

Our ref: EW/TR/Q10075
Your ref: 22/01168/RC
Email: tim.rainbird@quod.com
Date: 17th November 2023



Planning & Regeneration
Wolverhampton City Council
Civic Centre
St Peter's Square
Wolverhampton
WV1 1RP

Submitted via Planning Portal (PP-12610339)

Dear Sir / Madam,

Town and Country Planning Act 1990 (as amended)
Section 73 application to vary Condition 6 (Food Sales) of application ref. 22/01168/RC (dated 17th November 2022)
Bentley Bridge Shopping Park, Wednesfield, Wolverhampton, WV11 1BP
Submitted on behalf of Aviva Life & Pensions UK Limited

We instructed by our client, Aviva Life & Pensions UK Limited ('the Applicant'), to submit the enclosed Section 73 application to vary Condition 6 (Food Sales) of planning consent ref. 22/01168/RC ('the Operative Planning Permission'), dated 17th November 2022. Specifically, permission is sought to widen the food sales restriction for Unit C4.

The application has been submitted via the Planning Portal (PP-12610339) and includes the following documents in line with your validation requirements:

- **Requisite application form, duly completed;**
- **Operative Planning Permission (ref. 22/01168/RC (dated 17th November 2022));**
- **Site Location Plan (ref. 0553-PD-56-B); and**
- **Approved Proposed Site Plan (dwg. 15787 110A).**

A payment of £234, plus the service charge, has been made via the Planning Portal to enable the application to be validated.



1 Background

Bentley Bridge Shopping Park is a successful retail destination located on the edge of Wednesfield Village. Its established role supports the adjoining town centre, Wednesfield Village Centre, and complements the City Centre, providing large format units in a sustainable location with adjacent surface level car parking.

The Shopping Park performs a significant role locally, supporting over 500 jobs. The Applicant also plays a proactive role in the local community, having supported the successful Wednesfield in Bloom team on several occasions, along with other community initiatives.

Part of the Shopping Park's success is the dynamic way in which new retail tenancies have been facilitated through the planning system. For over a decade the Applicant and the previous owners have worked proactively with Officers to secure planning permissions that have led to new lettings which in turn have underpinned the success of Bentley Bridge as a retail destination offering a wide range of retail goods to the City's residents. This in turn has resulted in increased job opportunities at the Shopping Park along with ongoing improvements to the quality of the retail offer.

This application is the latest in a long line of asset management initiatives ensuring that the Shopping Park offer is aligned with the aspirations of both existing and prospective tenants, and the community. It follows the grant of planning permission ref. 22/01168/RC in November 2022 which enabled Home Bargains to relocate from Unit C4 and increase the existing food retailing use to 550 square metres within Unit A1/A2. Consequently, the food retail restriction of Unit C4 was increased and moved to cover Unit A1/A2. As such, Unit C4 cannot be used for food retail purposes.

This application is being pursued to enable the national retailer, Poundland, to increase their representation in Wolverhampton and trade from an existing unit at the shopping park. This proposal therefore looks to increase the consented food use floorspace allowance for Unit C4 to suit Poundland's requirement, which is 30% food retail sales. This results in the need to amend Condition 6 of 22/01168/RC. This in turn will facilitate the new letting to Poundland and the creation of new jobs.

This application is advanced on this basis.

2 Planning Condition to be Modified

The application proposals are undeniably modest in nature.

Condition 6 currently limits the sale of food to an area of 550 square metres within Unit A1 and A2. A new lease has been agreed with Home Bargains to relocate from Unit C4 to a larger space in Unit A1/A2. As a result, the food use allowance was moved and increased under planning reference 22/01168/RC. This accounted for the fact that Home Bargains retail offer comprises up to 30% food use.



Poundland's retail offer also comprises up to 30% food use. Unit C4 extends to 758 square metres, meaning 228 square metres of food use is now sought.

To facilitate this, Condition 6 of permission 22/01168/RC is proposed to be modified as follows, with the floor area and unit numbering underlined for the avoidance of any doubt; a copy of the Operative Planning Permission is enclosed with this submission for completeness.

'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking, replacing and re-enacting that Order with or without modification), no unit within the red line as indicated on drawing number 15787-110 A shall be used for food retail purposes, except from within an area of 550 square metres within Unit A1 and A2 and an area of 228 square metres within Unit C4, or where food sales form an ancillary part of the retail offer (but not restricting the operation of an ancillary café within any unit).'

This is the extent of the condition modification sought.

3 Planning Considerations

The proposals result in an increase in food use at the Shopping Park, albeit extending to just 228 square metres to be traded from existing floorspace.

Despite the very modest scale of the increase, it is recognised that the site is located outside of Wednesfield village centre, but on its edge, being within 300 metres walking distance. The proximity of the Shopping Park to the adjoining town centre is such that it performs an accepted complementary role, but it is nevertheless important to apply the relevant retail policies to assess whether the increase is acceptable.

Planning Policy Framework

The relevant Local Development Documents covering the City of Wolverhampton Council local authority area which are to be defined as Development Plan Documents are:

- Wolverhampton Unitary Development Plan (saved policies) (adopted 2006)
- Black Country Core Strategy (adopted 2011)

Whilst the emerging Wolverhampton Local Plan is currently being drafted, it has not reached a stage beyond 'call for sites' and therefore it cannot be afforded any weight. Compliance with the development plan is judged against the relevant policies of the UDP and the Core Strategy, along with material considerations including the National Planning Policy Framework (September 2023). Consideration of these documents are provided below.



Wolverhampton Unitary Development Plan (UDP)

Chapter 10 deals with 'Shopping and the Role of Centres' and whilst the majority of the policies have been either replaced or deleted, Policy SH4 ('Integration of Development into Centres') remains and is relevant to the application proposals. This policy confirms that, in the case of Wednesfield Village Centres, 'edge of centre' is confirmed as being well connected to, and within easy walking distance (i.e. up to 300 metres) of, the Shopping Quarter of the PSA in town centres.

For the purposes of the current application, the Shopping Park is considered to be 'edge-of-centre' in retail planning terms due its proximity and easy walking link to Wednesfield Village Centre.

Chapter 17 of the UDP sets out those policies which are specific to Wednesfield Village Centre. The principal policy objectives for Wednesfield Village Centre are set out in paragraph 17.1.17. The relevant objectives are:

'5. To encourage the provision of high quality health, community and other ancillary facilities.

'6. To improve pedestrian and other linkages between the village centre and Bentley Bridge Park and New Cross Hospital.'

Policy WVC2 sets out the framework for improved linkages and connectivity. It states, inter alia:

'i. The Wednesfield Link Project, as shown on the Inset Map, is allocated for a major scheme to create a new village square, a landmark building and improved pedestrian linkages between the High Street, Sainsbury's and Bentley Bridge.'

Whilst the supporting text to the policy notes that Bentley Bridge cannot be regarded as edge of centre, this position has moved on now that the Wednesfield Link Project has been completed.

Black Country Core Strategy (BCCS) (2011)

Policy CEN2 sets out the hierarchy of centres, with Wednesfield Village Centre defined as a 'Town Centre'.

Policy CEN4 seeks to ensure the regeneration of town centres and requires 'edge of centre' proposals for comparison retail above 500 square metres to show they are of appropriate scale. In light of the proposed increase in retail floorspace of only 228 square metres, there is no requirement in this instance to undertake a retail impact assessment.

Policy CEN7 'Controlling Out-of-Centre Development' sets out a clear presumption in favour of focusing development 'in centre'. The policy notes that for retail purposes, a location, that is well connected and within easy walking distance (i.e. up to 300 metres) of the primary shopping area of Town Centres will be regarded as edge-of-centre. A sequential assessment has been carried out, in



the context of BCCS Policy CEN7 and the NPPF, and no suitable and available sequentially preferable sites have been identified.

In addition to the thematic policies relative to the Black Country's network of centres, there are a series of specific policies that relate to Regeneration Corridors (RCs) across the Black Country. The application site falls within RC 6, along with Darlaston, Willenhall and Wednesfield. The narrative relative to Wednesfield Village Centre within the BCCS identifies the following 'Vision' for Wednesfield (paragraph 6.8, Appendix 2, BCCS) and seeks to ensure that the Shopping Park complements, rather than competes with the town centre.

The BCCS acknowledges the role of Wednesfield Village Centre, and the complementary role that the Bentley Bridge Shopping Park plays, to the point that there is a presumption in favour of re-occupation of vacant floorspace at Bentley Bridge to strengthen this relationship. The application proposals therefore fully comply with the vision of Regeneration Corridor (RC) 6, by preventing a unit from becoming vacant on the Shopping Park and allowing a leading national retailer to operate.

NPPF (September 2023)

At the heart of the NPPF is the presumption in favour of sustainable development. Paragraph 8(a) advises that development should help to build a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places to support growth.

Chapter 6 of the NPPF addresses the economy and the need for the planning system to support sustainable economic growth. Paragraph 81 requires local planning authorities to support existing businesses by creating conditions in which they can invest, expand and adapt. It states that significant weight should be placed on supporting economic growth, and the approach taken should allow each area to build on its strengths, counter any weaknesses and prepare for the future.

Class E uses are defined as 'main town centre uses' within the NPPF and they are therefore subject to the policies of chapter 7 of that document, 'Ensuring the vitality of town centres'.

Paragraph 86 of the NPPF gives guidance that planning policies and decisions should support the role that town centres play at the heart of local communities by taking a positive approach to growth and adaptation. Specifically, it states that policies should:

"...promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters"

Paragraph 87 of the NPPF outlines a sequential test that should be applied to planning applications for main town centre uses with are neither in an existing centre nor in accordance with an up-to-date plan and only if suitable sites are not available.



Paragraph 90 requires an impact assessment for retail and leisure development that exceeds a proportionate, locally set floorspace (the default threshold is 2,500m² of gross floorspace). This should include assessment of:

a) 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

b) 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).

Chapter 8 of the NPPF seeks to promote healthy communities, including through promoting opportunities for social interaction, planning positively for community facilities and other local services, and ensuring that established facilities can develop and modernise in a sustainable manner that benefits communities.

Sequential Assessment

The modification required to allow Poundland to operate from Unit C4 means an increase in food use of 228 square metres, given the tenant requires 30% of the unit (758 square metres) to be used for food sales.

Despite the existing floorspace benefiting from consent for a wide range of uses, the proposed uplift in food retail use technically triggers consideration of the retail tests. However, as an edge of centre site resulting in a 228 square metre increase in food use, there is not a requirement to assess impact, and the application site already occupies a sequentially preferable location. However, we recognise the need to test whether there are any town centre sites within Wednesfield Village Centre which are capable of accommodating the development or a flexible interpretation of it.

We have adopted a flexible approach and considered sites within Wednesfield Village Centre. The parameters for the assessment are set out below.

The Practice Guidance sets out a checklist that should be taken into account in determining whether a proposal complies with the sequential test. This is summarised as follows:

- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the need or demand which the proposal is intended to meet been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre;
- Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more



central sites are able to make, either individually or collectively, to meeting the same requirements as the application is intended to meet;

- If there are no suitable sequentially preferable locations, the sequential test is passed.

In this context, in applying the sequential approach, it is important to reflect upon the nature of the proposed development. In this case, a specific type of retailer is seeking further representation in the local area. The nature of the retailer also has particular operator requirements, which are of significance in applying the sequential approach.

Parameters

In relation to site characteristics, the principal assessment parameters are availability, suitability and viability. In terms of suitability, applying a 20% reduction to Unit C4 results in a minimum unit size required of 606 square metres.

Other fundamental operational requirements of the intended occupier include the following:

- The ability to sell the full range of goods.
- The ability to provide a large floorplate at ground floor, which will enable the use of trolleys and provide large display areas.
- A commercially viable location.
- Simple, safe and efficient at grade servicing arrangements allowing HGVs to arrive, unload and leave the site without any disruption, conflict with the wider highway network or any negative impact on residential amenity.

The above parameters provide a robust and policy-compliant basis for assessment. In light of the above, we have searched for vacant premises within Wednesfield Village Centre.

Wednesfield Village Centre

This is relatively small centre anchored by a Sainsbury's Superstore. Our search of vacant units within Wednesfield town centre has revealed that there are very few, and of those that are available, they extend to less than 260 square metres. The units can therefore be discounted on the grounds of suitability. Wednesfield Village Centre does not provide any suitable sites which could be considered sequentially preferable as the sites deemed 'available' cannot provide the quantum on floorspace required by Home Bargains (i.e. 300sq.m) and the proposal cannot be disaggregated.

Sequential Assessment Conclusions

On the basis of the above, we conclude that none of the sites considered are sequentially preferable to the application site, by virtue of the fact that they are not suitable, available or viable alternatives



for the proposed development. In light of the above, by this assessment, we consider that compliance with the sequential test can be demonstrated.

Retail Impact

The NPPF requires an impact assessment to be provided for retail, leisure and office development not in a centre and not in accordance with the development plan. As a threshold of over 500 square metres for edge of centre schemes is set by the adopted BCCS (Policy CEN4), a retail impact assessment is not required for this application. Notwithstanding, given the specific nature and scale of the proposal, there should be no concern regarding impact.

Public Benefits

The increase of food use floorspace at Unit C4 will result in a significant number of new jobs, estimated to be in the region of 50 new full time and part time roles. This level of new employment is material and in line with paragraph 81 of the NPPF this public benefit should be afforded significant weight in the overall planning balance.

The proposals will also prevent a unit from becoming vacant at the shopping park, once Unit A1/A2 is refitted to allow existing occupiers of Unit C4, Home Bargains, to relocate.

4 Conclusion

The S73 application proposes a modest but important change to Condition 6 of the OPP (as amended). The proposed modification will allow a leading national retailer (Poundland) to operate from Unit C4, following Home Bargains upsize to Unit A1/A2. The consequence of the change is significant in terms of the ongoing success of the Shopping Park which is recognised as performing an important complementary role to Wednesfield village centre.

The proposals have been assessed against the relevant planning policies. That assessment indicates that there is no retail policy reason why planning permission should not be granted. Further, in weighing the proposals in the planning balance, the creation of approximately 50 new local jobs weighs heavily in favour of the grant of consent. On the basis that compliance with the development plan has been demonstrated and material considerations also indicate planning permission should be granted, the planning application to modify Condition 6 of the OPP (as amended) should be approved without delay.

We trust the enclosed is sufficient for you to register this planning application and we look forward to receiving confirmation in due course. If for any reason this is not the case, please contact us immediately.



We will be in contact with the Case Officer once the application has been registered. In the meantime, if there is any further information we can provide to assist you with your consideration of this application, please do not hesitate to contact us.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Tim Rainbird', located below the closing text.

Tim Rainbird
Senior Director

Enc.