The Planning Inspectorate
EST 1909

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Appeal Decision

Inquiry held on 15-18 May, 22-25 May, 29 May 2012
Site visits made on 25 and 28 May 2012

by Christina Downes Bsc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 August 2012

Appeal Ref: APP/C3240/A/11/2167505
Land at Audley Avenue, Newport TF10 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Audley Avenue Business Parks against Telford and Wrekin Council.
- The application Ref TWC/2011/0632, is dated 11 July 2011.
- The development proposed is demolition of existing buildings and structures and erection of a new foodstore, associated café, access, highway improvements, servicing and parking.

DECISION

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and structures and erection of a new foodstore, associated café, access, highway improvements, servicing and parking on land at Audley Avenue, Newport in accordance with the terms of the application, Ref TWC/2011/0632, dated 11 July 2011 and the plans submitted with it, subject to the conditions on the Schedule at the end of this decision.

PROCEDURAL MATTERS

2. The appeal proposal was submitted in outline with access, layout and scale to be determined at this stage. The application form stipulates a building of 5,084 m^2 with a net sales floorspace of 2,787 m^2. This was on the basis of a net to gross floorspace ratio of 55%. This was subsequently changed to a ratio of 65% which would result in the net sales floorspace increasing to 3,305 m^2. There would be a consequent increase in convenience floorspace from 2,230 m^2 to 2,644 m^2 and in comparison floorspace from 557 m^2 to 661 m^2. St Modwen Developments Ltd (St Modwen), who was granted Rule 6 status at the Inquiry, objected to these changes contending that in the absence of public consultation they would be prejudicial to third party interests.

3. The overall size of the building would not change and nor would the ratio of convenience to comparison goods floorspace. The Council raised no objection to the revisions and all of the retail assessments have taken them into account. From the representations on behalf of the two existing foodstores in the town, Waitrose and the Co-op, it is evident that they were aware of the situation. In terms of the retail impact on the town centre shops the evidence suggests that the changes would make little material difference. St Modwen who is promoting a foodstore at Station Road, Newport was clearly well aware of the situation. In all I do not consider that there would be material prejudice to any

third party and my decision will therefore take account of the revised floorspace figures set out above.

4. On 28 March 2012 the Council resolved that it would have refused permission for the development had it been in a position to do so. The putative reasons were that there is a sequentially preferable location and that the appeal site is relatively inaccessible thus failing to provide the best possible opportunity to reduce reliance on the private car. The proposal was considered to be contrary to policies in the Regional Spatial Strategy for the West Midlands (RS), the Telford & Wrekin Council Core Strategy Development Plan Document (CS) and the National Planning Policy Framework (the Framework).

5. The Council has resolved to grant planning permission for a foodstore on St Modwen's site at Station Road, subject to the completion of the relevant legal agreement[1] and the outcome of the Secretary of State's decision on whether to call the application in for his own determination. He decided to do so on 15 June 2012 on the grounds that the proposal may conflict with national policies on important matters[2]. As this followed the close of the Inquiry, the main parties were asked whether they wished to make any further representations on the matter. These responses have been taken into account.

6. The owner of the Mere Park Garden Centre considered that the two proposals should be determined concurrently. However the Council, the Appellant and St Modwen did not support this course of action on the grounds that issues such as the sequential test and cumulative impact were considered in great detail at the Inquiry. Whilst I am not responsible for the decision on Station Road its implications were fully explored through the evidence, which was thoroughly tested. In the circumstances I am satisfied that I have sufficient information to make a decision on the Audley Avenue proposal based on planning policy and all other relevant material considerations, which include the Station Road proposal. After careful consideration I consider that the approach advocated by the objector would lead to unjustified delay and create considerable uncertainty.

REASONS

The Policy Context

7. The CS was adopted in 2007 but only covers the period to 2016. Policy CS 6 relates specifically to Newport. The supporting text refers to regeneration and expansion of the local economy in order that Newport can fulfil its role as a rural service centre and meet the future housing and employment needs of the market town and its rural hinterland and reduce the need to travel. It is clear from looking at the Inspectors' Report that they recognised that the envisaged growth could not all take place within the existing settlement and in this context three greenfield sites were specifically mentioned. The supporting text to Policy CS 6 refers to the creation of new supporting facilities, including strengthening the quantity and variety of the town's retail provision. This echoes the Regional Strategy which envisages market towns as being a focus for rural renaissance where people can buy most things that they need.

[1] As the Council is owner of the land it is understood that this would actually be in the form of a Memorandum rather than a Section 106 Agreement.
[2] The call-in was made under Section 77 of the Town and County Planning Act 1990.

However the CS does not identify any strategic greenfield land releases in Newport.

8. The Land Allocations Development Plan Document, which could have specified where the necessary growth would occur, never reached submission stage. Whilst I can appreciate that the Council faced resource issues and uncertainty with regards to regional strategies, a considerable period of time has elapsed since the CS was adopted. This leaves the Council in a difficult position because the Newport inset of the Wrekin Local Plan 1995-2006 (LP) Proposals Map was clearly not drawn up with the development aspirations of Policy CS 6 in mind. There is thus an uncomfortable tension with Policy CS 7, which concerns the control of development in rural areas. The Council is seeking to deal with this situation through the development management process but this does not accord with the plan-led approach which is a Core Planning Principle of the Framework.

Loss of Employment Uses

9. There is no dispute that the appeal site is in an out-of-centre location for planning policy purposes. It is nevertheless within the built up area of Newport and is currently occupied by existing employment uses. The main occupier was Classic Furniture although this company has now relocated, including to premises at the Audley Avenue Enterprise Park. Although one of the buildings on the appeal site is still used by the company for storage purposes this is on the basis of a short term lease arrangement. The other building is vacant. There are also two smaller buildings, one of which is occupied by Ravenhill Plant Hire who will be relocating to other premises in Newport if the appeal is successful. The other unit is used as temporary storage on a monthly lease by Edgmond Foods whose main premises are nearby. The site is far from derelict but it is fair to say that it presently yields very few jobs.

10. Saved Policy E9 in the LP seeks to prevent the loss of allocated employment land in order to meet the employment needs of the district. Saved Policy S9, concerns proposals for retailing in employment areas. It does not specifically refer to "allocated" employment areas but from the supporting text and reading the LP as a whole this policy seems to be directed to land with that specific designation. The appeal site is not an allocated employment site and anyway when the LP was written economic development was commonly regarded as "B" Class uses whereas the PPS 4 Practice Guidance (PG)[3] and the Framework give a wider definition that includes retail. Having regard to Paragraph 215 of the Framework, Policy S9 is not consistent with national policy. Furthermore, in 2009 the Council granted planning permission for a mixed use development, which included a bulky goods retail warehouse on the appeal land.

11. Policy CS 6 in the CS seeks to increase the amount of available employment land in Newport and achieve an appropriate balance between the quantity and type of job opportunities available in the town. It is estimated that the appeal scheme would generate about 295 new jobs. Even if this were considered too high the evidence indicates that there would be a significant increase in comparison with the 4 or 5 employees that exist on the site today or indeed those present when Classic Furniture was operational. The Council has not opposed the proposal on the grounds of loss of employment land and for all of

[3] Although PPS 4 has now been revoked the Practice Guidance remains extant.

the reasons given above I do not consider that there is a policy objection to a foodstore on these grounds.

Retail Capacity

12. The Framework seeks a positive approach to economic development and a presumption in favour of sustainable development. It requires local plans to assess the needs of retail and other town centre uses and decide how they will be met in a sustainable way. There is no such assessment in the CS. Indeed neither the *Telford & Wrekin Retail and Leisure Study* (2006), which was part of the evidence base, nor its 2009 update, identified a significant growth in convenience goods expenditure by 2016 to support anything more than a small supermarket or a modest extension to existing floorspace. On the other hand this work did not envisage any increase in the retention of convenience goods expenditure in Newport.

13. The Waitrose and Co-op are not within the Primary Shopping Frontage (PSF) as defined on the LP Proposals Map and so are technically "edge-of-centre"[4]. However both stores are well linked to the High Street and function to support and complement the town centre offer. Waitrose is of sufficient size to provide a main food shopping facility. The Co-op is a smaller store and appears to operate primarily as a top-up facility. From my observations of the town centre there appeared to be few other convenience outlets although I noted a variety store and a weekly indoor market. There is thus a quite limited choice for main food shopping in this market town, which is home to around 12,000 people.

14. It is unsurprising therefore that many of Newport's residents travel to the superstores in Stafford, Donnington Wood and Telford to undertake their main food shop. Indeed the Appellant's household survey indicates that only 54% of the catchment's convenience goods expenditure was actually spent within the catchment[5]. This is clearly not a sustainable position and Newport is neither meeting its needs locally nor reducing the need of its residents to travel. Policy CS 9 specifically aims to improve social inclusion and accessibility so that everyone has a reasonable opportunity to access food shops, amongst other things. So whilst the CS does not specifically identify the need for significant new retail floorspace in Newport it does support meeting the needs of the town and its rural hinterland locally and in a sustainable way.

15. It is appreciated that a number of local people spoke in favour of keeping things as they are on the grounds that Newport already has sufficient facilities. However the fact that many are travelling some distance to do their main food shop is an indication that the available choice in the town is inadequate. The household survey clearly demonstrates that for the majority of people food shopping is done as a single purpose trip. The Council and Appellant have agreed that a new foodstore would be capable of increasing the expenditure retention rate in the catchment to at least 85%.

[4] Whilst the Framework refers to the Primary Shopping Area as a slightly wider area including some secondary frontages it seems to me that the Primary Shopping Frontage in Newport shown on the LP Proposals Map is where retail uses are focused. In this case the two definitions are therefore broadly comparable.

[5] The Household Survey was conducted by the Appellant in May 2011. The Study Area (or catchment) has been chosen using 4 postcode sectors which reflects a 10-15 minute drive from Newport and takes account of alternative superstore locations.

16. In order for this to happen it is necessary to ensure that the new facility is of sufficient scale to provide a comparable range of products to those existing in the present shopping destinations. There was much debate at the Inquiry as to whether the appeal scheme would be sufficient in size to effectively "do the job". Whilst the proposed convenience floorspace of 2,644 m^2 would be smaller than that in the Station Road scheme it would be significantly larger than that at Waitrose. From the evidence given I am satisfied that it would be sufficient to support a depth and breadth of convenience offer that would allow the proposal to compete successfully with the larger superstores where Newport residents currently undertake their main food shopping. It is acknowledged that the 661 m^2 of comparison floorspace would only carry a limited range of comparison goods. Nevertheless there is evidence to suggest that when people undertake a main food shop they are primarily influenced by the convenience offer and proximity to home. There is no reason to believe that Newport residents would continue to undertake the food shop further afield when a similar and satisfactory opportunity is available locally. This does not mean to say that they would not continue to visit larger superstores like the Asda at Donnington Wood from time to time for comparison purchases.

17. Although the appeal scheme is a speculative venture there was no convincing evidence that the retail proposal would be unviable or unattractive to a Big Four retailer[6] should planning permission be granted. It is acknowledged that the Station Road site is being supported by Sainsbury's but it is not unreasonable to surmise that given the choice this larger greenfield site would seem the more appealing opportunity to a retail operator. The Framework endorses a clear town centre first approach and emphasises that proposals for retail uses elsewhere should be considered in terms of the sequential test and an impact assessment. These are matters to which I now turn.

The Sequential Test

18. From the evidence I am satisfied that there are no suitable, available or viable alternative sites within the town centre or on its edge that would accommodate a superstore of the type proposed. Reference was made by some objectors to two sites close to the town centre, one in Avenue Road and the other between St Mary's Street and Water Lane. These were found by the Inspector in an appeal for a discount foodstore at Mere Park, Stafford Road to be suitable sequential alternatives (Ref: APP/C3240/A/10/2125557). However that scheme was for a much smaller retail unit. Even allowing for some flexibility it is difficult to see how either site would be suitable in terms of its configuration and size for the type of foodstore being proposed in the present appeal.

19. The Framework says that when considering out-of-centre proposals preference should be given to accessible sites that are well connected to the town centre. This is also the advice in the PG and the conclusion reached by the Secretary of State from a straightforward reading of the Worksop appeal decision (APP/A3010/A/10/2124458). There was considerable debate at the Inquiry as to whether the sequential assessment involves two tests or only one. Paragraph 6.2 of the PG identifies two policy objectives and the first of these involves reducing the need to travel. However it seems to me that this is within the context of centres being the most readily accessible locations by alternative travel modes.

[6] Namely Asda, Morrisons, Sainsbury's and Tesco.

20. The comparative advantages of out-of-centre sites in terms of mileage savings, CO_2 reduction or walk-in catchments do not seem to me to go to the heart of the sequential test although these matters will be relevant in terms of location and general accessibility. The second objective of the sequential test concerns undertaking linked trips in order to reinforce the vitality and viability of the centre. Paragraph 6.2 of the PG makes clear that the two objectives are related. The Framework provides greater clarity in Paragraph 24: "*When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre*". The wording seems to me to be quite clear and it is reasonable to conclude that there is a single test relating to achieving connections with the centre by a choice of travel modes. There would thus be a sequential advantage if one out-of-centre site could achieve better town centre linkages than the other.

Land at Station Road

21. The main sequential alternative favoured by the Council is a greenfield site on the western side of Station Road adjacent to the settlement boundary on the southern side of the town. Whilst this is out-of-town as well as out-of-centre there is nothing in the Framework or PG to indicate that the former description adds to its disadvantage in sequential terms. The proposal is for a superstore with a gross floorspace of about 8,400 m^2, net convenience floorspace of 3,065 m^2 and net comparison floorspace of 1,580 m^2.

22. There was no evidence that the Station Road scheme would not be viable and as noted above Sainsbury's is the retailer who would operate from the site. However there are several unresolved issues. The site is subject to a Village Green application although it is noted that the Council objects to the proposal. The proposed development would also entail the diversion of the Hutchison Way footpath and this is likely to be subject to a public Inquiry. Furthermore there is the matter of the planning application which is now to be determined by the Secretary of State. It is appreciated that the PG refers to availability in the context of a "reasonable period of time" and it seems likely that all of these issues will be resolved within the next year or two. However whilst the Village Green application will be determined by the Council as Registration Authority the other two matters are outside its control. As matters stand these factors impact negatively on the confidence that can be ascribed to the availability of the Station Road site.

23. If it is accepted that some greenfield development outside the settlement boundary will be necessary in order to achieve the strategy envisaged by Policy CS 6 it follows that Policy CS 7 will be breached. Whilst this underlines the difficulties that the Council has in terms of delivering a plan-led solution it does not detract from the objective in the CS to prioritise the use of previously developed land. This is also one of the Core Planning Principles in the Framework. The greenfield nature of the Station Road land counts against it in the face of an alternative brownfield opportunity at the appeal site. The fact that there is some active use still taking place on the appeal site does not disqualify it from being considered as previously developed land and there is nothing in the Framework to suggest otherwise.

24. The Council's 2008 *Open Space, Sport and Recreation Facilities Study*, which included at least part of the Station Road site, identified that there is a deficiency in accessible open space in Newport. It further indicated that links between the town and nearby countryside should be maximised. Policy CS 11

seeks to protect and enhance areas of formal and informal open space and does not permit development thereon unless the land fails to contribute to the standards set to meet the requirements of the local population. The CS indicates that such standards will be established in a future development plan document, which to date has not been produced.

25. There was considerable debate at the Inquiry as to whether the site is "*locally important incidental open land*" under saved LP Policy OL6. The policy makes clear that amongst other things it includes land adjacent to built-up areas that has value as a recreational space or importance as a natural habitat. Although the LP policies fall to be considered under Paragraph 215 of the Framework Policy OL6 is consistent with the objectives of promoting healthy, inclusive communities espoused in that document. The Framework defines "open space" as being of public value and refers to its importance for providing opportunities for sport and recreation. It therefore seems to me that any distinction between the terms "open space" and "open land" is rather an academic one in the present context. Paragraph 74 of the Framework indicates that such land should not be built upon unless, inter alia, an assessment has been undertaken which has clearly shown it to be surplus to requirements. The only assessment was that undertaken in 2008 and this identified the shortfall referred to above.

26. The Station Road land is part of a wider swathe of countryside between the southern edge of Newport and its by-pass. It is crossed by the designated public footpath, Hutchison Way. However, the considerable number of written and oral representations by local people plus the Village Green application which has much local support, make clear that this land is greatly valued as an informal recreational resource. This includes use of the permissive footpath along the northern edge of the farmed field which, until it was recently blocked, connected up to the pathways around Millwood Mere and the residential areas beyond. People clearly appreciate the land for its wildlife and also as a green space close to, and accessible from, the residential area immediately to the north. There may be no legal right for the public to enter anywhere other than the Hutchison Way. However that does not mean that the land, including the pony paddock, has not been locally important as an informal recreational resource. It does not appear that the Council as landowner has done anything to prevent people using it for dog walking, habitat enhancement and the like until recently when all access was stopped through the erection of fencing either side of the Hutchison Way footpath.

27. Whilst Policy CS 6 envisages growth to meet the local needs of the town there is no up-to-date spatial plan that shows how the competing land uses, including open space, are to be accommodated. The land to the south of the settlement was not one of the sites referred to by the CS Inspectors as potential greenfield land releases. On the other hand saved Policy OL6 seems directly applicable. In the circumstances it seems to me that there is doubt about the suitability of the Station Road site for a foodstore development in terms of development plan policy. A section of the site is classed as best and most versatile agricultural land but its loss would be relatively insignificant. In the circumstances I do not consider that this matter counts further against the site in terms of its suitability.

28. I turn now to consider the issue of town centre linkages. For anyone wishing to combine their food shop with a walk to the town centre the most appropriate starting point would be the centre of the foodstore car park. The Station Road

proposal indicates that from this point the distance to the PSF would be about 850 metres. Although Station Road carries a fair volume of traffic there are residential properties along either side and it does provide a relatively direct link. The route to the Audley Avenue site is quieter but significantly longer and more convoluted and runs through both a residential area and a commercial area with a mix of uses including a school, business premises and a cemetery. I undertook both of these walks and whilst they were reasonably pleasant in different ways they took about 10 and 17 minutes respectively between the edge of the site and the PSF. There is a glimpse of the trees on the edge of the Station Road land when walking out of the town centre but these seem to me to be too far away to provide the pedestrian with a meaningful visual reference point.

29. The turnover of either scheme would be supported by a large proportion of clawback expenditure. Unless there is a radical change in shopping behaviour it is to be expected that rather than driving to Telford, Donnington Wood or Stafford, customers would drive to Station Road or Audley Avenue. This is clearly anticipated by the retailers who would be providing large surface level car parks. For these customers to undertake a linked walking trip to the town centre would mean a walk from the store car park either before or after undertaking the food shop and then back again. It is not suggested that these people would be encumbered with their bags of food shopping or that 400 metres is the maximum distance that people would ever walk. However the evidence from various sources suggests that what equates to a 5 minute walk is generally considered to be an acceptable walking distance for shoppers to undertake. The distance from both sites is considerably further than that.

30. Much reliance was placed on the Worksop decision where the Inspector considered that a small but significant number of people would make a linked trip. The distance in that case was 720 metres from the Primary Shopping Area although he was referring to trips by bus as well as on foot. Nevertheless there is a difference between the range of facilities and attractions in a town the size of Worksop and those in a small market town like Newport. It is not unreasonable to surmise that people would spend longer in a town with a higher order offer and thus be prepared to walk further to get there. It is also relevant that parking in Newport is free and relatively plentiful. It is much more likely that the shopper would drive from the store to the town centre either as part of the same outing or on another occasion. I therefore consider that in this case the proclivity for linked walking trips from either site would not be significant.

31. There is a bus service along Station Road but this only runs about 4 times a day. There is no bus route along Audley Avenue. However both proposals include a similar level of funding for a reconfigured bus service to serve the town as well as the respective retail sites. Whilst there would be some differences in terms of coverage, the offers would be broadly similar with a regular 30 minute service to and from the town centre. I have no reason to believe that either service would not be viable by the end of the 10 year funding period. There would therefore be the opportunity for a linked trip using the bus. Inevitably this would be associated with a smaller food shop limited to the number of bags that could be carried. The appeal scheme would have a bus stop outside the store entrance and this would seem to me to offer a benefit particularly to the elderly. There was little evidence to support the

contention by St Modwen that the Big Four retail operators do not favour buses entering a foodstore site for safety reasons.

32. There would be the chance to cycle but this would apply to both sites and in any event I am not convinced that in reality a linked trip by bike would be an attractive option for most shoppers. In the circumstances I do not believe that Station Road offers any material advantage in terms of the potential to generate non-car based linked trips with the town centre. I was also told that for those who do not have access to a car the Station Road site would benefit from a far greater walk-in catchment than the appeal site. This would undoubtedly be true but would be a locational advantage rather than one that would be directly relevant to the sequential test. This was the conclusion of the Inspector in the Worksop decision and a straightforward reading of the Secretary of State's decision does not indicate that he thought differently. The Inspector in the appeal decisions concerning foodstores in Wells made the sensible point that if a walk-in catchment offered a sequential advantage it would favour a wholly suburban residential area regardless of its relationship with the centre[7].

Mere Park Garden Centre, Stafford Road

33. In April 2012 a Lawful Development Certificate (LDC) was issued for the retail use of land and buildings at Mere Park (Ref: APP/C3240/X/11/2164340). Whilst this appeal decision has been challenged by the Council the current position is that there is a lawful unrestricted retail use. Mere Park is in an out-of-centre location that is slightly closer to the PSF than the appeal site and benefits from a regular bus service to the town centre. However its main disadvantage is that it is on the eastern side of the A41 which is a busy dual carriageway. Whilst it is possible to cross at the roundabout this road would act as a considerable barrier to pedestrian movement. Bearing in mind the bus service to be provided as part of the appeal proposal, Mere Park seems to offer no greater likelihood of linked trips to the town centre than the appeal site.

34. Whilst the site may be available there is a concern about its viability on the basis of the limited available information. The landowner has indicated that Morrisons intend to operate a foodstore from the site. However whilst there is said to be an Agreement in place between the two parties there was no evidence of its nature, terms or qualifications. Whilst it is appreciated that there is a current application to display advertisements bearing the Morrisons name this was submitted by a third party and does not provide evidence of a commitment by the retailer to occupy the site.

35. In addition I have considerable doubts about whether Mere Park, under the terms of the LDC, is suitable for the proposed development even taking account of flexibility in format and scale. Retail use can take place lawfully within the building and on the site as it exists at present. It is important however to recognise that an LDC is not a planning permission. A sketch layout has been provided and this demonstrates that a Morrisons foodstore is unlikely to be accommodated without changes to the building and its surroundings. For example the sketch shows a substantial expansion of the existing car park. Furthermore, the approved, but as yet unbuilt, extension to the garden centre is shown to be used partly for purposes that would not

[7] The reference of this case is APP/Q3305/A/11/2156246, APP/Q3305/A/11/2156243, APP/Q3305/A/11/2142407.

comply with the condition restricting its use to ancillary storage. The implementation of the sketch scheme would appear to require planning permission and the Council confirmed that no such application had been made. Even if it had, the LDC does not provide any certainty that approval would be given.

36. The sketch shows other shortcomings including a very tightly configured service yard, narrow aisles and restricted checkout facilities. It also shows a sales area of 1,912 m^2 which is well below what is being proposed at the appeal site. I have taken account of all of the available evidence including the written submission from the landowner and correspondence from his planning consultants. However on the basis of the available information I do not consider that Mere Park Garden Centre would be suitable to accommodate the proposed development.

Other Sites

37. Late on in the Inquiry it was suggested that a greenfield site on the opposite side of the A41 to the Mere Park Garden Centre may be a potential sequential alternative. This is closer to the town centre than the appeal site but suffers from similar constraints to the Station Road land which in any event is closer to the town centre and PSF. Furthermore the Council has granted planning permission for a care home village and there is no evidence that the site is available for retail purposes. Two other sites were mentioned including the Burton Borough School and greenfield land on the west of the town proposed for housing development. Neither of these sites were advanced by anyone as serious sequential contenders and there is no evidence that they would be available, suitable or viable for a foodstore development.

Retail Impact

Solus Retail Impact

38. There was no dispute that the full retail impact in this case would be realised within a 5 year period and that a design year of 2016 is appropriate. The appeal proposal does not at present have a named operator but it has been designed to accommodate one of the Big Four food retailers. It was explained that for the purposes of the assessment the turnover had been derived from the company averages of these operators, which in fact do not differ significantly. On the basis that "like affects like" the greatest level of trade draw would be from large out-of-centre superstores, including the Asda at Donnington Wood. However the Framework makes clear that retail policy is directed towards ensuring that the vitality and viability of town centres is protected in order to provide choice and diversity at the heart of the communities they serve. Whilst the Appellant's retail assessment shows some impact on Telford and Wellington the trade draw would be relatively small. The most relevant centre is Newport and for the reasons given in Paragraph 12 of this decision the consideration of impact includes Waitrose and the Co-op.

39. The retail experts[8] did not agree about the level of impact on convenience expenditure in the town centre. As far as I can see this was mainly due to a difference of approach in assessing the pre-impact turnovers of the town centre shops, including Waitrose and the Co-op. I find the Council's approach of

[8] Mr Nutter on behalf of the Council and Mr McGrath on behalf of the Appellant.

taking the market shares from a household survey attached to another scheme and then adopting a mid-point position rather unconvincing. Furthermore Waitrose have a reputation for quality and are poorly represented within this particular area. In the circumstances the Appellant's assessment of a higher rate of inflow expenditure to this store seems reasonable. Overall I prefer the Appellant's retail impact assessment.

40. The Council confirmed that there is no planned town centre investment. It is thus necessary to consider whether the identified level of impact is likely to be significant and adverse in terms of the town centre's vitality and viability. The PG advises that this needs to be examined within the context of the existing conditions and health of the centre in question. This is not necessarily just whether shops would permanently close but also whether the choice and variety of offer would be maintained and whether the town centre would continue to function as an attractive shopping destination.

41. From all of the evidence, including my own observations, I consider that Newport is an attractive and relatively prosperous small market town. Much of the centre is a conservation area with a number of listed buildings. I understand that rents are relatively low but nevertheless the proportion of vacant units is quite small. The convenience offer is mainly concentrated in the two supermarkets but there is also a discount variety store selling some convenience goods. There is a good representation of independent traders although these mainly operate in the comparison sector and as service providers. In addition there is a weekly indoor market and a farmer's market each month. The Appellant's On-Street Survey reveals that the town is popular with visitors and that those who use it do so for many reasons other than main food shopping.

42. The impact on the turnover of convenience shops in the town centre would be relatively modest at around 8.8%[9] and it seems improbable that it would lead to closures or any significant reduction in the existing diversity of offer. Whilst the Household Survey indicates that the Co-op is slightly under-trading relative to its company average it seems unlikely that it would be unable to adjust its offer to take account of the anticipated reduction in turnover. It mainly provides a top-up shopping role and it seems improbable that this would be greatly affected by the proposed new store at the appeal site. The impact on Waitrose would be higher at some 16.6% but there is no suggestion that the store would be unable to adjust to such competition or cease to provide an anchor facility to the town centre. Also, from the information provided by the Household Survey the store is shown to be overtrading compared to its benchmark turnover.

43. There would be some loss of linked trips by those customers to Waitrose or the Co-op who then visit other shops in the town centre on foot. However bearing in mind the relatively small amount of comparison goods floorspace in the new foodstore and the variety of specialist offer in the town centre there is no reason to believe that people would not continue to visit even though this may be by car or in a separate trip. In both of the retail assessments the impact on comparison goods expenditure was very small indeed. In the circumstances I do not consider that there would be a significant adverse solus impact on the health, vitality or retail function of Newport town centre.

[9] This includes the Co-op but excludes Waitrose.

Cumulative Retail Impact

Mere Park Garden Centre, Stafford Road

44. For the reasons already given it is not considered that a Big Four retailer would be likely to trade from this site taking account of the constraints of the LDC. However it is possible that some other form of convenience outlet could operate from the premises and it seems most likely in view of the limitations of the site that this would be a discount retailer. The appeal concerning a discount retail store on undeveloped land to the south of the LDC site was referred to in Paragraph 17 above. Whilst this was dismissed the Inspector did not consider that the overall vitality and viability of the town centre would unduly suffer although he did identify an impact on the range of discount products available in the town centre, including at the variety store B & M. This seems to me to be an impact associated with this particular type of retail operation that is likely to occur irrespective of whether a Big Four operator traded from the appeal site.

45. Nevertheless, the Council did undertake an assessment of what the likely cumulative impact would be if a discounter were established at Mere Park. The conclusion was that this would not be a great deal higher than the solus impact of the appeal scheme. However for the reasons already given I have concluded that the Council's solus impact assessment is too high. Furthermore its trade draw estimates for a store at Mere Park are based on a higher sales density than would typically be achieved by a discount retailer. In the unlikely event that a convenience outlet was established at Mere Park under the auspices of the LDC, I am satisfied that there would be no significant adverse cumulative impact on Newport town centre.

Land at Station Road

46. The Station Road land is not a commitment because it is not allocated in the development plan and does not benefit from planning permission. However the evidence shows that the impact of two large foodstores would be very serious indeed for the health of Newport town centre. Indeed the Council's retail expert made clear that if planning permission were to be granted for the appeal scheme his advice to the Council would be that it should no longer support a foodstore at Station Road. All three retail experts[10] considered that there would be insufficient expenditure capacity in the catchment to support two Big Four retail operators and indeed the evidence given on behalf of St Modwen was that such a scenario would be "inconceivable". The Council has said in terms that only one planning permission for a foodstore can be granted and although the decision for Station Road is now out of its hands, the Secretary of State will be in a position to consider the proposal with impact very firmly in mind.

Accessibility

47. The Council's second putative reason for refusal relates to accessibility. It was argued by the Council and St Modwen that the Station Road site was more accessible and therefore to be preferred. It was also argued that in any event the appeal site performed so poorly in this respect that even if there were no

[10] Mr Nutter on behalf of the Council, Mr McGrath on behalf of the Appellant and Mr Robeson on behalf of St Modwen.

sequentially favourable site the proposal should fall on this ground alone. It is the case that the appeal site is in a less prominent location than Station Road, which is on one of the main thoroughfares into the town. Due to the bus gate car drivers cannot drive into the town along Audley Avenue but have to travel round the by-pass and in along Station Road. It was estimated that this would add about 1.5 minutes onto the journey in comparison with Station Road. However Newport is only a small town and the route is not complicated. The strategy in the RS and CS is to make Newport more self sufficient and meet the local needs of the town and its hinterland. The foodstore is thus not seeking to draw customers from far afield and it is a reasonable assumption that local people will know the geography of their town. In the circumstances I do not believe that the location of the appeal site is likely to put people off combining a trip to the foodstore with a visit to the town centre by car.

48. A large proportion of the turnover of the new foodstore would be supported by expenditure currently flowing out of the catchment. This would mean that people would be able to undertake their convenience shopping locally and so it is expected that journey distance savings would ensue resulting in a reduction in CO_2 emissions. There is no dispute that such savings would be considerable whichever location was chosen. However this sort of calculation is inevitably a broad brush exercise and is based on a number of assumptions, including where customers come from and the routes they will take. The evidence suggests that the Station Road proposal would result in greater journey distance savings due to its location relative to where people live and its closer proximity to the town centre for linked trips by car. It would also probably have an advantage due to its greater turnover and thus its ability to attract more trips.

49. The Station Road site clearly offers an advantage in this respect but it does not follow that the appeal site is therefore inaccessible. On the contrary the appeal proposal would result in substantial journey distance savings and this would be a sustainable outcome that accords with Policy T2 in the Regional Strategy and Policy CS 9 in the CS. The Council contended that as the trips would already be on the network the most sustainable outcome would be for the bulky goods planning permission on the appeal site to be implemented and the proposed foodstore to go ahead at Station Road. Within the context of trips made by car this would undoubtedly be the case but there is no evidence that the extant planning permission would be implemented if this appeal fails. In fact the evidence suggested that this would be unlikely bearing in mind that retail warehousing is not a thriving sector in the current economic downturn.

50. I have already dealt with walking trips to the town centre and concluded that this is very unlikely to significantly feature in either proposal. Customers do though walk to a foodstore either for top-up shopping or to make small but frequent main food purchases. When considering this matter the most relevant distance is between the home and the store entrance. It would not be too difficult for the Station Road proposal to incorporate an access point for pedestrians in the north-west corner of the site. I found the walk along the unmade paths around Millwood Mere and up Springfields relatively pleasant and there is no reason why shoppers should not use these routes, especially in the daytime. The distance people are prepared to walk will vary depending on how much shopping they have to carry. There would also be the option that some would walk to the store and then get a taxi home. There is little doubt that the Station Road site is better located in terms of serving a resident

population although on the basis of a 400 metre walking distance from the store entrance the numbers would be relatively small.

51. With a longer walking distance of 800 metres the difference with the appeal site is much more significant. However it is the case that many of those people within 800 metres of the Station Road store would also be within 800 metres of Waitrose and the Co-op. Furthermore many of them would have to pass the Springfield Stores which is a small food shop on Station Road. I visited this store and it sells a small range of basic food and household items, toiletries, newspapers, wines and spirits. So most people living within this residential area are already able to meet their day to day needs on foot. Most importantly they are able to do so by walking into the town centre where there is a choice of top-up facilities. Such a trip may well be combined with a visit to other shops and so is advantageous in terms of town centre vitality and viability. The Co-op particularly is positioned to take advantage of this sort of small purchase. So although the walk-in catchment appears to place the Station Road proposal at a considerable locational advantage, the benefits are not as great as they may initially seem.

52. It is relevant that the appeal site is within 400 metres of a number of employment uses and that the Burton Borough School is within an 800 metre walking distance. There is therefore the opportunity for school staff and employees to walk to the store to make small food purchases or for parents to park and walk to or from the store when dropping off or collecting their children from school. It is acknowledged that the household survey indicates that only a relatively small number of respondents linked a food shop with the school run or journey to work but this related to a main food shop rather than smaller top-up purchases. It is also relevant to observe that the overlap in walking catchments between the appeal proposal and Waitrose or the Co-op is relatively small. Walking and cycling would be a realistic option for those working in the store as well. People are generally prepared to walk further to work than they would be when shopping. The appeal scheme includes a new stretch of footway outside the site and whilst the pavements along Audley Avenue are narrow in places they would be greatly improved if overhanging vegetation were trimmed back.

53. I have already addressed the enhanced bus service in relation to the sequential assessment and the mechanics of its provision are considered below under the Planning Obligation. It would provide a convenient travel option for staff and customers of the store but it would also be a considerable benefit to those working in the employment areas along Audley Avenue as well as staff and pupils of Burton Borough School. The bus service would considerably enhance the accessibility of the appeal site due to its 30 minute frequency.

54. Subject to various improvements the Highway Authority is satisfied that there would be no undue detriment to the free flow of traffic or safety on the existing highway network. In essence these works include provision of a new mini roundabout at the junction of the site access and Audley Avenue, minor changes to the mini roundabout at the Focus entrance and a new roundabout at the junction of Audley Avenue and the by-pass. The Highway Authority has however requested a contribution to strategic off-site highway works and this is considered further below.

Planning Obligation

55. A fully executed Planning Obligation by Agreement (POA) was submitted at the Inquiry. From the information provided I am satisfied that it is fit for purpose and that the owner of the land or his successors in title would be bound by the covenants. The Bus Service contribution would fund enhanced bus service provision around the town and include an extension of the No 41 service between the town centre and the appeal site along Audley Avenue and through the bus gate. It was the Council's preference for a contribution rather than a dedicated service provided by the Appellant on the grounds that this would give more routing flexibility to reflect demand. This is not an unreasonable proposition although the obligation specifies a minimum half hourly service to and from the town centre and includes the potential routes as an appended map.

56. The contribution is worked out on the basis of costs and anticipated revenue on the basis of a period of 10 years. It is reasonable to expect that after this period travel patterns would be well established and that the increased levels of patronage would result in a viable service. The bus gate on Audley Avenue would require alteration to allow two way operation for the bus enhancement scheme to be provided. A contribution for this purpose is thus included. At the Inquiry sufficient information was provided to be satisfied that these obligations are necessary, directly related to the appeal scheme, fair and reasonable in scale and kind to the development in question. In accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations they can thus be taken into account.

57. A Travel Plan was submitted with the planning application and the POA includes provisions for an updated document to be submitted to the Council for approval. This would be particularly directed towards staff although customers would also benefit from some of its provisions. Whilst it has been concluded that linked shopping trips on foot or bicycle are unlikely to be significant it is quite probable that those working at the store would use these modes of travel. There is no reason why the Travel Plan should not be successful in encouraging modal shift and this would be monitored by the Monitoring Contribution. The obligations are necessary and otherwise compliant with the CIL Regulation tests outlined above.

58. Contributions are made towards a Town Centre Enhancement Scheme and a Town Centre Manager. I can understand that the Council is keen to enhance the attractiveness of Newport centre. Bearing in mind that there would be a degree of retail impact, albeit insignificant, these contributions would not be unreasonable. Nevertheless they are not supported by a specific policy or supplementary guidance. Whilst some details of the duties of the Town Centre Manager and possible improvement works to shopfronts within the conservation area have been given there is insufficient information to be satisfied that the not inconsiderable sums of money covenanted are fairly and reasonably related in scale and kind to the development. In the circumstances they do not meet the requirements of Regulation 122 of the CIL Regulations and cannot be taken into account.

59. The Town Centre Website would be set up for a period of 5 years and would promote local retailers and service providers using *All the Little Shops* software. No specific sum is included for this and it seems to me to provide information

that would encourage people to use their town centre. This does not offend the CIL Regulations and has been taken into account.

60. The Highways Contribution relates to off-site strategic highways works. These include improvements to the capacity of the A41 in accordance with a scheme that has been commissioned by the Council and costed on the basis of pooled contributions from a number of major development schemes potentially coming forward. The problem is that it is not known whether these schemes will all be approved or in what timescale. It is appreciated that there is a 10 year period after which the contribution would have to be paid back with interest. However there is little certainty that these works will be carried out expeditiously or that the contribution would be proportionate if all of the anticipated developments do not come on stream. Indeed the projects include both the appeal proposal and the Station Road scheme and for the reasons already given it seems very unlikely that both would come forward. In the circumstances I cannot conclude that the contribution is CIL compliant and it cannot therefore constitute a reason for granting planning permission.

61. The Council referred to a Court of Appeal decision concerning *Derwent Holdings v Trafford Borough Council, Tesco Stores Ltd and Lancashire County Cricket Club*. I have noted the comment by the judge that a council and developer may enter into an agreement to secure objectives that are considered desirable for the area even if they are not necessary for the particular development to go ahead. However this was in the context of two schemes being advanced in a single application which also involved significant regeneration benefits. It related to a specific set of circumstances that is very different from those pertinent to the present appeal. On my reading of the judgement there is nothing to say that the test of necessity in Regulation 122 of the CIL Regulations should be set aside in the present case.

Overall Conclusions and Planning Balance

62. The Council's long term vision, as expressed in the CS, includes supporting the role of Newport as a market town and service centre to its rural hinterland. It is recognised that at present many Newport residents travel to superstores outside of the local catchment to undertake their food shopping. This is not socially inclusive and it is not sustainable because it relies predominantly on car travel. Whilst there is no specific policy in the CS for significant retail growth in Newport it would comply with the general objective of meeting people's needs locally in a more sustainable way.

63. The appeal proposal would be of sufficient size for this to happen but it is in an out-of-centre location. There are no suitable sites for such a foodstore either in the town centre or on its edge. Whilst Mere Park Garden Centre has an unlimited retail use this is by virtue of an LDC. It is not considered that it is a realistic sequential alternative. Nevertheless there is a potential opportunity in Station Road where a planning application has been made for a Sainsbury's superstore. Whilst this is some 500 metres closer to the town centre it is out-of-centre and for all the reasons given I have concluded that is not sequentially superior.

64. The appeal site would result in substantial travel distance savings and thus a greater reduction in CO_2 emissions as people are able to shop more locally. It is the case that the Station Road site would provide greater benefits in this respect as well as a far greater residential walk-in catchment. There would

also be the potential to clawback more convenience expenditure due to the greater scale of that proposal overall. Nevertheless these advantages must be balanced against the fact that the appeal site is previously developed land and this is favoured in both national and local planning policy over greenfield alternatives. Whilst it is clear that some greenfield housing and employment land releases will be necessary to meet the growth aspirations for Newport in Policy CS 6 the fact that there is a suitable and available brownfield site is a weighty factor in favour of the appeal scheme.

65. The appeal proposal would not have a significant adverse impact on the town centre either by itself or in conjunction with the type of retail use that is likely to materialise at Mere Park. There would be a serious cumulative impact if the Station Road proposal were also to go ahead but that is a decision that is currently in the hands of the Secretary of State.

66. Although the appeal scheme is unlikely to result in a significant number of linked trips on foot it would provide the opportunity through an enhanced local bus service running half hourly to and from the town centre. The bus stop outside the front door of the store would be an incentive for customers to patronise the bus service as a preferred travel option. It would also provide a wider benefit for those living and working in the town. There would be the chance for store employees to walk or cycle and some improvements to the footway close to the site are proposed as part of the scheme. The proximity to employment areas would also give those workers the option to visit the store by non-car modes. Overall I consider that the site is sufficiently accessible to offer opportunities to travel by non car modes. It should however be recognised that car travel is likely to be the predominant modal choice for those using an out-of-centre superstore either at Audley Avenue or Station Road for their main food shop.

67. The appeal scheme has other benefits. It would provide more jobs than either currently exist or existed in the past. It also could help to regenerate this part of Newport where there are vacant or underused buildings, including the bulky goods store on adjoining land which was formerly occupied by Focus. There is no specific evidence that this would happen but it is not an unreasonable supposition that a thriving foodstore would make an adjoining vacant site more attractive to potential investors.

68. For all of the above reasons my overall conclusion is that the appeal scheme would be a sustainable form of development that would accord with development plan policy and the policies in the Framework. In particular it would comply with Policy T2 of the RS and Policies CS 6 and CS 9 of the CS.

Planning Conditions

69. The conditions were discussed at the Inquiry and an agreed list was provided. In the main these have been imposed as worded although I have made some small changes in order to aid clarity and precision. The conditions comply with Circular 11/95: *The Use of Conditions in Planning Permissions.* The need to encourage more sustainable travel patterns through better local convenience shopping provision is an immediate one and therefore a shorter implementation period is justified in this case. Whilst appearance and landscaping are reserved matters it is necessary to require details of materials as well as landscape maintenance and means of enclosure at this stage in the interests of visual amenity. For similar reasons those boundary trees and hedgerows that are to

be retained should be protected during the course of construction. Planting plans and plant schedules need not be included as these would be submitted as part of the reserved matters.

70. The various highway works, parking and servicing arrangements are necessary in order to ensure that the traffic generated by the scheme could be safely accommodated on the highway network without detriment to the free flow of traffic. For similar reasons a management plan is required to regulate activities during the course of construction. There are also requirements necessary to implement the sustainable travel package including footway provision, cycle parking, provision of the internal bus stop and changes to the bus gate. The evidence suggests that there may be some risk of contamination in view of the past uses of the site. A condition is thus required to ensure no unacceptable risk to people or property and to ensure that groundwater supplies and ecological resources are protected.

71. There are several conditions relating to the drainage of the site which are necessary to ensure that there is no harm to groundwater resources and to avoid flood risk in accordance with the Flood Risk Assessment. The Flood Risk Assessment indicates that the drainage scheme would offer a 30% reduction from the existing site run off rate. Whilst this would be a benefit I am not convinced that it is a necessary requirement justifying a planning condition. The Council referred to a draft supplementary planning document but this was never taken beyond consultation stage and so can be afforded very little weight.

72. In order to ensure that the building is energy efficient it should be constructed to BREEAM "very good" standards. There is no evidence that this would be impractical or unviable. It is reasonable to require details of external lighting in order to ensure that there is not undue light spillage that could be detrimental to ecological interests. The retail work has been undertaken on the basis of a foodstore of a particular size and specific levels of convenience and comparison floorspace. This demonstrates that the foodstore would be sufficient to clawback a significant amount of expenditure whilst not unduly impacting on the town centre offer. In the circumstances floorspace restrictions are justified. The application drawings have been specified for the avoidance of doubt and in the interests of proper planning with provisos relating to the highway works and also making clear that the permission does not include the triangle of land adjacent to the appeal site.

73. I have taken account of all other matters raised at the Inquiry and in the representations but have found nothing to change my conclusion that the appeal should succeed.

Christina Downes

INSPECTOR

ANNEX A: APPEARANCES

FOR TELFORD & WREKIN COUNCIL:

Mr Ian Dove	Of Queen's Council
With Miss Sarah Clover	Of Counsel Instructed by Mr J Eatough, Head of Governance and Public Protection at Telford & Wrekin Council

They called:

Mr G Thomas BSc(Hons) MSc(Dist) PgDip MRTPI	Strategic Projects Team Leader with the Council
Mr P Blair BEng CEng FICE FCIHT	Director of Savell Bird & Axon
Mr K Nutter MRTPI	Director of WYG Planning & Design
Mr N Archer[11]	Highways and Development Control Engineer with Telford & Wrekin Council

FOR AUDLEY AVENUE BUSINESS PARKS:

Miss Nathalie Lieven	Of Queen's Counsel Instructed by Mr S McGrath, Indigo Planning Ltd

She called:

Mr S McGrath BA MSc MRTPI	Director of Indigo Planning Ltd
Mr A Kenyon BEng(Hons) FIHT	Director of Peter Evans Partnership Ltd

FOR ST MODWEN DEVELOPMENTS LTD:

Mr Christopher Young	Of Counsel Instructed by Ms E Harvey, Solicitor of Telford & Wrekin Council

He called:

Mr P Hill BA(Hons) MA MRTPI	Technical Director of RPS (Planning and Development)
Mr M G Robeson BA FRTPI FRICS FRSA	Managing Director of Martin Robeson Planning Practice
Mr N Millington BA(Hons) MSc MRTPI MIHT	Director of Phil Jones Associates Ltd

INTERESTED PERSONS:

Mr C Roberts BSc MRTPI	On behalf of Mr D Brierley, Growing Enterprises Ltd
Mr J Henshaw	Local business person
Mr J Rudd	Local resident

[11] Mr Archer assisted mainly in relation to discussions on highways matters and contributions but was not formally presented by the Council as a witness.

Mrs J Clarke	Local resident
Mr E Carter	Local resident and business person
Mrs B Barsley	Local resident

ANNEX B: DOCUMENTS

1 Secretary of State decision and Inspector's Report – site of former Vesuvius Works, Sandy Lane, Worksop (APP/A3010/A/10/2124458)
2 Documentation concerning a High Court Challenge by Telford & Wrekin Council against a Lawful Development Certificate for a proposed use or development in respect of the retail use of Mere Park Garden Centre, Newport
3 Letter dated 14 May 2012 from Barton Wilmore on behalf of Waitrose Ltd in respect of the appeal proposal
4 Agricultural land classification plan
5 Addendum to the Committee Report on the Station Road foodstore proposal
6 Cabinet Report relating to the disposal of land off Station Road, Newport (22 September 2011)
7 GOAD Centre Reports for Newport and Worksop
8 Table comparing floorspaces for the appeal scheme (scenario 2) and the Station Road proposal
9 Proposed bus stops for the Station Road foodstore proposal
10 Plan of walking isochrones prepared by the Appellant
11 Plan showing Council owned land in the vicinity of the Station Road application site
12 Letter from RPS to the Council concerning contributions and public transport (24 April 2012)
13 Note by Mr Blair on the journey distance savings in Appendix AJK11 to Mr Kenyon's proof of evidence
14 Statement delivered orally to the Inquiry by Mr Roberts on behalf of Mr Brierley, Growing Enterprises Ltd
15 Statement delivered orally to the Inquiry by Mrs J Clarke
16 Statement delivered orally to the Inquiry by Mr J Rudd
17 Written representation to the Inquiry from Mr D Gittus
18 Written representation to the Inquiry from Mr J Pay
19 Plans of Newport taken from the Council's PPG 17 Assessment
20 Wrekin Local Plan – Telford Inset
21 Wrekin Local Plan – Newport Inset
22 Land off Station Road, Newport, Agricultural Appraisal (23 May 2012)
23 Note by the Council on bus services in Newport
24 Note by Mr Nutter on the estimated turnover of the Station Road and Audley Avenue foodstore proposals
25 Note by Mr Kenyon on off-site highway works for the Station Road foodstore proposal
26 Bus routes and timetable prepared by Mr Kenyon for the appeal proposal
27 Suggested site visit route for the Inspector
28 Table of floorspaces and car parking spaces for the appeal scheme, the Station Road scheme and other existing foodstores prepared by Mr Robeson
29 Larger scale plans of walk distances from the appeal site and Station Road site to the town centre from Mr Millington's proof and appendices
30 Plans showing a sketch layout of a Morrison's foodstore at Mere Park
31 Letter from the Department of Communities and Local Government concerning the call-in of the Station Road planning application (22 May 2012)
32 Application for advertisement consent for a Morrison's foodstore at Mere Park

33 Officer's Report to the Plan's Board on 5 October 20122 for a care retirement community on land adjacent to A41, Newport
34 Mr Kenyon's response to Mr Blair's comments on journey distance savings in Document 13
35 Letter to the Inspector from Mr Brierley concerning his appearance at the Inquiry (24 May 2012)
36 Planning Statement by Indigo in support of the application for a mixed use development on land at Audley Avenue
37 Retail Statement by Indigo in support of the application for a mixed use development on land at Audley Avenue
38 Extract from *Sustainable Transport & Retail Vitality for Towns & Cities* by Prof M Carley
39 Written representation to the Inquiry from Carolann Murphy entitled *Save Hutchinson's Way, our Green Space*
40 Map and notes on the local footpath network submitted by Mrs Clarke
41 Draft Planning Obligation by Agreement (Version 6)
42 Response to Mr Brierley's statement (Document 14) by Mr Nutter
43 Response to Mr Brierley's statement (Document 14) by Mr McGrath
44 Response to Mr Brierley's statement (Document 14) by Mr Robeson
45 Council's note on contributions justification for town centre enhancements and a Town Centre Manager
46 Written representation to the Inquiry by Mrs P Coulthard-Jones
47 Note prepared by Mr McGrath relating to existing uses at the appeal site
48 Marketing proposal between All the Little Shops and Indigo relating to an on-line showcase for independent shops in the town centre
49 Centroid plan produced by Mr Kenyon for his journey distance savings
50 Council's Justification for off-site highway works prepared by Mr Archer
51 Transcript of the judgement of Derwent Holdings Ltd v Trafford Borough Council, Tesco Stores Ltd and Lancashire County Cricket Club
52 Council's draft SPD *Surface Water Drainage: Managing and Improving Water Quality* (June 2009)
53 Written representation to the Inquiry from Mr G Thomas
54 Written representation to the Inquiry from Councillor J Pay
55 Confirmation of no further response to further representations by Mr Brierley
56 Written representation to the Inquiry from Mr K Broad
57 Written representation to the Inquiry from Mr P Chadwick
58 Written representation to the Inquiry from J Tomlinson
59 Written representation to the Inquiry from Ms A Briggs
60 Written representations to the Inquiry from Mr B Dredge
61 Written representation to the Inquiry from E Davies
62 Written representation to the Inquiry from Mr A Goulding
63 Written representation to the Inquiry from Mr J Plant
64 Written representation to the Inquiry from Ms C Buzzard
65 Table showing foodstore sizes produced by the main parties
66 Agreed list of conditions
67 Planning Obligation by Agreement dated 29 May 2012
68 Call-in letter on the Station Road planning application (15 June 2012)
69 Further correspondence and representations concerning the call-in letter

ANNEX C: PLANS

A Application Plans: 1022.01; 1022.02; 1022.03D; 1022.04; 1022.05A

ANNEX D: CONDITIONS

1) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

2) Application for the approval of the following reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this outline permission:

   a) Appearance

   b) Landscaping

   The development shall be carried out in accordance with the approved details.

3) The development hereby permitted shall be carried out in accordance with the following approved drawing numbers: 1022.01; 1022.02; 1022.03D; 1022.04; 1022.05A but only in respect of those matters not reserved for later approval and except in respect of the highway matters in Condition 5. For the avoidance of doubt the area shown as a wildlife area and proposed allotments on drawing number 1022.02 is not included as part of this permission.

4) No development shall commence on site until details of types and colours of all external materials, including hard surfacing have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

5) No development shall commence on site until details have been submitted to and approved in writing by the Local Planning Authority indicating full road/footway/cycleway construction including longitudinal sections, materials, drainage, street lighting, and a satisfactory means of draining roads to an acceptable drainage outfall for:

   a) The new A518/Audley Avenue roundabout junction which is to accord with the Telford & Wrekin Council's drawing number 1760200/100/03

   b) The revised Audley Avenue/Focus mini roundabout as generally indicated on PEP drawing number 2404.08 and to include an enlarged central island.

   c) The new Audley Avenue/Site Access mini roundabout and access road linking the service yard and car park access as generally indicated on PEP drawing number 2404.09A and to include realigned footway/cycleway.

   d) The new Audley Avenue footway/cycleway link from the A518 junction with Audley Avenue to the boundary with Parkland House including all other associated footway and footpath links.

   e) The provision of enhanced footway between Parkland House and the Audley Avenue bus gate up to a maximum of 3 metres in width including details of construction and root protection measures in connection with any trees to be retained.

f) The provision of enhanced footways between the Audley Avenue bus gate and Avenue Road including details of construction and root protection measures in connection with any trees to be retained.

g) The alterations to the Audley Avenue bus gate including details of construction and the mechanical or other device necessary for the gate's activation

Those works so approved shall be constructed before the store is opened to trading.

6) All landscaping works shall be carried out before the store is open for trading in accordance with the landscaping details approved under Condition 2. These details shall include means of enclosure and a schedule of landscaping maintenance for at least five years with implementation arrangements. Any trees or plants that die, are removed or become seriously damaged or diseased within five years from the completion of the landscaping scheme shall be replaced in the next planting season with others of similar size and species.

7) Before the proposed development is open for trading all associated internal access roads, parking and service areas as indicated on the submitted plan Drawing Number 1022.03D shall be laid out and made available for use and thereafter retained for those purposes.

8) Ground clearance, demolition or construction work shall not take place until details of protective fencing for retained trees and hedgerows in accordance with BS5837:2005 (*trees in relation to construction*), including an implementation timetable, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The protective fencing shall be retained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or lowering, of ground levels, shall be allowed within the protected area(s).

9) Before the proposed development is open for trade the on-site bus stop as generally indicated on Drawing Number 1022.03D shall be provided with bus border kerbs and be designed to accommodate a minimum 9m long bus. The bus stop shall be retained for this purpose thereafter.

10) Development shall not take place other than that required to be carried out as part of an approved scheme of remediation until parts a. to d. below have been complied with, unless otherwise agreed in writing by the Local Planning Authority. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part d) has been complied with in relation to that contamination.

a) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings

must be produced. The written report shall be approved in writing by the Local Planning Authority. The report of the findings must include (where applicable):

i) a survey of the extent, scale and nature of contamination;
ii) an assessment of the potential risks (where applicable) to:
- human health
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
- adjoining land
- groundwaters and surface waters
- ecological systems
- archaeological sites and ancient monuments;

iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'.*

b) Submission of Remediation Scheme
A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and shall be approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) Implementation of Approved Remediation Scheme
The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks prior written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and shall be approved in writing by the Local Planning Authority.

d) Reporting of Unexpected Contamination
In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part a, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part b, which shall be approved in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, and shall be approved in writing by the Local Planning Authority in accordance with Part c).

11) No development shall commence until full details of foul and surface water drainage, culverting works and surface water attenuation, which shall include proposals and necessary calculations for sustainable urban drainage and prevention of any loss of Strine Brook floodplain storage, have been submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be completed before occupation of any building on the site, or in accordance with a timetable to be submitted to and agreed in writing by the Local Planning Authority.

12) No infiltration of surface water drainage into the ground shall be permitted other than where a scheme has been submitted to and approved in writing by the Local Planning Authority that demonstrates that there is no resultant unacceptable risk to controlled waters. The scheme shall be implemented in accordance with the approved details.

13) Piling or any other foundation designs using penetrative methods will not be permitted other than with the prior express permission in writing of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

14) The building permitted by the permission shall be constructed to meet Building Research Establishment Environmental Assessment method (BREEAM) 'very good' standard. A Post Construction Completion Certificate shall be submitted to the Local Planning Authority, which demonstrates that the building have achieved 'very good' BREEAM rating.

15) The foodstore shall be subject to the following floorspace restrictions:

a) The total gross internal floorspace of the foodstore hereby permitted shall not exceed 5,084 m^2 including any mezzanine floorspace.

b) The total retail sales area of the foodstore hereby permitted (excluding checkouts, lobbies, concessions, restaurants, customer toilets and walkways behind the checkouts as per the definition given by the Competition Commission) shall not exceed 3,305 m^2 including any mezzanine floorspace.

c) The total retail sales area for the sale and display of convenience goods shall not exceed 2,644 m^2 including any mezzanine floorspace.

d) The total retail sales area for the sale and display of comparison goods shall not exceed 661 m^2 including any mezzanine floorspace.

16) No development shall commence on the site until details of the design, number and location of cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be provided in accordance with the approved details before the premises are open for trade and retained for that purpose thereafter.

17) No development shall commence on the site until details of external lighting have been submitted to and approved in writing by the Local Planning Authority. These details shall identify the type of light appliances, the height and position of fittings, levels of illumination and light spillage for the proposed development. The external lighting shall be provided in accordance with the approved details before the premises are open for trade and retained for the intended purpose thereafter.

18) No development shall commence on the site until a Site Environmental Management Plan (SEMP) has been submitted to and approved in writing by the Local Planning Authority. The SEMP shall comply with the *Considerate Constructors' Scheme* and include the following details:

a) Location of site compound

b) Parking of vehicles of site personnel, operatives and visitors

c) Loading and unloading of plant and materials

d) Storage of plant and materials in constructing the development

e) Storage of oil, fuel and chemicals

f) Measure for the control and reduction of noise from construction works

g) Measures for control of construction traffic within the site and on the surrounding highway network

h) Hours of operation of construction works and others works on the site

i) Measures for the monitoring and enforcement of the SEMP

j) The erection and retention of security fencing

k) Prevention of deposit of mud on the highway

The agreed SEMP shall be complied with at all times during the construction of the development hereby permitted.

End of conditions