesteg	1,089	904	7790	7.04
Aldi, Maesteg	638	466	7374	3.43
Iceland, Maesteg	454	440	6380	2.81
Co-op Pioneer, Pyle	3,303	2741	7790	21.36
Co-op, Porthcawl	1,378	1144	7790	8.91
Asda, Bridgend	4042	2506	13621	34.13
Tesco Extra, Bridgend	5677	3690	12275	45.30
Sainsburys	4276	2694	10936	29.46
Tesco, Brewery Lane, Bridgend	2019	1312	12275	16.11
Aldi, Bridgend	835	610	3000	1.83
Co-op, Brackla	1008	837	7790	6.52
Lidl, Bridgend	1072	825	2494	2.06
Farmfoods, Bridgend	471	447	2500	1.12
Co-op, Pencoed	438	364	7790	2.83
Lidl, Aberkenfig	423	326	2494	0.81
Iceland, Bridgend	439	426	6380	2.72
Total				213.86

Table 20: Commitments

Foodstore, Porthcawl	2323	1626	10000	16.26
REG 5(1) (Parc Derwen)	1000	850	5000	4.25
REG 5(7)	1000	850	5000	4.25
Total				24.76

Total, existing and commitments**238.62****Notes:**

Floorspace data from IGD and 2010 CACI study except Asda (See text)

Company average sales densities and floorspace mix derived from Verdict 2011

Somerset stores now rebranded as Co-op

Table 3 - Summary of convenience goods capacity

	Study area			
	2009	2011	2016	2021
Total available expenditure	319.09	325.17	340.03	347.11
Benchmark provision	213.86	213.86	213.86	213.86
Commitments			24.76	24.76
Total provision	213.86	213.86	238.62	238.62
Surplus	105.23	111.31	101.41	108.49



APPENDIX 9

7.27 Where new development within an existing centre is proposed, which will be likely to prejudice an out of centre allocation, the LPA should consider what weight to give this factor in light of the overarching objective of national policy to focus new development within existing centres wherever possible. Where competing proposals come forward on other edge or out of centre sites, the effects of both will need to be assessed and a judgement made as to which offer the most overall benefit in policy terms. Where there is a real potential for several proposals to come forward as above, their cumulative impact on town centres will need to be considered as part of any assessment.

(iv) Impact on turnover/trade

7.28 It is inevitable that new retail or leisure development will have some impact on the turnover of existing facilities within the catchment area. The approach outlined in Appendix D sets out a framework for making judgements about the likely extent of trade diversion. These will be informed by experience drawn from case studies, having regard to the nature of the proposals.

How to: assess impact on turnover/trade

The starting point for the assessment is a realistic assessment of current consumer spending and shopping patterns, based on modelling supported by survey evidence. Against this 'baseline' position, it will be necessary to assess likely changes at the 'design year' arising from ongoing trends, other 'committed' developments, and the effects of the proposals.

This task inevitably involves subjective judgements about the likely turnover, and trading pattern of the development, and the centres most likely to be affected. If there are details about the type of development proposed and its market position etc. this may assist in such judgements, but unless the proposal is to be conditioned accordingly, it may be necessary to test the sensitivity of different forms of development.

Having established the likely catchment area, market position and turnover potential of the proposal, the key factors affecting judgements about where it will draw its trade from will be determined by:

- The intended market sector/role, on the basis that 'like affects like'; so the centres currently serving the intended catchment population will experience the greatest impact; and
- Distance, on the basis that consumers will generally use the nearest centre/facility which meets their needs in terms of quality/convenience etc.

All assessment of trade diversion rely on judgement, having regard to these factors. However, they should clearly explain the basis of the judgements reached, and enable these to be tested.



APPENDIX 10

FINAL DRAFT



BRIDGEND TOWN CENTRE

MASTERPLAN
FEBRUARY 2011



powellidobson
URBANISTS

SECTION 05

THE MASTERPLAN FRAMEWORK

Development Principles

Given the above, any redevelopment or intervention in this area should be based on the following development principles:

- Redevelopment and enhancement of the area to create a lively, attractive, high quality retail and leisure area providing modern units integrated with surrounding retail area;
- Creating sufficient critical mass to create the "step-change" required for this part of the town centre, given that there are limited alternatives for such a development elsewhere within the centre;
- High quality pedestrian links and public realm between town centre retail core, The Rhiw, Nolton Street and Asda to create retail circuit within existing centre;
- Investigate whether two way traffic in the northern part of Nolton Street can be achieved to allow the street to act as a town centre 'spine';
- Create a key focal public space for the town centre to reinforce the transition into a pedestrian priority area;
- Provision of high quality accessible car parking for the scheme that is linked into the overall development strategy for the town;
- Traffic calming along Brackla Street to enhance the pedestrian environment; and,
- High quality design and construction which will raise the appearance, image and profile of this part of the town centre.

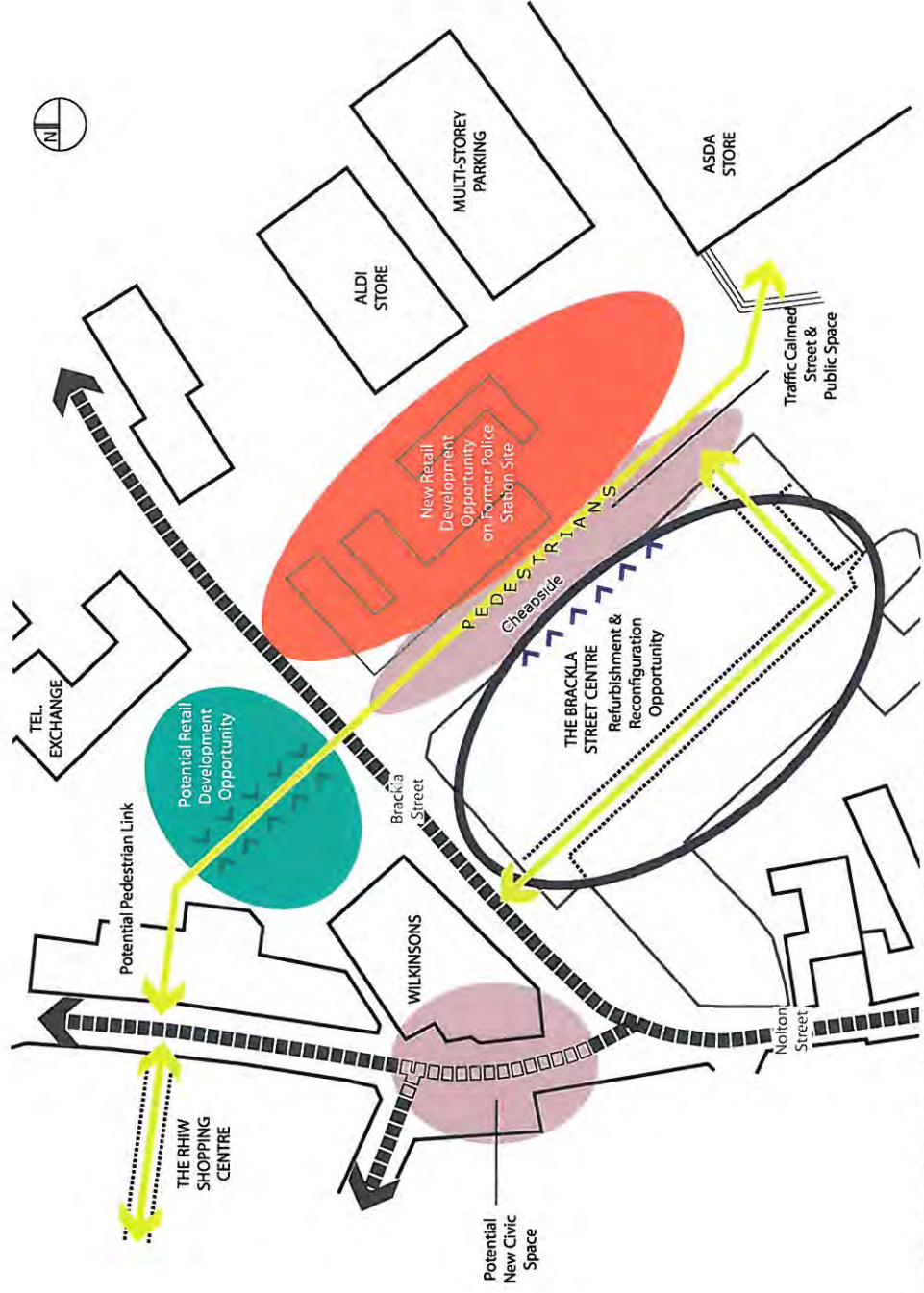


Figure 6. Southside Opportunity Area concept plan utilising the development principles described

THE MASTERPLAN FRAMEWORK

5.3 IMPROVE THE GATEWAYS

THE BREWERY FIELD

The Brewery Field Area is seen as an important site within Bridgend given its close proximity to the existing retail core and the nature of its current land uses. The site is a high profile gateway location and whilst currently outside the existing town centre boundary it contributes to attracting people into the town centre.

The area is made up of:

- ① **Existing Tesco** and surface car park. This part of the site is owned by Tesco and is allocated in the Bridgend UDP under Policy R10 which permits certain sites outside established commercial centres for retail activity;
- ② **The Brewery Field** which is currently used by both Bridgend Football Club and Bridgend Rugby Football Club as a sports facility. The Council has the freehold ownership with a lease to Brewery Field Ltd; and,
- ③ Adjoining **Riverside Tavern public house** and a modern **office building**, the latter which the Council has recently purchased.

Meeting the Vision

The first consideration in reviewing the Brewery Field Area is that this site is not currently classified as a town centre site. Therefore, in the context of the Vision and the Strategic Objectives, consideration must firstly be given to whether the town centre boundary should be amended to include it as part of the town centre, whether flexibility should exist in terms of land use planning policy in this area, or whether it remains an edge of centre site.

If this site is included within the town centre boundary, or is allocated for uses that could be accommodated in more central locations, then it is possible that there would be a shift of focus away from the core to a more peripheral location. This could result in land uses becoming polarised and two competing areas being created, weakening the core of the town centre. Given that the

Strategic Objectives are based around creating a vibrant town centre and given the Brewery Field Area's separation from the town centre by the A4061, the clear conclusion is that this site cannot be deemed to be a town centre location.

The Brewery Field Area should, therefore, remain an edge of centre site but its role as a gateway to Bridgend and, therefore, an enabler to further investment in the town centre needs to be strengthened.

On this basis:

The Brewery Field should play a role as an edge of centre mixed use area that enhances its role as a gateway to Bridgend providing strong links whilst complementing but not competing with existing and future retail and leisure provision in the core of the town centre.

The Strategy for the Brewery Field Area

Given the pressures currently facing the town centre from out of town retail locations (including supermarkets) the retention of Tesco in this location is seen as important. The reason for this is that Tesco brings consumers into this edge of centre location as opposed to out of town locations. With Asda on the southern periphery of the town centre it ensures that convenience retail provision exists at either end of the town. The office buildings provide a commercial focus and ensure a gateway frontage onto the A4061. The Brewery Field itself is a sporting destination for the town.

The strategy for this area, therefore, is to improve the physical linkage to the town centre core, as currently the A4061 presents a significant barrier.

Development Principles

Whilst this is the base position, consideration needs to be given to potential land uses should part of the Brewery Field Area become available for redevelopment in future. Any redevelopment or intervention on the Brewery Field Area should be based around the following development principles:

- Retain the area as predominantly a sporting/leisure venue;
- Utilising a small pocket of land to the east of the river for commercial development;
- Improve the general environment throughout the Brewery Field Area and along the riverfront, with greater permeability and pedestrian linkage to the town centre, particularly with the Council having accommodation in this area;
- Enhance the gateway function of the site by seeking to create a more active and high quality frontage to the road, whilst recognising any technical requirement of site lines, accessibility and car parking;

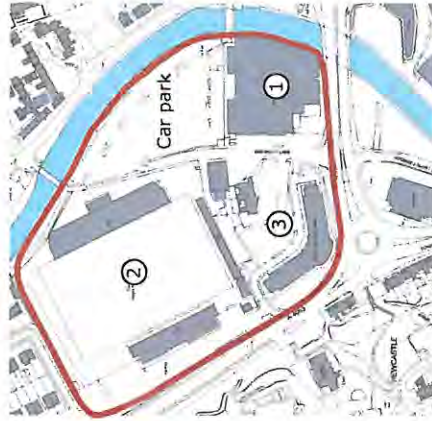
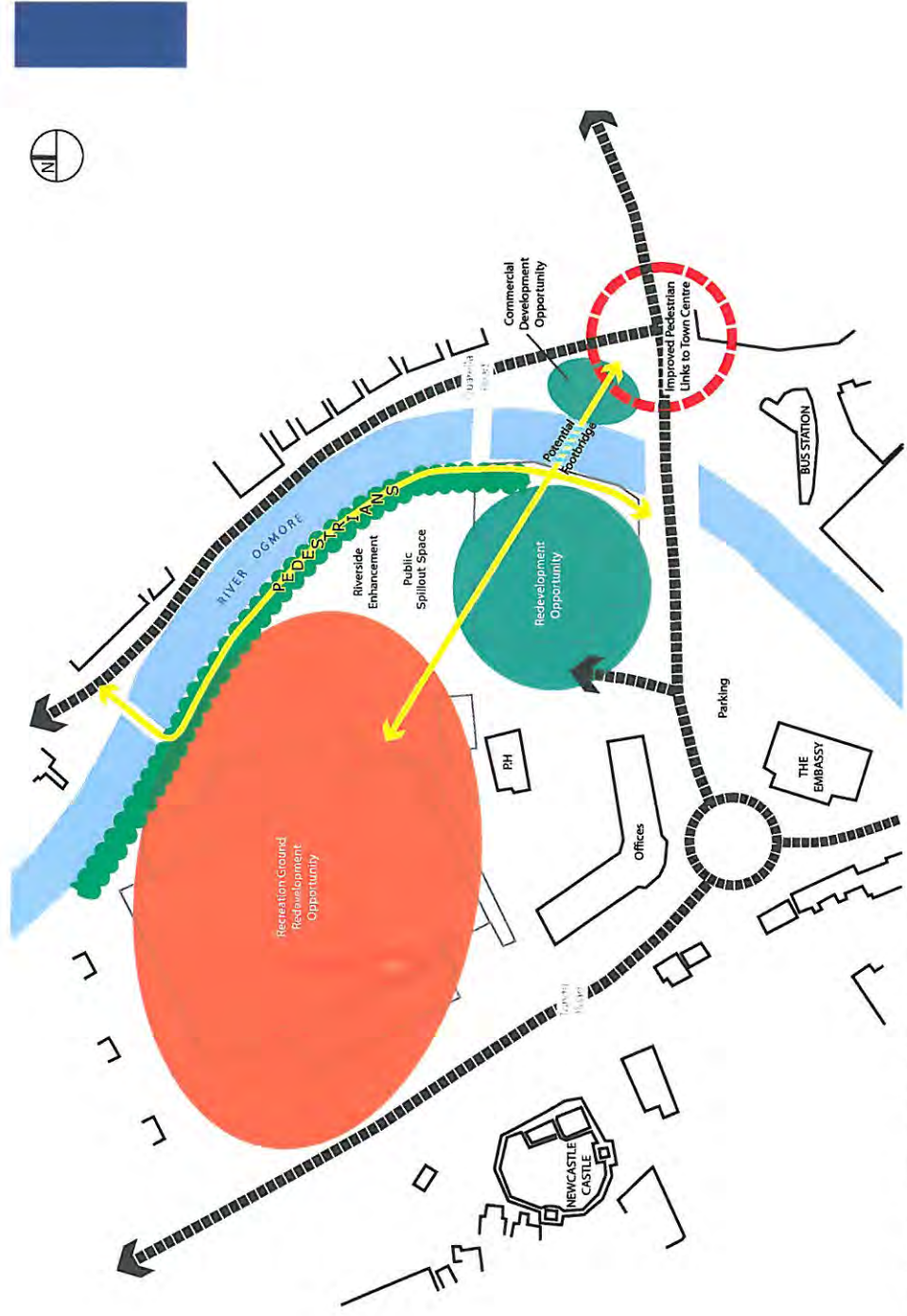


Figure 9. Brewery Field Opportunity Area



- The potential of the riverfront should be maximised in terms of providing a setting for buildings, enhancing the landscape and providing a welcoming and pleasant pedestrian connection linking the town centre and residential areas to the north. Creating a riverside public walkway utilising existing bridges as crossing points;
- Assessing the opportunity for greening the riverside to soften the hard landscaping and linking into a green pedestrian footpath along the river;
- A greater diversity of uses should be encouraged in a redevelopment of this area. Although there is very limited need for bulky goods provision in Bridgend Town itself, CACI concluded there is capacity for 16,400 sq m of additional floorspace up to 2021 for the whole of the County Borough. Should redevelopment take place, and as an edge of town location, part of this provision could be accommodated in this area to strengthen Bridgend's sub-regional service role;
- Any redevelopment should include uses that complement retail provision in the town centre core. Opportunities for further enhancing linkage to the town centre should also be encouraged and can contribute to an improved physical gateway; and,
- Assessing the opportunity for creating public space and public art as landmark gateway features, and setting for a redevelopment scheme.

Figure 10. Brewery Field concept plan for potential future development



APPENDIX 11

Bridgend Local Development Plan Alternative Sites Consultation Report

AS005

Brewery Field, Bridgend.

Size	2.7 Ha
Existing Use	Recreation
Proposed Use	Delete New Bulky Goods Out of Centre Retail Development Site REG11 (4) and allocated for Sheltered Housing
Settlement	Bridgend
Ward	Newcastle
Submitted By	Bridgend Town Council & Merthyr Mawr Community Council



Summary of Alternative Site Proposal

REG11(4) - Brewery Field should be considered as a site for sheltered accommodation in the form of extra care units, inline with the current council policy for prolonging independent living for elderly people. The consequential change associated with this proposal would be an additional residential allocation on the site.

Merthyr Mawr Community Council questions the nature of retail development for the Brewery Field and what is going to happen to the sporting facilities which currently occupy the site. They suggest that, should the proposal be for these facilities to be removed, they would prefer residential development for the elderly rather than retail development.

Site Information

Strategy

Within SRGA ?



Environmental Considerations

Is the site within or adjacent to SSSI ?



Additional Considerations

Within Setting of a Listed Building ?



Wholly within Settlement Boundary ?



Is the site within or adjacent to SAC ?



Agricultural Land Classification 1,2 or 3a ?



Partially within Settlement Boundary ?



Is the site within or adjacent to SINC ?



Within or Adjacent to a Mineral Safeguarding Area ?



Adjoining Settlement Boundary ?



Is the site within or adjacent to a LNR ?



Within a Mineral Buffer Zone ?



Beyond Settlement Boundary ?



Is the site within or adjacent to a NNR ?



TPO's



Deliverability

Support from Landowner ?



Is the site within or adjacent to a Conservation Area ?



Results in the loss of identified recreational land ?



Within C1 or C2 Flood Zone ?



Is the site within or adjacent to a Historic Park/Garden ?



Will Alternative Site effect Public Footpath/Community Route/Cycle Route ?



Contaminated Land Issues ?



Is the site within or adjacent to a Historic Landscape?



Consultation Responses

Statutory Consultees

<i>Response From</i>	<i>Summary of Representation</i>
Welsh Water	No problems are envisaged with the provision of water supply and discharge of foul drainage from this site
Glamorgan Gwent Archaeological Trust	Possible area of medieval settlement. Restraint May require desk-based assessment and survey of historic features prior to planning permission being granted. No reason for not allocating in LDP
Environment Agency	Constraints - River Ogmore, Flood zone C1 Sewer - Penybont GW & CL - Secondary A Aquifer WFD Status - Moderate for fish

General Consultees

<i>Number Received</i>	<i>Summary of Representation</i>
1	Objection - The representor considers that the existing rugby ground is a valued recreational facility which is an asset to Bridgend Town Centre bringing much needed business to shops, cafes and banks etc. The representor considers that brownfield sites should be used to provide sheltered housing before considering land covered by a covenant.

Internal Consultees

<i>Response From</i>	<i>Summary of Representation</i>
Highways	The location of this site in close proximity to Bridgend Town Centre lends itself to a number of potential land uses. The removal of the rugby club facilities and the overall development of this site will require a comprehensive Transport Impact Assessment to be provided so that the impact on the surrounding highway network can be fully evaluated. A Travel Plan may also be required for the employment and retail land uses in order to promote sustainable modes of transport to and from the site in accordance with Government policy. The site includes a public municipal car park and consequently, any development must provide adequate replacement car parking provision that can be used by members of the public.
Public Protection	Any housing development will have to consider noise implications from the busy A4063 road. Furthermore the development is close to a petrol station which is a permitted process. Potential Contaminated Land due to the location of the petrol station.
Countryside	Site contains a riparian corridor, Site would need to be assessed for ecological potential including protected species and invasive species.
Land Drainage	Site situated adjacent to Ogmore river and so within flood zone B & C1 & noted by the EA to be susceptible to surface water flooding. Ground conditions are not suitable for SUDS infiltration scheme, but other SUDs schemes can be utilised

Planning Conclusion

This site was assessed as a Candidate Site (candidate Site ref 857. B55) for B1, residential and/or retail development and the following conclusion was reached - This site is located adjacent to Bridgend Town Centre. A comprehensive masterplan is being developed which sets out the future development and management framework for Bridgend town centre. The masterplan identifies this site as one which should be retained for its existing use in the short term, with longer term potential for 'bulky goods' - development which would compliment rather than compete with uses in the Town Centre core. In light of this and the evidence which supports this stance (the Bridgend Town Centre Masterplan was approved as SPG on 07/03/12) combined with a lack of evidence submitted to support this proposal in terms of it being realistic and deliverable within the plan period, the Council does not support this Alternative Site.