

Our Ref: Planning Portal Ref. PP-09369663

Your Ref: 04B903860

7th January 2021Development Management
Planning & Building Control
Blackpool Council
Town Hall
Corporation Street
Blackpool
FY1 1LZ

Dear Sir / Madam

Planning Portal Reference. PP-09369663**Unit 2A, Former B&Q Unit, Holyoake Avenue, Blackpool, FY2 0BQ****Variation of Condition 13 (Unit 2A - Goods Restriction) of Planning Permission Ref. 20/0079****Introduction**

I write on behalf of my client Aldi Stores Limited ('the applicant') in regard to planning application reference PP-09369663 which was submitted to Blackpool Council on 23rd December 2020 and seeks the variation of Condition 13 (Unit 2A – Goods Restriction) of planning permission reference 20/0079. The granting of permission will enable the applicant (who is also the landlord of the terrace of retail units at Holyoake Avenue) to secure the beneficial letting of Unit 2A to B&M so that they can operate their home improvement and household goods led 'Homestore' format. This is necessary to ensure continuity of occupation, given that the current tenant 'Poundstretcher' will be vacating the premises during early 2021.

The variation sought would allow Unit 2A to stock a wider range of non-food goods than is currently permitted by permission reference 20/0079. This planning permission restricts the building to the sale home improvement products only, reflecting its historic use as a B&Q warehouse. Whilst a notable proportion of B&M's 'Homestore' offer is actually focussed on DIY, furniture, garden and home improvement products (all permitted under the current condition), the retailer also stocks other day-to-day, non-food goods including pet products, homeware, household goods, and electrical items. B&M also stocks a limited, ancillary range of discounted food and drink products albeit this only typically extends to a maximum of 25% of the net sales area (or 379 sq. m in this case). There would be no overall increase in retail floorspace at Unit 2A, with this remaining at 1,782 sq. m (GIA) / 1,515 sq. m net sales.

As this letter will go on to explain, the rationale to reoccupy this soon to be vacant unit with a retailer which specialises in the sale of everyday items is partly reflective of changes in consumer demand in the wake of the coronavirus pandemic, with the 'variety discount' sector subject to growth during a period when the economy as a whole has undoubtedly struggled. The pandemic has also highlighted the importance of promoting consumer choice and competition when it comes to local retail provision which can cater for staple non-food and food items, as B&M undoubtedly does.

Furthermore, it is significant that (if granted permission) this would be B&M's fourth investment within the Blackpool area. The proposed new store would serve Blackpool's northern environs and would complement existing 'in-centre' B&M units at Blackpool town centre and Whitegate Drive local centre, as well as the satellite B&M Homestore serving Blackpool's southern environs at Vicarage Lane, Hawes Side. B&M has confirmed that they remain committed to all of their existing Blackpool locations and that this represents a further investment by the business as part of their continued growth strategy.

This supporting planning letter will test the variation of condition sought against the relevant local and national town centre policies, with the aim of demonstrating its compliance with the adopted development plan and National Planning Policy Framework ('the Framework'). For clarity, the planning application submission comprises the following:

- A planning application form and ownership certificate (Certificate A);
- This supporting planning justification letter;
- A Site Location Plan (reference 2787BOL-100 Rev. A);
- A Proposed Site Plan (reference 2787BOL-102 Rev. B); and,
- A copy of the decision notice for planning application reference 20/0079.

Planning Background and Site Context

Application Site and Recent Planning Permission

On 17th November 2020 planning permission (Ref. 20/0079) was granted for the: *"Erection of single storey side extension and external alterations to existing Class A1 retail store, and part use as a retail foodstore with associated works to existing car park and alterations to existing access and egress onto Holyoake Avenue"* on land south of Holyoake Avenue, Blackpool, FY2 0BQ.

Within the decision notice and approved Proposed Site Plan (Ref. 2787BOL - 102 Rev. B) two units are identified, Unit 2A and Unit 2B. The decision notice and Proposed Site Plan are clear that Unit 2B is to be a discount foodstore and its trading floorspace is controlled accordingly. The trading floorspace of Unit 2A is controlled by Condition 13 of the decision notice which states that:

"Unit 2A as shown on the approved plan shall not be used for the display and sale, whether wholesale or retail, goods of any description with the exception of the following products and accessories thereto:-

Buildings materials · ceramic tiles · DIY electrical accessories and lighting · floor covering and DIY carpets · furniture (flat packed for kitchens, dining rooms, lounge or bedrooms · garden products, plants and trees · glazing · greenhouses · hand and power tools · hardware · insulation · ladders · lawn mowers · leisure · motor maintenance accessories · paints and wall coverings · plumbing sanitary ware and central heating · timber".

The Proposed Site Plan (Ref. 2787BOL - 102 Rev. B) shows that Unit 2A extends to 1,782 sq. m GIA and 1,515 sq. m net sales. This unit has been occupied by Poundstretcher in recent years and prior to that B&Q. It is rectangular in shape and positioned at the southernmost end of the application site, facing north.

Following the implementation of application Ref. 20/0079 and the resultant conversion of the site's existing retail warehouse, there will be two other units that will form the retail terrace on Holyoake Avenue. This includes a Pets at Home store of 1,175 sq. m GIA (which already exists) immediately east of Unit 2A, and a newly partitioned Unit 2B of 1,933 sq. m GIA sq.m / 1,425 sq.m net immediately west. Unit 2B will be occupied by Aldi stores limited and this discount foodstore will open later in 2021.

Following forthcoming car park modifications associated with permission Ref. 20/0079, the retail terrace on Holyoake Avenue will be served by a total of 227 customer car parking spaces (located centrally in a shared arrangement). In addition, vehicular access will be taken (as it is at present) from existing points on the northern boundary of the site with Holyoake Avenue.

Surrounding Context

It terms of the site's wider context, it is situated immediately south-east of the signalised vehicular junction of Holyoake Avenue, Plymouth Road (A587), Bispham Road and Warbreck Hill Road. Immediately north of this junction on the eastern and western sides of Bispham Road is a parade of shops which is designated as Bispham Road / Warbreck Hill Road Local Centre on the proposals map which informs the Blackpool Local Plan (June 2006). The Council's April 2019 'Local Centres Assessment' concludes at Section 2.9 that this centre *"performs reasonably well"*.

With regards the planning application site's relationship with Bispham Road / Warbreck Hill Road Local Centre, we note that Paragraph 11.2 of the Committee Report for planning application Ref. 20/0079 confirms that site represents an *"edge-of-centre location and 75m from the nearest designated local centre diagonally across the traffic signal junction onto Bispham Road"*. Accordingly, given the short distance involved and the wording of the recent committee report, it must be concluded that the application site represents a well-connected, edge-of-centre location in town centre policy terms.

The committee report for application Ref. 20/0079 also confirms that the character of the area surrounding the application site is 'mixed commercial and residential' and notes that it is well served by the local bus network (with the No. 9 service running past the site on Plymouth Road) and is also close to Layton railway station.

In terms of the application site's immediate surroundings; access / egress is taken from the northern boundary close to the traffic signal junction at its north-western corner, whilst there is a second access / egress further along Holyoake Avenue (circa 100m east). Between these two access / egress points are three pairs of semi-detached houses, one pair accessed from Hughes Grove, a short cul-de-sac. Surrounding these houses on three sides (with some landscaping providing a buffer) is the customer car parking which serves the existing terrace of retail units on Holyoake Avenue.

Directly opposite Holyoake Avenue from the application site (north) are further residential properties. To the rear (south) of the application site is the Blackpool to Preston railway line. East of the application site are light industrial units and offices at the Fox Industrial Estate. Finally, to the west (on the opposite side of Plymouth Road) are further residential properties albeit these are screened from the application site by the Plymouth Road embankment.

With regards surrounding retail provision, it has been highlighted that the closest defined centre is just 75m north-west in the form of Bispham Road / Warbreck Hill Road local centre. The next closest centre is Bispham Road / Low Moor Road local centre, a 14 unit parade 750m north of the application site. A smaller local centre comprising five units (Moor Park Avenue) is located 250m or so further north of Bispham Road / Low Moor Road local centre (1km north of the site).

Meanwhile, Layton district centre is approximately 1km south. This is a significantly larger centre which comprises 47 units and was found to have a vacancy rate of only 6.4% when appraised as part of the Council's recent Retail Study. Also of note is Devonshire Road, a local centre which is located on a busy stretch of Devonshire Road, close to its junction with Warley Road. It contains some 22 units and is also approximately 1km south-west of the planning application site. Finally, Blackpool town centre is more than 2km south-west of the application site.

Planning Application Proposals

Unit 2A is currently permitted to stock 'home improvement' non-food goods only, reflecting the floorspace's historic use as a B&Q warehouse. Whilst a notable proportion of B&M's 'Homestore' offer is actually focussed on DIY, furniture, garden and home improvement products (all permitted under the current condition), the retailer also stocks other day-to-day, non-food goods including pet products, homeware, household goods, and electrical items. B&M also stocks a limited, ancillary range of discounted food and drink products albeit this only typically extends to a maximum of 25% of the net sales area (or 379 sq. m in this case).

The variation sought would allow Unit 2A to stock a wider range of non-food goods and a small proportion of food goods at the expense of some existing home improvement focussed floorspace. There would be no overall increase in retail floorspace at the unit and therefore any increase in, for example, food retail floorspace will result in an identical decrease in non-food floorspace.

Accordingly, it is proposed that the wording of Condition 13 (Unit 2A – Goods Restriction) of planning permission reference 20/0079 is amended as follows:

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent amended Order) the premises shall be used only for comparison goods retail sales with ancillary convenience goods sales from no more than 25% of the net retail sales area within Class E of the Town and Country Planning (Use Classes) Order 2020 (as amended) and for no other purpose including any other use within Class E within Unit 2A shown on Drawing ref: 2878BOL-102 Rev B”.

The revised wording of the planning condition is reflective of Condition 9 of the decision notice (Ref. 20/0079) concerning the operation of Unit 2B (the Aldi foodstore). However, in the case of Unit 2A (proposed B&M) the primary use of the unit will be for the sale of non-food ('comparison') goods and only an ancillary proportion (25%) would be used for the sale of food ('convenience') goods.

The rationale for the variation of condition sought is to enable the applicant (who is also the landlord of the terrace of retail units at Holyoake Avenue) to secure the beneficial letting of Unit 2A to B&M so that they can operate their home improvement and household goods led 'Homestore' format. This is necessary to ensure continuity of occupation, given that the current tenant 'Poundstretcher' will be vacating the premises during early 2021.

Seeking the re-occupation of this soon to be vacant unit by a retailer which specialises in the sale of everyday non-food and food items is reflective of changes in consumer demand in the wake of the coronavirus pandemic, with the 'variety discount' sector subject to growth during a period when the economy as a whole has undoubtedly struggled. The pandemic has also highlighted the importance of promoting consumer choice and competition when it comes to local retail provision which can cater for staple non-food and food items, as B&M undoubtedly does.

UK foodstore operators have universally recorded dramatic rises in half-year sales during 2020, far exceeding the same period in 2019. This was driven initially by consumers 'hoarding' convenience goods but also reflected reduced opportunities to 'eat out' during the lockdown period. Convenience retail spending has continued to perform very well even following lockdown restrictions as the eating out market remains generally subdued and significant numbers of households continue to work from home. It appears that this trend towards increased staple food shopping will continue throughout the remainder of 2020 and 2021, and possibly beyond.

Drawing the above commentary together, as the UK moves through (and beyond) the Coronavirus pandemic the increased demand for basic food and non-food 'discount' goods appears likely to persist given shifts in consumer behaviour during 2020. Accordingly, my client has found that this is where the commercial demand for the vacant unit has come from, in advance of Poundstretcher's departure (who are themselves a 'variety discount' retailer). Demand has not come from retailers such as B&Q, Homebase and Wickes – who are the only mainstream retailers that could realistically trade from Unit 2A based on its current restriction.

Unit 2A of the Holyoake Avenue retail terrace is evidently of an appropriate scale and form to function as a B&M variety discount store and to help meet future localised day-to-day non-food retailing needs. It also has sufficient car parking and the necessary rear servicing infrastructure. However, it is not currently able to sell food of any description (even on an ancillary basis) given the wording of Condition 13 of permission ref. 20/0079, whilst the non-food offer is also restricted. Modification is therefore sought to this planning condition in order to ensure that Unit 2A remains in occupation and continues to play a positive role as part of the local economy.

In this regard, it is significant that (if granted permission) this would be B&M's fourth investment within the Blackpool area. The proposed new store would serve Blackpool's northern environs and would complement existing 'in-centre' B&M units at Blackpool town centre and Whitegate Drive local centre, as well as the satellite B&M Homestore serving Blackpool's southern environs at Vicarage Lane, Hawes Side. B&M has confirmed that they remain committed to all of their existing Blackpool locations and that this represents a further investment by the business as part of their continued growth strategy.

Town Centre Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the purposes of this planning application comprises the saved policies of the Blackpool Local Plan 2001 – 2016 (adopted June 2006) ('Local Plan') and the Blackpool Local Plan Part 1: Core Strategy 2012 – 2027 (adopted January 2016) ('Core Strategy'). Relevant town centre policies contained within the borough's development plan are summarised below.

Alongside the Core Strategy and saved policies of the Local Plan (the development plan), there are other national planning policy and guidance documents that represent material considerations in the determination of this planning application and these are also summarised (where relevant) in this section of our letter. The National Planning Policy Framework ('the Framework') (February 2019) is of greatest significance in this regard as this sets out the Government's planning policies for England and how these should be applied. The policies contained within the Framework are important material considerations which should be taken into account when dealing with individual planning applications.

It is noted that work has now also commenced on the Blackpool Local Plan Part 2: 'Site Allocations and Development Management Policies Document' and the Council consulted on the Regulation 18 Scoping Document in June/July 2017. This document set out the topics in which it is intended to develop policies on within the document. Based on the Council's website, consultation on the Regulation 19 Publication Version of the Plan is expected to take place in early 2021. Accordingly, at this point in time only very limited weight can be attached to the policies proposed in the emerging plan and it is noted that this was the conclusion reached in the planning committee report which informed application Ref. 20/0079 (see Paragraph 10.5).

Development Plan

Blackpool Local Plan Part 1: Core Strategy 2012 – 2027 (adopted January 2016)

Policy CS4 (Retail and Other Town Centre Uses) of the Core Strategy sets out the Council's overarching retail strategy. The policy states that:

- In order to strengthen Blackpool Town Centre's role as the sub-regional centre for retail on the Fylde Coast, its vitality and viability will be safeguarded and improved by:
 - a. Focusing new major retail development in the town centre to strengthen the offer and improve the quality of the shopping experience; and,
 - b. The preparation and implementation of a Town Centre Strategy and Action Plan, working with stakeholders to arrest decline and restore confidence in the town centre.

The Policy continues that within Town, District and Local Centres within the Borough, retail and other town centre uses will be supported where they are appropriate to the scale, role and function of the centre. In edge-of-centre locations (such as the application site) and out-of-centre locations, proposals for new retail development and other town centre uses will only be permitted where it can be demonstrated that:

- a. It is a tourism attraction located in the 'Resort Core' in accordance with Policy CS21; or
- b. There are no more centrally located / sequentially preferable, appropriate sites available for the development; and
- c. The proposal would not cause significant adverse impact on existing centres; and
- d. The proposal would not undermine the Council's strategies and proposals for regenerating its centres; and
- e. The proposal will be readily accessible by public transport and other sustainable transport modes.

Other Material Planning Policy Considerations

National Planning Policy Framework (February 2019)

Town centre policies are dealt with at Section 7 of the Framework, under the title '*ensuring the vitality of town centres*'. Paragraph 86 sets out the sequential test. It says that main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Amongst other things, Paragraph 87 of the Framework says that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. This is supported by the guidance contained within the Planning Practice Guidance (the 'PPG') on Town Centres and Retail.

The PPG reiterates what the sequential test is and how it should be used in decision making¹. In this regard, the application of the sequential test should be proportionate and appropriate for the given proposal. The checklist within the PPG emphasises the importance of flexibility in terms of suitability, format and scale.

For the purposes of the application of the sequential test, Annex 2 of the Framework explains that an 'edge-of-centre' retail development site is defined as a location that is 'well connected and up to 300m from the primary shopping area' (Framework, Annex 2, Page 66). By implication, and 'in-centre' site is one which falls within the primary shopping area, whilst an out-of-centre site is one which is beyond 300m from the primary shopping area and is not 'well connected' to it. The Framework is clear that in determining whether a site falls within the definition of 'edge-of-centre', account should be taken of local circumstances. It is therefore clear in this case that the application site represents an edge-of-centre location.

Paragraph 89 of the Framework states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, LPAs should require an impact assessment if the development is over a proportionate, locally set threshold (or otherwise over 2,500 sq.m). This should include an assessment of:

- the 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; and,
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

¹ Paragraph: 009 Reference ID: 2b-009-20190722 and Paragraph: 011 Reference ID: 2b-011-20190722

Finally, Paragraph 90 of the Framework states that where an application fails to satisfy the sequential test it should be refused. The implication being that were such a policy conflict is not identified planning permission should be granted.

Town Centre Policy Context – Conclusions

Drawing the above policy context together, the planning application site is located within 300m from the closest defined district or local centre (in this case Bispham Road / Warbreck Hill Road local centre just 75m north-west of the application site). It must therefore be classified as a well-connected 'edge-of-centre' location in town centre policy terms, where a sequential assessment would typically be required. Notwithstanding this, the relevance of the sequential test to this application (a variation of condition) is questionable and we discuss this further in the planning assessment below – alongside providing a proportionate sequential site assessment.

Turning to retail impact, the floorspace involved in this variation of condition application (1,782 sq. m GIA) is well below the Framework's retail impact testing threshold of 2,500 sq. m (GIA). There is also no adopted local threshold for the requirement of a retail impact assessment, and this is confirmed at paragraph 11.5 of the planning committee report for application ref. 20/0079. Whilst a quantitative retail impact assessment is not therefore necessary, Policy CS4 does require proposals for edge and out-of-centre retail developments to demonstrate that they would not have an unacceptable impact on the 'health of the existing, established retail hierarchy'.

As such, it is considered necessary to provide a proportionate, qualitative appraisal of impact in support of the application and this is set out in a subsequent section of this letter. However, it is important to remember that the proposal will not result in an increase in the total amount of Class E retail floorspace within Unit 2A, simply a change in the way that it is permitted to be used.

Planning Assessment

This planning application seeks the variation of Condition 13 of planning permission reference 20/0079 to enable Unit 2A, Holyoake Avenue to stock a wider range of non-food goods and a small proportion of food goods at the expense of some existing home improvement focussed floorspace.

The 'main issue' in the consideration of this application is therefore whether the change in would lead to any adverse planning implications. To reiterate, there would be no overall increase in the net sales area of the unit, meaning that any increase in (for example) convenience goods floorspace would result in a corresponding reduction in comparison goods floorspace.

In this context, we set out below our justification for the change in floorspace sought having regard to its implications for the health of surrounding defined centres and the anticipated trading effects within the wider area. We also examine the applicability of the sequential test and

whether (taking a proportionate approach) there are any alternative sites which are suitable and available to accommodate the proposal.

Sequential Test

The PPG is clear that the application of the sequential test should be proportionate and appropriate for the given proposal². In this case the variation of condition would result in a change to the way that existing, established retail floorspace is used. It would not result in an increase in the total amount of Class E floorspace at the application site, but rather seeks to allow Unit 2A to sell different goods – to facilitate its beneficial reoccupation by B&M.

The purpose of the sequential test is to guide main town centre uses / floorspace towards existing centres in order to support their vitality and viability. However, when the retail floorspace already exists in what is a well-connected edge-of-centre location, as in this case, the applicability of the sequential test becomes questionable. This is an issue which has been examined at appeal by the Planning Inspectorate and we provide at **Appendix I** two decisions (one very recent) whereby Inspectors conclude that the sequential test is of limited relevance where a variation of condition is involved, and that it would not necessarily be proportionate to require an applicant to demonstrate that alternative sites can accommodate the proposal.

Firstly, in dealing with a comparable application for the removal of a goods restriction condition (involving no additional retail floorspace) at Dartford Heath Retail Park, Dartford³, an Inspector concludes that the proposals:

“...simply seek to change/widen the range of goods sold at an already established retail location. In these circumstances it seems to me that a more relevant and appropriate consideration [than the sequential test] has to be an assessment of the likely impact of the proposals on the town centre...” (Paragraph 21).

In short, the Inspector implies that there is little logic in assessing whether there is a more centrally located alternative site / unit as the retail floorspace already exists. This is a particularly relevant point in the context of Unit 2A Holyoake Avenue, which already provides a retail offer and will continue to do so irrespective of this planning application.

Secondly, as recently as 25th February 2020, an Inspector dealing with a variation of condition application⁴ at Camborne Retail Park, Cambourne concludes that that:

“...the proposal would not result in an increase in the total amount of A1 use floorspace at the appeal site, but rather seeks to utilise up to 30% of the existing retail space available at the relevant business units for the sale of food and drinks. By reason of the relatively modest amount of food sales proposed

² Paragraph: 009 Reference ID: 2b-009-20190722 and Paragraph: 011 Reference ID: 2b-011-20190722

³ Case Reference. APP/T2215/A/12/2178633

⁴ Case Reference. APP/D0840/W/19/3240165

based upon the proportion of the retail units that would be given over to sale of food and drinks, in this instance I find that it would not be proportionate to require that the Appellant demonstrates that alternative sites could accommodate the proposal” (Paragraph 9).

Again, in this example the Inspector reasons that because the variation of condition would not result in an increase in the total amount of retail floorspace at the appeal site, and instead concerns a change in the way it is used, it would not be proportionate to require the appellant to demonstrate that alternative sites could accommodate the proposal.

Drawing the two appeal examples together, the applicant’s position is that it is not appropriate to apply the sequential test in a conventional sense where a variation of condition relating purely to the way in which existing retail floorspace is used is concerned.

Notwithstanding this, to offer the Local Planning Authority comfort on this matter, AY has undertaken a proportionate sequential site review of the four defined centres located within a five-minute drive-time of the planning application site. This drive-time catchment is reflective of the area of search used for the sequential assessment of Unit 2B (Aldi) as part of recently approved application ref. 20/0079. Given that Unit 2A (1,782 sq. m) is in fact smaller than Unit 2B (1,938 sq. m) and a comparable ‘variety discount’ offer is proposed by a named operator, it is clear that a five-minute drive-time catchment remains applicable in this case.

A sequentially preferable site in this case would need to provide some 1,700 sq. m of gross internal retail floorspace within a single unit, alongside requisite car parking / supporting infrastructure. Based on our professional judgement, a site area of at least 0.6ha would be required to deliver an equivalent scale and form of retail development to that which this planning application relates.

Accordingly, AY has examined the following defined centres within a five-minute drive-time of the application site: Layton district centre, Bispham Road / Warbreck Hill Road local centre, Bispham Road / Low Moor Road local centre, Moor Park Avenue local centre and Devonshire Road local centre. In each case, a search has been undertaken for ‘suitable’ and ‘available’ opportunities of the scale and form identified. It can be confirmed that there are no such opportunities in these centres, and we would make the following observations on each:

Layton District Centre

Layton district centre takes the form of a traditional linear ‘high street’ which stretches along Westcliffe Drive between Lynwood Avenue to the north and Drummond Avenue to the south. The centre comprises terraced units which are largely bounded in all directions by existing high-density residential uses. There are therefore no obvious development sites for a unit of the scale proposed. The closest undeveloped land to the centre comprises a cemetery and a local sports club west of Westcliffe Drive – neither of which are suitable or available.

In conclusion, there are no suitable and available in-centre (or better connected edge-of-centre) alternatives at Layton district centre and it can be discounted accordingly. It is noted that an equivalent conclusion was reached by the Local Planning Authority when appraising Unit 2B in the context of the sequential test as part of recent planning application ref. 20/0079.

Bispham Road / Warbreck Hill Road Local Centre

This centre requires little analysis given that it is located only 75m north-west of the planning application site and extends to only five units (all of which are occupied). With the centre constrained by existing residential dwellings and / or road infrastructure on all sides there is no potential for its immediate expansion. Accordingly, Unit 2A itself represents the sequentially preferable site in the context of Bispham Road / Warbreck Hill Road local centre.

Bispham Road / Low Moor Road Local Centre

This local centre is focussed around the junction of Bispham Road and Low Moor Road. Blackpool's Local Centre Review evidence base document of April 2019 finds that it contains a total of 14 units, of which less than 10% are vacant. From our observations, these vacant units each take the form of small terraced properties which are less than 200 sq. m in size. Accordingly, none represent 'suitable' alternatives to the planning application site and can be discounted as part of our sequential assessment on this basis.

In conclusion, the relatively modest scale of Bispham Road / Low Moor Road local centre and its physically constrained nature mean that it does not provide any credible sequential preferable alternatives to the planning application site for the scale and form of retail development proposed. An equivalent conclusion was reached by the Local Planning Authority when appraising Unit 2B in the context of the sequential test as part of recent planning application ref. 20/0079.

Moor Park Avenue Local Centre

Moor Park Avenue local centre is not dissimilar to Bispham Road / Warbreck Hill Road local centre, containing as it does a terrace of five units which front Moor Park Avenue (all of which are occupied). The centre is located some 250m north of Bispham Road / Low Moor Road local centre and is approximately 1km north of the application site (on the periphery of a five-minute drive-time catchment area).

Moor Park Avenue is bounded on all sides by either existing residential development or highway infrastructure and there are therefore no realistic prospects for its expansion. Accordingly, it is quite clear that Moor Park Avenue local centre is unable to provide any sequentially preferable units or sites which can accommodate the scale and form of development proposed. It can be dismissed on this basis.

Devonshire Road Local Centre

Devonshire Road local centre contains some 22 units and is located on a busy stretch of Devonshire Road, at its junction with Warley Road. It is best described as a traditional parade of terrace retail units which flank either side of Devonshire Road. There is no potential for the expansion of this local centre, with it surrounded on all sides by high density residential development. The only realistic retail investment opportunities are therefore existing vacant units.

In this regard, based on the Council's 'Local Centres Assessment' of April 2019 there are no vacant units and this tallies with our more recent observations. However, even if there were vacancies, the terraced shop units are each only broadly 100 – 200 sq. m in size and are therefore clearly insufficient to accommodate the type of large format retail unit involved in this variation of condition application. On this basis, the floorspace and land within and surrounding Devonshire Road local centre can be dismissed as unsuitable and unavailable and, as such, is not sequentially preferable to the planning application site.

Blackpool Town Centre

Blackpool town centre is beyond a five-minute drive-time catchment area of the planning application scheme and therefore it is not strictly necessary to appraise the centre as part of the sequential assessment. Furthermore, B&M already has representation within the town centre and the application proposals represent a separate investment in the north Blackpool area (a separate catchment area for the retailer). It would clearly be unviable for B&M to seek further representation within in the town centre itself, as this would simply replicate their existing offer and result in the investment not taking place.

Notwithstanding this, we are aware that as part of planning application reference. 20/0079 for the conversion of Unit 2B to an Aldi foodstore (which is of comparable scale to unit 2A) three sites within the vicinity of Blackpool town centre were given consideration for robustness. These sites included 'land at the junction of Church Street and Cookson Street', 'land on Church Street (former Syndacit site)' and 'land off Talbot Road (former Apollo site)'. However, none of these sites were actually found to be sequentially preferable to the planning application site given that each is further from the Principal Retail Core (or 'Primary Shopping Area') of Blackpool town centre than Unit 2B, Holyoake Avenue is from its closest centre (Bispham Road / Warbreck Hill Road local centre, 75m north-west).

It is noted that the Local Planning Authority agreed with the applicant's approach and conclusions regarding Blackpool town centre when testing Unit 2B, and this is reflected in Paragraph 11.4 of the committee report. It is self-evident that these conclusions apply equally to Unit 2A, given its equivalent relationship with the adjacent local centre.

Sequential Test Conclusions

Drawing the above analysis together, we maintain that the application of the sequential test to a variation of condition application is largely illogical, given that no new retail floorspace is being proposed and the application site already contains trading retail floorspace. This would remain present irrespective of this planning application. We have provided two appeal decisions at **Appendix I** whereby Inspectors reason that in the case of a variation of condition application it would not necessarily be proportionate to require the appellant to apply the sequential test in a conventional sense and to demonstrate that alternative sites could accommodate the existing retail floorspace.

Notwithstanding this, we have briefly provided our observations on opportunities (sites and units) in Layton district centre, Bispham Road / Warbreck Hill Road local centre, Bispham Road / Low Moor Road local centre, Moor Park Avenue local centre, and Devonshire Road local centre and have explained that none are both 'suitable' and 'available' to accommodate the scale and form of retail floorspace being tested (i.e. an equivalently sized retail unit of some 1,700 sq. m).

Whilst not strictly necessary, we have also considered Blackpool town centre and have found (as the Council concluded in relation to application ref. 20/0079) that none of the sites identified are sequentially preferable to the planning application site given that each is further from the Principal Retail Core of the town centre than Unit 2A, Holyoake Avenue is from Bispham Road / Warbreck Hill Road local centre. There is therefore no potential for conflict with the sequential test as outlined in Paragraph 86 of the Framework or Policy CS4 of the Blackpool Local Plan Part 1: Core Strategy.

Retail Impact Test

Turning to retail impact, it is important to reiterate that the quantum of floorspace involved in this variation of condition application (1,782 sq. m) falls well below the Framework's impact testing threshold of 2,500 sq.m. Accordingly, the requirement to provide a formal retail impact assessment under Paragraph 89 of the Framework does not apply (with there being no locally set threshold in the adopted development plan). This was the conclusion reached by the Local Planning Authority in determining planning application ref. 20/0079.

Whilst a quantitative retail impact assessment is not therefore necessary, Policy CS4 does require proposals for edge and out-of-centre retail developments to demonstrate that they would not have an unacceptable impact on the *'health of the existing, established retail hierarchy'*. Accordingly, a proportionate, qualitative appraisal of impact is set out in this section and this focusses particularly on the centres identified within a five-minute drive-time catchment area.

In examining the qualitative impacts of the proposed occupation of Unit 2A to a B&M Homestore, it is important to bear in mind the following factors in this particular:

- The proposal will not result in an increase in the total amount of Class E retail floorspace within Unit 2A, simply a change in the way that it is permitted to be used;
- A notable proportion of B&M's 'Homestore' offer is actually focussed on DIY, furniture, garden and home improvement products (all permitted under the current restrictive condition). However, the retailer also stocks other day-to-day non-food goods including pet products, homeware, household goods and electrical items, alongside an ancillary range of discounted food and drink products (which are not currently permitted by the condition);
- It is significant that the building is currently occupied by Poundstretcher, a comparable 'variety discount' retailer to B&M which provides an equivalent day-to-day non-food and ancillary food retail offer. Poundstretcher has been operating a variety discount store from this unit since 2017 with seemingly no adverse consequences for retailers within surrounding defined centres;
- It is also relevant to reference that B&M (the identified end user) already operates 'in-centre' B&M stores at Blackpool town centre and Whitegate Drive local centre. B&M has confirmed that they remain committed to these 'in-centre' facilities and that the new store represents a further investment by the business as part of their continued growth strategy in Blackpool. Accordingly, any limited trading effects on Blackpool town centre will largely fall on B&M's existing store and this will continue to trade in any case.

Drawing the above points together, it is clear that the existing goods restriction condition imposed on Unit 2A already enables it to sell some of the product ranges stocked by B&M relating to home improvement, furniture and gardening goods. Furthermore, the additional goods sought would be no different than the products stocked by the premises at the moment – with the comparable 'variety discounter' Poundstretcher trading since 2017 (albeit under a temporary consent until May 2021). Finally, B&M already contributes to the 'vitality and viability' of Blackpool town centre given their 'in-centre' store on Church Street, Blackpool and this will not change as a result of this planning application.

Accordingly, on the face of it there is very little prospect of the proposed variation of condition resulting in an unacceptable impact on the *'health of the existing, established retail hierarchy'* in Blackpool, in accordance with Policy CS4 of the Core Strategy. Notwithstanding this, we provide a brief summary of the health of the identified centres within a five-minute drive-time catchment area of the planning application site based on the Council's Local Centres Assessment (April 2019) and our more recent observations. We also comment on the potential trading effects of the scheme on these centres.

Layton District Centre

Layton is defined as a 'district centre' in Blackpool's adopted development plan and takes the form of a traditional linear 'high street' stretching along Westcliffe Drive between Lynwood Avenue to the north and Drummond Avenue to the south. According to the Council's 2017 Retail Study, Layton contains 47 units / 5,553 sq. m of retail and commercial floorspace.

From our observations, Layton has a wide mix of independent / specialist traders as well as a number of national multiple retailers across its 47 units, including Co-op, Best One, Sayers, Betfred and Subway. The centre has a particularly strong leisure and retail service offer, which accounts for the vast majority of units and floorspace in the centre (circa 55%). Convenience goods retail provision is also notably above the national average and appears to cater exclusively for shoppers' day-to-day 'top-up' food shopping needs, as oppose to their 'bulk' food shopping needs. Layton's comparison goods offer is, however, far more limited and extends to only a handful of small units. It is clear that the centre's 'vitality and viability' is not in any way underpinned by its comparison goods offer.

Layton is highly accessible and pedestrian footfall is generally strong from our observations, with this aided by the fact that the centre has particularly wide pavements and various at-grade pedestrian crossings. Meanwhile, environmental quality is good given the centre's traditional 'high-street' feel, its various well-maintained planters, and a notable central strip of public realm that contains numerous seating opportunities.

With regards vacant units, significantly, a vacancy rate of only 6.4% of all units was identified by the Council's 2017 Retail Study and our more recent observations suggest that this remains broadly the case. Such a level is well below the current national average of 13%. Furthermore, the few vacant units that there are take the form of small shops and these are spread throughout the centre, with the consequent effect being that they are not particularly noticeable. In short, Layton has very few vacant units and this is a strong indicator that it is a healthy, well used, and popular district centre.

Drawing the above together, it is clear that Layton district centre serves an important role in meeting the retail and service needs of the north-eastern residential environs of urban Blackpool. It shows strong signs of vitality and viability and can be regarded as a popular and healthy centre. B&M's introduction will evidently not alter this conclusion, given that the centre serves day-to-day 'top-up' food shopping and service needs, whereas B&M is a comparison goods focussed retailer. Residents are evidently not using Layton for this purpose and this is evidenced by the fact that it has but a handful on comparison goods units. As such, Layton's 'vitality and viability' will remain unaffected by a new B&M store at Holyoake Avenue.

Bispham Road / Warbreck Hill Road Local Centre

Bispham Road / Warbreck Hill local centre is located only 75m north-west of the planning application site on the opposite side of Holyoake Avenue and extends to only five units (all of which are occupied). The centre is evidently successfully fulfilling its role as a small local centre

given that it current contains no vacancies. Uses include leisure services, including several hot-food take-aways, and a small convenience store.

Accordingly, given that comparison goods retailing does not underpin the local centre's health, B&M's introduction at Holyoake Avenue is considered highly unlikely to affect its vitality and viability. Furthermore, the well-connected nature of the planning application site to this local centre means that the proposed B&M store also has the potential to generate linked shopping trips, thereby offering the potential to enhance its overall future health.

Bispham Road / Low Moor Road Local Centre

Bispham Road / Low Moor Road is a small and successful shopping parade at the junction of Bispham Road and Low Moor Road which contains 14 units and is anchored by a Spar convenience store catering for 'top-up' food shopping needs. The centre is also served by various other uses which meet the day-to-day requirements of a walk-in catchment; including a public house (the squirrel), hot-food take-aways, several hairdressers, a sandwich shop, and florist. The fact that only a few vacant units are present provides further evidence of the local centre's generally good performance, and this is echoed in the Council's April 2019 '*Local Centres Assessment*'.

In conclusion, Bispham Road / Low Moor Road is evidently successfully fulfilling its role as a small local centre. It is well used, provides a good range of day-to-day services, and is unquestionably vital and viable. B&M's introduction at Holyoake Avenue is considered highly unlikely to affect its vitality and viability, given its role as a 'top-up' food shopping and service centre which serves a tight catchment within a densely populated residential area. As a comparison goods shopping destination, residents are unlikely to use a new B&M in the way that they do this local centre and its function and health will therefore be unaffected by the proposals.

Moor Park Avenue Local Centre

Moor Park Avenue local centre is not dissimilar to Bispham Road / Warbreck Hill Road local centre, containing as it does a terrace of five small units which front Moor Park Avenue (all of which are occupied). The centre evidently caters for the day-to-day needs of a very limited walk-in catchment area. None of the units present are occupied by comparison goods retailers. It can therefore be robustly concluded that Moor Park Avenue local centre is currently vital and viable, and that this will not change as a result of the introduction of a comparison goods focussed retailer at Holyoake Avenue.

Devonshire Road Local Centre

Devonshire Road local centre contains some 22 units and is located on a busy stretch of Devonshire Road, at its junction with Warley Road. It is best described as a traditional parade of terrace retail units which flank either side of Devonshire Road. The Council's April 2019 '*Local Centres Assessment*' finds the centre to be 'performing well' and that evidently remains the case today – with there being no obvious vacant units.

Devonshire Road has a good range of retail and leisure service operators, which dominate the centre and reflect the fact that it largely serves day-to-day needs. Whilst the centre does have a well-used convenience store (Costcutter) this is of a modest scale and is evidently largely used for 'top-up' shopping purposes as oppose to bulk food shopping purposes. There are only a couple of comparison goods units and these appear to sell carpets and white electrical goods respectively.

Overall, we consider Devonshire Road local centre to be in good health, comprising largely independent retailers serving the day to day needs of the local catchment population. The centre has good pedestrian access and public transport linkages, facilitating ready day-to-day footfall. In summary, we find Devonshire Road to be vital and viable and to be fulfilling its role and function as a local service centre.

Given Devonshire Road's role and function as a 'top-up' food shopping destination and service centre, the introduction of a comparison goods shopping destination (B&M) at Holyoake Avenue is considered highly unlikely to affect its vitality and viability. This is because the catchment population clearly use Devonshire Road local centre in a different way than they would a variety discount store.

Retail Impact Conclusions

Drawing the above retail impact analysis together, the quantum of floorspace involved in this variation of condition application falls well below the Framework's threshold to provide a formal retail impact assessment (with there equally being no locally set threshold in the adopted development plan). However, Core Strategy Policy CS4 does require proposals for edge-centre retail developments such as this to demonstrate that they would not have an unacceptable impact on the '*health of the existing, established retail hierarchy*'. Accordingly, a proportionate qualitative appraisal of health and impact has been prepared focusing on the centres identified within a five-minute drive-time catchment area. This was equally the approach adopted by the applicant and Local Planning Authority in the determination of planning application ref. 20/0079.

In relation to the scheme's potential trading impacts, it has been explained that no additional retail floorspace is proposed at Unit 2A and that the existing goods restriction condition imposed already enables the unit to sell some of the product ranges stocked by B&M. The additional goods sought would be no different than the products stocked by the premises at the moment – with Poundstretcher (a comparable 'variety discounter') trading since 2017. Finally, B&M already evidently contributes to the 'vitality and viability' of Blackpool town centre and Whitegate Drive local centre through their existing 'in-centre' stores. This current representation will not change as a result of this planning application.

With regards the implications for the health of the scheme's five surrounding centres (within a five-minute drive-time), it is significant that in each case the centres were found to be performing well as part of either the Council's Retail Study (2017) or the more recent Local Centres Assessment (April 2019). Our more recent observations have confirmed that the centres in

question are healthy, well used, and successfully perform their roles as small / medium scale centres which serve relatively small catchment areas and predominantly meet day-to-day food and retail/leisure service needs. Significantly, in each case the centres were found to have a vacancy rate well below the current national average of 13%. The introduction of a comparison goods focussed operator (B&M) at Holyoake Avenue is unlikely to alter their role and function and, by extension, their vitality and viability – such is their current performance and the fact that their health is evidently not underpinned by comparison goods retailers.

Accordingly, the proposed variation of condition application would not conflict with Policy CS4 of the Core Strategy in respect of the retail impact test. It would also accord with the provisions of the Framework with regards to ensuring the vitality of town centres, specifically the retail impact test as outlined in Paragraph 89.

Overall Conclusions

On behalf of my client Aldi Stores Limited, this planning application seeks the variation of Condition 13 (Unit 2A – Goods Restriction) of planning permission reference 20/0079. The granting of permission will enable the applicant (who is also the landlord of the terrace of retail units at Holyoake Avenue) to secure the beneficial letting of Unit 2A to B&M so that they can operate their home improvement and household goods led ‘Homestore’ format. This is necessary to ensure continuity of occupation, given that the current tenant ‘Poundstretcher’ will be vacating the premises during early 2021

The variation sought would allow Unit 2A to stock a wider range of non-food goods than is currently permitted under permission ref. 20/0079. This restricts the building to the sale home improvement products only, reflecting its historic use as a B&Q warehouse. Whilst a notable proportion of B&M’s ‘Homestore’ offer is actually focussed on DIY, furniture, garden and home improvement products (all permitted under the current condition), the retailer also stocks other day-to-day, non-food goods alongside a limited, ancillary range of discounted food and drink products.

The planning justification within this letter has explained that the application of the sequential test to the proposals is largely illogical, given that no new retail floorspace is being proposed and the application site already contains trading retail floorspace (which is incidentally occupied by an equivalent ‘variety discounter’). We have provided two appeal decisions at **Appendix I** whereby Inspectors reason that in the case of a variation of condition application it would not necessarily be proportionate to require the appellant to apply the sequential test in a conventional sense and to demonstrate that alternative sites could accommodate the existing retail floorspace.

Notwithstanding this, we have briefly provided our observations on opportunities (sites and units) in Layton district centre, Bispham Road / Warbreck Hill Road local centre, Bispham Road / Low Moor Road local centre, Moor Park Avenue local centre, and Devonshire Road local centre.

We have found that none are both 'suitable' and 'available' to accommodate the scale and form of retail unit being tested.

Whilst not strictly necessary, we have also considered Blackpool town centre and have found (as the Council concluded in relation to application ref. 20/0079) that none of the sites identified are sequentially preferable to the planning application site given that each is further from the Principal Retail Core of the town centre than Unit 2A, Holyoake Avenue is from Bispham Road / Warbreck Hill Road local centre. There is therefore no potential for conflict with the sequential test as outlined in Paragraph 86 of the Framework or Policy CS4 of the Blackpool Core Strategy.

Turning to the retail impact test, the quantum of floorspace involved in this variation of condition application falls well below the Framework's threshold to provide a formal retail impact assessment and there is no locally set threshold in the adopted development plan. Policy CS4 does however require proposals for edge-of-centre retail developments to demonstrate that they would not have an unacceptable impact on *the 'health of the existing, established retail hierarchy'*. Accordingly, a proportionate appraisal of health and impact has been prepared focusing on the centres identified within a five-minute drive-time catchment area. This was the approach adopted in the determination of planning application ref. 20/0079.

With regards potential for impact, this letter has explained that the existing goods restriction condition imposed enables Unit 2A to sell some product ranges stocked by B&M. Further, the additional goods sought would be no different than the products stocked by the premises at the moment – with Poundstretcher (a comparable 'variety discounter') trading since 2017. Finally, B&M already evidently contributes to the 'vitality and viability' of Blackpool town centre through its 'in-centre' store. This representation will not change as a result of this planning application.

In the case of the health of the scheme's five surrounding centres, it is significant that these are found to be performing well. They are healthy, well used, and are successfully performing their roles as small / medium scale centres serving relatively small catchment areas and predominantly meeting day-to-day food and retail/leisure service needs. The introduction of a comparison goods focussed operator (B&M) at Holyoake Avenue is unlikely to alter their role and function and, by extension, their vitality and viability – given the fact that their health is evidently not underpinned by comparison goods floorspace.

Accordingly, the proposed variation of condition application would not conflict with Policy CS4 of the Core Strategy in respect of the retail impact test. It would also accord with the provisions of the Framework, specifically the retail impact test as outlined in Paragraph 89.

In summary, the application proposal has been demonstrated to be compliant with the town centre policies of Blackpool's development plan and those of the Framework. It is also necessary to consider whether there are any other material considerations that indicate a decision other than in accordance with the development plan. In this case there is no other identifiable harm as a consequence of the variation of condition, whilst its benefits would include ensuring that Unit

2A Holyoake Avenue remains occupied and continues to contribute to the local economy in terms of job creation, investment, and offering greater choice and competition in the local retail sector (particularly in relation to day-to-day non-food goods).

Finally, it is significant that (if granted permission) this would be B&M's fourth investment within the Blackpool area. The proposed new store would serve Blackpool's northern environs and would complement existing 'in-centre' B&M units at Blackpool town centre and Whitegate Drive local centre, as well as the satellite B&M Homestore serving Blackpool's southern environs at Vicarage Lane, Hawes Side. B&M has confirmed that they remain committed to all of their existing Blackpool locations and that this represents a further investment by the business as part of their continued growth strategy.

Having carried out the balancing exercise required by Paragraph 196 of the Framework, it is clear that the benefits of the proposal outweigh the harm. We therefore request that planning permission is granted for the variation of condition sought.

I trust that the information uploaded onto the Planning Portal on 23rd December 2020 has reached you and is sufficient to enable you to determine this application. However, should you require any further details, please do not hesitate to contact me. In the meantime, I await your receipt for the application fee and confirmation of registration.

Yours sincerely



Dan Brown
Associate Director
dan.brown@avisonyoung.com
For and on behalf of Avison Young (UK) Limited

Appendix I

**Planning Appeal Ref. APP/T2215/A/12/2178633
Dartford Heath Retail Park, Heath Lane, Dartford**

And

**Planning Appeal Ref: APP/D0840/W/19/3240165
Camborne Retail Park, Trevenson Rd, Camborne**



Appeal Decisions

Hearing held on 7 November 2012

Site visit made on 7 November 2012

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

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

Decision date: 11 December 2012

Appeal A - Ref: APP/T2215/A/12/2178633

Unit 1, Dartford Heath Retail Park, Heath Lane, Dartford, DA1 2DS

Appeal B - Ref: APP/T2215/A/12/2178632

Unit 2, Dartford Heath Retail Park, Heath Lane, Dartford, DA1 2DS

- Both appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which previous planning permissions were granted.
- Both appeals are made by Hercules Unit Trust against the decisions of Dartford Borough Council.

For Appeal A, The application Ref DA/11/01556/VCON, dated 8 December 2011, was refused by notice dated 8 March 2012.

- The application sought planning permission for the erection of a non-food retail warehouse and a combined non-food retail warehouse and vehicle servicing and testing centre, together with associated offices and car parking as originally granted under Ref DA/86/0585, together with alterations to front and side elevations to include the infill of existing roller shutter doors as approved by planning permission Ref DA/05/00998/COU, without complying with a condition attached to planning permission Ref DA/05/00998/COU, dated 12 July 2006.
- The condition in dispute is No 3 which states that: *The use of Unit B(2) shall be limited to the retail sale of motor parts, tiles, floor coverings and associated accessories and for no other purpose, including any other purpose falling within Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended.*
- The reason given for the condition is: *In order to minimise impact upon the economic viability and vitality of Dartford Town Centre as the principal shopping area within the Borough in accordance with Policies R1 and R8 of the adopted Dartford Local Plan 1995 and Policy R1 of the Dartford Local Plan Review.*

For Appeal B, The application Ref DA/11/01557/VCON, dated 8 December 2011, was refused by notice dated 7 March 2012.

- The application sought planning permission for the erection of a non-food retail warehouse and a combined non-food retail warehouse and vehicle servicing and testing centre, together with associated offices and car parking without complying with a condition attached to planning permission Ref DA/86/0585, dated 8 October 1986.
 - The condition in dispute is No 3 which states that: *The use of Unit B, as shown on the site layout plan (Drawing No 4A) accompanying the application shall be limited to the retail sale of motor parts and accessories and to the service maintenance of motor cars, and the permitted use shall not extend to any other purpose, including any other purpose within Class 1 of the Schedule to the Town and Country Planning (Use Classes) Order 1972 nor to any vehicle maintenance and repairs of a general industrial nature, nor to any paint spraying or vehicle cleansing activities.*
 - The reason given for the condition is: *In order to minimise impact upon the economic viability of Dartford Town Centre as the principal shopping centre within the Borough in accordance with approved Structure Plan policies and in order to protect the environmental amenities of the locality.*
-

Decision

Appeal A

1. The appeal is allowed and planning permission is granted for the erection of a non-food retail warehouse and a combined non-food retail warehouse and vehicle servicing and testing centre, together with associated offices and car parking, and alterations to front and side elevations to include the infill of existing roller shutter doors at Unit 1, Dartford Heath Retail Park, Heath Lane, Dartford, DA1 2DS in accordance with the application Ref DA/11/01556/VCON, dated 8 December 2011 without compliance with the conditions previously imposed on the planning permission Ref DA/05/00998/COU, dated 12 July 2006, but subject to the conditions set out in Schedule A at the end of this decision.

Appeal B

2. The appeal is allowed and planning permission is granted for the erection of a non-food retail warehouse and a combined non-food retail warehouse and vehicle servicing and testing centre, together with associated offices and car parking at Unit 2, Dartford Heath Retail Park, Heath Lane, Dartford, DA1 2DS, in accordance with the application Ref DA/11/01557/VCON, dated 8 December 2011 without compliance with the conditions previously imposed on the planning permission Ref DA/86/0585, dated 8 October 1986, but subject to the conditions set out in Schedule B at the end of this decision.

Preliminary points of clarification

3. Units 1 and 2 lie within the same building which was originally granted planning permission on 8 October 1986, under Ref DA/86/0585, as set out in the banner heading at the start of this decision. The overall building was sub-divided into Units 1 and 2 as a result of a planning permission Ref DA/05/00998/COU granted in 2006. Alterations to the front and side elevations to include the infill of existing roller shutter doors were approved for Unit 1 as a result of this planning permission, which also extended the range of goods which could be sold from Unit 1 to include tiles and floor coverings.
4. However, planning permission DA/05/00998/COU did not refer to the original act of development as approved in 1986. I have addressed this matter by amending the description of development in the planning permission granted above for Unit 1, to include both the original act of development and also the amendments approved in 2006.

Main issues

5. The main issues are the effect that varying condition No 3 on both of the existing planning permissions, to widen the range of goods which could be sold, would have, firstly, on the current and future retail vitality of Dartford Town Centre; and secondly, on the living conditions of nearby residents with particular reference to overspill parking.

Site description, planning background and details of the appeal proposals

6. The appeals relate to two units housed within the same building on the Dartford Heath Retail Park (DHRP) which lies in an out-of-centre location about 750m to the south-west of Dartford Town Centre. Unit 2 extends to some 960sqm gross floorspace and is currently operated by Halfords, whilst Unit 1 is smaller, at about 372sqm gross floorspace, and is currently operated by Topps Tiles.

7. An adjacent, larger building on the site is split into three units. Dunelm operates from Units 4 and 5, under a condition imposed in 2010. This allows these units to sell DIY, home improvement and associated products, pets and pet products, furniture and furnishings, domestic appliances, electrical and computer goods with ancillary and associated items, household textiles and soft furnishings, carpets and floor coverings, houseware (including kitchenware) and craft goods. There is also an ancillary café. A mezzanine floor of some 1,672sqm was installed in Units 4 and 5 at this time, controlled by a condition which restricts the sale of electrical goods and computer goods to 679sqm of this mezzanine floor. The remaining unit, Unit 3, has an unrestricted Class A1 use, as a result of a Certificate of Lawfulness, granted in 2011. It is occupied by Jollyes, a pet-food superstore.
8. The appellant wishes to vary Condition 3 of the extant permissions for Units 1 and 2, to allow them to sell enable a wider range of predominantly bulky goods. The intention is that the use of both units would be limited to the retail sale of motor parts, bicycles and bicycle accessories, tiles, floor coverings and associated accessories, DIY, home improvement, garden products and associated products, pets and pet products, furniture, domestic appliances, electrical and computer goods and associated items, household textiles and soft furnishings and any other goods that are ancillary to the above goods.

Main issue 1 - Effect on the retail vitality of Dartford Town Centre

9. Put simply, the Council's concern is that varying the existing planning conditions in the manner proposed would enable Units 1 and 2 to sell many goods which could be sold from a town centre location. The Council maintains that this would increase the attractiveness of the DHRP such that it could compete directly with, and have an adverse impact on, the town centre as a whole, including undermining investment. However, whilst such concerns would be well-founded in cases where additional floorspace is proposed, a somewhat different approach needs to be taken in the current case, where there is no intention to increase the existing amount of floorspace within Units 1 and 2.
10. The fact of the matter is that the DHRP self-evidently already exists and, as the Council acknowledged at the hearing, the type of goods currently sold from Units 1 and 2 could also be sold from within the town centre. In these circumstances it has to be the case that the DHRP is already impacting on the town centre, to some extent. A key question, therefore, has to be whether there would be any increased impact if the conditions were varied as sought and, if so, whether the impact would be so severe as to justify not approving the requested variations.

Development plan

11. Dealing first with development plan concerns, the Council's reason for refusal, in the case of both appeals, alleged conflict with Policies TC1 and KTG5 of the South East Plan, the Regional Spatial Strategy (RSS) for the South-East; and also with Policy CS2, paragraph 2.18 Objectives 1 and 6 and Policy CS12 of the Dartford Core Strategy (DCS), adopted in 2011. Although the Government has signalled its intention to abolish the RSS, it still forms part of the development plan at the time of writing this decision.
12. The RSS policies define Dartford as a Secondary Regional Centre and, amongst other matters, explain that town centres such as Dartford will be further developed as the major town centres at which new mixed retail, leisure and service uses will be concentrated. At the hearing, reference was also made to

Policy TC2 which covers a range of matters relating to new development and development in town centres, including that plans and strategies prepared by local authorities should have regard to the potential impact on the vitality and viability of town centres. However, I share the appellant's view that as the appeal proposals do not, of themselves, relate directly to development within the town centre they cannot be considered to be at odds with these policies.

13. At the more local level, Policy CS2 of the DCS sets out a number of actions which the Council will take in order to revitalise Dartford Town Centre and improve its range of attractions and environment. These relate to the town centre itself and do not provide any specific guidance for proposals relating to existing out-of-centre retail parks. The same applies to Objectives 1 and 6 of paragraph 2.18, although Objective 6 does refer to the integration of town centre uses between different parts of the town so as to increase the level of linked and extended trips.
14. In a similar way, Policy CS12 relates to actions to be taken within Dartford Town Centre, highlighting the urgent need for regeneration. It also indicates that a forthcoming Development Management Development Plan Document will contain policies on the management of town centres as well as the identification and management of local centres, but no such policies have, as yet, been formalised or adopted. As none of the policies referred to relate specifically to proposals for out-of-centre retail developments I am not persuaded that the appeal proposals should be seen as being in conflict with them.
15. I do, however, acknowledge that the appeal proposals would be likely to have implications for Dartford Town Centre, but in this respect it is more appropriate to have regard to national guidance as it is not only more up to date than the development plan policies detailed above, but also more relevant to the current situation. At the time the proposals were submitted, and assessed by the Council, the relevant guidance was contained within Planning Policy Statement 4 (PPS4) "Planning for Sustainable Economic Growth". This has now been replaced by the National Planning Policy Framework ("the Framework"), although the "town centre first" approach to retail development set out in PPS4 has been retained.

Sequential assessments

16. Also retained is the requirement for a sequential test to be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Paragraph 24 of the Framework explains that applications for main town centre uses should be located in town centres, then in edge-of-centre locations and only if suitable sites are not available should out-of-centre sites be considered. The guidance also explains that 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; and that flexibility on issues such as format and scale should be demonstrated.
17. The appellant submitted Retail Statements with its original applications which examined a range of potentially alternative sites, in accordance with this sequential assessment guidance. The sequential assessment, which was updated in September 2012, led the appellant to conclude that none of the sites tested would be suitable, viable and/or available to accommodate the proposed development. Although this is the way the appellant has worded this matter, I have been mindful of the fact that the proposals before me do not involve the creation of any additional retail floorspace, but rather seek to be able to extend the way in which existing floorspace is used.

18. As the Council's reasons for refusal simply alleged likely conflict with Dartford Town Centre's current and future retail vitality, the appellant was of the view that the Council had accepted its sequential assessments. However, the Council's Officer Report which led to the reasons for refusal is clear that the Council does have issues with the sequential assessment, and these matters were further explored in the Council's appeal Statement and also at the hearing.
19. In summary, the Council considers that sequentially preferable locations exist within the town centre which could accommodate a store with a minimum size of 372sqm gross floorspace, as tested by the appellant. These include the northern block of the proposed Lowfield Street development, which is to be anchored by a new Tesco store; the Westgate multi-storey car park site (now a surface-level car park); the site of the former Co-Op Store; and the site bounded by Westgate Road, Kent Road, Orchard Street and the Westgate surface-level car park.
20. However, in considering this matter I have had regard to the fact that the additional items which the appellant wishes to be able to sell from Units 1 and 2 fall generally into a "bulky goods" category, and that this is likely to have implications for servicing requirements. Indeed, at my site inspection I saw the type of large vehicle which currently makes deliveries to Units 1 and 2, and share the appellant's view that it would be difficult to accommodate such vehicles in the servicing area proposed for the northern block of the Lowfield Street, or in the available servicing areas at the Priory Centre. These points lend weight to the appellant's argument that these units would not be suitable for the sort of additional bulky goods which the appellant wishes to be able to sell at the DHRP.
21. I accept that there may be more scope to provide adequate servicing areas to accommodate large vehicles in some of the other sites detailed in paragraph 19 above, but to repeat the point already made, the proposals before me do not seek to construct any new building or provide any additional retail floorspace. Rather, they simply seek to change/widen the range of goods sold at an already established retail location. In these circumstances it seems to me that a more relevant and appropriate consideration has to be an assessment of the likely impact of the proposals on the town centre, a matter which I address below.

Impact assessments

22. Paragraph 26 of the Framework explains that assessments of out-of-centre retail proposals should firstly consider their impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and secondly, their impact on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.
23. The Council made it clear that it had undertaken no such quantified impact assessments, in view of its "in principle" objection to allowing a wider range of potentially "town centre goods" to be sold from this out-of-centre location. In this regard, in relation to the first matter set out above, it considers that the appeal proposals could make Units 1 and 2 attractive to retailers who might otherwise locate in the northern block of the proposed Lowfield Street development. In turn it argues that this could delay the regeneration of the Lowfield Street area and the associated benefits that this scheme would bring to the town centre.
24. However, planning permission has already been granted for the Tesco store as part of the Lowfield Street development, subject to the completion of a planning

obligation in accordance with S106 of the Town and Country Planning Act 1990. I was told at the hearing that this obligation is in final draft form and although I understand that Tesco is seeking to make some amendments to the overall floor area of its proposed store, no firm evidence was placed before me to suggest that the appeal proposals would have any meaningful adverse impact on this overall development proceeding. Nor was any firm evidence submitted to demonstrate that the appeal proposals would adversely impact on any other relevant existing, committed or planned public or private investment in the town centre or centres or related catchment area.

25. On the second matter detailed above, the Council argued that the overall impact on the town centre would be significant as the type of additional goods which could be sold at Units 1 and 2, if the appeals were successful, are already sold by some 30 retailers within the town centre. However, the Council could not quantify the likely impact or support its position by any firm, factual evidence and I share the appellant's view that any change to trading patterns at DHRP would be unlikely to cover the whole range of additional goods covered by the proposed, varied conditions. As a result it is unlikely that any changes would impact on all 30 of the town centre retailers referred to.
26. In any case, a detailed impact assessment has been carried out by the appellant, largely based on forecast turnover figures from the Council's own Retail Study, undertaken by GVA in 2010. This assessment indicates that the likely trade diversion from Units 1 and 2 combined, if the disputed conditions were varied, would amount to well less than 1% of the forecast comparison goods turnover of Dartford Town Centre, in 2016. The forecast impact would drop even more, if the convenience goods turnover of the town centre is also included.
27. On the basis of the evidence before me I see no reason to dispute the figures presented. I have also noted that if a higher potential turnover per square metre from Units 1 and 2 were to be achieved, as suggested by the Council, in line with the highest figure for town centre comparison stores, the overall impact on town centre stores is still predicted to be less than 1%.
28. It is not disputed that the appeal proposals would be likely to have some impact on some town centre retailers, but in view of the points set out above I am not persuaded that any such impact could be considered as having a significantly adverse effect on the vitality and viability of the town centre. Accordingly I consider that the appeal proposals would not be at odds with the guidance in paragraphs 26 and 27 of the Framework.
29. On a related matter, as noted earlier, a 2010 planning permission granted by the Council allowed a mezzanine floor to be constructed within Units 4 and 5, now operated by Dunelm, together with an approved widening of the range of goods allowed to be sold from these Units. The Council defended its actions in this regard by pointing out that the permissions concerned involved a named operator, that schemes in the town centre were not as advanced at that time as they are now, and that the DCS was still in draft form at that time.
30. However, whilst these points are not disputed, the conclusion that has to be drawn is that the Council was satisfied that the overall impact on the town centre as a result of these approvals would not be unacceptable. On the basis of the evidence before me I find it difficult to reach any different conclusion in the current case. Although I have noted the Council's contention that broadening the range of goods that could be sold from Units 1 and 2 would create an attraction that has a greater

draw than the component parts, this view was not supported by any firm evidence.

31. A final matter which I have been mindful of is the fact that as well as being the appellant in the current cases, Hercules Unit Trust is also the owner of Prospect Place, a large retail park within the town centre. I share the appellant's view that it would not be in its own best interests to see town centre retailers, particularly those at Prospect Place, disadvantaged by significant competition from out-of-centre locations. This reinforces my view that the ability to sell a wider range of predominantly bulky goods from the DHRP would be unlikely to significantly impact upon town centre traders.

Conclusion on main issue 1

32. Taking all the above matters into account I conclude that varying condition No 3 on both of the existing planning permissions, to widen the range of goods which could be sold, would not have any materially adverse impact on the current and future retail vitality of Dartford Town Centre. The proposals would accord with guidance on retail matters set out in the Framework and would not conflict with the development plan policies referred to above.

Main issue 2 - Effect on living conditions

33. This matter did not form part of the Council's reasons for refusal, but was raised and discussed at the hearing as a result of written submissions from nearby residents. These representations referred to increased traffic and overspill parking from the DHRP impacting on Blackmans Close, which lies immediately to the east of the retail park.
34. The representations indicate that the problems have started since Dunelm began trading from the site and are worse at weekends and bank holidays. A number of photographs were submitted, showing both moving and parked vehicles on Blackmans Close and Heath Lane. I understand that the photographs were taken over the 2012 Easter bank holiday period, although no further information has been submitted regarding the time of day they were taken or the situation on the DHRP at the same time.
35. The Council indicated at the hearing that it had been monitoring the situation at the retail park for several weeks and that it took the view that the amount of parking currently provided on site is a little below that which would be suggested by the Council's recently adopted Parking Standards Supplementary Planning Document (SPD). But notwithstanding this point the Council accepted that varying the conditions in the manner proposed would have no effect on the parking requirement for Units 1 and 2, set out in this recent SPD.
36. Moreover, the proposals were assessed by Kent Highways Services, who noted that spare on-site parking capacity had existed during the "January Sales" and further commented that it was not aware of any significant safety or highway congestion issue likely to arise from the proposals. As a result it raised no objections on traffic or parking grounds, taking the view that the Borough Council could impose parking restrictions in the area to address these concerns and protect amenity, if necessary. I see no reason to take a different view.

Conclusion on main issue 2

37. I understand and appreciate the concerns raised both by nearby residents and by the Council's planning Officers who attended the hearing. But on the basis of the matters set out above there is no firm evidence before me to demonstrate that the parking levels or traffic volumes associated with Units 1 and 2 would materially change if the conditions were varied as proposed. Accordingly I conclude that the appeal proposals would not have an unacceptable adverse impact on the living conditions of nearby residents in terms of overspill parking.

Overall conclusion

38. In view of my favourable findings on both main issues my overall conclusion is that the proposals to vary Condition 3 for each of the existing planning permissions, in the manner proposed, would be acceptable. I therefore intend to allow these appeals, subject to a number of conditions, as set out in the Schedules at the end of this decision.

Reasons for imposing conditions

39. Other than the disputed Condition 3 (which appears in the following Schedules in modified form as new Condition 3), the conditions suggested by the Council were put forward to replicate those imposed on the original planning permissions, where still considered necessary. The conditions are the same for each new planning permission but are set out in full to avoid any ambiguity or confusion.
40. Condition 1 is imposed to ensure the permanent retention of satisfactory car parking facilities, whilst Condition 2 is needed in the interests of highway safety. Condition 3 is needed in order to minimise impact upon the economic viability of Dartford Town Centre, whilst conditions 4 and 7 are imposed in order to safeguard the living conditions of nearby residents. Conditions 5 and 6 are imposed to protect the visual amenities of the area. Finally, Condition 8 is needed so as to prevent deliveries coinciding with peak demand for customer parking space and thereby avoiding the need for parking on the public highway.
41. I have had regard to all other matters raised, but they are not sufficient to outweigh the considerations which have led me to my conclusion.

David Wildsmith

INSPECTOR

Schedule A - Conditions for Application Ref DA/11/01556VCON, in relation to Unit 1 (8 in total)

- 1) The parking spaces, turning areas and means of access shown on the approved plans shall be kept available for such use at all times and no development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not, shall be carried out on that area of land or to preclude vehicular access thereto.
- 2) All loading/unloading of goods and servicing to the premises shall take place within the curtilage of the site.

- 3) The use of Unit 1 shall be limited to the retail sale of motor parts, bicycles and bicycle accessories, tiles, floor coverings and associated accessories, DIY, home improvement, garden products and associated products, pets and pet products, furniture, domestic appliances, electrical and computer goods and associated items, household textiles and soft furnishings and any other goods that are ancillary to the above goods and for no other purpose including any other purpose within Use Class A1.
- 4) The use shall not be carried on outside the hours of 0800 to 2000.
- 5) No goods shall be displayed, sold or offered for sale outside the buildings.
- 6) There shall be no open storage of materials associated with the two retail warehouses within the curtilage of the premises.
- 7) There shall be no incineration of waste materials within the curtilage of the premises.
- 8) No deliveries shall be made to the two stores or their curtilage at any time on Saturdays, Sundays or Bank Holidays.

Schedule B - Conditions for Application Ref DA/11/01557VCON, in relation to Unit 2 (8 in total)

- 1) The parking spaces, turning areas and means of access shown on the approved plans shall be kept available for such use at all times and no development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not, shall be carried out on that area of land or to preclude vehicular access thereto.
- 2) All loading/unloading of goods and servicing to the premises shall take place within the curtilage of the site.
- 3) The use of Unit 2 shall be limited to the retail sale of motor parts, bicycles and bicycle accessories, tiles, floor coverings and associated accessories, DIY, home improvement, garden products and associated products, pets and pet products, furniture, domestic appliances, electrical and computer goods and associated items, household textiles and soft furnishings and any other goods that are ancillary to the above goods and for no other purpose including any other purpose within Use Class A1.
- 4) The use shall not be carried on outside the hours of 0800 to 2000.
- 5) No goods shall be displayed, sold or offered for sale outside the buildings.
- 6) There shall be no open storage of materials associated with the two retail warehouses within the curtilage of the premises.
- 7) There shall be no incineration of waste materials within the curtilage of the premises.
- 8) No deliveries shall be made to the two stores or their curtilage at any time on Saturdays, Sundays or Bank Holidays.

APPEARANCES

FOR THE APPELLANT:

Mr N Goldsmith BA(Hons) BPL MRTPI	Director, Nathaniel Lichfield & Partners
Miss R Hill BSc MA	Nathaniel Lichfield & Partners

FOR THE LOCAL PLANNING AUTHORITY:

Mr N Luxton BA(Hons) DUPI	Planning Officer, Dartford Borough Council
Mr P Buckley BA(Hons) MRTPI	Planning Policy Officer, Dartford Borough Council

DOCUMENTS SUBMITTED AT THE HEARING

Document 1	Map showing Dartford Town Centre boundary and Schedule of shops within the town centre that sell goods covered by the proposed amended conditions
Document 2	Policy TC2 from the South East Plan
Document 3	Bundle of 2 objections plus photographs
Document 4	Extracts from the Dartford Core Strategy
Document 5	Parking Standards Supplementary Planning Document, adopted 26 July 2012
Document 6	Bus Route map



Appeal Decision

Site visit made on 3 February 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/D0840/W/19/3240165

Camborne Retail Park, Trevenson Road, Camborne TR15 3PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Canynge Bicknell (Investments) Ltd against the decision of Cornwall Council.
 - The application Ref PA19/03151, dated 8 April 2019, was refused by notice dated 27 August 2019.
 - The application sought planning permission for proposed variation of condition 1 on planning permission PA18/05073, dated 14 February 2019.
 - The condition in dispute is No 1 which states that: *"The retail units shall only be used for the sale of non-food retail goods and any other products which are ancillary to the above product group, with the exception of Units 2 & 3A, as identified on plan ref. JPW1253-001, where up to 30% of the floor area in each unit may be used for the sale of food and drink (for consumption off the premises), and unit 4 which is subject to permission PA14/08911."*
 - The reason given for the condition is: *"To define the extent of the permission and to prevent other forms of retailing which may be detrimental to the vitality and viability of the town centres"*.
-

Decision

1. The appeal is allowed and the planning permission Ref: PA18/05073 for variation of condition 1 in relation to decision notice PA13/00892 dated 07/03/2013: To allow 30% of floorspace in Unit 3A to be used for the sale of food at Camborne Retail Park, Trevenson Road, Camborne, TR15 3PS, is varied by deleting condition 1 and substituting for it the following condition:
 - 1) Units 1, 2, 3A & 3B (as identified on plan ref. JPW1253-002 shall only be used for the sale of non-food retail goods and any other products which are ancillary to the above product group, with the exception that up to 30% of the floor area in each unit may be used for the sale of food and drink (for consumption off the premises). The use of Unit 4 is subject to permission PA14/08911.

Application for costs

2. An application for costs was made by Canynge Bicknell (Investments) Ltd against Cornwall Council. This application is the subject of a separate Decision.

Procedural Matters

3. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Background and Main Issue

4. The appeal concerns units 1 and 3B of Camborne Retail Park which is located approximately 1.5km northeast of Camborne Town Centre and 3km west of Redruth Town Centre. The appeal proposal seeks to vary a condition imposed on a previous planning permission which restricted the use of units 1 and 3B for the sale of non-food retail goods. Planning history for the appeal site indicates that a recent application to varying the condition which restricted unit 3A at Camborne Retail Park to the sale of non-food retail goods, was approved by the Council¹.
5. The main issue in this appeal is the effect of the proposed variation to the disputed condition on the vitality of Camborne town centre, with reference to the sequential test relating to main town centre uses.

Reasons

6. Policy 4 of the Cornwall Local Plan Strategic Policies 2010-2030² (the Local Plan) provides that development will be permitted where it supports the vitality and viability of town centres. This policy also provides that outside of defined town centres, retail and other main town centre uses must demonstrate the application of a sequential approach. The sequential approach reflects the provisions of paragraphs 86 and 87 of the Framework.
7. Paragraph 86 of the Framework sets out the sequential test. It says that main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Amongst other things, paragraph 87 of the Framework says that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. This is supported by the guidance contained within the Planning Practice Guidance (the PPG) on Town Centres and Retail.
8. The PPG reiterates what the sequential test is and how it should be used in decision making³. In this regard, the application of the sequential test should be proportionate and appropriate for the given proposal. The checklist within the PPG emphasises the importance of flexibility in terms of suitability, format and scale.
9. Whilst I acknowledge that the Council maintains that the appeal scheme would result in additional convenience store floorspace, the evidence before me confirms that the proposal would not result in an increase in the total amount of A1 use floorspace at the appeal site, but rather seeks to utilise up to 30% of the existing retail space available at the relevant business units for the sale of

¹ Local Planning Authority Reference: PA18/05073

² Adopted November 2016

³ Paragraph: 009 Reference ID: 2b-009-20190722 and Paragraph: 011 Reference ID: 2b-011-20190722

food and drinks. By reason of the relatively modest amount of food sales proposed based upon the proportion of the retail units that would be given over to sale of food and drinks, in this instance I find that it would not be proportionate to require that the Appellant demonstrates that alternative sites could accommodate the proposal.

10. Notwithstanding the above, the Appellant has provided a retail statement which refers to a number of court judgements that confirm that it is not considered appropriate to rigidly apply the sequential test in all scenarios. Furthermore, the retail statement provided by the Appellant has considered a number of sites that it appears the Council have previously flagged up with regards to potential sites within the surrounding area. In this respect, the retail statement confirms that none of the identified sites would be suitable and available and that, consequently, the proposal could not be accommodated elsewhere.
11. The conclusions of the retail statement and its findings in relation to the sequential approach have not been disputed by the Council within their submissions. However, the Council maintain that the proposal would undermine the vitality of Camborne. In this regard, the Appellant's retail statement provides an assessment of the retail impact on the town centre viability and concludes that food sales would be ancillary to sale of non-food items and that by limiting food sales to 30% of the floor space, the proposed variation to the previously applied condition would not undermine the vitality or viability of Camborne. The evidence before me indicates that the Council's retail advisors, GVA Grimley, confirms that the proposal would have a negligible impact on Camborne and Redruth town centres and that GVA Grimley have confirmed that the proposal would not result in a significant change of use and therefore provide support for the proposal.
12. Based upon the evidence before me, whilst I acknowledge the submissions of the Council with regards to their contention the proposal would result in additional convenience store floorspace as above, the proposed use would be ancillary to the sale of non-food items and would be limited in terms of overall space allocated within the business units for such use. In conjunction with the assessments and reports provided by the Appellant, I therefore conclude that it has been demonstrated that the proposed variation of the relevant condition would not have a significant adverse impact on the viability or vitality of Camborne town centre.
13. The proposed variation, in my view, would not conflict with Policy 4 of the Local Plan and would accord with the provisions of the Framework with regards to ensuring the vitality of town centres. In this instance, I find that the condition would be unnecessary in relation to units 1 and 3B and, therefore, the condition should be replaced with a modified version.
14. Further to the above, whilst I also acknowledge the concerns of interested parties with regards to the number of hot food takeaways within the vicinity of the appeal site, such use would fall under Class A5. However, the proposed use in this appeal concerns Class A1 use and therefore would require a separate change of use application to be submitted in order to fall within a Class A5 use. Consequently, the proposed variation to the relevant condition would not add to the number of Class A5 premises within the vicinity of the appeal site.

Conclusion

15. For the reasons given above, the appeal succeeds as I have found that the disputed condition would be unnecessary in relation to units 1 and 3B. I therefore allow the appeal and delete condition 1, replacing it with a modified version. Furthermore, I have amended the wording of the required plans condition to better reflect current guidance.

A Spencer-Peet

INSPECTOR

Schedule of Conditions

1. Units 1, 2, 3A & 3B (as identified on plan ref. JPW1253-002 shall only be used for the sale of non-food retail goods and any other products which are ancillary to the above product group, with the exception that up to 30% of the floor area in each unit may be used for the sale of food and drink (for consumption off the premises). The use of Unit 4 is subject to permission PA14/08911.
2. The development hereby approved shall in all respects accord strictly with submitted plan number: JPW1253-001 received by the Local Planning Authority on 30 May 2018.