

MEETING:	PLANNING COMMITTEE
DATE:	2 FEBRUARY 2011
TITLE OF REPORT:	<p>DMCW/092858/F - ERECTION OF STORE EXTENSIONS (CLASS A1) TO FRONT OF STORE, ELEVATION CHANGES, ALTERATIONS TO CAR PARK LAYOUT INCLUDING NEW DECK, NEW LANDSCAPING, ASSOCIATED PLANT AND WORKS AND VARIATION OF CONDITION 7 OF CW1999/3251/F TO ALLOW NOT MORE THAN 30% OF THE TOTAL SALES FLOOR SPACE FOR THE SALES OF COMPARISON GOODS AT SAINSBURYS, BARTON YARD, HEREFORD, HR4 0AG.</p> <p>For: Sainsburys Supermarkets Ltd per Turley Associates, 9 Colmore Row, Birmingham, B3 2BJ.</p>

Date Received: 9 November 2009

Ward: St Nicholas

Grid Ref: 350400,239954

Expiry Date: 2 March 2010

Local Members: Councillors JJD Lavender and JD Woodward

Site Description and Proposal

- 1.1 The application site is located to the west of the City Centre, accessed off the A438, via Grimmer Road. The site comprises an existing retail store of 7,817 sq m (net sales area of 4,476 sq m). The store has customer parking to the front and side providing 337 standard spaces, 23 disabled spaces, 16 parent and child spaces. Staff parking (26 spaces) is located to the rear.
- 1.2 The store is located to the south of the site with its service area to the rear (south east) along with staff parking areas. The associated petrol filling station is sited off Station Road. The store is approached off Grimmer Road, which also provides access to the Travel Lodge, Cider Museum and recently built Pomona Court.
- 1.3 A segregated cycle path / pedestrian route (Great Western Way) bisects the site and crosses the car park.
- 1.4 The application seeks permission for the following:
 1. Extension to the front of the store, to provide additional sales, lobby and customer toilets. This also involves the re-modelling of the entrance, including the removal of the existing glazed canopies.

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

This involves extending the store forward (North elevation) slightly, removing the existing arched canopy and remodelling the front elevation with the use of light grey cladding panels, brickwork to match existing, glazing to ground floor with high level glazing to serve the mezzanine level at first floor. The entrance will be moved to a more central position in the elevation. A canopy will project across much of the front of the store and walkway to the stairs and lifts to the adjoining car park deck.

2. Erection of a first floor mezzanine to provide for a relocated café and improved colleague facilities.

The first floor mezzanine would be accessed via a stair / lift just inside the new entrance to the store. The first floor mezzanine will provide a restaurant and kitchen (13m by 27m) with adjoining toilet facilities and colleague facilities (34.5m by 13m).

3. Changes to the internal store layout to relocate restaurant, facilitate a better store layout and achieve a more efficient warehouse with a dedicated online goods facility.

Internally the existing back of house line will be brought forward allowing more space for the warehouse and online goods facility. Existing colleague facilities will be relocated to the mezzanine level.

The breakdown of comparative floor space is as follows:

	Gross External Floor space (sq m)	New Sales Area (sq m)	Store Car Parking (exc 26 staff spaces)
Existing	7,817	4,476	376
Proposed	9,754	5,359	421
Change (+/-)	+1,937	+883	+45

4. Alterations to the car park and internal road layout and cycleway to make a safer crossing point.
5. Alterations to the sites landscaping.
6. Relocated recycling facilities.
7. Three replacement ATM's. Sited in the north elevation adjacent to the relocated store entrance.
8. New Cycle parking facilities (14 spaces plus 4 motorcycle spaces)
9. New Sprinkler Tank sited to the south of the service yard.
10. New Decked Car Park positioned above the existing car parking area to the west of the store with linked area to store at first floor.

The car park deck would be accessed from the existing roundabout (removing the existing recycling facilities). The car park deck would provide first floor level parking over the existing car park to the west of the store (South of Pomona Court).

The deck would be a maximum 4.4m in height (including railing) with the adjacent store being 7.4m in height. (Measured from the existing level of the car park which will remain as existing). The structure will be open fronted to all elevations with supporting dark grey pillars. The deck and enclosure would be a steel frame structure clad in light grey panels

to match the store. The scheme includes a comprehensive planting scheme around the decked area (retaining, replanting and new planting as per detailed landscaping plan).

The car park deck would accommodate 113 spaces at first floor and 125 spaces at ground floor.

The proposed car park would have 421 car parking spaces, 28 of which would be disabled spaces with 18 parent and child and 375 standard bays. In addition to this there are 26 spaces are allocated for colleagues at the rear of the store. This is an increase of 45 spaces as compared to the existing provision of 376 spaces.

11. Alterations to the highway include:

- Incorporation of controlled pedestrian phases across Whitecross road and Grimmer Road arms of the junction.
- Remarking the advanced cycle stop lines to provide feeder lanes;
- Revised line marking at mini-roundabout toe provide tow full width queuing lanes
- Introduction of left-turn filter signal from Grimmer Road at times where there is no pedestrian demand to the exit arm of Whitecross Road.

1.5 The application also includes the variation of Condition 7 of CW1999/3251/F that reads as follows:

The sale of non-food or non-convenience goods shall not take place from more than 20% of the net sales area of the extended supermarket hereby permitted.

Reason: In order to define the terms under which this permission is granted and having regard to the policies of Hereford Local Plan to protect the vitality and viability of the city centre.

1.6 The proposal is to allow for the proportion of comparison goods to be increased from 20% to 30%. The breakdown of this is as follows:

Types of Goods	Percentage	Net Sales	Increase
Comparison	30%	1,607 sq m	+ 712 sq m
Convenience	70%	3,752 sq m	+ 171 sq m
Total	100%	5,359 sq m	+ 883 sq m

Internally the store would be reorganised to accommodate the increase in floor area primarily through the relocation of the restaurant and other facilities that are currently located at the front of the store and the extension that will increase the floor area to the front of the store.

2. Policies

2.1 Government Advice:

- PPS1 - Delivering Sustainable Development
- PPS4 - Planning for Sustainable Economic Growth
Practice Guidance on need, impact and sequential approach
- PPS5 - Planning for the Historic Environment
- PPS9 - Nature Conservation
- PPG13 - Transport
- PPS25 - Development and Flood Risk

2.2 West Midlands RSS:

- UR1 - Implementing Urban Renaissance

UR1D	-	Retail Floor space
UR3	-	Enhancing the Role of City, Town and District Centres
RR1	-	Rural Renaissance
PA11	-	The Network of Town and City Centres
PA13	-	Out-of-Centre Retail Development
QE3	-	Creating a High Quality Built Environment for All
QE5	-	Protection and Enhancement of the Historic Environment
T1	-	Developing Accessibility and Mobility Within the Region to Support the Spatial Strategy
T2	-	Reducing the Need to Travel
T3	-	Walking and Cycling
T7	-	Car Parking Standards and Management

2.3 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable Development
S2	-	Development Requirements
S5	-	Town Centres and Retail
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR10	-	Contaminated Land
DR13	-	Noise
DR14	-	Lighting
HBA6	-	New Development Within Conservation Areas
LA6	-	Landscaping Schemes
TCR1	-	Central Shopping and Commercial Areas
TCR2	-	Vitality and Viability
TCR9	-	Large Scale Retail and Leisure Development Outside Central Shopping and Commercial Areas
TCR20	-	Eign Gate Regeneration Area
TCR23	-	Civic Quarter
T6	-	Walking
T7	-	Cycling
T11	-	Parking Provision

3. Planning History

3.1	HC28249PO	Erection of a retail store and unit shop with new access road, car parking facilities etc.	Approved with conditions	10/07/1986
3.2	HC870036PM	Retail store & unit shop & access road & improvements to Whitecross Road & car park for BR staff club & cycle path.	Approved with conditions	16/04/19987
3.3	HC880219PM	Approval of reserved matters referred to in conditions 2(v) & 2(viii) of Outline Consent no. H/OA/282249/W.	Approved with conditions	27/07/1088
3.4	HC930142PF	Petrol filling station, including ancillary roadworks and alterations to existing car park.	Approved with conditions	27/01/1994

3.5	HC960157PF	Variation of condition no. 13 of planning permission ref. HC930496PF/W to allow the petrol filling station to open until 21.30 on Friday.	Approved with conditions	27/06/1996
3.6	CW1999/3251/F	Extension and alterations to existing Class A1 retail store, including demolition of existing Council Depot and change of use to Class A1 retail. Alterations of access and car parking arrangements and amendment to existing cycle path.	Approved with conditions	19/10/2001
3.7	CW2001/0667/F	Extension of petrol filling station kiosk and canopy, reconfiguration of canopy fascia, 2 no. additional pumps and revised access.	Approved with Conditions	26/03/2002
3.8	CW2001/2244/F	To vary condition 13 of application HC/930496/PF/W allowing PFS to be open between the hours of 0700 to 2200, Monday through to Saturday.	Approved with conditions	19/10/2001
3.9	CW2002/0454/F	Erection of 4 no. covered trolley bays.	Approved with conditions	04/04/2002
3.10	CW2002/0523/F	Relocation of main entrance and feature canopy and alterations to brick detailing on west elevation.	Approved with conditions	23/04/2002
3.11	CW2002/3048/F	Variation of condition 6 of planning permission ref: CW1999/3251/F to vary the opening hours of the store during the Christmas/New Year period.	Approved with conditions	04/12/2002
3.12	CW2002/3049/F	Variation of condition 1 of permission ref: CW2001/2244/F to vary the opening hours of petrol filling station during the Christmas/New Year period.	Approved with conditions	04/12/2002
3.13	CW2002/3472/F	Variation on Condition 6 of permission Ref: CW1999/3251/F to alter store opening hours to 0700 - 2200 (Monday to Saturday).	Approved with Conditions	19/02/2003

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| 3.14 | DCCW2003/3562/F | Variation of Condition 1 of Planning Permission CW2001/2244/F to allow increased opening hours of petrol station over Christmas period . | Approved with Conditions | 20/01/2004 |
| 3.15 | DCCW2003/3563/F | Variation of Condition 6 of Planning Permission CW1999/3251/F to allow increased opening hours of Sainsbury's store over Christmas period | Approved with Conditions | 20/01/2004 |

4. Consultation Summary

4.1 Highways Agency makes the following comments:

The applicant has addressed all the issues previously raised (in detailed report) and offers no objection.

Internal consultees

4.2 Traffic Manager has no objection subject to conditions, including the Section 106 as previously agreed.

Conditions would be required to control the hours of work on the A438 and for the submission of a programme of works for the prior approval prior to commencement. Also conditions relating to obtaining and agreeing full details of the control of parking (e.g. time contained parking) and how this would be managed should be submitted and agreed prior to commencement of development. It would also be beneficial to ensure retention of records relating to the use and control of non-customer and excessive time use of the car park.

A condition / informative relating to the orders for the diversion of the Great Western Way, and for details to be submitted of the programme and temporary proposals to enable its continuous use during the works.

A condition relating to the travel plan implementation would be needed.

4.3 Environmental Health Manager makes the following comments:

Lighting Scheme – I have no objection to this proposal. Should nuisance be caused powers are available to the local authority as provided by the Environmental Protection Act 1990 to require that nuisance is abated.

Noise Survey – I have had reviewed the Environmental Noise Survey and based on the monitoring results provided would concur with the conclusions reached, in any case any noise due to the proposal should be minimal. I therefore do not wish to make any objection to the proposal on grounds of unacceptable noise.

Contaminated Land – I refer to the above application and the Phase 1 Desk Study dated October 2009 and I would make the following comments:

1. The Desk Study has not reviewed previous investigation work undertaken on the site. A number of contaminated land reports were submitted in relation to an extension of the

Sainsbury's store in 2002 (planning permission CW1999/3251/F). These reports detailed investigation and remediation work of the former depot/railway site in the area of the proposed car park and around the area of the previous extension. This information would be valuable to feed into the desk study, conceptual model and risk assessment and assist in drawing up investigation proposals, should they be required. However it should be noted that the previous contamination assessment was undertaken using the now withdrawn ICRL guidance values and Dutch guideline values for contamination assessment which are now not acceptable. Therefore the data should be reviewed under the current UK approach for contaminated land assessment.

2. The desk study currently proposes that site investigation works should be undertaken, however no details of the proposed works have been incorporated within the desk study.

I would therefore recommend that a contaminated land condition to require the revision of the desk study and suitable further assessment if necessary would be appropriate.

- 4.4 Public Rights of Way Manager confirms that the proposal will not affect the Public Right of Way.

- 4.5 Conservation Manager makes the following comments:

The topography of the site means that it has minimal impact on the conservation areas. The additional car park deck will, with the benefit of the proposed landscaping scheme, have no impact on the character or appearance of the conservation area as it will not be visible either from within it or approaching it. The reduction in height of the entrance canopy will remove only the visually intrusive element. The balance of brickwork, glazing and cladding will minimise the bulk of the main elevation. It is therefore concluded that there is no objection to the proposal.

- 4.6 Policy Planning Manager comments are summarised as follows:

With PPS4 emerging at the end of December 2009, the UDP policy of requiring a needs test has been superseded, there is now no requirement for the needs test. The location of the store and the effect it could have upon the delivery of the UDP allocation of the Livestock Market (Eign Gate Regeneration area) is an issue for consideration.

5. Representations

- 5.1 Hereford City Council has no objection to the extension of the store. However, the City Council does object to the removal of the condition to allow more than 30% of the floor space for comparison goods. The City Council would also like to maximise the number of trees with the landscaping plan.

- 5.2 Objections have been received from:

- E R Falshaw, 11 Pomona Court.
- Martin Gilleland, 35 Muir Close, Hereford.

- 5.3 The objections can be summarised as follows:

- Noise impact.
- Visual Impact.
- Query necessity to build car park – the car park is rarely at capacity.
- Identification of hazards and conflicts with cycle users.

5.4 A letter of objection has also been received from Savills on behalf of Stanhope Plc in respect of the new retail quarter at the existing livestock market. This letter raises the following issues:

- We write in order to express our objection to the application and its potential impact on the town centre as well as existing commitments such as the retail quarter.
- Concern that the Drivers Jonas Deloitte update of the retail study will identify a reduction in the overall need for retail floorspace and in those circumstances the grant of planning permission for an extension to Sainsburys may impact the available capacity for development of other existing commitments, specifically the retail quarter.
- We are concerned that the approach for this application for more floorspace and an increased proportion of comparison floorspace may have a negative impact on the town centre and could also set a precedent for proposals for other out of town sites, particularly food store operators in a similar position.

Following a re-consultation on the agents updated report, Savills made further representation that can be summarised as follows:

- Concern that there is no capacity for the convenience element of the development and therefore impact on the town centre can be expected. As a consequence, the proposal could also jeopardize the delivery of part of the Livestock Market proposal as there would not be sufficient floorspace capacity available for a quality store as proposed within the scheme post 2026. This compromises the policy commitments within the existing Herefordshire Unitary Development Plan and the emerging policy in the Local Development Framework.
- The level of overtrading at this store does not appear to be excessive with store conditions not being excessively busy or uncomfortable. The new Waitrose store (current proposal) on the cattle market site is likely to relieve any overtrading. No real need for the enhancement of the store has been demonstrated.
- There is a sequentially preferable site which is suitable, viable and available for the development of a foodstore as well as additional retail floorspace within the Eign Gate allocation. This site is within the city centre and allocated for retail development and is therefore not only sequentially preferable but constitutes planned investment in the city centre that the Sainsbury's proposal may adversely effect if allowed.
- We consider that not all the options within the city have been assessed.
- In relation to the 'impact tests' we believe that the applicants have not adequately addressed the impact criteria.
- In relation to Policy EC16; we consider that Waitrose have already scaled back their proposals for Eign Gate Site in response to existing competition within the catchment area and this additional element of floorspace proposed for Sainsbury's store could further scale back the size of the proposed food street at the Eign Gate site. There is a real concern regarding the impact of the proposal upon the planned investment in the city centre.
- Increase in floorspace could increase overall turnover and the impact of the extension is consequently underestimated.
- In the absence of any safe and convenient pedestrian access to the city centre from the store within a reasonable distance (i.e. 300m, as advised in PPS4) it cannot be considered an edge of town locations.

- Concern about linked trips and information provided, especially as there is a two hour limit on parking at present. The assumption that 10% of the car park users carry out linked trips to the city centre is likely to be significantly overstated.

5.5 The Ramblers Association observe that the site plan details that the cycle and pedestrian routes will have a slight kink and raise no objection to this.

5.6 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

6. Officer's Appraisal

6.1 The key issues for consideration are:

- The principle of the development and policy background.
 - Store Location
 - Sequential Approach
 - Impact Assessment
 - Linked trips
- The design, appearance and impact of the proposed store extension
- The design, appearance and impact of the car parking deck
- The impact of the proposed development on the conservation area
- Impact on highway safety / highway intensification and parking
- Landscaping

The principle of development and policy background

6.2 The Council has engaged retail consultants Drivers Jonas Deloitte (herein referred to as DJD) to provide advice on the proposal having regard to policy background and in particular the applicant's Retail Planning Statement and their updated Retail Planning Statement following the publication of PPS4 – Planning for Sustainable Economic Growth (published after the submission of this application). This advice has been appended in full to this report.

6.3 PPS4 is of key importance. It identifies the retail policy issues that must be addressed by the applicant, as well as the considerations to which the Council must have regard and the weight that is to be attached to these considerations. The appended letter sets out the relevant policies in detail.

Store Location

6.4 Key to the assessment of this application is the issue of whether the site is considered to be an out-of-centre or edge of-centre location. On reassessment of the proposal having regard to PPS4, the applicant maintains that this store is an edge-of-centre location, with this view based on the stores' linkages with the town centre and observed customer behaviour. The applicant suggests that the route is pedestrian-friendly with a continual flow of shoppers being observed between the store and city centre, notes that there are a number of retailers located on Eign Street which ensures that this is a natural route for shoppers to take between the store and city centre, and notes that whilst it is likely that edge of centre sites would be located within 300m of the primary shopping area, where the distance exceeds this then local circumstance should be taken into account.

6.5 Paragraphs 1, 2 and 3 of the appended DJD letter outline the policy in this respect and concludes that the site should be considered as out-of-centre having regard to its position, location and relationship with the city centre.

- 6.6 The city centre is approximately 580m from the store. The central shopping and commercial area shopping (as defined in the Herefordshire Unitary Development Plan) finishes at the end of Eign Gate (the Trekitt shop). The route from the city to the store is firstly through the underpass and then runs, along Eign Road, which has a number of small retail units (including a tattoo parlour, opticians and small food store). This retail frontage does not benefit from any specific policy designation. The route is heavily used by pedestrians, many of whom also make use of the public right of way that runs through Sainsbury's and provides access to properties south of the river as well as the Whitecross and Broomy Hill residential areas of the city. The route is also a main route for vehicles into the city centre from the west.
- 6.7 Whilst the route is busy it is neither a pleasant nor attractive route. In addition the route itself is not an incentive for shoppers to make the walk from or into the City Centre unless Sainsbury's is en route to one of the adjacent residential areas. The local circumstances have been considered and your officers conclude that having regard to the advice in PPS4 the store should be considered as out-of-centre for the purpose of determining this application.

The Sequential Approach

- 6.8 In sequential terms priority should be given to sites within the city centre in the first instance and where it can be demonstrated that where there are no such sites then edge-of-centre locations should be given preference. This policy approach seeks to protect and enhance the vitality and viability of Hereford City Centre in accordance with the requirements of policies S5, TCR1 and TCR9 of the Herefordshire Unitary Development Plan and in accordance with the national guidance contained within PPS4.
- 6.9 The applicant's agent has sought to demonstrate that many of the retail units within and on the edge of the city centre are either not available, viable or suitable for the purposes proposed in the application and your officers are satisfied that this is the case in general.
- 6.10 The main concern and area of dispute on these matters is in respect of the Eign Gate Regeneration Area. This area is defined in the Herefordshire Unitary Development Plan and includes land and buildings to the south of Eign Gate (inclusive of West Street and Berrington Street) and land to the south of Eign Gate (inclusive of Bewell Street, and west of Widemarsh Street) The land also includes the Livestock Market site. DJD confirm in paragraph 48 that this area is considered sequentially preferable alternative for the type of retailing under consideration as part of the application proposal.
- 6.11 Savills, on behalf of Stanhope PLC have also commented that the Eign Gate Regeneration Area is a sequentially preferable site that is within the city centre and allocated for retail use and which has as part of the redevelopment a proposal for a foodstore. They confirm that this is therefore a preferable site that is suitable, viable and available for the development of a foodstore as well as additional comparison retail floorspace.
- 6.12 The applicant's agent has taken the view that neither DJD nor the local authority has provided evidence of the availability, suitability or viability site or that the Sainsbury's proposals for a 1,937 sq metres (gross) store extension would be achieve a comprehensive scheme for the Livestock Market as required by policy TCR20.
- 6.13 In terms of additional floor space your Officer's conclude that it is clear that the Eign Gate Regeneration Area could accommodate this demand. The developer of the site has been selected and the application for its redevelopment is currently being considered (Application DMS/103136/F). That application includes provision for a foodstore (minimum gross floorspace of 2000sq m and maximum 2320sq m) along with proposals for comparison trading (minimum gross floorspace 16,000sq m and maximum 23,250sq m) in a two storey development. Your officers are not satisfied that it has been demonstrated that that the

additional comparison and convenience shopping proposed in this application could not be accommodated within the Eign Gate regeneration site, of which the Livestock Market is part.

- 6.14 The Sainsbury's business model and requirements would not promote or wish to disaggregate its floorspace across the city and there is no wish to move its entire store to the Livestock Market site. It is accepted that the area allocated for foodstore on the regeneration site is far smaller than the site Sainsbury's currently occupies. On this basis it is accepted that the complete store relocation is not a realistic option.
- 6.15 The applicant's agent argues that it is also not a realistic exercise for Sainsburys to disaggregate its floorspace. Members will see from the DJD letter attached (paragraphs 49 – 51) that this argument is widely accepted. However, it is necessary for the applicant to demonstrate why a smaller store or stores could not meet a similar need. In this case the applicant's agent argues that the proposed extension is a direct response to existing overtrading at the store. The proposals would allow an improved store layout and product ranges that would improve quality and choice and to enhance the offer to meet customer expectations.
- 6.16 Paragraphs 52 – 55 of the DJD letter discusses this issue. The agent states that the store is currently trading at 14.7% above company average levels (based on a national average). This average takes into account a wide range of sales figures between stores reflecting their location, size store layout etc. The fact that this store performs above national average in its trading figures does not demonstrate a level of over trading such would justify the further expansion store in this out-of-centre location.
- 6.17 Qualitative tests of overtrading include whether the store is excessively busy or uncomfortable for shoppers and include matters such as inadequate shelf space to stock goods, narrow aisles, queuing at tills etc. These are matters that are difficult to resolve without increasing the store floorspace.
- 6.18 Sainsbury's entered into a period of consultation with users of the store both in store and online. The comments submitted offer both support and objection to the proposals. These comments raise only a handful of objections relating to concerns such as lack of choice (specialist lines) and wider aisles. The comments express a wish that more tills are open to reduce queuing. As part of the Council's consultation process on this application no letters were received raising any of these issues
- 6.19 On the basis of the above your officers are not satisfied by the argument that the store overtrades and that in direct response to this the store requires the extension and alterations proposed. The applicants have not therefore provided the required justification as to why the additional convenience and comparison floorspace must be provided in this location.
- 6.20 On this basis the requirements of the sequential approach are not satisfied and the proposal fails to comply with the requirements of policy TCR9 of the Herefordshire Unitary Development Plan and requirements of PPS4 (as fully detailed in DJD letter attached).

Impact Assessment

- 6.21 Policies EC14 and EC16 of PPS4 refer explicitly to the requirement for the submission of an assessment of the impact of any proposed retail development (para 18 of attached DJD letter).
- 6.22 The DJD letter attached gives an overview of the requirements of the impact tests and the health of Hereford City in paragraphs 56 – 74 and summarises the impact on both convenience and comparison retailing in the city. It concludes that due to current market conditions it is inherently more difficult to deliver both forms of retailing and these are more vulnerable to any impacts that may arise, including those from competitive developments.

- 6.23 On the basis of the information provided (and taken from the DJD PPS4 Assessment) it is concluded that assuming that the planned, committed developments are undertaken (such as the redevelopment of the Livestock Market) there is no surplus capacity for the convenience element of the proposal. Whilst this may only result in an increase of 171sqm (net) the principle remains. There are sequentially better sites that are suitable, viable and available to provide for the capacity that currently exists. Should this application be approved, it may jeopardise the delivery of the Livestock Market proposal as there would not be sufficient floorspace capacity available for a quality store as proposed within the scheme until post 2026. As such the proposal to extend Sainsbury's would compromise the Council's policy commitments having specific regard to Policy TCR20 of the Herefordshire Unitary Development Plan.
- 6.24 It is also suggested that the relatively small or perceived overtrading at the existing Sainsbury's store would be alleviated through the proposed food store on the Cattle Market site.
- 6.25 There is, theoretically, capacity for enough additional comparison floorspace for both the planned development within the Eign Gate regeneration proposals and this proposed extension. However, as members will see from paragraphs 65 to 68 of the attached letter, consideration must also be given to the difficult current trading conditions. As such your officers have concerns about the further strengthening of retail outlets in 'out-of-centre' locations. The approval of this application, would therefore represent a risk to the continued health and vitality of the city centre.
- 6.26 The applicant's agent have commented on this matter and have concluded that the annual convenience and comparison goods turnover figures associated with the proposed development is £1.71m and £5,77m respectively. These turnovers represent 0.97% and 1.63% of the city centre convenience and comparison goods turnover. They conclude that even if the totality of this turnover uplift were to be diverted from the city centre (an unrealistic scenario that they would not consider to reflect existing shopping patterns or the nature of the development), then the retail impacts that would arise would be negligible, with actual levels of retail impact that reflect genuine shopping patterns being imperceptible. They conclude that these would not lead to such an adverse impact that would be sufficient to undermine the vitality and viability of the city centre.
- 6.27 The modest proportion of additional turnover in comparison to the city centre as a whole and therefore the impact on the vitality and viability makes this balanced judgment. However it is not considered that sufficient justification in relation to the need for the extension has been advanced to override the broad principle of the Council's retail strategy, and which is to accommodate new retail development within the existing City Centre.

Linked Trips

- 6.28 The applicant's agent has also suggested that this store currently generates a number of linked trips, with shoppers using the car park and also making visits to the town centre. The application includes a submission of survey data regarding the length of time that vehicles remain in the car park. This concludes that 13% of vehicles (over 400 vehicles per day) stay for in excess of one hour and approximately 10% of shoppers are likely to have undertaken a linked trip with the city centre during this time. It states that this is reinforced by observed pedestrian patterns, with shoppers witnessed walking between the site and City Centre.
- 6.29 It is not uncommon for shopping trips to take in excess of one hour, especially where the shopping trip may also make use of the restaurant, and view clothing lines or comparison goods that are available in this store. Members may be aware that there is a two hour parking restriction at the store. This would restrict trips of longer than this period. Your officers

consider that there is insufficient evidence to support the suggestion that linked trips would occur to such a frequency that would benefit city centre trade. It is concluded that the incidence of linked trips bringing trade to the City Centre would be more than offset by the trade impact of the proposals.

- 6.30 Policy EC10.2 of PPS4 (para 13 of DJD letter attached) requires the consideration of a number of criteria. Part (a) requires that the Local Planning Authority be satisfied that the proposal has been planned over a lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to climate change. The applicants agents have addressed this and your officers are satisfied that this meets with this requirements.
- 6.31 Parts (b) and (c) of this policy will be considered later in this report. Part (d) requires an assessment of the impact upon economic and physical regeneration in the area, including impact upon deprived area and social inclusion. Part (e) requires consideration of the impact upon local employment. The agents consider that the proposals would achieve regenerative benefits through the creation of new jobs, in a range of skills, with opportunities for training and career development. The agent also suggests that the proposed development would offer improvement of economic conditions in local deprived areas which are easily accessible from the store.
- 6.32 However Members should note that this statement is not quantified and does not provide details of the level of the additional jobs or employment opportunities. On the basis of the information provided your officers are not satisfied that the impact of new employment opportunities would be so great that this would outweigh the wider harm that would result.

Planning Policy Conclusions

- 6.33 The thrust of policies S5 and TCR9 of the Herefordshire Unitary Development Plan and the guidance and policies contained in PPS4, when applied locally, relate to the protection and enhancement of the vitality and viability of Hereford City centre. The two key tests that the application proposal is required to satisfy relate to the sequential approach (Policy EC15 of PPS4) and impact (Policy EC16 of PPS4).
- 6.34 These issues have been explored in detail in the DJD letter attached and have clearly been explored in the report above. It has been concluded that the requirements of the sequential approach have not been satisfied as required by policy EC15 of PPS4.
- 6.35 In addition the impact of the proposed development has been considered having regard to policy EC16 of PPS4 and it is concluded that the further significant expansion of an out of centre shopping facility in Hereford would risk a significant impact on the City Centre and potentially threaten the planned investment proposed at the Livestock Market.

The design, appearance and impact of the proposed store extension

- 6.36 The site is located adjacent to the City Centre Conservation Area. Policy HBA6 states that 'development must preserve and enhance the character and vitality of the area, and the type and scale of the proposal must complement those which presently exist'. The policy also states that 'where the setting of views into and out of the conservation area are important to the character and appearance of the area they should be safeguarded'.
- 6.37 The store is sited amongst a variety of buildings that are mainly modern in design, along with the associated car park and mature landscaping on site. The proposed extension and alterations to the store itself are in keeping with the character of the area and with the existing building and will not be obtrusive or detrimental to the area. The Conservation Officer notes that the reduction in height of the entrance canopy would remove the only visually intrusive

element. It is considered that the balance of brickwork, glazing and cladding will minimise the bulk of the main elevation. On this basis the design is considered acceptable in accordance with policy DR1 and would preserve or enhance the adjoining Conservation Area in accordance with Policy HBA6 and the requirements of PPS15.

- 6.38 Policy EC10.2 (c) requires Local Planning Authorities to consider whether the proposal secures high quality and inclusive design which takes the opportunities available for improving the character and quality of an area and way it functions. Taking account of the comments above, and the potential improvements that this extension would offer, it is considered that the proposed development would comply with this requirement. In addition to this the proposed store extension would not adversely impact on the amenities of any nearby residential properties and as such is acceptable having regard to policy DR1 of the Herefordshire Unitary Development Plan.

The design, appearance and impact of the proposed car parking deck

- 6.39 The proposed car park deck (sited to the west of the store), benefits from the fact that the surrounding land is significantly higher. The deck would be complemented with new and enhanced landscaping on the site. The scale of the deck, in relation to its surrounds and the size of the store and car park is not considered excessive. As such the proposed design and appearance of the car park deck is considered acceptable in accordance with policy DR1 of the Herefordshire Unitary Development Plan.
- 6.40 Concerns have been raised in relation to the potential impact of the proposed decked area, and more specifically its use on the occupants of the nearby residential properties. Concern that it would also attract antisocial behaviour whilst being on the well used public right of way through the site has also been raised. The Environmental Protection Manager raises no objection to the proposal in relation to potential noise from use of the deck or to the proposed lighting plan.
- 6.41 On the basis of the above, your officers are satisfied that the proposed car park deck would not have such a detrimental impact on the amenities of neighbouring residents as to warrant a reason for refusal. Appropriate conditions could be imposed to ensure that amenity is not affected, particularly outside of normal opening hours. On this basis the proposal is considered to comply with policies DR2, DR13 and DR14 of the Herefordshire Unitary Development Plan.
- 6.42 The landscaping detail is also important to the inclusive design of the store extension and car park deck. This was submitted in detail with the application and subsequently amended to reflect the highway changes was subject to pre-application discussion and is considered acceptable in accordance with policy LA6 of the Herefordshire Unitary Development Plan.
- 6.43 Concerns have also been raised regarding the recycling centre in relation to noise and disturbance. These concerns focus on the hours that this is used and its maintenance. It is proposed to move this recycling centre away from Pomona Court in order to facilitate the access to the decked area and into the main car park.

Impact on highway safety / highway intensification and parking provision

- 6.44 Policy EC10.2 of PPS4 requires that the impact of the proposal be considered having regard to the accessibility of a proposal by a choice or means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) and after public transport and traffic management measures have been secured. This mirrors the thrust of the Herefordshire Unitary Development Plan policies S6 and DR3.

- 6.45 Parking congestion and highway safety featured heavily in the comments raised by store users in their comment cards. There were also concerns raised initially by the Highways Agency and Transportation Manger. Following the submission of a revised Transport Assessment and negotiation of a Section 106 contribution of £50,000 towards specific localised projects to these objections were subsequently removed subject to the appropriate conditions being imposed.
- 6.46 The site does have good links to bus and pedestrian and cycle routes and as such meets with the principles of sustainability as required by both PPS4 and Herefordshire Unitary Development Plan policies.
- 6.47 The parking provision, which involves the changes to the car park layout and new car park deck, and detail is also considered to be acceptable in accordance with policies T11 and the guidance contained within the Highways Design Guide.
- 6.48 A public right of way also crosses the site and no objection is raised to the proposals that would slightly revise its route.

Conclusions

- 7.1 The application raises a complex set of issues, based around the component parts of the application. These issues have been set out in para. 6.2 of the report.
- 7.2 The key issue is that of the impact of the proposal on the vitality and viability of the Hereford City Centre. The maintenance of the role of town and city centres is key to national planning policy (PPS4) and local planning policy (UDP). The matter is complicated as PPS4 has been updated during the processing of the application itself. Members are advised to give very significant weight to PPS4 as it is both national planning policy, and as it post-dates UDP policies.
- 7.3 Members will note that your Officers and the Council's own retail consultant conclude that the site is in an out-of-centre location (6.5 and 6.6 of this report).
- 7.4 In relation to the sequential approach issue the applicant's agent points to the availability and delivery of the applicant's proposal. The applicant's agent also suggests that there is no evidence that the proposed retail development on the regeneration site will take place. Clearly events have moved on since the submission of this application. In particular an application was submitted on the regeneration site on 3 December 2010. At this stage it is reasonable for the Committee to conclude that the phased regeneration proposal has a very strong probability of implementation. It is being sponsored by a major national developer and retailer and other commercial interest is high.
- 7.5 Members will come to their own conclusions on the amount of trade diversion (see para. 6.26) calculated if the proposal were to proceed. Within this judgement Members will recognise that this proposal represents the latest in a series of modifications to the store over several years, all of which will have had an ongoing and cumulate impact.
- 7.6 The other featured matters (design of store, design of parking deck, access and car parking and impact on the Conservation Area) are considered to be satisfactory by your Officers.
- 7.7 The applicants have presented a substantial case that would allow further changes to the composition of the store and its retail offer in the City. In itself it would represent welcome investment in Hereford. However the application is considered both by your Officers and the Council's consultants to fail the keys tests in PPS4 in relation to the location of the store itself in relation to the City Centre and the sequential test. On the latter point it is now clear that the

Cattle Market Scheme is well advanced. An application has been submitted and strong investor and retail demand exists for that site.

- 7.8 This Committee has an important role in both implementing and safeguarding strategic policies and proposals in the UDP. There is clear evidence that the current (Sainsbury's) application has the potential (if approved) to undermine investor and developer confidence in the development of the City's key strategic regeneration site. In particular the Sainsbury site is an out-of-centre site in PPS4 terms, and the connection between it and the City Centre is both lengthy, difficult to walk and environmentally unattractive.
- 7.9 In addition and more generally the granting of planning permission to the Sainsbury's proposals would undermine and conflict with the Council's long-standing policy approach that seeks to maintain and enhance the City Centre. This has been most obviously demonstrated in the approach taken on Holmer Road and supported by the Planning Inspectorate.
- 7.10 On the basis of the findings of this report and all the available evidence the application is recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. **The proposal fails to demonstrate that this out of centre site is sequentially preferable to potentially available sites located within or on the edge of the existing Hereford City Centre. Consequently the development is contrary to Policies TCR9 and TCR20 of Herefordshire Unitary Development Plan and Policies EC15 and EC17 of Planning Policy Statement 4.**
- 2. **The proposal fails to demonstrate that the increase in size of the store would not adversely impact on the vitality and viability of Hereford City Centre. Furthermore the proposals contained in the application would undermine the potential to deliver the Eign Gate Regeneration Area. Consequently the development is contrary to Policies TCR1, TCR2 and TCR20 of Herefordshire Unitary Development Plan and Policy EC16 of Planning Policy Statement 4.**

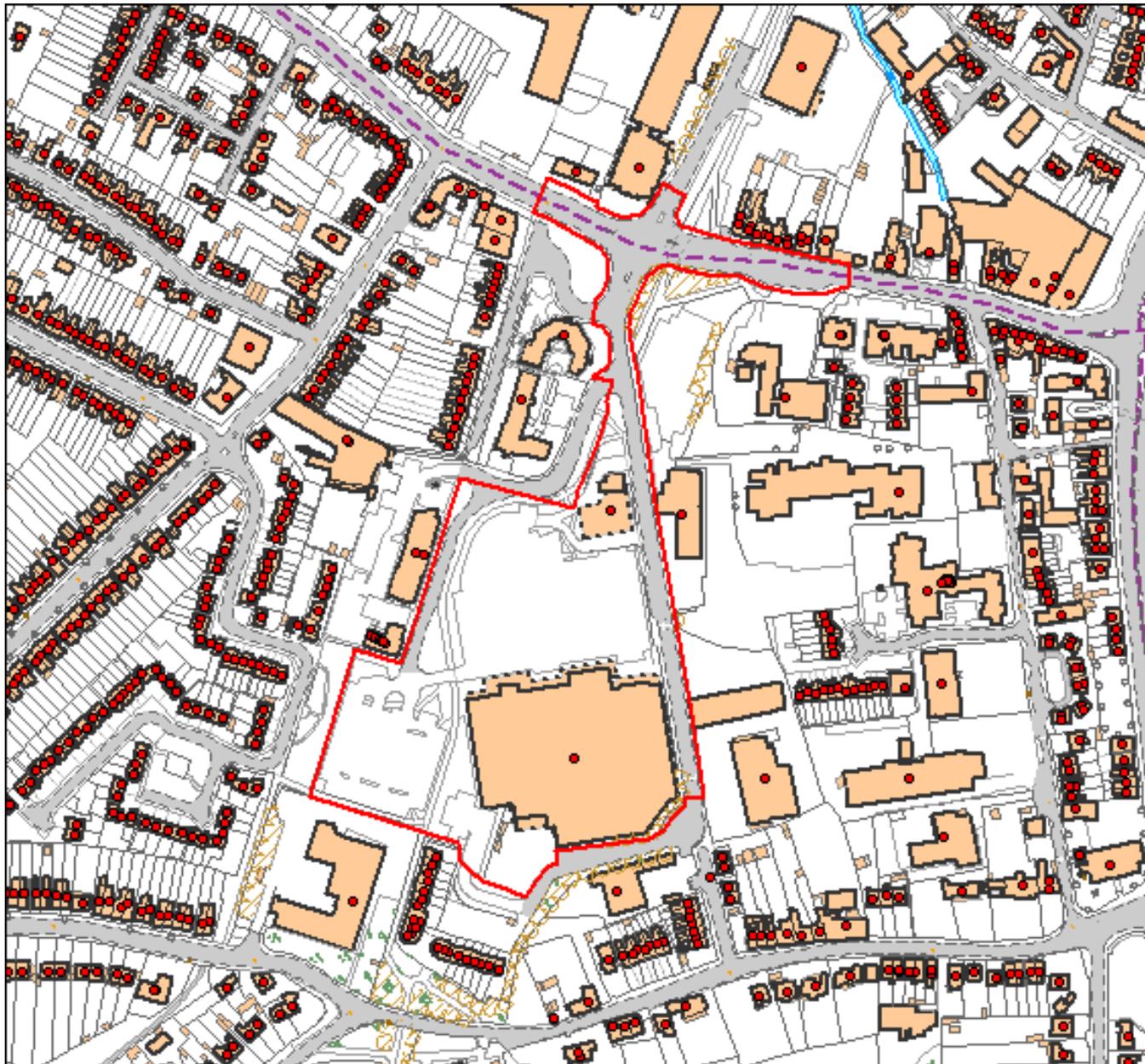
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: DMCW/092858/F

SITE ADDRESS : SAINSBURYS, BARTON YARD, HEREFORD, HR4 0AG

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Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

Miss Kelly Gibbons
Principal Planning Officer
Herefordshire Council
Planning Services
PO Box 230
Hereford
HR1 2ZB

9 December 2010
Our Ref: JW/C0160380
Client Ref:

Dear Kelly

Sainsbury's Hereford Proposed Store Extension (Application 092858/F)

I am responding to your e-mail of 18 November seeking our views on the above planning application. As you are aware we provided an initial response in our letter of 13 September. This letter provides our more detailed response, with reference to the subsequent letter that you have received from Turley Associates of 16 November, as well as the Turley 'Planning Retail and Statement' (PRS) dated November 2009. Our comments follow the structure of the Turley PRS 2009.

Application Site and Surroundings

Store Location

1. In our opinion the logical route for shoppers using the store and visiting the City Centre is via Eign Street and the underpass to Eign Gate. In their letter of 13 September, Turley estimates the walking distance from the store via this route to the edge of the Primary Shopping Area as being 530 metres.
2. Annex B of PPS4 defines edge-of-centre as:

"For retail purposes, a location that is well connected to and within easy walking distance (i.e. up to 300 metres) of the primary shopping area.

In determining whether a site falls within the definition of edge-of-centre, account should be taken of local circumstances. For example, local topography will affect pedestrians' perceptions of easy walking distance from the centre. Other considerations include barriers, such as crossing major roads and car parks, the attractiveness and perceived safety of the route and the strength of attraction and size of the town centre. A site will not be well connected to a centre where it is physically separated from it by a barrier such as a major road, railway line or river and there is no existing or proposed pedestrian route which provides safe and convenient access to the centre."

- Clearly the walking distance is well in excess of that recommended by PPS4 to qualify as 'edge-of-centre'. Furthermore, having walked the route recently, I found that many of the ground floor uses on Eign Street were low value / fringe commercial business of limited interest to shoppers; heavy traffic was intrusive; and the underpass was tortuous and unattractive. In our opinion the Sainsbury store is clearly an 'out-of-centre' location.

Planning History

- We note that planning permission for an extension to the store was granted in 2001, Condition 8 of which restricted comparison goods sales to 20% of the sales floorspace of the store.

The Proposed Development

- The application proposal seeks permission for an extension to the front of the store and erection of a first floor mezzanine to provide a relocated café and staff facilities. The floorspace arising from the proposal is described in paragraph 4.4 of the PRS.

Floorspace	Gross Ext sq m	Net Sales
Existing	7,817	4,476
Proposed	9,754	5,359
Change	1,937	883

- The qualitative improvements that would arise are described in paragraphs 4.7-4.9, which, apart from relocated restaurant, toilet and ATM facilities, include a better offer of convenience and comparison goods.

Sainsbury's Retail Offer

- Section 5 of the PRS describes Sainsbury's retail offer, referring also to their product sourcing strategies, commitment to the environment, and commitment to the local area. In paragraph 5.1 it is stated that:

"The principal purpose of the extension proposal is to improve the range of goods and retail offer for customers and ease congestion within the store."

We have no comments on this Section of the PRS.

Planning Policy Context

- In Section 6 of the PRS, Turley describes the Planning Policy context. Following our letter to you of 13 September, this Section of the PRS has been updated by Turley's letter of 16 November.
- We have no comment on Turley's references in the PRS to guidance from PPS1, PPG13, PPG15, and PPG25. However, because of its particular relevance to the retail policy and impact matters that we address, we refer in some detail to the guidance in PPS4.

PPS4 – Planning for Sustainable Economic Growth

10. PPS4 was published on 29 December 2009 replacing earlier PPGs and PPSs (including PPS6), which were cancelled on the same date. For the purposes of interpreting the guidance in PPS4, it is important to note that the application proposal is for a main town centre use that is not in an existing centre and are not in accordance with an up-to-date development plan.

Government Objectives

11. Paragraph 9 states that “The Government’s overarching objective is sustainable economic growth.” Paragraph 10 goes on to identify the Government’s objectives to help achieve sustainable economic growth. These include:
- delivering more sustainable patterns of development, and reducing the need to travel, especially by car and respond to climate change;
 - Promoting the vitality and viability of town and other centres as important places for communities. To do this, the Government wants:
 - *“new economic growth and development of main town centre uses to be focused in existing centres, with the aim offering a wide range of services to communities in an attractive and safe environment and remedying deficiencies in provision in areas with poor access to facilities*
 - *competition between retailers and enhanced consumer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres, which allow genuine choice to meet the needs of the entire community (particularly socially excluded groups)*
 - *.....”*

Development Management Policies

12. This section of PPS4 contains the guidance of most relevance to consideration of planning applications.

13. Policy EC10 relates to all planning applications for economic development stating:

“EC10.1 Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.”

Policy EC10.2 All planning applications for economic development should be assessed against the following impact considerations:

- (a) *whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change*
 - (b) *the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured*
 - (c) *whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions*
 - (d) *the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives*
 - (e) *the impact on local employment*
14. Turley addresses the Policy EC10.2 criteria on pages 6 and 7 of their letter of 16 November. We do not comment on Turley’s findings in respect of these requirements as they are outside our remit. We presume that they are matters to which you will have regard.

15. Policies EC14, EC15, EC16, and EC17 are of more direct relevance to the retail policy aspects of the application proposal.
16. Policy EC14 describes the supporting evidence that is required for planning applications for main town centre uses. The requirements include:

EC14.3 - A sequential assessment (under EC15) is required for planning applications for main town centres uses that are not in an existing centre and are not in accordance with an up to date development plan.

EC14.5 - In advance of development plans being revised to reflect this PPS, an assessment of impacts in policy EC16.1 is necessary for planning applications for retail and leisure developments below 2,500 square metres gross floorspace, which are not in an existing centre and not in accordance with an up to date development plan.

EC14.7 - Assessments of impacts should focus in particular on the first 5 years after the implementation of a proposal and the level of detail and type of evidence and analysis required in impact assessments should be proportionate to the scale and nature of the proposal and its likely impact. Any assumptions should be transparent and clearly justified, realistic and internally consistent.

17. Policy EC15 describes the sequential assessment requirements for planning applications for main town centre uses that are not in a centre and not in accordance with an up-to-date development plan.

“EC15.1 In considering sequential assessments required under policy EC14.3, local planning authorities should:

- (a) ensure that sites are assessed for their availability, suitability and viability.*
- (b) ensure that all in-centre options have been thoroughly assessed before less central sites are considered*
- (c) ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access*
- (d) ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:*
 - i. scale: reducing the floorspace of their development;*
 - ii. format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;*
 - iii. car parking provision; reduced or reconfigured car parking areas; and*
 - iv. the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals*

EC15.2 In considering whether flexibility has been demonstrated under policy EC15.1.d above, local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site, for example where a retailer would be limited to selling a significantly reduced range of products. However, evidence which claims that the class of goods proposed to be sold cannot be sold from the town centre should not be accepted.”

An assessment of alternative ‘sequential approach’ sites is provided in Appendix 3 of the PRS. Supplementary information is provided in Turley’s letter of 16 November.

18. Policy EC16 describes the impact assessment requirements for planning applications that are not in a centre and not in accordance with an up-to-date development plan.

“EC16.1 Planning applications for main town centres uses that are not in a centre (unless EC16.1.e applies) and not in accordance with an up to date development plan should be assessed against the following impacts on centres:

- (e) *impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal*
- (f) *the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer*
- (g) *the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan*
- (h) *in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy*
- (i) *if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres*
- (j) *any locally important impacts on centres under policy EC3.1.e.”*

Turley addresses impact in Section 7 of the PRS. Supplementary information is provided in their letter of 16 November.

19. Policy EC17 indicates how planning authorities should respond to planning applications not in a centre and not in accordance with an up to date development plan. Such applications should be refused if:
- (k) *the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or*
 - (l) *there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments*
20. Policy EC17.2 goes on to say:
- Where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:*
- (m) *the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and*
 - (n) *the likely cumulative effect of recent permissions, developments under construction and completed developments*
21. Policy EC17.3 indicates that judgements about the extent and significance of any impacts should be informed by the development plan (where this is up to date), as well as information sources such as town centre or retail strategies and health assessments.

PPS4 Practice Guidance Note

22. PPS4 is accompanied by a document ‘Planning for Town Centres - Practice guidance on need impact and the sequential approach’, published on the same date 29 December 2009. This identifies more specific technical requirements when undertaking impact and sequential approach assessments, and is referred to by Turley in their assessments. We also refer to it in our comments on their assessments.

West Midlands RSS

23. In common with other RSS's the West Midlands RSS was revoked by the letter from the Secretary of State of 6 July 2010. The legality of the Secretary of State's letter has subsequently been rejected and there is therefore currently an uncertain position.
24. Our understanding is that the Council support the RSS growth strategy for Herefordshire. It appears therefore that removal of the RSS spatial strategy is unlikely to change the position materially in the County.

Herefordshire UDP 2007

25. The Herefordshire Unitary Development Plan (UDP) was adopted in March 2007.
26. Within the County retail hierarchy Hereford is defined as a Sub-regional shopping centre.
27. **Policy S5** describes the strategic objectives for town centres and shopping within the County. It says:
“Town centres and retail

The range of shopping, employment, entertainment, social and other community services that are available in existing centres should continue to be available to all in locations accessible by a choice of means of transport. This will be achieved by:
- (ii) protecting and enhancing the vitality and viability of Hereford City Centre, market town centres and local, neighbourhood and village centres throughout the County, with particular reference to maintaining the County’s retail hierarchy and the role of Hereford City Centre as a sub-regional shopping centre;*
 - (iii) supporting continued investment in existing centres, maintaining an attractive environment, and encouraging high quality design and mixed uses including housing, particularly above shops;*
 - (iv) locating key town centre uses that generate and attract many trips, including retail, entertainment and leisure, commercial and public offices, in or adjacent to existing centres where there is convenient access by a choice of means of transport; and*
 - (v) in edge of centre or out of centre locations, applying first a test of need and then, if need can be demonstrated, a sequential approach to retail and other proposals that generate and attract many trips. The likely impact of proposals on the Plan’s strategy and on the vitality and viability of existing centres will also be considered, as will the accessibility of the site by a choice of means of transport, the likely effect of development on overall travel patterns and car use and the scope to encourage investment to regenerate deprived areas.”*
28. **Policy TCR1** describes the policy for Central Shopping and Commercial Areas (CSCAs):
“The central shopping and commercial areas of Hereford and the market towns will be retained and protected as the prime focus for retail, leisure and commercial activity in order to ensure the continued vitality and viability of these city and town centres.”
29. **Policy TCR2** describes the means by which the vitality and viability of Hereford City Centre and the market towns will be maintained and enhanced. The first stated consideration is:
- (vi) directing proposals for new shopping and commercial uses to the central shopping and commercial areas;*
30. **Policy TCR9** is particularly relevant to the application proposal as it describes tests that must be satisfied prior to any planning permission being granted for large scale retail and leisure development outside the central shopping and commercial areas of Hereford (and the market towns). It requires that:
- (vii) “it can be demonstrated that there is a need for the development in the location proposed, with a retail need for both comparison and convenience goods shown if both are proposed within the same development;*
 - (viii) it can be demonstrated that a sequential approach has been taken to site selection, and that land and buildings in each of the following categories have been thoroughly assessed in turn and found to be not available before considering less central locations:*
 - within central shopping and commercial areas*
 - edge-of-centre locations*
 - out-of-centre locations which are well served by public transport;*
 - (ix) the proposal is compatible with and does not undermine the Plan’s central shopping and commercial area strategy or the overall Plan strategy;*

- (x) *the proposal will not seriously harm the vitality and viability of existing central shopping and commercial areas, either by itself or in conjunction with other recent and proposed retail development;*
- (xi) *the site is easily and safely accessible to customers and staff by a choice of modes of transport and will not lead to an increase in the use of the private car; and*
- (xii) *the proposal is not sited within open countryside or on land allocated or safeguarded for another use.”*

Herefordshire LDF

31. The Herefordshire LDF is currently in preparation. A Preferred Option Paper for Hereford was published for consultation in September 2010. In so far as new retail development is concerned the emphasis on steering new large scale retail development to the CSCA is likely to remain, as is the Council's commitment to major new retail development in the Livestock Market area.

Driver Jonas Deloitte PPS4 Assessments

32. Drivers Jonas Deloitte (DJD) has undertaken assessment of the potential for new retail development and other town centre uses within Hereford City and the market towns, as part of the evidence base for the LDF. The most recent updates were provided to the Council in September and November 2010. We draw on material from these studies in our comments on the Turley assessments.

Edgar Street Grid and Livestock Market Redevelopment Proposals

Edgar Street Grid

33. A key feature of the adopted UDP aimed at meeting the identified shopping requirements in Hereford City is regeneration of the area known as the Edgar Street Grid. The Grid comprises 43 hectares of land bounded by Edgar Street to the west, Newmarket Street and Blueschool Street to the south, Commercial Road to the east and the railway line to the north.
34. **Policies TCR20 and TCR25** of the UDP make provision for the city's future retail needs within the Eign Street Regeneration Area and Holmer Road respectively. The former is part of the Edgar Street Area and is identified as the key location for new retail development, the purpose of which is support and promote the sub-regional role and function of the City Centre.
35. **Policy TCR20** says:

“Eign Gate regeneration area

Land within the Eign Gate regeneration area provides a major opportunity for development to support the vitality and viability of the city centre. The area is identified as the preferred location for Class A1 retail development and associated car parking provision as set out below. Development in this area must:

- *improve and extend the retail offer of Hereford City Centre, contribute to the vitality and viability of the centre and secure environmental improvements;*
- *provide a comprehensive scheme based on Class A1 retail uses for the Livestock Market, treating the site as a whole;*
- *provide for city centre comparison shopping uses within the Bewell Street area should the opportunity for change arise;*
- *provide for city centre comparison shopping within the Berrington Street area, as well as residential, leisure and commercial uses which add to the diversity of uses on offer in the city centre;*
- *ensure that safe, effective and attractive pedestrian and cycle links both within and outside the area are provided or enhanced to High Town, the River Wye to the south and other elements of the Edgar Street Grid;*

- contribute to the achievement of the Plan's town centre and retail strategy;
- respect residential amenity and the historic fabric of the area, including listed buildings, archaeology and the historic street pattern;
- provide a high standard of design merited on this important central location; and
- contribute financially to the planning obligations identified ensuring the overall aims of the Edgar Street Grid proposals are met".

The Livestock Market

36. The Livestock Market Area is part of the Eign Gate regeneration area. It is located within the Hereford City CSCA, as defined in the UDP. It is therefore a first priority location for new retail development in the context of both PPS4 guidance and the policies of the UDP (Policy TCR1). The UDP provides for relocation of the Livestock Market (Policy TCR19) and comprehensive of the Livestock Market area for redevelopment for retail uses (Policy TCR20).
37. The Edgar Street Grid redevelopment was being led by ESG Herefordshire Ltd, which was a joint venture development company established by Herefordshire Council and Advantage West Midlands to lead the transformation of the Grid Area. In July 2010 ESG Herefordshire Ltd was absorbed into a new body – Herefordshire Futures.
38. Stanhope was selected as the developer of the site of some 5 hectares in February 2008. Planning permission was granted for the new livestock market on an alternative site in November 2009. The ESG Company and Stanhope have made significant changes to the original masterplan including a reduction in the scale of the proposal and enhanced connectivity with the existing retail area in High Town and Widemarsh Street. We understand that the revised scheme will be some 23,000 sq m gross and is proposed to include a small concept department store, a medium sized food store and a multi-screen cinema, as well as 15 or so shops and some restaurant units. We have been informed that a planning application will be submitted by the end of 2010.

Retail Assessment

39. The first part of Turley's retail assessment within Section 7 of the PRS deals with 'Retail Need', based on the requirements of the former PPS6 and Policy TCR9 of the UDP. The requirement to demonstrate 'need' has been removed by PPS4. This takes precedence over the 'need' requirement specified in Policy TCR9.
40. Being not in a centre and not in accordance with an up-to-date development plan, the two key tests that the application proposal is required to satisfy are the sequential approach (Policy EC15) and impact (Policy EC16).

Sequential Approach

41. Turley's sequential assessment of alternative sites is set out in Appendix 3 of the PRS. This has been supplemented by further material in their letter of 16 November. They confirm that the tests of availability, suitability and viability, which formed the basis of their assessment, remain in PPS4.

Approach

42. Turley refers to guidance in the PPS4 Practice Guidance Note, which provides assistance on the approach to be adopted in applying sequential approach requirements. We recognise the difficulties, particularly with store extensions, and therefore, for your assistance, we quote in full the relevant passage from the Practice Guidance Note (paragraphs 6.32-6.34), from which Turley has quoted a part.

"In the case of large foodstores, the trend towards selling a wide range of goods, including comprehensive ranges of fashion/clothing and homeware products creates particular issues. Again, such proposals will need to demonstrate flexibility in terms of the scale and format of development proposed; car parking provision and the scope for disaggregation. This will need to be set in the context of other national planning policy objectives for town centres, including the requirement to provide consumer choice and promote competitive town centre environments."

The decision by an individual retailer to promote a business model which cannot be accommodated in an existing centre will not justify discounting more central sites where they are available, suitable and viable. In every case it will be necessary to strike an appropriate balance between the requirements of the commercial sector and the requirements of national policy based upon local circumstances. While there is no policy requirement to demonstrate need, an operator claiming that it is unable to be flexible about its chosen 'business model' would be expected to demonstrate why a smaller store or stores could not meet a similar need.

There will be some situations, for example in historic centres, where it is difficult to accommodate large developments due to the limited availability of sites, conservation and heritage issues and/or traffic and parking constraints. However, as the Grand Arcade in Cambridge demonstrates, even in highly constrained historic centres it may be possible to accommodate modern retail and other town centre uses in well integrated sensitively designed schemes."

Site Assessments

43. Although we have a considerable knowledge of Hereford City Centre, we do not have a detailed knowledge of the some of the sites assessed by Turley, particularly in respect of availability issues, which are not identifiable on the ground. Some of our comments are of a general nature only therefore.
44. We accept that a number of premises identified would not be suitable and / or available. This includes Site 1 Woolworth; Sites 3, 4, and 5 in the Maylord Shopping Centre, and Site 49-50 Commercial Street.
45. In respect of Site 2 Chadds and Site 6 Bliss, we are unclear as to the floorspace that might be suitable / available for retailing. In our letter of we referred to having seen in September an agent's board on the Chadds premises offering a sales area of 20,000 sq ft. Turley says that there are now three units ranging from 730-7,950 sq m, but that this would be insufficient to meet Sainsbury's floorspace requirements. In respect of Site 6 Bliss, we are unclear as to whether the 334 sq m quoted is the maximum amount of retail area that could be created within the premises.
46. We are not aware of the programme / availability timescale for regeneration of Site 9 Commercial Road.
47. In respect of the Eign Gate Regeneration Area, Turley says (page 6 of their letter of 16 November):
"Although the site's development envisages the inclusion of food retail, I note that the site includes an existing Tesco foodstore. The quantum of floorspace likely to be required to deliver a viable food retail unit within the Eign Gate area is likely to be significantly greater than that proposed through this application. It is therefore evident that this application does not represent a sequentially preferable alternative."
48. We have referred above to the Policy TCR20, which identifies the Eign Gate regeneration area as the preferred location for Class A1 retail development and associated car parking provision within the Hereford CSCA. In addition to its allocation in the UDP, the area is being actively promoted by the Council and its associated development vehicle for major retail development. Contrary to Turley's views, we believe the Livestock Market within the Eign Gate regeneration area is a sequentially preferable alternative for the type of retailing under consideration as part of the application proposal.

Disaggregation

49. Turley say on page 3 of their letter of 16 November that:
"In this case, the proposed extension is a direct response to existing overtrading at the store. The purpose of the development is to improve quality and choice within the store and to enhance the offer to meet customer expectations. The objectives of the application proposal would not be met if the floorspace was disaggregated elsewhere."
50. Because the application proposal seeks to make improvements to an existing facility, consideration of whether the proposals could be achieved at some other location risks is an unreal exercise in terms of what the applicant himself would be prepared / able to contemplate.
51. Turley draws attention to the findings of a Sainsbury appeal decision in Chesterfield APP/A1015/A/10/2120496 August 2010, which addresses these issues (paragraphs 38-42).

“For the reasons I have already discussed, although there are doubtless commercial objectives behind the proposal, the development is clearly based on issues to do with quality and choice. The proposal would address the problems of the existing store and this would not be achieved by disaggregating the comparison floorspace elsewhere.

Although there might theoretically be sequentially preferable sites capable of accommodating some or all of the proposed additional floorspace, in circumstances where there is a real need for the enhancement of an existing store, it would be unreasonable and pointless to insist that the proposed provision should be disaggregated. The Council agreed at the Inquiry that, if the existing Sainsbury’s store is in need of improvement, it would be wrong in principle to require any further space to be disaggregated.

Were the proposed floorspace to be disaggregated and located elsewhere, the existing superstore, with a number of manifest deficiencies, would remain. This would not benefit the shopping provision in the area. What would theoretically be provided would be a non-food store on another site. However Sainsbury’s do not operate non-food only stores, so there would be little chance in reality of the development going ahead. For the above reasons, I consider that disaggregating the proposed comparison floorspace to another site would amount to an arbitrary sub division of the development. It would not accord with the policy related to the sequential approach.

Locating the entire (extended) store on another site

I will now turn to the possibility that the entire extended store could be located elsewhere on a sequentially preferable site. Before looking at the alternative sites I note that, were this to happen, the existing superstore with its inbuilt qualitative deficiencies would remain, and I fail to see how this would assist the quality of shopping provision in the area.”

Overtrading of the existing store

52. Turley’s findings on overtrading of the existing store are based principally on comparison of the Sainsbury company average sales density with the calculated sales density of the application store based on the Drivers Jonas household interview findings. Comparison of these figures indicates that the convenience goods sales density of the application store is some 12.5% above company average.
53. In our letter of 13 September we stated that it would be helpful in addition if there were reference to any qualitative indicators of overtrading – store congestion, queuing at tills, etc. The reason for this request was that with a modern well laid-out superstore with large areas of adjacent surface level car parking we are not satisfied that a sales density performance 12.5% above company average necessarily provides evidence of overtrading. There must be a wide range of sales performance figures between Sainsbury stores reflecting their location, size store layout, etc. Some will perform above average and some below.
54. Overtrading justifying an increase in floorspace should be related to some form of operational difficulty or shopper discomfort. Examples could be inadequate shelf space to stock goods, narrow aisles, queuing at tills, etc, which were difficult to resolve without increasing the store floorspace. Turley refers to these qualitative indicators on page 12 of their letter of 16 November.
55. On the occasions that I have visited the store, I have not seen evidence of overcrowding within the store or car park. However, I have not had the opportunity of visiting the store at peak times such as a Friday evening or Saturday. It would be helpful if officers with their local knowledge could consider whether they have seen evidence of overcrowding, as we are not satisfied that the matters raised by Turley on page 12 of their letter of 16 November clearly demonstrate overtrading justifying the provision of new floorspace in an ‘out-of-centre’ location.

Impact Assessment

56. Turley addresses the impact of the application proposal in the context of the considerations set out in PPS4 Policy EC16 on page 8 of their letter of 16 November. Before commenting on Turley’s impact

findings, we first identify the additional floorspace and turnover that would be created by the application proposal. We then consider the current role and performance of Hereford City Centre, which is the principal centre that would experience impact from the application proposal.

Application Proposal Floorspace and Turnover Increase

57. The application proposal entails an increase of convenience goods sales floorspace of 171 sq m and of comparison goods sales floorspace of 712 sq m. This would give rise to a convenience goods sales area of 3,752 sq m and comparison goods sales area of 1,607 sq m.
58. Based on a trading density of £11,400 per sq m, the additional convenience goods floorspace would give rise to an additional convenience goods turnover of £1.95m. The additional comparison goods turnover is estimated by Turley as £5.67m (PRS paragraph 7.37).

Hereford City Centre Health Check

59. Turley's undertook a health check analysis in November 2009, which is included as Appendix 4 of the PRS. We are generally supportive of Turley's findings. Their conclusions (paragraphs 2.45-2.50) are consistent with the findings in the DJD Health Checks Paper 2 September 2010 (paragraph 4.77-4.79). Turley notes:
- Hereford City Centre is a healthy and attractive centre, which plays an important role in the region;
 - Several of the City's larger units are currently vacant, although in many cases this is caused by national rather than local circumstances;
 - The closure of Chadds and other high profile vacancies will have had some effect on the attractiveness of Hereford and its ability to compete with nearby centres;
 - Although the City Centre is still considered to be a healthy and attractive centre and to provide a good mix of multiple retailers and independent stores, this provision has suffered since 2007.

Impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal

60. Turley identifies the Eign Gate regeneration area as the only relevant committed / planned investment in the City Centre. They say on page 10 of the letter of 16 November, that they "*consider that this level of investment (a foodstore extension of 1,937 sq m gross) will have no significant adverse impact on the Eign Gate regeneration proposals, which are wholly different in scale and nature*".
61. We have a different view. First, as noted above, a medium sized foodstore (plus unit shops and small department store) form an important part of the proposals for the Livestock Market. We do not consider these proposals are wholly different in scale and nature than the Sainsbury store subject of the application proposal. Second, although Hereford City centre is a healthy and attractive centre, the economic downturn since 2007 and the loss of Chadds has made the centre vulnerable. Third, many shopping development schemes throughout the country have been abandoned or put on hold because of the market downturn. Fortunately it appears that the Livestock Market proposals in Hereford are still being pursued. It must, however, be assumed that the current difficult market conditions have lessened the viability of a scheme on the Livestock Market site, which in turn justifies greater protection by the Planning Authority of it as a town centre investment.
62. In summary, in our opinion, in the current market conditions new development is inherently more difficult to deliver and more vulnerable to any impacts that may arise, including those from competitive developments.

Impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer

The impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made

Convenience Trading

63. In so far as convenience goods trading is concerned the DJD PPS4 Studies found (Paper 4 paragraph 3.37) that "*in overall terms the relatively limited quantitative need for new convenience floorspace by*

2016 will be absorbed by commitments and the assumed implementation of the Edgar Street Grid proposals.”

64. We accept that the principal impact of the convenience goods element of the application proposal would fall on the existing large foodstore in the City - Asda, Morrison's, and Tesco (outside and within the City Centre). However, notwithstanding limited expenditure capacity, there is no question of the loss of any of these facilities. We have referred above to the possible deterrent effect on investment in new convenience floorspace in the Livestock Market scheme.

Comparison Trading

65. Because of the range of comparison goods that are likely to be sold from the expanded store, the comparison goods impact would be much more widely dispersed over a range of City Centre shops.
66. In respect of comparison goods trading the DJD PPS4 Studies found a theoretical expenditure surplus that was more than sufficient to support commitments and the Edgar Street proposals. In purely quantitative terms therefore, there should be sufficient comparison goods expenditure capacity to support the application proposal additional comparison goods turnover of £5.67m. However, the change in the performance of the City Centre since 2007 illustrates clearly that long term economic forecasts are theoretical, and are not able to take into account economic cycles and their affect on the commercial market and retail investment.
67. The recession has created difficult trading conditions for retailers, the outcome of which has in some cases been closures and additional vacancies in the City Centre. This is happening in the short term, irrespective of any theoretical comparison goods expenditure surplus.
68. In summary therefore, with although the application proposal would involve a relatively modest uplift in convenience and comparison goods turnover relative to the turnover of the City Centre, the currently difficult trading conditions have to be acknowledged. We have some concerns about further strengthening of retail outlets in 'out-of-centre' locations, when the City Centre is in particular need of protection.

Linked Trips

69. Turley has supplied estimates of linked trips from the Sainsbury store to the City Centre. They assume that 2/3 of the occupants of vehicles in the store car park with a parking duration of 1-5 hours (85% of vehicles) are also visiting the City Centre. It is open to question what proportion of these (10% of visitors) are visiting the City Centre for shopping purposes. Having walked Eign Street and the underpass on a number of occasions, I have seen limited evidence of City Centre shoppers using the Sainsbury car park.
70. In any event we are of the opinion that the incidence of linked trips bringing trade to the City Centre would be more than offset by the trade impact of the proposals.

Impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan

71. We are not aware that this is an issue in this case.
- If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
72. We raise no issues in relation to scale.
- Any locally important impacts on centres under policy EC3.1.e
73. We are not aware of any additional local impacts that need to be addressed.

UDP Plan Strategy

74. Policy S5 of the UDP refers to impact on the Plan Strategy. The UDP strategy is clearly to steer new retail development to Hereford City Centre as the primary retail centre. The application proposal is not consistent with this strategic objective.

Conclusions

75. The application proposal is for an extension of the Sainsbury store at Barton Yard (some 1,937 sq m gross) additional retail floorspace to be devoted to both convenience and comparison goods sales in an out-of centre location, where such proposals are permitted only in exceptional circumstances.
76. The two key tests that the application proposal is required to satisfy are the sequential approach (Policy EC15) and impact (Policy EC16).

Sequential Approach

77. In respect of the sequential approach, we believe that the scale and type of trading proposed could be accommodated on the Livestock Market site within the UDP defined CSCA.
78. We accept that, because the applicant is seeking to improve an existing facility, consideration of whether the proposals could be achieved at some other location is an unreal exercise in terms of what the applicant himself would be prepared / able to contemplate. Turley states that "*the proposed extension is a direct response to existing overtrading at the store.*"
79. We accept that the store is trading some 12.5% above company average in terms of sales density. However, we are not currently convinced that this provides clear evidence of overtrading of in terms of any operational difficulties or shopper discomforts - inadequate shelf space to stock goods, narrow aisles, queuing at tills, etc.
80. We are of the opinion that the requirements of the sequential approach are not satisfied.

Impact

81. The turnover of the application proposal, some £7.6m in total is modest as compared with the turnover of the City Centre, some £340m (comparison goods only).
82. However although Hereford City centre is a healthy and attractive centre, the economic downturn since 2007 has made the centre vulnerable.
83. In the context of current difficult market conditions and the vulnerability of the City Centre, we have some concerns about a further significant expansion of an 'out-of-centre' shopping facility in Hereford, when the Council is seeking to facilitate major new shopping development of a similar nature in the City Centre.
84. In short we are concerned that at the present time the application proposal risks a significant adverse impact on the City Centre.

Determination of the Application

85. We have referred above to PPS4 Policy EC17 which states that planning applications not in a centre and not in accordance with an up to date development plan should be refused if the requirements of the sequential approach are not satisfied; or if there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1.
86. On the other hand, if the Council is of the opinion that there are no significant adverse impacts under policies EC10.2 and 16.1, planning applications should be determined by taking account of "the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations.
87. EC17.3 indicates that judgements about the extent and significance of any impacts should be informed by the development plan, as well as information sources such as town centre or retail strategies and health assessments. Additional guidance on this judgement is found in paragraph 7.3 of the PPS4 Practice Guidance document, which says:

"It will be for the decision maker to determine what constitutes an 'acceptable', 'adverse' or 'significant adverse' impact, based upon the circumstances of each case, having regard to national and local policy objectives."

Please contact me if you have any queries. I shall be happy for you to copy this letter direct to the applicant's agents if you wish to do this.

Yours sincerely

James Williams
for Deloitte LLP (trading as Drivers Jonas Deloitte)