

Planning Statement for the Erection of a Convenience Store (Use Class E) and Drive-Thru Coffee Shop (Use Class E).

**The Fox Public House, Haverhill Road, Little Wratting, CB9
7UD.**

On behalf of Rutherford Holdings Ltd.

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1. Introduction.

- 1.1. Pegasus Group is instructed by Rutherford Holdings Ltd ('the Applicant') to prepare a Planning Statement in support of a full planning application for a new convenience store and drive-thru coffee shop on the former The Fox Public House, Haverhill Road, Little Wrating. Namely, the description of development is as follows:

'Demolition of existing building and erection of a convenience store (Use Class E), drive thru coffee shop (Class E/Sui Generis) and associated access, parking and landscaping works.'

- 1.2. This Planning Statement provides the background to the application, including details of the site and surrounding area together with the relevant planning history, policy context and detailed design of the proposal.
- 1.3. The Planning Assessment explores whether the proposal is compliant with the policies in the Local Development Plan and considers the proposal against other material considerations, including the National Planning Policy Framework.
- 1.4. The Statement should be read in conjunction with the other supporting documents submitted as part of this application.
- 1.5. The proposed development is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, and represents an opportunity to secure economic, social, and environmental gains in accordance with the NPPF.

2. The Site and Surrounding Area.

The Application Site

- 2.1. The site measures 0.3 hectares and includes The Fox Public House which has been vacant for over a decade and is in a poor state of repair. The Site Location Plan confirm the extent and location of the site.
- 2.2. The site is located along the A143 Haverhill Road and is served by an existing access off this road. The site benefits from a car park and associated outdoor space.
- 2.3. The site is bound by Haverhill Road to the north and west, wooded open space to the south and new residential development to the east.

Surrounding Area

- 2.4. The site is located on the edge of a predominantly residential area with new residential development coming forward to the west and east. This new development comprises of the allocations; North East Haverhill (HV4) and North West Haverhill (HV3) which have been allocated in the Local Plan for Development.
- 2.5. North West Haverhill will deliver up 1,150 homes, alongside a primary school, open space, and local centre, which will include local shops and community, health and recreation uses.
- 2.6. North East Haverhill will deliver around 2,500 homes, two primary schools, two local centres including retail, community and employment uses and open space.
- 2.7. Immediately adjacent to the application site, as part of the development of the strategic sites, Haverhill Road has recently been reconfigured to provide a four-arm roundabout to provide access to the surrounding development.
- 2.8. There are no listed buildings, within or adjacent to the site. The closest listed building are located over 500m to the west of the site, comprising of the Grade II Chapel Farm Cottage. There is a Scheduled Ancient Monument located over 1km to the south of the site, comprising of the moated site at Great Wilsey Farm. The site is not located within a Conservation Area.
- 2.9. The site is within Flood Zone 1, which has the lowest probability of flooding.

Planning History

- 2.10. The following summarises the planning history for this site.
 - DC/20/0479/FUL – Planning Application – Construction of Public House and Restaurant (Sui generis) (following demolition of existing derelict Public House) and associated access, parking and landscaping – Application Granted 14th April 2021.
 - DCON(A)/20/0479 – Application to discharge conditions three (access) four (means to prevent discharge surface water) five (HGV construction and deliveries management) 10 (construction method statement) 16 (materials – samples/details)



and 18 (soft landscaping – minor and trees) of DC/20/0479/FUL – Application Granted 20th October 2021.

- **DC/19/1991/OUT** – Outline Planning Application (Means of Access/ Appearance/Layout/Scale to be considered) – (i) Public house and restaurant (replacing existing public house) (ii) first floor staff flat in connection with ground floor pub/restaurant use – Withdrawn 3rd December 2019
- SE/06/2529 – Planning Application – Erection of external cold store unit (retrospective application) – Application Granted 21st November 2006.
- SE/06/1430 – Planning Application – (i) Erection of single storey extensions to side and rear, (ii) disabled ramped approach, (iii) extension to car park and (iv) alterations to patio; as amended by drawing no. 3234/6A received on 27 April 2006 (revised vehicular access) – Application Granted 11th May 2006.
- E/84/3515/P – Erection of bar extension and rebuilding food preparation and utility room together with minor internal alterations and enlargement of car park and children's garden – Application Granted 16th January 1985.

2.11. **PREAPP/23/126** – The applicant sought pre-application advice from the Council on the proposal, in June 2023. The applicant proposed a number of options for the development of the site, including this proposal for a convenience store and retail unit. The pre-application advice is included at **Appendix 1** for reference.

3. The Proposed Development.

3.1. This Planning Statement supports an application for the following development:

'Demolition of existing building and erection of convenience store (Use Class E) and drive-thru coffee shop (Use Class E) and associated access, parking and landscaping works'

3.2. The proposed development seeks to demolish the existing public house on site, to be replaced by two smaller buildings comprising a convenience store and drive-thru coffee shop.

3.3. The proposed convenience store will front onto Haverhill Road however will be set back from the road. The convenience store proposed will extend to 372 sq. m which will comprise of a sales area of 260 sq. m and a back of house area of 112 sq. m. The convenience store will be occupied by ASDA Stores Ltd.

3.4. The proposed drive-thru coffee shop will face into the site and will measure 204 sq.m.

3.5. The proposed development will utilise the existing access into the site, off Haverhill Road, which will be enhanced as part of the application proposals. Pedestrian access is proposed from Haverhill Road, separate to the vehicular access.

3.6. The proposed development will accommodate 35 car parking spaces which will be proposed throughout the site, serving both the convenience store and the drive-thru coffee shop. These parking spaces will comprise of 26 standard spaces, 2 disabled spaces, 1 parent and child space and 6 electric vehicle charging points.

3.7. Cycle parking will be provided for both the convenience store and the drive-thru coffee shop and will be located along the front elevation of the buildings.

3.8. Details of the proposed plant equipment, associated with both proposed uses has not been provided as part of this application but details can be provided through a discharge of condition application. The location of the proposed plant for the convenience store is shown indicatively on the plan and will be located in the least visually sensitive location, on the roof. The Noise Assessment produced, relates to noise matters in relation to deliveries and road traffic.

3.9. Existing hedgerows and trees will be retained along the site boundaries, as well as additional tree planting proposed along the boundary with Haverhill Road.

4. Planning Policy.

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The Development Plan

- 4.2. The adopted Development Plan comprises The St Edmundsbury Core Strategy (2010), the Haverhill Vision 2031 (2014) and the Joint Development Management Policies Document (2015).
- 4.3. On the 1st of April 2019, Forest Heath District and St Edmundsbury Borough Council were replaced by a single authority, known as West Suffolk Council. The development plans from Forest Heath and St Edmundsbury were carried forward to West Suffolk Council.
- 4.4. The Development Plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority.
- 4.5. The site is not subject to any site-specific allocation on the Proposals Map. The site is not located within a defined retail centre, nor is located to the edge of any centre and therefore is classed as out of centre.

Joint Development Management Policies Document (2015)

- 4.6. This forms the joint development management policies for West Suffolk and is used for the day-to-day determination of planning applications across both areas.
- 4.7. Below we set out two of the most critical policies to the proposal in full.

Policy DM35 Proposals for Main Town Centre Uses

'Within the town centres, as defined on the policies maps, support will be given, subject to compliance with other policies, to proposals for main town centre uses such as the following:

- i. shopping (Use Class A1)*
- ii. financial and professional services (A2)*
- iii. food and drink (A3, A4, A5)*
- iv. leisure, culture, arts, tourism and more intensive sport and recreation including D2 uses*
- v. business (B1) offices*
- vi. visitor accommodation; and*

in addition to the main town centre uses above:

- vii. health facilities and other community uses*

viii. residential, A2 or B1 uses on upper floors.

Proposals for main town centre uses that are not in a defined centre and not in accordance with an up-to-date Local Plan must apply a sequential approach in selecting the site demonstrating that there are no suitable, viable and available sites in defined centres or edge of centre locations.

Proposals for retail floorspace in excess of 1,000sqm gross outside of Bury St Edmunds, Haverhill and Newmarket town centres and in excess of 300sqm gross outside all other defined centres will require an impact assessment to demonstrate that it will not have a significant adverse impact in accordance with the NPPF.

A balance between shops (A1) and non-A1 commercial uses (A2, A3, A4 and A5 uses) will be maintained to secure the vitality and viability of the Primary Shopping Areas, albeit with a predominance of shopping uses maintained. The change of use of ground floor A1 units within a Primary Shopping Area, to other appropriate main town centre uses, will therefore only be permitted if the balance of retail vitality and viability is not likely to be harmed and all of the following criteria are met:

- a. the proposal will not result in three or more non-A1 units in adjoining premises within the Primary Shopping Area;*
- b. the proposal will retain or provide a shop front with a display function and entrances which relate well to the design of the host building and the street scene and its setting in terms of its materials, form and proportions;*
- c. the proposal will not remove existing or potential beneficial use of upper floors; and*
- d. the proposal will not adversely affect the amenity of the surrounding area by virtue of noise, litter, congestion on pavements, or disturbance arising from late night opening'*

Policy DM41: Community Facilities and Services

'The provision and enhancement of community facilities and services will be permitted where they contribute to the quality of community life and the maintenance of sustainable communities.

Proposals that will result in the loss of valued facilities or services which support a local community (or premises last used for such purposes) will only be permitted where:

- a. it can be demonstrated that the current use is not economically viable nor likely to become viable. Where appropriate, supporting financial evidence should be provided including any efforts to advertise the premises for sale for a minimum of 12 months; and*
- b. it can be demonstrated that there is no local demand for the use and that the building/site is not needed for any alternative social, community or leisure use; or*
- c. alternative facilities and services are available, or replacement provision is made, of at least equivalent standard, in a location that is accessible to the community it serves with good access by public transport or by cycling or walking.*

Where necessary to the acceptability of the development the local planning authority will require developers of residential schemes to enhance existing community buildings, provide new facilities or provide land and a financial contribution towards the cost of these developments proportional to the impact of the proposed development in that area, through the use of conditions and/or planning obligations.'

4.8. Below, we summarise the remaining policies of relevance to this proposal.

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM6 Flooding and Sustainable Drainage
- Policy DM7 Sustainable Design and Construction
- Policy DM11 Protected Species
- Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity
- Policy DM13 Landscape Features
- Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
- Policy DM35 Proposals for Main Town Centre Uses
- Policy DM41 Community Facilities and Services
- Policy DM44 Rights of Way
- Policy DM45 Transport Assessments and Travel Plans
- Policy DM46 Parking Standards

Haverhill Vision 2031 (2014)

4.9. This is a comprehensive plan to guide the overall direction of growth for the next 20 years and beyond. The policy of relevance to this proposal is noted below.

- Vision Policy HV1 Presumption in Favour of Sustainable Development.
- Vision Policy HV8 – New and Existing Local Centres and Community Facilities.
- Vision Policy HV11 – Out of Centre Retail Proposals.

St Edmundsbury Core Strategy 2010

4.10. The Core Strategy sets out the vision, objectives, spatial strategy and overarching policies for the provision of new development in the area up to 2031.

4.11. The policies of relevance to this proposal are:

- Policy CS1 – St Edmundsbury Spatial Strategy
- Policy CS2 – Sustainable Development
- Policy CS3 – Design and Local Distinctiveness
- Policy CS7 – Sustainable Transport

Material Considerations

The Emerging Local Plan

- 4.12. West Suffolk Council has commenced a review of the Local Plan, which will set out the long-term planning and land use policies for the whole district area.
- 4.13. The Council carried out their Issues and Options (Regulation 18) consultation from October – December 2020. Following the consideration of the responses and the preparation of the Preferred Options, the Council carried out their Preferred Options (Regulation 18) consultation from May to July 2022. A consultation on their Pre-Submission draft (Regulation 19) is expected to take place in January 2024.
- 4.14. The plan is at the early stages and therefore the application would not be considered under this draft plan.

National Planning Policy Framework (NPPF) (2023)

- 4.15. The overarching policy principle applicable to the proposed development is the presumption in favour of sustainable development (the ‘presumption’).
- 4.16. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF sets out three ‘objectives’ to facilitate sustainable development: an economic objective, a social objective, and an environmental objective. The presumption is key to delivering these objectives, by creating a positive pro-development framework which is underpinned by the wider economic, environmental, and social provisions of the NPPF. The presumption is set out in full at paragraph 11 of the NPPF.

Building a strong, competitive economy

- 4.17. **Section 6** encourages planning decisions to create the conditions in which businesses can invest expand and adapt. Paragraph 85 states that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Ensuring the vitality of town centres

- 4.18. **Section 7** of the NPPF relates to ensuring the vitality of town centres. Paragraph 86 confirms that in regard to town centres, policies and decisions should take “...a positive approach to their growth, management and adaptation.” It also sets out (paragraph 87) a sequential approach to the introduction of new town centre uses, where suitable and available town centre sites should be considered first, followed by edge of centre sites, before out of centre sites can be considered.

Promoting healthy and safe communities

4.19. **Section 8** of the NPPF deals with promoting healthy and safe communities. This section recognizes the importance of community facilities and their role in promoting healthy, inclusive, and safe communities.

4.20. At **Paragraph 93** of the NPPF, it states that local authorities should plan positively for community facilities (including shops) which enhance the sustainability of communities.

4.21. With respect to highways impacts, Paragraph 111 states that:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

Promoting sustainable transport

4.22. **Paragraph 111** states the following in relation to the determination of planning applications:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"

4.23. **Paragraph 112** notes how applications for development should give priority first to pedestrian and cycle movements, and as far as possible facilitate access to high quality public transport.

4.24. **Paragraph 113** notes how all developments that generate significant amounts of movement should be supported by a Transport Assessment or Transport Statement.

Achieving well-designed places

4.25. **Paragraph 126** explains how good design is a key aspect of sustainable development and that the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the development process should achieve.

4.26. **Paragraph 130** notes how planning decisions should ensure that developments are visually attractive as a result of good layout, are sympathetic to local character and history and should establish or maintain a strong sense of place. It should also be ensured development will function well and add to the overall quality of the area.

4.27. **Paragraph 131** notes applicants and local planning authorities should work with highway and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

Annex 2: Glossary

4.28. Annex 2 of the NPPF sets out a definition of what is considered as a main town centre use.

'Main town centre uses: Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs,

casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)'.

- 4.29. In summary, it can be seen from the NPPF that not only does it provide a sound platform on which to promote economic growth and new residential development, but a clear and demonstrable harm has to be demonstrated for a planning application to be refused.

Supplementary Planning Documents

West Suffolk Shopfront and Advertisement Design Guide (February 2015)

- 4.30. This guide seeks to provide guidance to improve the general standard of shopfront design. A shopfront should project the best possible image of the business. The SPD sets out design principles which shopfronts must follow, including design, materials and colour, signage and lighting, blinds and canopies, and security measures.

5. Planning Assessment.

5.1. This section of the statement assesses the acceptability of the proposals against the following considerations:

- The principle of the proposed development;
- Impact on residential amenity;
- Design and layout; and
- Parking and highways issues

The Principle of Development

- 5.2. The proposals seek to demolish the existing building on site and replace it with a convenience store and drive-thru coffee shop. The NPPF, Policy CS2 of the Core Strategy and Policy DM1 of the Joint Development Management Policies Plan promote sustainable development. The proposed development is located within the settlement boundary, within the urban area and on previously developed land which is well related to residential development. As such, it will attract 'walk in' trade shopping trips as well as passer-by traffic which is already on the highway network to the coffee shop. This is considered to constitute sustainable development and therefore accords with the relevant Local Plan Policies and the NPPF.
- 5.3. The site lies outside of a defined centre and as such, Policy DM35 applies. Policy DM35 of the Joint Development Management Policies Plan states that for main town centre uses, that are not in a defined centre, a sequential approach must apply in selecting the site, demonstrating that there are not suitable, viable and available sites in defined centres or edge of centre locations. As per the definition within Annex 2 of the NPPF, a convenience store and drive-thru coffee shop would be classified as a main town centre use and therefore a sequential assessment is required.
- 5.4. A detailed sequential assessment has been prepared at Section 6 of this statement. A number of sites have been considered that are located within, or to the edge of Haverhill town centre. We have also considered the three proposed local centres which will be brought forward as part of the Local Plan allocations located to the east and west of the site (HV3 and HV4). Sites have been assessed and no site is considered to be suitable and available to accommodate the proposed development, therefore satisfying the sequential test as set out at NPPF paragraphs 87–89 and Local Plan Policy DM35. An out of centre location is therefore appropriate, with the proposed convenience store and drive-thru coffee shop providing local residents with facilities to meet their day-to-day needs as well as accommodating passer-by trade.
- 5.5. Policy DM41 Community Facilities and Services states that the provision and enhancement of community facilities and services will be permitted where they contribute to the quality of community life and the maintenance of sustainable community life. Proposals that will result in the loss of valued facilities or services which support a local community (or premises last used for such purposes) will only be permitted where:

- a. it can be demonstrated that the current use is not economically viable nor likely to become viable. Where appropriate, supporting financial evidence should be provided including any efforts to advertise the premises for sale for a minimum of 12 months; and
- b. it can be demonstrated that there is no local demand for the use and that the building/site is not needed for any alternative social, community or leisure use; or
- c. alternative facilities and services are available, or replacement provision is made, of at least equivalent standard, in a location that is accessible to the community it serves with good access by public transport or by cycling or walking.

5.6. Within the supporting text of Policy DM41, it is noted that community facilities and services, include; '*shops, post offices, pubs, primary schools, healthcare facilities, community centres, allotments, village halls, indoor sports facilities, petrol filling stations*'. This is reiterated in paragraph 93 of the NPPF which states that to provide the social, recreational and cultural facilities and services the community needs, planning decisions should, '*plan positively for the provision and use of shared spaces, community facilities (such as **local shops**, meeting places... and other local services to enhance the sustainability of communities and residential environments*'.

5.7. Although the proposal would result in the 'loss' of a public house, it would be replaced with other community facilities, as identified in the NPPF and the Local Plan. Loss is written in italics as the proposal is not considered to result in the loss of the public house as this facility has not been accessible for many years. This public house has been vacant for over a decade and therefore the residents living in and around this area do not rely on this site as a community facility. This proposal would bring back this site into active use by offering new community facilities to the benefit of local residents and employees and improve the quality of community life. This proposal will provide new opportunities for local residents to shop, eat, drink and engage with other local people. Shops and meeting places, coffee shops are community facilities, as per the supplementary text in Policy DM41 and paragraph 93 of the NPPF and therefore the proposals is in accordance with Policy DM41.

5.8. The pre-application advice provided by the Council suggests that point a and b or c of Policy DM41 would need to be demonstrated to make the proposal acceptable. However, there has been a disregard for the associated text of Policy DM41 /the NPPF and the fact that a local shop is recognised within the Local Plan and the NPPF as a community facility. This application would provide a replacement community facility, and, on that basis, there is no need for the applicant to demonstrate that the proposal satisfies point a and b or c of Policy DM41. Nevertheless, for completeness and robustness, we demonstrate how the proposal accords with elements a, b and c of Policy DM41.

5.9. The proposal will bring this site back into active use, as the previous use of the site, is no longer suitable. An application (DC/20/0479/FUL) was approved in April 2021 for the demolition of the existing derelict public house and the construction of a new public house and restaurant. Since the application was approved in 2021, a public house/restaurant operator, to bring forward this site, has not been identified. There has been no demand or interest either over the past two years or over the past decade to bring the site forward for a public house/restaurant despite the site being marketed for this use and with a valid planning permission in place. The site has been marketed for over 12 months and still no operator has come forward to develop this site.

- 5.10. The market does not demand the use of the site for a public house and restaurant. If the use of the site was to remain for a public house/restaurant, it would remain vacant and derelict for many more years to come. This is not in line with the growth and aspirations of this area, nor the policies within the NPPF and Local Plan. A new alternative use is required for this site to bring the site back into active use as the existing use is no longer a suitable and viable use for the site.
- 5.11. This site has not been used as a public house for over a decade now and therefore local residents do not rely on this facility. Instead, they utilise other public houses in the local area. There are other public houses available within a reasonable distance from the site, which can be accessed via public transport, in line with requirements of part c of Policy DM41. Within Haverhill Town Centre, there are a number of public houses, including The Woolpack and The Bull which are accessible to the site. Residents in and around this area have been using these community facilities for the past decade as this public house has not been available. These public houses can be accessed via bus, cycle or walking. The nearest bus stops are located on the A143 Haverhill Road around 350m (less than a five-minute walk) to the south west of the site and provides access to the town centre of Haverhill to access these facilities. As such, there are alternative Public Houses accessible to the local community and therefore the proposed development fulfils elements c of this policy.
- 5.12. The proposals would bring the site back into active use on previously developed land, which is encouraged at paragraph 85 of the NPPF. This paragraph states that previously developed land and sites which are well related to existing settlements should be encouraged where opportunities exist. The site is well related to/ adjacent to the Haverhill Strategic Growth Area and will provide essential day to day facilities for residents and employees living and working within this area.
- 5.13. The Haverhill Strategic Growth Area has been allocated for a range of uses, including; residential, primary school, open space, a local centre with community, health, and recreation uses, and employment. The area is made up of 42 hectares to the north west of Haverhill (to the west of the site) and 138 hectares to the north east of Haverhill (to the east of the site). This is a new growth area for Haverhill and this derelict site is not in keeping with the development taking place in this area. This site needs to be brought forward and deliver a development to meet the needs and demands of the new residents and employees living and working in this area.
- 5.14. Significant redevelopment is required to bring the site back into active use as the site has been vacant for over a decade and therefore, is in a bad state of repair. This building no longer serves a purpose and would be too costly to repair and renovate. As such, the proposals seek to demolish the existing building and replace it with new, modern facilities, which would be in keeping with the new development in the area.
- 5.15. The proposal is therefore considered to fulfil the requirements of Local Plan Policies CS2, DM1, DM41 and the NPPF.

Impact on Residential Amenity

- 5.16. When considering residential amenity, in terms of overlooking and privacy, the nearest existing residential dwelling is on the opposite side of Haverhill Road and 60m or so to the

east of the site. There are no dwellings on the site boundary or in close proximity to the site which would be affected by the proposals.

- 5.17. The proposal therefore complies with Policy DM14 which seeks to minimise forms of pollution including light and noise for all new developments.

Design and Layout

- 5.18. The Local Plan policies (CS2, CS3, DM2 and DM7) seek to ensure that new developments create and contribute to a high quality, safe and sustainable environment. The Shopfront and Advertisement Design Guide SPD seeks to ensure that shopfronts are of a good design and high quality.
- 5.19. This application is supported by a Design and Access Statement, which provides further details on the design rationale for the proposed development.
- 5.20. The proposed development is located on the site of the former The Fox Public House. The redevelopment of the site provides a valuable opportunity to visually enhance the immediate context of the site and reflect the new development in the area. The proposed single storey buildings are contemporary and utilises both brickwork and cedar cladding within the external facing materials. It will not be incongruous in this mixed use residential and commercial location.
- 5.21. The proposal mirrors the scale of existing development in the area. Whilst the proposed design is more modern, it reflects modern construction techniques and the operation requirements of a convenience store and drive-thru coffee shop.
- 5.22. As such, we consider the proposed development to accord with Policies CS2, CS3, DM2 and DM7 and the Shopfront SPD.

Parking and Highway

- 5.23. A Transport Statement (TS) has been prepared by Eddisons and is submitted in support of this application.
- 5.24. The vehicular access into the site will be provided via the existing vehicular access off A143 Haverhill Road. The access will be widened to facilitate vehicular access and provide a pedestrian refuge.
- 5.25. Pedestrian and cycle access into the site will be provided for via pedestrian/cycle link off the A141 Haverhill Road via the existing pedestrian/cycle facilities located alongside the southern side of the carriageway.
- 5.26. Policy DM46 Parking Standards states does not set specific parking standards. This policy requires new developments to provide appropriately designed and sited car and cycle parking. In terms of car parking, 35 parking spaces will be provided which will be spread evenly throughout the site, serving both the convenience store and the drive-thru coffee shop. These parking spaces will comprise of 26 standard spaces, 2 disabled spaces, 1 parent and child space and 6 electric vehicle charging points. This level of car parking is appropriate for the proposed development and will ensure that there is sufficient car parking for both uses on site, even during busier periods and will ensure there is no overspill



onto the public highway. Parking demand is likely to be further reduced given the sustainable location of the development.

- 5.27. Cycle parking is provided in the form of 6 Sheffield style parking bays (parking for up to 12 bicycles), this provision is located in a safe and convenient location adjacent to each of the proposed units.
- 5.28. In terms of servicing, the proposed drive-thru coffee unit and Convenience Store will be serviced from within the site.
- 5.29. The typical HGV that would be likely to serve the drive-thru unit would be a large rigid HGV. It is likely that only one delivery per day would be made by HGV to each unit. A tracking exercise using a 11.2 metre rigid has been undertaken and the swept path of the HGV is shown within the TS. This swept path analysis demonstrates that the drive-thru coffee unit can be serviced in a safe and efficient manner.
- 5.30. With regard to the convenience store, servicing will be undertaken within the service area located to the east of the proposed unit. The largest vehicle to service the site will be that of a 10.2 metre, and a swept path of the HGV is shown within the TS. This swept path analysis demonstrates that the convenience store can also be serviced in a safe and efficient manner.
- 5.31. Deliveries to the site will be arranged to avoid busy periods for the units and the required car parking spaces will be kept clear to allow servicing to be undertaken safely and efficiently.
- 5.32. In terms of trip generation and impact on the highway network, the TS has carried out a thorough assessment and concluded that the proposed development will have a minimal impact on the local highway network. Paragraph 111 of the NPPF clearly states that only development proposals that will have a severe impact on the operation of the highway should be refused. The TS confirms that the impacts would be minimal.
- 5.33. The site is located in a highly accessible area and in a location to encourage active modes of travel (walking and cycling), whilst also benefiting from good accessibility to bus stops. The nearest bus stops are located on the A143 Haverhill Road around 350m (less than a five-minute walk) to the south west of the site. The nearest bus stops provide access to bus services to destinations such as Haverhill, Bury St Edmunds, Stradishall and Horringer. There is an hourly service to Haverhill on the number 131 which operates from 06:30 to 19:00.
- 5.34. In terms of accessibility on foot, extensive pedestrian facilities are provided on the A143 Haverhill Road in the vicinity of the application site. A shared 3 metre pedestrian/cycleway is located on the southern side of the carriageway along the frontage of the site. To the east it provides access to the residential development to the east, whilst to the west it provides access to the pedestrian facilities located at the A143 Haverhill Road/Farrant Road roundabout.
- 5.35. Pedestrian refuges with associated dropped kerbs and tactile paving are located on the A143 Haverhill Road arms of the roundabout. To the north, these provide access into the Boyton Place residential development and the wider strategic site, whilst to the south the footway provision provides access into Haverhill.



- 5.36. Overall, it is considered that the proposed development accords with Local Plan Policies CS7, DM45 and DM46.

6. Sequential Assessment.

- 6.1. This section provides a sequential assessment as per the requirements of Local Plan Policy DM35 and paragraphs 87–89 of the NPPF.
- 6.2. The sequential assessment relates to the provision of a convenience store, which would be occupied by Asda and a drive-thru coffee shop, which has no specific end user at present.

Retail Planning Policy

NPPF

- 6.3. Chapter 7 of the NPPF sets out policies relating to town centres and main town centre uses. The glossary at Annex 2 confirms that main town centre uses include retail development, leisure, entertainment and more intensive sport and recreation uses (including restaurants and health and fitness centres), offices and arts, culture, and tourism development. As such, the proposed convenience retail store and drive-thru coffee shop are considered to be main town centre uses.
- 6.4. Paragraph 87 requires proposals for main town centre uses to demonstrate accordance with the sequential test where they are located in an out-of-centre location and are not in accordance with an up-to-date plan (i.e., not allocated for such uses). In applying the sequential test, para. 87 confirms 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 not expected to become available within a 'reasonable period') should out of centre locations be considered.
- 6.5. Paragraph 88 goes on to confirm that when considering edge and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Paragraph 88 also requires applicants to demonstrate flexibility on issues such as format and scale through the application of the test.
- 6.6. Paragraph 90 requires the preparation of an impact assessment when assessing applications for retail and leisure development outside town centres where they are not in accordance with an up-to-date plan, considering the impact of the proposal on planned public and private investment in centres and on town centre vitality and viability. An impact assessment is only required where the proposals exceed a locally set threshold or, in the absence of any such threshold, for proposals over 2,500sq.m of gross floorspace.
- 6.7. Paragraph 91 confirms that where an application fails the sequential test or is likely to have a significant adverse impact on one or more of the impact considerations set out at paragraph 90, it should be refused.
- 6.8. In terms of what is meant as town centres within Paragraphs 87–91, the NPPF Glossary at Annex 2 confirms that town centres are:

'Area defined on the local authority's policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in the

development plan, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres.'

- 6.9. Whilst a definition of what is meant as 'in-centre' or 'within a town centre' is not provided in the glossary, it does provide definitions of both edge-of-centre and out-of-centre. This clarifies that for the purposes of retail uses (Use Class E(a)) in-centre relates to sites located within the designated Primary Shopping Area or, where no Primary Shopping Area is identified, within the centre boundary. For other main town centre uses, in-centre relates to sites located within the designated town centre boundary.

Planning Practice Guidance (PPG)

- 6.10. The PPG provides guidance relating to the application of the sequential test highlighting the need for any assessments to be proportionate and appropriate to the proposed development and reiterating the need to demonstrate flexibility in the format and scale of the proposed development.
- 6.11. The PPG also provides guidance on how locational requirements be considered through the application of the sequential test with para O12 confirming that:

'Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification will need to be provided where this is the case, and land ownership does not provide such a justification.'

Local Plan

- 6.12. The application site is not located within a designated centre within the Local Plan. Policy DM35 of the Joint Development Management Policies Plan states that for main town centre uses, that are not in a defined centre, a sequential approach must apply in selecting the site, demonstrating that there are not suitable, viable and available sites in defined centres or edge of centre locations.
- 6.13. Proposals for retail floorspace in excess of 1,000sqm gross outside of Bury St Edmunds, Haverhill and Newmarket town centres and in excess of 300sqm gross outside all other defined centres will require an impact assessment to demonstrate that it will not have a significant adverse impact in accordance with the NPPF.
- 6.14. Policy HV11 of the Haverhill Vision states that for proposals for retail floorspace outside of defined centres will be permitted where a sequential approach has been adopted, where the proposals exceed 1,000 sq. m, an impact assessment is prepared, and the site is accessible by a choice of means of transport.

Policy Requirements Conclusions

- 6.15. As the proposals are for a main town centre use on a site that is located outside any defined town or local centre, there is a requirement to carry out a sequential assessment. As the proposal exceeds the locally set impact threshold, of 300 sqm for proposals outside of other defined centres, there is also a requirement to submit an impact assessment in support of the application proposals. The impact assessment is included at Section 7 of this statement.

Sequential Assessment Methodology

- 6.16. As highlighted in the previous section, the proposed development includes main town centre uses in an out-of-centre location and therefore it is necessary to undertake a sequential assessment. This section sets out the methodology used for the assessment.

The Application of the Sequential Test – Relevant Decisions and Case Law

- 6.17. Before moving on to consider the specific methodology for the sequential assessment, it is important to consider the significant and pertinent case law and Secretary of State decisions which provide guidance and clarification on how the sequential test should be applied in respect of the need to demonstrate flexibility, the consideration of availability, and the requirement to consider the disaggregation of a proposed development. A note considering these matters and providing a brief summary of relevant decisions is provided at **Appendix 2**.
- 6.18. Taking the decisions identified in Appendix 2 into account, whilst these provide useful guidance in terms of the application of the sequential test, it is clear that the matter of flexibility and suitability is primarily a matter of planning judgement for the local planning authority. This should be considered in the context of the relevant circumstances relating to the development site and the development proposals.
- 6.19. In respect of the specific point on the need to consider the disaggregation of an application proposals, the identified decisions clearly highlight this should only be done so in specific circumstances having regard to the development proposals and development site. It is clear that there is no policy requirement to consider the disaggregation of schemes within the NPPF or PPG, and this should only be considered where there are specific circumstances which require it.
- 6.20. In terms of availability, whether a site can be considered to be available, or available within a reasonable period, is a matter of planning judgement based upon the specifics of the proposed development and the complexities of the scheme.

Methodology

- 6.21. The following sets out the methodology and approach used in the application of the sequential test for the proposed development having regard to the requirements of the NPPF, Policy DM35 of the Local Plan and the various case law and decisions referred to. The following matters are considered in turn;
- Locational Requirements;
 - Area of Search;
 - Identification of Sites;
 - The Proposed Development – Site Requirements & Flexibility; and,
 - Availability.

Locational Requirements

- 6.22. As already highlighted, the NPPF requires the consideration of 'suitability' through the sequential test. The consideration of whether or not a site is suitable relates, in part, to whether or not a sequentially preferable site would be able to meet and serve the same market as the application proposals. This will therefore influence the area of search for any sequential assessment. Put simply, if a site or location would fail to serve the same market as the application proposals/site; then it cannot be considered suitable and therefore cannot be considered as a suitable and available sequentially preferable site through the sequential test. It is therefore necessary to consider the market that the proposed development will serve.
- 6.23. The proposal has a very specific location requirements. A site is required which is within walking distance of local residents, whilst being located on a main road to attract passer-by traffic.
- 6.24. The convenience store element of the proposal will be focused on serving the everyday top-up shopping needs of local residents in and around the area within walking distance of the site. The store will primarily serve residents to the north of Haverhill, and in particular, the new growth area. The store will also serve passing trade along Haverhill Road.
- 6.25. Given the relatively limited scale of the store, it would be principally focused on serving this local catchment and having regard to the local geography, availability of comparable provision and knowledge of the proposed offer of the convenience store, it will serve those living within easy walking distance of the site which can be broadly estimated as a 10-minute (circa 800m) walking catchment. In addition, it is inevitable that some of those living locally, or living beyond the walking catchment, will decide to visit the store by car.
- 6.26. Taking into account the same considerations, including the availability of other local facilities, it is expected that the convenience store will principally serve those living within a very short (3-minute) drivetime of the application site noting that the offer of a store will largely determine how far customers are willing to travel to it. In considering the appropriateness of this drivetime catchment it should be noted that this compares with a 5-minute primary drivetime that is regularly used and relied upon by discount foodstore operators such as Lidl and Aldi which have a significant greater offer and draw for customers.
- 6.27. In terms of the drive-thru coffee shop element of the proposal, given the very limited scale and offer, the proposal will not act as a 'destination' in its own right, and instead will serve residents who live in the area and pass-by trade. Drive-thru coffee shops serve very small catchment areas as people will not make a special trip to visit the site.
- 6.28. A drive-thru coffee shop demands a prominent road side frontage to attract passer-by trade. The site is located along Haverhill Road which is a major road through Haverhill and will be able to easily serve pass-by traffic with customers making use of the drive-thru take-away facility as opposed to the limited sit in offer.
- 6.29. Drive-thru's rely upon pass-by trade. The drive-thru element of the scheme will make up a significant portion of the overall sales from the site. The site is supported by a small car park for customers who choose to park and order in store, or those waiting for larger orders. This however this is likely to be a limited number of customers.

- 6.30. A drive thru restaurant within a centre would still act as an ancillary facility which customers would generally only visit if they lived or worked in close proximity to the store (i.e., within or on the edge of the town centre) or those already visiting the town centre for another purpose. Even if located on a principal road that runs through the town centre, the level of passer by traffic and custom which would be served would be limited and restricted. This would be the case irrespective of the identity of the end retailer/occupier. As such, it is the type of retail provision proposed (i.e., drive thru restaurant) which restricts its potential to be located within the town centre and still serve the same market/demand.
- 6.31. Given this, it is clear that the proposed development will serve a very localised catchment, whether that be the customer's home, place of work or route when travelling to or from other destinations along Haverhill Road.
- 6.32. The preceding paragraphs have clearly demonstrated why locating the proposed main town centre use within the district/local centres would fail to serve the same market and would instead serve a markedly different function than the application proposals. Therefore, sites within the town centre would be unsuitable to accommodate the proposed development or meet its specific locational requirements and as such, there is no requirement to proceed further with the sequential test as by definition, all town centre sites would fail the 'suitability' test. Nevertheless, for completeness, a detailed sequential test assessment has been carried out in line with the methodology set out in the following sub-sections.

Area of Search

- 6.33. Taking into account the retail hierarchy defined within the Local Plan, the sequential assessment has been prepared to focus on the following centres;
- Haverhill Town Centre;
 - Proposed local centre within HV3 Strategic Site North West Haverhill;
 - Proposed local centre within HV4 Strategic Site North East Haverhill; and
 - Proposed local centre within HV4 Strategic Site North East Haverhill.
- 6.34. Policy HV8 identifies local centres within Haverhill however it does not identify the proposed local centres within the strategic allocations HV3 and HV4. These proposed local centres are not considered as a defined local centre for the purposes of the sequential test as they are not identified on the Local Plan policies map as a local centre. The Local Plan policies map defines a strategic area but does not identify the local centres in particular and the policy offers no protection to these local centres. The definition of town centres provided in the NPPF expressly states that these are 'defined on the local authority's policies map...'. Whilst the local centres have outline consent, there are no reserved matters applications for these local centres and therefore they should not be considered as a local centre for the purposes of this exercise. For completeness, we have included them in our assessment, however this point should be given due consideration what considering the sequential assessment.
- 6.35. There is no requirement to consider any other centres beyond those noted above given their distance from the application site and the clear failure to serve the same catchment area as the application site.

Identification of Sites

- 6.36. Sites requiring consideration have been identified through a desk-based assessment including map-based searches, a review of local and national agents for sites/units for sale or to let, a review of the West Suffolk brownfield register and a review of the Local Plan policy maps.

The Proposed Development – Site Requirements and Flexibility

- 6.37. Case law and Secretary of State decisions have confirmed that there is no requirement to consider the disaggregation of any of the floorspace from the proposed development except in specific circumstances where the proposed development, or application site warrants the disaggregation through the consideration of flexibility. As such, when considering suitable sites, they must be able to accommodate the whole of the proposed development with associated car parking whilst allowing for an appropriate degree of flexibility.
- 6.38. In terms of the proposed development, this includes two separate buildings. One building to accommodate a small convenience store and one building to accommodate the drive-thru building which sufficient space surrounding the building to accommodate the queue for cars.
- 6.39. The sequential site search will be focused on any sites or units which could accommodate the convenience store, drive-thru unit, alongside associated car parking and servicing areas. This would require a site of around 0.3 hectares to deliver the proposed 372 sq. m convenience store and 204 sq. m drive-thru coffee shop. Taking into account the need to demonstrate flexibility, sites will be considered which could accommodate a development 15% larger and 15% smaller than that proposed. As such, the following parameters are set for the site search exercise:
- Site Area – 0.25 hectares to 0.35 hectares;
 - Providing between 316.2 sq. m and 427.8 sq. m for the proposed convenience store and between 173.4 sq. m. and 234.6 sq. m for the proposed drive thru; and
 - Between 30 and 40 car parking spaces to serve the unit.
- 6.40. Sites larger than the upper site size parameter of 0.35 hectares will be considered through the assessment, however when considering the suitability of such sites, consideration will be given to as to how the site could be subdivided in a manner which is appropriate and does not prevent the viable redevelopment of the rest of the site.
- 6.41. In considering flexibility of format, retail convenience store occupiers and drive-thru coffee shop operators only operate with customer areas on a single trading floor owing to the trading difficulties of operating split-level units and the small footprint of the building. Therefore, only sites which could accommodate the proposed units at a single floor would be considered suitable.

Availability

- 6.42. In considering whether a site is available, the sequential assessment considers this on a site-by-site basis, taking into account whether the site is in active use, whether it is being

actively marketed and whether planning permission exists on the site for alternative uses/redevelopment.

- 6.43. In considering whether sites will become available within a 'reasonable period,' again this is considered on a site-by-site basis having regard to the fact that the application site is available for development now. As such, the site could come forward and be trading within 12-18 months. Allowing for flexibility there we have assumed that for a site to be considered available it would need to be available for development within the next two years. Any site that would not become available for development within this time period cannot be considered to be available within a 'reasonable period.'

Methodology Conclusions

- 6.44. This methodology ensures a robust and detailed sequential assessment is prepared that accords with all relevant guidance and takes into account further guidance provided by key case law and Secretary of State/appeal decisions on the application of the test.

Sequential Assessment

- 6.45. This section considers the proposed development against the requirements of the sequential test as set out at NPPF paras 87-89 and Local Plan Policy DM35.
- 6.46. An extensive site search has been carried out in accordance with the methodology set out above, considering sites within the 4 local centres listed. Sites or existing units that were far too small to accommodate the proposed development have been considered but are not assessed in any further detail as clearly a site less than 0.1 hectares cannot be considered suitable to accommodate the proposed development. This includes the identification of the following vacant units/sites that are currently being actively marketed within or on the edge of the defined centres:
- **17 Queen Street, Haverhill, CB9 9DZ (0.01 hectares)**– This vacant unit is located within Haverhill Town Centre and is being marketed by Samuel's. The unit provides three floors, with the retail space on the ground floor and residential on the upper two floors. Given the scale of the unit, it is clearly far too small to accommodate the proposed development with no opportunities to extend the unit or site given the adjoining properties and its location in the centre of Haverhill Town Centre.
 - **7 The Chantry, High Street, CB9 8AA (0.01 hectares)** – This vacant unit is located within Haverhill Town Centre and is being marketed by Francis Darrah. The unit is set over two floors however the scale of the unit is too small to accommodate the proposed development. There are no opportunities to extend the unit or site given the adjoining properties and its location in the centre of Haverhill Town Centre.
 - **21a Queen Street, CB9 9DZ (0.01 hectares)** – – This vacant unit is located within Haverhill Town Centre and is being marketed by Eddisons. The unit is for rent as opposed to buy, which is unsuitable for the purposes of this proposal. Given the scale of the unit, it is clearly far too small to accommodate the proposed development with no opportunities to extend the unit or site given the adjoining properties and its location in the centre of Haverhill Town Centre.

- **First/Second/Third Floor Space in Chantry Mill, CB9 8AZ (29 – 147 sq.m)** – There are spaces available within Chantry Mill on the first, second and third floors however a ground floor location is required. The areas are being marketed for lease by Eddisons however they are too small to accommodate the proposal given they are located within a larger building with other uses on the separate floors.
- **39 High Street, CB9 8AE (0.04 hectares)** – This vacant unit is located within Haverhill Town Centre and is being marketed by Roche. The unit is set over two floors however the scale of the unit is too small to accommodate the proposed development. There are no opportunities to extend the unit or site given the adjoining properties and its location in the centre of Haverhill Town Centre.
- **33–35 High Street CB9 8AD (0.03 hectares)** – This vacant unit is located within Haverhill Town Centre and is being marketed by West Suffolk Council. The unit is set over three floors, including the basement however the scale of the unit is too small to accommodate the proposed development. There are no opportunities to extend the unit or site given the adjoining properties and its location in the centre of Haverhill Town Centre.

6.47. In summary, we have reviewed all the available units within Haverhill Town Centre, listing some of those above. There are no suitable units within the town centre to accommodate the proposed development. If there are any available units, which you consider suitable but have not been considered, we will review these.

6.48. We now go on to review the sites within the town centre which may be suitable for the proposed development.

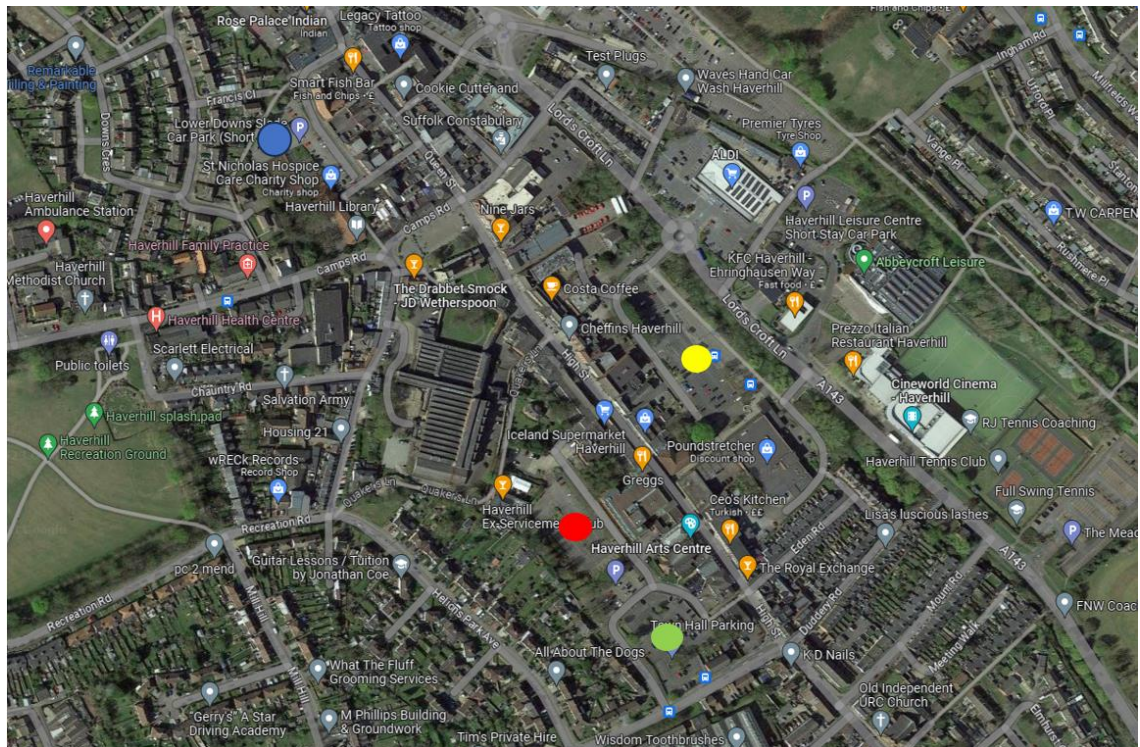
Haverhill Town Centre

Pay and Display Car Parks within the Town Centre Boundary

6.49. There are a number of pay and display car parks located within the town centre boundary. Figure 1 below is a summary of the car parks, their location, and their size.

- Lower Downs Slade Car Park, CB9 9DP (0.16 ha) (Blue Dot);
- Town Hall Car Park, CB9 8AR (0.43 ha) (Red Dot);
- Arts Centre/Town Hall East Car Park, CB9 8DW (0.39 ha) (Green Dot);
- Ehringshausen Way Car Park, CB9 7UR (0.42 ha) (Yellow Dot).

Figure 1 – Location of Public Pay and Display Car Parks within Town Centre Boundary



- 6.50. As shown in Figure 1 and the associated text, there are four public pay and display car parks within the town centre boundary of varying sizes. None of the car parks are of a suitable size to accommodate the development, even taking into account the flexibility of sites 15% bigger and smaller than the development site.
- 6.51. Secondly, the sites are not available within a reasonable time period. All the car parks are owned by West Suffolk Council and therefore are not available to purchase for development or on the market for new development to be brought forward on the sites.
- 6.52. Furthermore, the car parks are unavailable as they have an important role to play in supporting the vibrancy and vitality of the town centre. Ensuring an adequate provision of parking within the town centre will ensure that people continue to visit the town centre and visit the shops and facilities there. Should any of the car parks be developed on, it will reduce the car parking spaces available and thus make it more difficult for people to park, meaning some people may choose not to visit the town centre. Furthermore, if a car park is developed on, there will be a need to find an alternative site within the town centre to accommodate replacement parking, meaning an additional site would need to be found.
- 6.53. As such, the car parks within the town centre and neither suitable nor available to accommodate the proposed development and have been dismissed as suitable alternative sites.
- 6.54. There are no other suitable and available sites within Haverhill Town Centre to accommodate the proposed development.

Proposed Local Centre within HV3 Strategic Site North West Haverhill

- 6.55. As noted in the earlier sections of this report, land to the east and west of the application site has been allocated for new development. This area of Haverhill is a growth area for the town and for West Suffolk.
- 6.56. A hybrid planning application (SE/O9/1283) was approved in March 2016 for the following development;
- '1. Planning Application – (i) construction of relief road and associated works (ii) landscape buffer 2. Outline Planning Application – (i) residential development (ii) primary school (iii) local centre including retail and community uses (iv) public open space (v) landscaping (vi) infrastructure, servicing and other associated works as supported by additional information and plans received 27th September 2010 relating to landscape and open space, flood risk, environmental statement, drainage, layout, ecology, waste, renewable energy and transport issues including treatment of public footpaths and bridle paths'*
- 6.57. Below is a copy of the indicative masterplan (Figure 2) which was approved as part of the application and shows the indicative location of the proposed local centre. The local centre proposed within the North West Haverhill allocation must be considered as part of the sequential assessment.
- 6.58. The proposed local centre is expected to deliver over 1,000 square metres of net floorspace; however, this will comprise of a range of different uses, including but not limited to convenience floorspace. The site which has been identified to accommodate a local centre with 1,000 sq. m. of floorspace, for various uses, is significantly larger than the requirements for the proposed development.
- 6.59. In our view, the local centre needs to be developed comprehensively to prevent piecemeal development. If this proposal were to be delivered on the site before the rest of the local centre was brought forward, it would result in a disjointed local centre and may leave some parts of the centre undeveloped.
- 6.60. As the crow flies, the proposed location of the local centre within HV3 will be located approximately 1km from the application site. Once the roads have been laid out and the development is completed, it is likely that the walking distance from the application site to the proposed local centre will be more than 1km, which is further than the localised catchment that this proposal is expected to serve. The proposed development is expected to meet the needs of a very localised catchment area. The proposal will serve the day to day needs of customers within 800m of the site (10 minutes walking distance) and therefore the proposed local centres would serve a different localised catchment area to this proposal.

Figure 2 – Indicative Masterplan to show the allocation will be developed



- 6.61. In terms of availability, the site is unlikely to come forward within what is considered to be a reasonable period. As noted in the earlier paragraphs in this section, 12–18 months is acknowledged as a reasonable timeframe for a site to be available. Although the site has outline planning permission for a local centre, since the application was approved in 2016, no application has come forward for the local centre element of the development. The earlier phases of the housing development have full planning permission and have begun to be delivered on site however there has been no progress on the local centre element and bringing this forward for development. As such, this site is not considered to be available within a reasonable timeframe.
- 6.62. This site does not meet the locational specific requirements of the proposed development. The drive-thru element of the scheme demands a road side frontage on a main road to attract passer-by trade and serve the needs of existing road users. The road network within the development will be minor roads as opposed to main roads and will provide access to the housing developments.
- 6.63. In summary, the site which is proposed for the local centre within the allocation HV3 is not considered to be suitable on the basis that it does not serve the locational specific needs of the proposal, it will prevent the local centre being brought forward comprehensively and would serve a different localised catchment. It is unavailable as it will not become available within the next 12–18 months and therefore this site has been discounted.

Proposed Two Local Centres within HV4 Strategic Site North East Haverhill

- 6.64. Land to the west of Haverhill has also been allocated for development and forms part of the Haverhill Growth Area. Two local centres are proposed as part of this development site.

6.65. An application (DC/15/2151/OUT) was approved in August 2018 for;

'Outline Application (Means of Access to be considered) – Residential development of up to 2,500 units (within use classes C2/C3); two primary schools; two local centres including retail, community and employment uses (with use classes A1/A2/A3/A4/A5, B1 and D1/D2; open space; landscaping and associated infrastructure'

6.66. Figure 3 below is the approved land use parameters plan and shows the location of the proposed uses on site. This development will deliver two local centres which are proposed to be located in areas marked C1 and D1 on the plan. These areas are shaded in purple. Below we assess the suitability of C1 and D1.

Figure 2 – Approved Land Use Parameters Plan



Local Centre – C1

6.67. The proposed local centre is expected measure 0.6 hectares which will comprise of a range of different uses, including but not limited to convenience floorspace. The site which has been identified to accommodate a local centre is significantly larger than the requirements for the proposed development.

- 6.68. In our view, the local centre needs to be developed comprehensively to prevent piecemeal development. If this proposal were to be delivered on the site before the rest of the local centre was brought forward, it would result in a disjointed local centre and may leave some parts of the centre undeveloped.
- 6.69. As the crow flies, the proposed location of the local centre (C1) within HV4 will be located approximately 1.4km from the application site. Once the roads have been laid out and the development is completed, it is likely that the walking distance from the application site to the proposed local centre will be more than 1.5km, which is further than the localised catchment that this proposal is expected to serve. The proposed development is expected to meet the needs of a very localised catchment area. The proposal will serve the day to day needs of customers within 800m of the site (10 minutes walking distance) and therefore the proposed local centre would serve a different localised catchment area to this proposal.
- 6.70. In terms of availability, the site is unlikely to come forward within what is considered to be a reasonable period. As noted in the earlier paragraphs in this section, 12–18 months is acknowledged as a reasonable timeframe for a site to be available. This local centre will be developed in the latter phases of the development and therefore it is unlikely that an application will be submitted for this local centre within the next few years and therefore is not available within a reasonable timeframe.
- 6.71. This site does not meet the locational specific requirements of the proposed development. The drive-thru element of the scheme demands a road side frontage on a main road to attract passer-by trade and serve the needs of existing road users. The road network within the development will be minor roads as opposed to main roads and will provide access to the housing developments.
- 6.72. In summary, the site which is proposed for the local centre C1 within the allocation HV4 is not considered to be suitable on the basis that it does not serve the locational specific needs of the proposal, it will prevent the local centre being brought forward comprehensively. It is unavailable as it will not become available within the next 12–18 months and therefore this site has been discounted.

Local Centre – D1

- 6.73. As shown in Figure 3, a second local centre is proposed to be delivered as part of the North West Haverhill allocation. This site, identified as D1 on the plan at Figure 3, will comprise of 1.3 hectares and a range of retail, residential and employment uses.. It is more than five times the size of the site required and therefore unsuitable.
- 6.74. In our view, the local centre needs to be developed comprehensively to prevent piecemeal development. If this proposal were to be delivered on the site before the rest of the local centre was brought forward, it would result in a disjointed local centre and may leave some parts of the centre undeveloped.
- 6.75. In terms of availability, the site is unlikely to come forward within a reasonable period. As noted in the earlier paragraphs in this section, 12–18 months is acknowledged as a reasonable timeframe for a site to be available. Since the outline application was approved, for the development of the entire allocation, conditions have been discharged and reserved matters applications submitted and approved for the residential elements of the scheme

however an application has not yet been submitted for this local centre. As such, the site cannot be considered to be available within a reasonable period.

- 6.76. This site does not meet the locational specific requirements of the proposed development. The drive-thru element of the scheme demands a road side frontage on a main road to attract passer-by trade and serve the needs of existing road users. The road network within the development will be minor roads as opposed to main roads and will provide access to the housing developments.
- 6.77. In summary, the site which is proposed for the local centre D1 within the allocation HV4 is not considered to be suitable on the basis that it does not serve the locational specific needs of the proposal, it will prevent the local centre being brought forward comprehensively and is too big. It is unavailable as it will not become available within the next 12-18 months and therefore this site has been discounted.

Summary

- 6.78. A detailed Sequential assessment has been prepared and a number of sites have been considered that are located within and on the edge of Haverhill Town Centre and the local centres proposed within the Strategic Allocations. These centres have been assessed as the closest local centres to the site. Sites have been assessed and no site is considered to be suitable and available to accommodate the proposed development and therefore satisfying the sequential test as set out in the NPPF and Local Plan Policies DM35 and HV8.

7. Impact Assessment.

The Need for An Impact Assessment

- 7.1. Policy DM35 of the Joint Development Management Policies Document sets a local threshold for impact assessments for proposals for retail floorspace. This policy states;
- 'Proposals for retail floorspace in excess of 1,000sqm gross outside of Bury St Edmunds, Haverhill and Newmarket town centres and in excess of 300sqm gross outside all other defined centres will require an impact assessment to demonstrate that it will not have a significant adverse impact in accordance with the NPPF'*
- 7.2. A retail impact assessment was not requested as part of the pre-application response. However, the proposed development exceeds the 300 sq.m gross floorspace threshold for proposals outside of all other defined centres. Therefore, it is possible that it could be required in this case.
- 7.3. Notwithstanding this, we consider that the policy wording of DM35 is very unclear and does not set out where specifically the 1,000 sq. m threshold would apply and where the 300 sq. m threshold would apply. For example, for proposals outside a defined centre, whichever it may be, the 300 sq. m threshold would be applied for all proposals. As drafted, it is unclear what the policy is trying to achieve and why the lower threshold, than that set in the NPPF has been applied. Given the lack of clarity with this policy, we question if it is being appropriately applied and therefore is it required.
- 7.4. In addition, and as noted in the previous section, we question if the impact on the proposed local centres needs to be considered as they are not actually defined as local centres within the Local Plan. Policy HV8 identifies local centres within Haverhill however it does not identify the proposed local centres within the strategic allocations HV3 and HV4. These proposed local centres are not considered as a defined local centre for the purposes of the sequential test as they are not identified on the Local Plan policies map as a local centre. The Local Plan policies map defines a strategic area but does not identify the local centres in particular and the policy offers no protection to these local centres. The definition of town centres provided in the NPPF expressly states that these are 'defined on the local authority's policies map...'. Whilst the local centres have outline consent, there are no reserved matters applications for these local centres and therefore they should not be considered as a local centre for the purposes of this exercise. For completeness, we have included them in our assessment, however this point should be given due consideration what considering the sequential assessment.
- 7.5. Furthermore, the site is located adjacent to the Haverhill Strategic Growth Area, identified in Policy CS12. This area has been allocated to deliver additional community facilities to meet the needs of the development. This site is upholding the principles of this policy by bringing forward new community facilities in this area and ensuring that this site fully integrates with the surrounding strategic development, as opposed to be left untouched and in disrepair.
- 7.6. Although we consider that an impact assessment would not be required, we have prepared an appropriate and proportionate impact assessment for the proposed development for robustness.

Study Area

- 7.7. We have considered the impact on the three proposed local centres within the strategic allocations (HV3 and HV4) – North East Haverhill and North West Haverhill.
- 7.8. This proposal will serve the new resident population living within the strategic allocation. 3,650 new homes which will be built in this area, which this proposal will serve, as well as existing residents on the northern edge of Haverhill and passer-by traffic.
- 7.9. There is no need to assess the impact on Haverhill Town Centre as this proposal will serve a localised need. The local catchment which this development will serve is within a 10-minute walk (800m) from the site as well as passer-by traffic travelling along Haverhill Road. Those residents who live beyond this catchment, will use existing convenience stores closer by or the provision within the proposed local centres.
- 7.10. The local catchment this development will serve is predominantly the Haverhill strategic growth area.

Expenditure Generated by Proposed Development

- 7.11. The test, to understand the impact of the proposals, is to assess the impact on the planned investment in the area as opposed to the existing centres, as this proposal will serve a localised catchment which will not impact on existing centres.
- 7.12. As part of assessing the impact, we will work out the capacity to accommodate new development. This can be done by working out what expenditure the strategic growth area will generate and the level of convenience floorspace this will support. If there is surplus expenditure capacity, this will demonstrate that there the population in this area can accommodate both the planned local centres and this proposal.
- 7.13. An important first stage of such assessment is a calculation of the number of residents that the surrounding forthcoming development will accommodate. To do this, we have taken the proposed number of dwellings for North West Haverhill (1,150 homes) and North East Haverhill (2,500 homes). We have made an allowance for average occupancy rates from the proposed dwellings at 2.53¹ persons per dwelling for this location, which is taken from ONS data. This gives a resident population of 9,234.5.

Table 1 – Haverhill Strategic Growth Area Population Calculation

Dwellings	3,650
Occupancy Rate	2.53 persons per dwelling
Resident Population	9,234.5

- 7.14. Table 2 provides a calculation of the total level of convenience good expenditure generated by the resident population of the Haverhill strategic growth site. This is calculated by multiplying the resident population of the strategic growth area and multiplying this by the

¹ ONS, 2011 Census Table QS402EW

average per capita convenience expenditure. This highlights that a total of £18,228,903 (£18.2 million) of expenditure will be generated locally per year.

Table 2 – Total Convenience Goods Expenditure of Strategic Urban Extension

Per Capita Convenience Expenditure Average	£1,974 ²
Resident Population	9,234.5
Total Expenditure of Urban Extension	£18,228,903

- 7.15. Table 3 sets out the expected turnover of the proposed development. This is calculated by taking the net sales area of the proposed convenience store and multiplying this by the sales density³.

Table 3 – Expected Turnover of Proposed Convenience Store

Net Sales Area	260 sq. m
Sales Density	£14,452
Turnover of Proposed Convenience Store	£3,757,520

- 7.16. Given the three proposed local centres only benefit from outline planning permission, and reserved matters have not yet come forward for the development of these sites, there is no specific figures for how much convenience floorspace will come forward within these local centres. As such, we will calculate the remaining expenditure generated by the urban extension which will be leftover to support the convenience stores within the local centres.
- 7.17. Table 4 demonstrates that there is £14,471,383 (£14.5 million) of leftover convenience expenditure generated by the urban extension.

Table 4 – Leftover Convenience Expenditure Generated by Urban Extension

Total Expenditure of Urban Extension	£18,228,903
Turnover of Proposed Convenience Store	£3,757,520
Leftover Convenience Expenditure	£14,471,383

² West Suffolk Retail and Leisure Study 2016 St Edmundsbury Borough
https://www.westsuffolk.gov.uk/planning/Planning_Policies/upload/St-Edmundsbury-Retail-and-Leisure-Study-2016.PDF

³ Global data Convenience and Comparison Goods Sales Densities of Major Grocers – 2022

7.18. Table 5 and 6 sets out how the leftover convenience expenditure translates into floorspace and the level of convenience floorspace that can accommodate £14.5 million of convenience expenditure. Table 5 and 6 set out two different scenarios. Table 5 is calculated based on a foodstore format, such as a supermarket and Table 6 is based on a local supermarket, which would align to what is being proposed as part of this application. The figures provided at Table 5 are the top end and it is likely that the convenience provision within the local centres would be much smaller stores. We provide both figures for robustness.

Table 5 – Convenience Floorspace which could be supported by urban extension – Foodstore Format

Leftover Convenience Expenditure	£14,471,383
Forecast Capacity for New Convenience Store – Foodstore Format	£12,177 ⁴
Convenience Floorspace to be supported by development	1,188 sq. m

Table 6 – Convenience Floorspace which could be supported by urban extension – Local Supermarket Format

Leftover Convenience Expenditure	£14,471,383
Forecast Capacity for New Convenience Store – Local Supermarket Format	£6,641 ⁵
Convenience Floorspace to be supported by development	2,179 sq. m

7.19. As shown in Tables 5 and 6, there is between **1,188 and 2,179 sq. m** of available convenience floorspace which can be accommodated by the total expected convenience expenditure of the urban extension. Taking for example the proposed convenience store as part of this application as an example, this equates to between 4.5 and 8.3 additional convenience stores within the local centres.

7.20. There is sufficient expenditure within this strategic growth area to support this proposal and the proposals within the proposed local centres. Furthermore, given all the local centres have to provide a mix of uses, and not just convenience store, it is clear that this floorspace will not be exceeded.

⁴ West Suffolk Retail and Leisure Study 2016 St Edmundsbury Borough
https://www.westsuffolk.gov.uk/planning/Planning_Policies/upload/St-Edmundsbury-Retail-and-Leisure-Study-2016.PDF

⁵ West Suffolk Retail and Leisure Study 2016 St Edmundsbury Borough
https://www.westsuffolk.gov.uk/planning/Planning_Policies/upload/St-Edmundsbury-Retail-and-Leisure-Study-2016.PDF

- 7.21. It is likely in fact, that there will be a surplus expenditure generated by the urban extension, some of which will go to existing in-centre stores therefore offsetting any negligible trade diversion associated with the proposed development.

Conclusions and Retail Impact

- 7.22. This section has assessed the retail impact of the proposal, having regard to the level of expenditure generated by the strategic growth area and the level of convenience provision which can be supported by the population in this area.
- 7.23. The strategic growth area will generate a significant amount of expenditure and will therefore undoubtedly generate a demand and need for new retail facilities in the local area, including both this proposal and new convenience floorspace within the proposed local centres.
- 7.24. There is surplus expenditure to support all the proposed convenience use in this location and therefore there would be no impact as a result of this proposal.
- 7.25. As such, in line with Policy DM35 of the Development Plan and the NPPF, the proposal would not impact upon the planned investment in the area or the existing centres and therefore is acceptable on retail grounds.

8. Conclusion.

- 8.1. This Planning Statement supports a planning application for the demolition of the existing Public House and the erection of two new buildings. One building will comprise a new convenience store which will be occupied by Asda Stores Ltd and one building will comprise a drive-thru coffee shop, with no current user identified.
- 8.2. The site has been vacant for over a decade and is in a bad state of repair. Significant development is required to bring this site back into active use. The applicant proposes to bring a new use to this site, as the use of the site for a public house is no longer what the market demands for this area.
- 8.3. In line with Policy DM41, the proposal would not result in the loss of a community facility. Similar to a public house, shops are considered to be a community facility and therefore this site would be offering a new community facility to this location. This proposal will provide a new space for local residents to shop, eat, drink, and engage with other local people.
- 8.4. The site has been vacant for 10 years and limited interest has been shown in bringing this site forward for development during this time. An application was approved in 2021 for the redevelopment of the site for a public house however, in the two years since this application was approved, there has been no market demand to bring this site forward for a public house/restaurant use. As such, an alternative use is required to ensure that this site does not sit vacant for another 10 years.
- 8.5. A detailed sequential assessment has been prepared given the site's out of centre location. A number of sites have been assessed and no site is suitable or available to accommodate the proposed development, therefore satisfying the sequential test as set out at NPPF para 87-89 and Local Plan Policy DM35. As such, the out of centre location is acceptable, with the proposals serving a localised catchment as well as passer-by trade. This proposal would not form a destination in its own right.
- 8.6. The retail impact assessment has demonstrated that the total convenience expenditure generated by the strategic growth area will be sufficient to support the provision of a convenience offer both on this site and the three proposed local centres. As such, there is no retail impact as a result of this proposal.
- 8.7. As assessment of the impact of the proposed development on residential amenity, highways and ecology has been made and summarised within this Planning Statement. The conclusion the proposal accords with local and national planning policy and therefore planning permission should be granted.



Appendix 1 – Pre-Application Advice (June 2023)

Mr Daniel White
Spire House 13-15
Cathedral Street
Norwich
Norfolk
NR1 1LU

Case Officer: Savannah Cobbold
Direct Line: 01638 757614
Email: savannah.cobbold@westsuffolk.gov.uk

Reference: PREAPP/23/126

Today's date: 30 June 2023

Pre application response

Proposal: Major 2hr _ Written follow up + additional services Non-residential 1000-4999 sq m, Local Highway Authority Advice, Meeting and written advice - Pre-application advice for the future use of the Land associated with the Former Fox Pub, Haverhill, CB9 7UD - 3 Schemes

Location: The Fox Ph Haverhill Road Little Wratting Haverhill Suffolk CB9 7UD

Thank you for your pre-application enquiry received on 20 April 2023. This letter outlines the discussions of our meeting held on the 5 June 2023.

The following comments are made on the basis of the information provided. The issues raised may not be exhaustive, and should you submit a planning application, other issues may arise which could affect the outcome of any application. Peter Bradfield from Suffolk County Council Highways Authority was in attendance at the meeting and he will be providing comments in a separate document.

All planning applications are assessed against the policies within the Statutory Development Plan for the district, which currently comprises: the Core Strategy 2010; the Vision 2031; and the Joint Development Management Policies Document (Feb 2015). Copies of the plans and their policies can be found on the Council's website using the following link:

http://www.westsuffolk.gov.uk/planning/Planning_Policies/local_plans/stedmundsburylocalplan.cfm

On 1 April 2019 Forest Heath District Council merged with St Edmundsbury Borough Council to become a single Authority, West Suffolk Council. The development plans for the merged local planning authorities were carried forward to the new Council by Regulation. The Development Plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies document (which had been adopted by both Councils), set

out policies for defined geographical areas within the new authority. It is therefore necessary to consider this proposal with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.

The policies which are most relevant to your proposal are:

Joint Development Management Policies Document 2015

Policy DM1 Presumption in Favour of Sustainable Development

Policy DM2 Creating Places – Development Principles and Local Distinctiveness

Policy DM6 Flooding and Sustainable Drainage

Policy DM7 Sustainable Design and Construction

Policy DM11 Protected Species

Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity

Policy DM13 Landscape Features

Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards

Policy DM35 Proposals for Main Town Centre Uses

Policy DM41 Community Facilities and Services

Policy DM44 Rights of Way

Policy DM45 Transport Assessments and Travel Plans

Policy DM46 Parking Standards

Haverhill Vision 2031

Vision Policy HV1 – Presumption in Favour of Sustainable Development

Vision Policy HV8 – New and Existing Local Centres and Community Facilities

Vision Policy HV11 – Out of Centre Retail Proposals

St Edmundsbury Core Strategy 2010

Core Strategy Policy CS1 - St Edmundsbury Spatial Strategy

Core Strategy Policy CS2 - Sustainable Development

Core Strategy Policy CS3 - Design and Local Distinctiveness

Core Strategy Policy CS7 - Sustainable Transport

I note that three different schemes have been submitted as part of this preapplication consultation. I will address each scheme individually.

Scheme one – Convenience Store and Retail Unit

Principle of development

Scheme one includes the use of the site for a convenience store and retail unit following demolition of the existing, derelict public house. From the indicative plans provided, I note the buildings would be adjoined and sit towards the eastern boundary of the site, with car parking set towards the north and west of the plot.

Policy DM41 states that the provision and enhancement of community facilities and services will be permitted where they contribute to the quality of community life and the maintenance of sustainable communities. In this case, the proposal would involve the demolition of a community facility. Where a loss is proposed, the applicant will need to:

Demonstrate that the current use is not economically viable nor likely to become viable. Where appropriate, supporting financial evidence should be provided including any efforts to advertise the premises for sale for a minimum of 12 months; and

Demonstrate that there is no local demand for the use and that the building/site is not needed for any alternative social, community or leisure use; or

Alternative facilities and services are available or replacement provision is made, of at least equivalent standard, in a location that is accessible to the community it serves with good access by public transport or by cycling or walking.

Policy DM41 requires point a to be satisfied as well as point b, **OR** point c.

The submission of any application would require the applicant to provide marketing details, details of any offers on the site and why these were not pursued. Without evidence to satisfy these points within DM41, then the development would be contrary to this policy.

The proposed use of retail is considered to be a main centre use in planning terms and whilst the site is located within the settlement boundary, it is not within the defined town centre or edge of town centre boundary.

Policy DM35, proposals for main town centres would apply, noting out of town centre retail is being proposed. This policy states that:

Proposals for main town centre uses that are not in a defined centre and not in accordance with an up to date Local Plan must apply a sequential approach in selecting the site demonstrating that there are no suitable, viable and available sites in defined centres or edge of centre locations.

Proposals for retail floorspace in excess of 1,000sqm gross outside of Bury St Edmunds, Haverhill and Newmarket town centres and in excess of 300sqm gross outside all other defined centres will require an impact assessment to demonstrate that it will not have a significant adverse impact in accordance with the NPPF.

This is supported additionally within policy HV11 of the Haverhill Vision 2031 document which reiterates the points made within DM35.

Based on the information provided, it is my opinion that there is conflict with this policy. A sequential test would be required on submission of any application, demonstrating that there are no suitable, viable and available sites within the town centre and nearby allocated local centres in the adjacent strategic development sites. Without this information, it is not possible to give a categorical answer in relation to this issue.

Further to this, policy HV8 of the Haverhill Vision 2031 document deals with new and existing local centres and community facilities. In this policy, it identifies that local centres are allocated at North-West Haverhill and North-East Haverhill and states that these sites will be safeguarded from other forms of development. Both of these sites are within walking distance of the application site and our interpretation of this means that we would discourage development that has the potential to undermine these local centres.

At this stage, we would have reservations regarding the provision of retail units on this site.

Landscaping

As part of the previous application granted on site for the replacement of the pub, DC/20/0479/FUL, the proposed site plan showed plenty of landscaping within all areas of the site. The proposed site plan in this case shows limited landscaping, especially along the western boundary. Although this site is located within the settlement boundary, this is the point where the settlement boundary transitions to the countryside and a lack of landscaping would unacceptably urbanise this viewpoint. I would highly recommend that landscaping provision of made, particularly along the front boundary of the site noting this is the most prominent location. The current level of landscaping proposed would not acceptable and would be contrary to policy DM2.

The lack of landscaping proposed suggests that this scheme would represent an overdevelopment of the plot, noting that the parking squeezes the plot boundaries.

Highways

Peter Bradfield will be providing a separate written response, however policy DM2 states that proposals should respect the character and appearance of the immediate and surrounding area, and providing also that there is not an adverse impact upon residential amenity, highway safety or important trees within the street scene.

In this instance, I will provide a short summary of points made at the meeting.

We would expect to see a pedestrian access located at the site in order to make accessing the site by cycling or walking accessible for those living on the strategic sites. As contained within DM46, parking standards, the authority will seek to reduce over-reliance on the car and to promote more sustainable forms of transport. All proposals for redevelopment, including changes of use, will be required to provide appropriately designed and sited car and cycle parking, plus make provision for emergency, delivery and service vehicles, in accordance with the adopted standards current at the time of the application.

Additionally, the publication of LTN1-20 and the Government's Gear Change document there is a clear shift towards sustainable modes of transport. This is also reflected in the County Council Suffolk Design Streets guide which looks to prioritise the movement of pedestrians and cyclists over cars.

LTN1-20: [Cycle Infrastructure Design \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Gear Change: [Gear change: a bold vision for cycling and walking \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Suffolk Design Streets Guide: [Suffolk Design: Streets Guide - Suffolk County Council](#)

The parking arrangement seems extremely tight, and potentially unworkable, suggesting an overdevelopment of the site. Vehicles would potentially have to reverse into the access area which would generate an unacceptable risk to users of the highway. The access also appears to be the main manoeuvring space for delivery/service vehicles which will create conflict with users of the site; traffic may be displaced on the highway. The parking layout/service yard area would need to be looked at thoroughly.

Moreover, the cycle storage needs to be secure and covered. It is currently under standards and located in the wrong location.

Biodiversity

The NPPF confirms that the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and providing net gains where possible. This is reflected in policies DM11 and DM12 which seek to protect safeguard protected species and state that measures should be included in the design of all developments for the protection of biodiversity, the mitigation of any adverse impacts and enhancements commensurate with the scale of the development.

The Natural Environment and Rural Communities (NERC) Act (2006) Section 40(1) imposes a duty on every public authority in exercising its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. The duty applies to all local authorities and extends beyond just conserving what is already there to carrying out, supporting and requiring actions that may also restore or enhance biodiversity.

Policy DM13 states that proposals will be permitted where they will not have an unacceptable adverse impact on the character of the landscape, landscape features, wildlife, or amenity value.

The site is immediately adjacent to a woodland along the western boundary. The woodland is protected by Tree Preservation Order and therefore, careful consideration needs to be given to any impact to trees as a result of the proposed development.

A hedge bounds the site to the east and south, which is an important landscape feature that whilst off site is to be affected by this proposal. The plans provided at this stage do not appear to show root protection areas of any on site and off site trees that may be impacted by this proposal. Noting the close proximity of the proposed structures to the woodland, it would be beneficial to perhaps provide a further buffer. Otherwise, we would consider the proposals to conflict with the requirements of DM13.

The indicative plans show that the hedgerow will remain.

Noting the state of the existing building on site, and the date of the previous surveys we would require updated biodiversity surveys of the building and wider site are conducted.

Scheme two – Petrol Station and Convenience Store

Principle of development

Scheme two incorporates the provision of a petrol station, located centrally within the site, and a retail unit located towards the southern boundary of the site. Parking generally surrounds the site boundaries.

The same principles as discussed apply in terms of policies DM35 and DM41.

Landscaping

Similar to that of scheme one, scheme two does not appear to provide adequate provision of landscaping which would also indicate overdevelopment of the site. The importance of this has already been discussed in terms of this site being a main focal point on the transition between the settlement boundary and countryside.

Highways

Again, Peter will be addressing this element within a separate response.

From the meeting, this will be an intense use and poses a risk of users of the site backing up onto the highway. In the meeting, we discussed the provision of a 'no right turn'. Examples discussed related to the BP petrol station, Rougham Road, Bury St Edmunds. This site utilises an island within the central carriageway to avoid users turning right. The way the road turns would generally support this, however I believe further thought is required on the 'left in, left out' access, noting that there are examples of this not working, such as at Shell Petrol Station, Fiveways Roundabout, Barton Mills.

Another possibility discussed related to relocating the access within the site, but I will not be advising on this matter.

Biodiversity/trees

The same principles as previously discussed apply.

The woodland adjacent to the site provides a dark corridor for bats; the provision of a petrol filling station in close proximity to this has to the potential to impact this. Petrol stations generally incorporate illuminated signs and totem signs this has the potential to impact bats in terms of lighting levels. It may be reasonable to restrict the hours of illumination in this case noting the sensitivity of the site. In any event we would require details of the lighting showing the level of spill from the site so the potential impact on protected species can be assessed. Another consideration of illuminated signage relates to the proximity of dwellings on the edge of the Redrow site. Smells from the petrol station would also impact their amenity.

Other matters

We have no elevations at this stage, but we would assume a retail unit and petrol station to appear utilitarian and at odds with the existing development of residential dwellings. The approved pub incorporated traditional materials which meant this fitted into the immediate area.

Scheme three – Drive Thru and Convenience Store

Principle of development

Scheme three seeks to construct a drive-thru and convenience store. I note at the meeting we viewed an amended plan; however I will be discussing the merits of the scheme in line with the plan submitted with the preapplication request.

The scheme incorporates a drive-thru towards the southern boundary of the site and a convenience store towards the eastern boundary of the site.

Again, as mentioned previously, the same principles apply in terms of the principle of the development relating to DM35 and DM41.

Landscaping

In terms of landscaping, similar principles apply as previously discussed relating to the lack of landscaping and importance of this as approved as part of the previous application on site.

Highways

We discussed a 'left in, left out' for the access of this scheme.

On assessment of the plans, there does not appear to be adequate car parking within the site for this scheme. The relationship with the roundabout means that there is the potential for users of the site to have to queue out onto this which will present a highway safety risk. There also does not appear to be adequate manoeuvring space available when cars are queuing for the drive-thru.

As discussed with the previous schemes, there does not appear to be satisfactory pedestrian/cycling access into the site. The cycle storage appears poorly located and again, under standards.

It would also be useful as part of an application to know how many cars can queue for the drive-thru. A transport plan/assessment may also be useful.

Biodiversity

Same principles apply as previously discussed. It should be further noted that the anticipation of cars driving along the boundary of the site and the dark corridor may cause harm to biodiversity/bats given the provision of car headlights causing glare.

Other matters

We viewed indicative visuals of the proposed store and drive-thru. The materials on this appear much more in-keeping with the existing development and area and help to reduce any stark appearance that the development of this nature may introduce.

Further considerations

It is important to note that the previously approved application concluded that:

Whilst the existing building is in a poor state of repair and has deteriorated since the closure of the PH, the existing building had architectural merit, was attractive and well-proportioned which provided a gateway into the town of Haverhill. It is considered that the proposed building is poorly articulated, being overly large with its wide frontage and depth. This is exacerbated further by its bulky roof form. The current design and scale of the building fails to comply with Policy DM2 of the Joint Development Management Policies Document which seeks to provide development that creates a sense of place.

The proposed building is of a substantial footprint, however it has been sympathetically designed as to incorporate building characteristics and features that respect the existing development. The replacement building is of a two storey and single storey scale, with a variety of materials being proposed as for the building to be visually attractive.

Sufficient space has been allowed as to provide meaningful landscaping in key areas of the site, in particular along the eastern and western boundary.

It is considered that the proposed development will enhance the character and appearance of the area, and is one which respects the planned development and growth to the east and west.

I am of the opinion that these are also key points to take into consideration when revisiting the layout of these schemes.

There is no specific guidance for a petrol station however the Environment Team would push hard for the inclusion of EV charging as a minimum. An example includes DC/22/0200/FUL whereby an objection was offered due to the lack of EV charging at a site to redevelop and improve an existing PFS.

I would recommend considering the provision of EV charging points within any of the schemes noting the support for this within DM14 given the general uptake of electric vehicle charging points. Placement of these will need to have consideration noting that the cabling that would be associated with such, and the proximity of the site to protected trees.

Anglian Water Advice

Used Water Network

If it is the intention to dispose of foul sewage to a mains sewer, and/or surface water, we strongly advise them to undertake a pre planning assessment with Anglian Water. This assessment will detail network capacity, identify connection points and any potential asset encroachment. This assessment should then be submitted with any future planning application.

Information can be found on our website:

<https://www.anglianwater.co.uk/developers/>

Surface Water Drainage

Anglian Water would expect surface water from the proposed development site to be disposed of using sustainable drainage systems. Connection to main sewers would only be considered acceptable when evidence is provided, as part of the planning application, to show that the surface water hierarchy has been followed. This evidence should include trial pit logs from infiltration tests and investigations in respect of discharging to a watercourse.

If the applicant would like Anglian Water to consider adopting any on-site SuDS the Expression of Interest form, available on our website, should be completed as soon as possible.

<http://www.anglianwater.co.uk/developers/suds.aspx>

As with any proposal, the only way to fully test the merits of the proposed development would be through the submission of a formal planning application.

Please see the attached list of relevant documents required, this is to be used as guidance only. It maybe when an application is submitted it comes to light further information is required, that has not been highlighted on this list.

The above comments are made at Officer level only and do not prejudice any future decision, which may be taken by this Planning Authority. I hope this information is useful to you, and if you require any further advice please do not hesitate to contact me. The information contained in this letter is based on the information provided and the current policy context. Any future changes in National and Local Policies will not be reflected in this response.

Savannah Cobbold

Savannah Cobbold
Planning Officer

SUBMISSION CHECKLIST

You will need to provide the following information in order for your application to be validated (Please use the corresponding validation checklist when submitting your application)

- Completed application form, signed and dated
- Completed Ownership Certificate (A, B, C or D as applicable) as required by Article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2010

N.B. In addition, where Ownership Certificates B, C or D have been completed, notices as required by Article 11 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 must be given and/or published in accordance with this Article

- A location plan which identifies the land to which the application relates drawn to an identified scale and showing the direction of North. The site should be edged in red and any other adjoining land owned or controlled by the applicant edged in blue. Location plans should be to a scale of either 1:1250 or 1:2500 (*If based on OS data, the Plan needs to contain the relevant OS licence information as required by copyright law*)
- A copy of other plans and drawings or information necessary to describe the subject of the application, this may include:
 - Block plan of the site showing any site boundaries to a scale of 1:100 or 1:200
 - Existing and proposed elevations to a scale of either 1:50 or 1:100
 - Existing and proposed floor plans to a scale of either 1:50 or 1:100
 - Existing or proposed site sections and finished floor and site levels to a scale of either 1:50 or 1:100
 - Roof plans to a scale of either 1:50 or 1:100
- The appropriate fee

In addition, you may be required to provide the following:

Draft Heads of Terms (S106) Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
<hr/>				
Design statement/development brief Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
<hr/>				
Design & Access Statement Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
<hr/>				
Heritage statement / Heritage Impact Assessment Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
<hr/>				
Transport Statement / Assessment Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
<hr/>				
Daylight / Sunlight assessment Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
<hr/>				
Landscaping details Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
<hr/>				
Flood risk assessment Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
<hr/>				
Retail / Leisure impact assessment Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
<hr/>				
Open space assessment Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
<hr/>				

Landscape & Visual impact assessment Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
Tree survey / Arboricultural impact assessment Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
Biodiversity survey and report Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
Noise impact assessment / Acoustic report Officer Notes (an assessment should be provided regarding the impact on neighboring residential development)	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
Air quality assessment Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
Sustainable Drainage Strategy Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
Horse racing industry impact assessment Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
Ventilation, Extraction details and Refuse disposal details Officer Notes (depending on use)	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
Structural survey Officer Notes	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
Lighting scheme / Light pollution assessment Officer Notes	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
Affordable housing statement	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>

Officer Notes

Environmental Impact Assessment
Officer Notes

YES NO

Existing and proposed car parking and access arrangements
Officer Notes

YES NO

Land contamination assessment
Officer Notes

YES NO

Statement of community involvement
Officer Notes

YES NO

Planning Statement
Officer Notes

YES NO

Energy Statement
Officer Notes

YES NO

Viability Assessment
Officer Notes

YES NO

Marketing Assessment
Officer Notes

YES NO

Joinery, window and door details
Officer Notes

YES NO

Travel plan

YES NO

Officer Notes

If you require guidance on the context of the above reports/information, please view the Guidance on our website (http://www.westsuffolk.gov.uk/planning/planning_applications/chooseplanningapp.cfm)

Appendix 2 – Sequential Assessment Case Law and Decisions

It is important to consider the significant and pertinent case law and Secretary of State decisions which provide guidance and clarification on how the sequential test should be applied in respect of the need to demonstrate flexibility, the consideration of availability and the requirement to consider the disaggregation of a proposed development.

The following considers these matters and provides a brief summary of relevant decisions. In doing this, we make reference to the following decisions:

- Supreme Court’s decision in March 2012 in *Tesco Stores Ltd v Dundee City Council*⁶ (the ‘Dundee decision’);
- Appeal decision for an extension to an existing Sainsbury’s store in Crawley⁷ (the ‘Crawley decision’);
- High Court Decision involving *Zurich Assurance Ltd (Threadneedle Property Investments) v North Lincolnshire Council and Simons Developments Ltd* in relation to the redevelopment of a Garden Centre site for a retail park, including an M&S store in Scunthorpe⁸ (the ‘Scunthorpe decision’);
- Secretary of State called-in decision at Rushden Lakes, Northamptonshire for a retail and leisure park development⁹ (the ‘Rushden Lakes decision’);
- Secretary of State called-in appeal decision at Broomhills Industrial Estate, Braintree for a Sainsbury’s supermarket¹⁰ (the ‘Braintree decision’);
- High Court decision involving *Aldergate Properties Ltd v Mansfield District Council and Regal Sherwood Oaks Ltd* in relation to the development of a foodstore in Mansfield¹¹ (the ‘Mansfield decision’);
- Secretary of State called-in decision in respect of an application for a designer outlet centre at Scotch Corner, North Yorkshire¹² (the ‘Scotch Corner decision’);
- Secretary of State called-in appeal decision at Tollgate Village, Stanway for a mixed-use development comprising leisure and retail uses¹³ (the ‘Tollgate decision’); and
- Secretary of State called-in decision at The Mall, Cribbs Causeway, South Gloucestershire for a mixed-use development comprising retail, food and drink, leisure, hotel, and residential uses¹⁴ (the ‘Cribbs Causeway decision’);

⁶ [2012] UKSC 13

⁷ APP/Q3820/A/11/2158410/NWF

⁸ [2012] EWHC 3708 (Admin)

⁹ APP/G2815/V/12/2190175

¹⁰ APP/Z1510/A/14/2219101

¹¹ [2016] EWHC 1670 (Admin)

¹² APP/V2723/V/15/3132873 and APP/V2723/V/16/3143678

¹³ APP/A1530/W/16/3147039

¹⁴ APP/PO119/V/17/3170627

- Appeal decision for an extension to an existing retail park at Leamington Shopping Park, Leamington Spa¹⁵ (the ‘Leamington Spa decision’);
- Secretary of State called-in decision at land at Earl Road, Handforth Dean, Cheshire for a mixed-use retail-led out-of-centre retail park development¹⁶ (the ‘Handforth Dean decision’); and,
- High Court Judgement involving Salford Estates (No. 2) Limited v Durham County Council and Quora (Peterlee) Limited in relation to the development of a retail led mixed-use development at Peterlee¹⁷ (the ‘Peterlee decision’).

Suitability – General

NPPF Paragraph 86 highlights the need to consider the suitability of sites stating 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...should out of centre sites be considered’

Taking this into account, it is important to consider what the term “suitable” means in the application of the sequential test. In this regard, the Dundee decision, a Supreme Court decision, confirmed what “suitable” means in respect of the sequential test that applied in Scotland at the time. Lord Reed provided comment on the consideration of suitable sites at paragraph 29 of the judgement stating that:

‘Provided the applicant has [given consideration to the scope for accommodating the development in a different form and to have thoroughly assessed sequentially preferable locations]... the question remains... whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.’

As part of the same case, Lord Hope perceptively added, at paragraph 38:

‘The context indicates that the issue of suitability is directed to the developer’s proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer’s assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism to which Lord Reed refers..., they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest in doing so.’

As the Dundee decision related to the sequential test which applied at that time in Scotland, it is important to consider how it should be read and understood in respect of the sequential test as set out at Paragraph 86 of the NPPF. In this respect it is important to note that the Dundee decision has been cited on numerous occasions within subsequent high court and Secretary of State/appeal decisions in England.

In this respect, it is important to note the Inspector’s commentary within the Crawley decision. Paragraph 85 confirms that the Dundee decision was a material consideration for planning

¹⁵ APP/T3725/W/18/3204311

¹⁶ APP/RO660/V/17/3179610, APP/RO660/V/17/3179605 and APP/RO660/V/17/3179609

¹⁷ CO/1664/2019

applications made under the English planning system. The Scunthorpe decision, which is referred to later within this section of the report, also cited the Dundee decision confirming its relevance to the English planning system.

The Dundee decision clearly establishes what suitable means in relation to the sequential assessment confirming that any site must be suitable for the commercial requirements of the development and, subject to demonstrating flexibility, must be suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit a sequentially preferable site.

The Rushden Lakes decision also dealt with the issue and provided further commentary on the matter of suitability. The Inspector's Report, endorsed by the Secretary of State, highlighted at paragraph 8.43 that the key question when considering suitability must be 'suitable for what' going on to confirm that; 'the answer to this question of law is suitable for the development proposed by the Applicant.' Paragraphs 8.44–8.46 of the Inspector's report stated that:

'8.44 – The Supreme Court has told us in Dundee what "suitable" means and it has expressly rejected...that the concept relates to need and/or identified deficiencies in retail provision in the area in question; and it has expressly rejected the notion that "suitable" means that one should alter or reduce the proposal so as to fit onto an alternative site. The policy concerning the sequential approach as set out in the NPPF, and (to the extent that it is still relevant) the non-policy PG that accompanied PPS4, must be applied in a manner which complies with the legally binding case law on the meaning of the sequential approach. Plainly the case in question (Dundee) is of seminal importance.

8.45 – In summary it [The Dundee Decision] establishes [a] that if a site is not suitable for the commercial requirements of the developer in question then it is not a suitable site for the purposes of the sequential approach; and [b] that in terms of the size of the alternative site, provided that the Applicant has demonstrated flexibility with regards to format and scale, the question is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site. These points although related are distinct. Although much was made of the fact that the Dundee case was a Scottish case the Supreme Court's decision applies in England (the Supreme Court is the Supreme Court for England too) as the High Court ruled in terms in the North Lincolnshire case in which it was read across and applied to the English sequential test then found in PPS4.'

8.46 – It is important to bear in mind that the sequential test as set out in NPPF [24] require applications for main town centre uses to be located in town centres and it then runs through the sequence, edge and then out-of-centre. This makes good the very simple point that what the sequential test seeks is to see whether the application i.e. what is proposed, can be accommodated on a town centre site. There is no suggestion here that the sequential test means to refer to anything other than the application proposal. So, Dundee clearly applies to the NPPF.'

The Secretary of State decision at paragraph 15 endorses the Inspector's Report and commentary regarding the application of the sequential test, confirming that:

'Furthermore, having regard to the arguments put forward by the Inspector at IR8.44–8.48, the Secretary of State agrees with his conclusion at IR8.48 that the sequential test relates entirely to the application proposal and whether it can be accommodated on an actual alternative site (e.g. a town centre site).'

The Dundee decision and subsequent Rushden Lakes, Crawley and Scunthorpe decisions make it clear that in the application of the sequential test, the term 'suitable' relates to the development/application proposed and not another form or scale of development which could be amended to fit onto a town centre or sequentially preferable site.

Flexibility – Format & Scale

NPPF paragraph 86 states that when undertaking a sequential test assessment, applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. Planning Practice Guidance (PPG) provides further advice in relation to this and how it should be applied in the decision-making process, stating that:

'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 individually to accommodate the proposal.'

In considering the level of flexibility which must be applied, regard must be had to the Dundee decision, which we have already referred to. This decision confirms that the assessment should be:

'...directed to what the developer is proposing, not some other proposals which the planning authority might seek to substitute for it which for something less than that sought by the development.'

The Scunthorpe decision cited the Dundee decision with the Judge considering flexibility at paragraph 61, stating that:

'It is also important to mark that developers, and planning authorities, work in the real world. Marks & Spencer had assessed the only available town centre alternative to the Site, and had concluded that a development that was smaller than that proposed, or one with a more restricted range of goods, was neither commercially viable nor suitable for their commercial requirements.'

The Mansfield decision also considered the requirement to demonstrate flexibility. Whilst much of the judgement related to relevance of a proposed retail unit's occupier, paragraph 35 of the judgement confirmed:

'In my judgment, "suitable" and "available" generally mean "suitable" and "available" for the broad type of development which is proposed in the application by approximate size, type, and range of goods. This incorporates the requirement for flexibility in [24] NPPF, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer.'

The Tollgate decision went further confirming that, in respect of flexibility, the test is whether or not a scheme that is 'closely similar to what is proposed' can be accommodated. Paragraph 12.3.20 of the Inspector's Report confirmed this:

'The sequential test therefore means that whilst a sequentially preferable site need not be capable of accommodating exactly the same as what is proposed, it must be capable of accommodating development which is closely similar to what is proposed.'

The Secretary of State in determining the Tollgate decision agreed with this approach stating at paragraph 13 of his decision that:

'The Secretary of State has carefully considered the Inspector's analysis at IR12.3.1–12.3.30. For the reasons given at IR12.3.23–12.3.26 he agrees with the Inspector that the propositions put forward by the Council and the Rule 6 parties in relation to the Vineyard Gate site would not be closely similar to the appeal scheme and cannot be considered available.'

These decisions were all based upon the wording of the sequential test within the 2012 version of the NPPF however, they remain relevant given the limited amendments to the relevant paragraphs within the 2018 NPPF (as amended in 2019). Nevertheless, the matter of suitability and the application of flexibility was considered through the Cribbs Causeway decision which post-dated the 2018 NPPF. The Secretary of State decision confirmed at paragraph 23, that in respect of a sequential site being considered:

*'a **broadly similar quantum** of retail and leisure uses could still be accommodated on the site' [our emphasis].*

This decision was reached, citing the Inspector's Report which tackled this issue commenting that:

*'566. The meaning of the sequential test is a matter of law whereas how it is applied is a matter of judgement. The Framework and the PG indicate that when looking at the suitability of potential sequential sites, flexibility should be demonstrated on issues such as format and scale. **However, in Aldergate Properties¹⁸ it was held that what this means is that the alternative site should be suitable for the broad type of development proposed in respect of the approximate size, type and range of goods. This seems to me to be subtly different from a consideration of whether the site would be closely similar, which was what was referred to by the Inspector in the Tollgate Village appeal decision. I note that the Inspector in the Kingswood, Hull appeal did not think that closely similar provided sufficient flexibility.***

604. ... For the reasons given it is considered that the site would be suitable for the broad type of town centre development proposed at The Mall in terms of approximate size, type and range of goods.' [our emphasis]

Although the Inspector's Report and the Secretary of State clearly favoured the 'broad type of development' approach relied upon within the Mansfield Decision rather than the stricter interpretation of 'closely similar' approach relied upon through the Tollgate Decision, it is important to note that this is not the most recent Secretary of State decision that considered this matter.

More recent is the Handforth Dean decision which also considered this matter. The Inspector's Report at 9.192 confirms a slightly different approach taken instead referring to the consideration of a site is:

'reasonably or closely similar to that of the appeal site.'

Given this most recent decision, when considering the requirement to demonstrate flexibility in relation to the format and scale of a development, it is necessary to ensure that this is also done with flexibility. As such, the sequential assessment should seek to identify sites that can accommodate a development that is 'reasonably or closely similar' to the proposed development. This should be weighed this against the actual policy requirement to identify sites capable of accommodating the proposed development.

¹⁸ The Mansfield Decision

Flexibility – Disaggregation

The question of whether or not there is a requirement to consider disaggregation of a scheme through the application of the sequential test has been considered in some detail within the relevant case law and Secretary of State decisions. This matter has been the subject of much debate as the original NPPF (2012), its predecessors NPPF (2018 & 2019) and PPG is silent on the matter, despite the fact that PPS4 (which the NPPF replaced) stated a specific requirement to consider the disaggregation of application proposals.

The Rushden Lakes Secretary of State decision was unequivocal in confirming that the NPPF did not require the consideration of the disaggregation of a proposed development, or part of a development, when considering flexibility. The Inspector's Report considers this matter at paragraph 8.47 and 8.51 which stated:

'8.47 The last sentence of NPPF [24] states that: "Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale." This contrasts strikingly with what was said previously in PPS4 in policy EC15.1 at (d) (iv) and 15.2 which contained an explicit requirement for disaggregation. There is no longer any such requirement stated in the NPPF. It is no answer to this to refer to the words "such as" in the last sentence of NPPF [24]. These words cannot be read so as to imply that a major, and extremely controversial, part of previously stated national policy lives on by implication in the NPPF. Had the Government intended to retain disaggregation as a requirement it would and should have explicitly stated this in the NPPF. If it had been intended to carry on with the requirement then all that would have been required is the addition of the word "disaggregation" at the end of NPPF [24].

8.51 There is no requirement to disaggregate...'

The Secretary of State's decision agreed with the Inspector with paragraph 16 of his decision letter stating that; *'he agrees with the Inspector that there is no requirement to disaggregate'*.

The question of disaggregation was further considered through the Braintree decision. The Inspector's Report here specifically considered whether or not the comments made within the Rushden Lakes decision were specific only to that case/site or whether they were relevant to the interpretation of the NPPF as a whole. The Inspector's Report stated that:

'449. Was that statement [relating to disaggregation] specific to the Rushden Lakes decision as the Council suggests, given the 'unique characteristics of that site and the proposed development in that case? It was not qualified in any way other than by reference to the two report paragraphs from which it derived. While one of these paragraphs dealt with specific aspects of the proposal, the other dealt with the intention of national policy in paragraph 24 of the Framework following the demise of PPS4. And that paragraph was not specific to the site or to the proposal in any way.

450. Moreover, the RL [Rushden Lakes] application was for a wide variety of uses including a home and garden centre, retail units, visitor centre, restaurants, boathouse, hotel, crèche and leisure club. It was described in summary as a mixed retail and leisure scheme. The retail element was of significant size, being some 31,502m² of retail units. If the Secretary of State had wanted to qualify his statement on disaggregation in any way, that could have been achieved very simply by the addition of words such as 'in this case'. Indeed, the variety of uses in the RL proposal and the fact that the proposal included retail units, rather than one large retail unit, would have afforded more rather than less opportunity for some disaggregation if that had been an aim.'



The Secretary of State agreed with the Inspector confirming at paragraph 9 of his decision that:

'The Secretary of State agrees with the Inspector's assessment regarding the sequential test at paragraph 24 of the Framework (IR443-467).'

The Scotch Corner decision re-affirmed this view with paragraph 11.7 of the Inspector's Report stating that:

'In carrying out the sequential test it is acknowledged that whilst Framework paragraph 24 indicates that applicants should demonstrate flexibility on issues such as format and scale, it does not require the applicant to disaggregate the scheme.'

Whilst the Secretary of State did not specifically deal with this matter in the Scotch Corner decision, paragraph 11 of his decision confirmed that, for the reasons set out at paragraphs 11.7-11.9, the application passed the sequential test.

In contrast to this, it is necessary to consider the Tollgate decision which suggested that there could, in some instances, be a requirement to consider the disaggregation of a scheme through the sequential test. In considering this matter, the Inspector's Report at paragraph 12.3.11 concluded that:

'In this case there is no evidence that the proposed format is necessary or fundamental to the proposal. Whilst the proposal is in outline, not a single retailer has been identified, and the size and location of units within the site has not been established and there is no defined timescale or phasing. It is difficult to conceive of a more open ended proposal. The parameters established by plans show a greater level of gross floor space than permission has been sought for. Most importantly the Appellants have themselves disaggregated within the appeal site with three distinct zones. DZ1 and DZ3 are some distance apart. In these circumstances disaggregation within the sequential test would be justified.'

The Secretary of State's decision does not provide any comment on this matter other than stating that he had carefully considered the Inspector's analysis at IR12.3.1-12.3.30. Nevertheless, it is clear that the matter was not key to the determination and sequential test analysis as, even allowing for disaggregation, none of the sites identified could be considered suitable and available.

In addition to this, it is important to note the specific comments made by the Inspector in coming to this conclusion. The Inspector's Report refers to the open-ended nature of the application proposal which itself included a significant degree of flexibility. However, the Inspector concludes that the most important matter in the Tollgate decision was the fact that the scheme itself was disaggregated, with the proposed development site comprising three development areas all of which were separated and located some distance apart. When considering the implications of the Tollgate decision and whether there is a requirement to consider the disaggregation of the application proposals in question, it is important to note the very specific set of circumstances associated with the Tollgate proposal.

The matter of disaggregation was also considered through an appeal decision at Kingswood in Hull¹⁹. As with the Tollgate decision, the Inspector concluded that, there was a requirement to consider the disaggregation of the appeal proposals being considered²⁰. However, and as with the Tollgate decision, this conclusion was drawn on the basis of the very specific nature of the appeal

¹⁹ APP/V2004/W/17/3171115

²⁰ Para. 52-57

proposals and importantly, the recently adopted development plan policy in respect of the sequential test.

The specific nature of the development proposals in the Kingswood case were for a scheme that sought a range of uses and a significant degree of flexibility in terms of its floorspace and formats with no identified occupiers for the retail units and no obvious reason why the floorspace must be delivered in a single retail terrace²¹. However, more importantly the relevant Development Plan policy, which set out the requirements of the sequential test, referred to a need to demonstrate that the development proposal *'could not be accommodated in more appropriate locations'* with the Inspector noting that the term *'locations'* is in the plural. This in effect requires the consideration of disaggregation through the sequential test, through the consideration of multiple sites to accommodate the proposed development²².

Both the Tollgate decision and Kingswood appeal decision concluded that given the very specific nature of the development proposals, and/or the wording of the relevant Development Plan policy, there could be a requirement to consider disaggregation of a development scheme through the sequential test. Neither decision disagrees with or contradicts the Secretary of State's interpretation of policy through the Rushden Lakes, Braintree, and Scotch Corner decisions.

Given this, it is helpful that the Cribbs Causeway decision tackled this very point. The Inspector's Report confirmed that:

*'567. There was debate at the inquiry about whether proposals should be split into different parts so that they can be accommodated on several town centre sites. **Whereas past retail policy and guidance has adopted a disaggregation approach this is not embodied in either the Framework or the PG as was confirmed by the Court of Appeal in Warners Retail.** The Secretary of State reached a similar conclusion in his decisions on Rushden Lakes, Scotch Corner and Honiton Road. **Whilst the Inspector in the Kingswood, Hull appeal decision did endorse a disaggregated approach this seems to have been influenced by a wording of the relevant policy and the availability of two allocated sites.***

568. In the Tollgate Village case the Inspector did consider that there was scope for disaggregating the proposals and spreading them onto different sites, even though ultimately such sites were found not to be available. However, the findings here were case specific and it is noted that they were not specifically endorsed by the Secretary of State in his decision. As a general principle an approach that involves disaggregation does not seem to me to fit well with the Aldergate Properties or Warners Retail judgements referred to above. The town centre uses in the application proposals would comprise the retail and leisure uses and to divide them up would change the broad nature of the development in this case.' [our emphasis]

The later Leamington Spa decision again tackled the issue of disaggregation with the Inspector's Report stating that:

'29. The development proposed through this appeal does, however, have certain characteristics which lead me to question whether it is appropriate to consider the option of disaggregation in this case. This was the topic of much discussion at the inquiry. It is the agreed position between the parties that there is no requirement in current Government policy or guidance for disaggregation to be considered. Equally, however, there is no specific

²¹ Para. 28 and 29.

²² Para. 53

prohibition of disaggregation in either the Framework or the Planning Practice Guidance (PPG). Although I was referred to several decisions which have a bearing on this matter, made by both the Secretary of State (SoS) and by colleague Inspectors¹³, I find no clear consensus on this point.

30. There has, however, been a slight change to the wording governing the sequential test in the 2018 Framework, compared to that in the 2012 version of the Framework, extant at the time of most of the other decisions drawn to my attention. This change is the additional wording which has been added at the end of paragraph 87, to provide further clarification on the purpose of demonstrating flexibility on issues such as format and scale – namely ‘so that opportunities to utilise suitable town centre or edge of centre sites are fully explored’. Taking this into account, combined with the absence of a specific requirement to consider the matter within the NPPF and PPG, there is no requirement to consider the disaggregation of a development proposal through the application of the sequential test unless the specific circumstances of the development proposal, site or development plan policy suggest otherwise.

38. Drawing all the above points together, I consider that disaggregation of the proposed scheme should not be ruled out in the particular circumstances of this case, so as to ensure that matters of flexibility regarding format and scale are properly addressed.’

As can be seen in the extracts from the Inspector’s Report, the Inspector in the Leamington Spa case suggested that the potential disaggregation of a scheme should be considered noting the amended wording in the updated NPPF (2018) to require sequential assessments to ‘fully explore’ potentially sequentially preferable sites and citing the specific characteristics of the proposed development.

Whilst this conclusion somewhat contradicts the Cribbs Causeway decision, which was endorsed by the Secretary of State and took account of the amended wording of the NPPF, it is important to note in making his decision, the Inspector only considered the potential to disaggregate the application proposals and did not actually require the test to be applied to a disaggregated version of the application proposals. Ultimately the Inspector concluded that the appeal proposals accorded with the sequential test despite the fact that the Inspector concluded that one sequentially preferable site could accommodate 2 of the 3 units proposed, stating at paragraph 38 that:

‘Again, these retail units would only be able to accommodate the smaller of the 2 proposed non-food units, unless some amalgamation of units was considered. But even then, this development would not be able to accommodate the entire appeal proposal, nor would it be able to reasonably accommodate the proposed M&S Foodhall, even if all the units were to be combined. Moreover, it was made clear that this development has not been designed to accommodate food retailing and the service area would not be able to accommodate articulated vehicles. Whilst servicing by rigid vehicles would certainly be possible, this would be moving very much away from the type and form of development the appellant is seeking.’

Clearly despite the fact that the potential for disaggregation was considered through this appeal decision, the Inspector did not go so far as to actually require the disaggregation of the scheme to accord with the sequential test.

Finally, it is important to note that Handforth Dean Secretary of State decisions relating to a called in planning appeal and called in planning applications, which post-date the Leamington Spa decision. From reviewing the Inspector’s Report relating to these conjoined inquiries, it is clear that all parties and the Inspector agreed that there was no policy requirement to consider the

disaggregation of any of the application/appeal proposals. Whilst not specifically endorsed in the Secretary of State decision letters, the Secretary of State did conclude that the applications/appeal accorded with the sequential test and that there were no sequentially preferable sites to accommodate the development proposed, despite the fact that the sequential assessments did not consider the disaggregation of the schemes, or part of them.

This matter has also been tested in the courts in relation to a retail-led mixed-use planning application on an edge of centre site in Peterlee, County Durham. The challenge was heard at the high court with one of the grounds considered being that the local planning authority did not give proper consideration to the prospect of the disaggregation of the proposed scheme and a policy requirement to do so.

The high court judgement²³ confirmed at paragraph 23 that effectively whether or not there was a requirement to consider disaggregation is a matter of planning judgement depending on the facts of the proposed development with paragraph 23 confirming that:

"The claimant also says this, at paragraph 26 of its statement of facts and grounds: "Accordingly, whilst it is right to say the NPPF does not mandate disaggregation, nor is it prohibited..." It follows, therefore, and it was not disputed, that whether or not disaggregation had a role in the application in this case, was a matter planning judgment..."

Permission to appeal this decision was refused in October 2019 by Lord Justice Lewison. In his reasons for the refusal of the permission to appeal he confirmed that in relation to the disaggregation that:

*'[the report] set out two propositions (a) that there was no general requirement for disaggregation and (b) there was no persuasive argument for disaggregating the particular scheme. **The first proposition was a correct summary of the policy.** The second was an exercise of planning judgment...*

An appeal would have no real prospects of success'

Given the above, it is clear that whilst the matter of disaggregation is reasonably down to planning judgement, it is not a de facto requirement and clearly the circumstances where it has been applied through the sequential test have been related to very specific development and/or local policy requirements. As such, the application of disaggregation must only be included where there is a robust justification for the approach.

Availability

In respect of availability, NPPF paragraph 86 asks whether sequentially preferable sites are 'available' or 'expected to become available within a reasonable period'. The addition of 'expected to become available within a reasonable period' was added through amendments to the NPPF and published in 2018. As such, much of the case law and previous consideration on the point of availability is no longer relevant. Nevertheless, the NPPF or PPG do not qualify what is meant by these terms.

The Inspector's Report through Cribbs Causeway decision does not deal specifically with this point as it refers to the previous version of the NPPF (para 24) however the Secretary of State's

²³ Salford Estates v Durham County Council & Anor [2019], Claim No: CO/1664/2019

decision refers to the amended wording and requirement to consider a 'reasonable period'. The Secretary of State decision at paragraph 24 confirms that:

'The Secretary of State has given careful consideration to the Inspector's analysis at IR592-602. He has paid particular attention to revised Framework paragraph 86, which makes clear that the sequential test should consider whether sites are expected to become available within a reasonable period. For the reasons given at IR592-601, the Secretary of State agrees with the Inspector at IR601 that a realistic expectation is that the cleared site would be available by mid to late 2021. For the reasons given at IR602, and in paragraph 86 of the revised Framework, he further agrees with the Inspector that reasonable flexibility should be applied when considering the availability of sequential alternatives.'

The Secretary of State decision acknowledges the analysis of the Inspector and agrees that there is a requirement to demonstrate reasonable flexibility when considering the availability of sequential alternatives. As such, whilst the commentary within the Inspector's Report relates to paragraph 24 of the NPPF in relation to availability, a paragraph which has since been amended, it provides useful clarification, which the Secretary of State agreed with regarding how availability, including availability within a reasonable period, should be considered. The Inspector's confirms that:

*'593. **What an appropriate timescale would be is a matter of planning judgement as is made plain in Lionbrook. In exercising that judgement, it is important not to lose sight of the purpose of the sequential test in promoting a town centre first approach. It is appreciated that Lionbrook related to the period when the PPS 4 Practice Guidance was extant and was addressing the need to stem the leakage of retail spending outside of Rugby Borough. Nevertheless, the Framework was also in place, and it included the same words in paragraph 24 that exist today. The Rushden Lakes appeal decision pointed out that paragraph 24 does not ask whether potential sites are likely to become available during the remainder of the plan period or over a period of some years. I agree that it does not endorse those parts of the former Practice Guidance. However, that does not mean that there is no scope for flexibility or that the circumstances of the case may not be taken into account.** [our emphasis]*

The Inspector's Report therefore confirms that what is an appropriate timescale for considering availability will depend on planning judgement and the particulars of the application proposals and any sequential sites being considered. In the specific circumstances of the Cribbs Causeway decision, considerations included;

- whether the sequential site would be available before the expiry of the planning permission sought;
- the level of policy support for the redevelopment of the sequential site (in this case the site was allocated for retail/leisure redevelopment); and
- recognition of the complexity of delivering large town centre sites.

It should be noted that the Cribbs Causeway scheme was a very large scheme of around 41,000m² of retail (A1) and other A class uses (A2-A5) along with a hotel, 1,500 car parking spaces and around 150 dwellings. Clearly the significance of this scheme, and the length of time required to implement it, required the consideration required a greater level of flexibility to be applied when considering the availability of sites.

Case Law and Relevant Decisions Conclusions



Taking the decisions identified into account, whilst these provide useful guidance in terms of the application of the sequential test, it is clear that the matter of flexibility and suitability is primarily a matter of planning judgement for the local planning authority that should be considered in the context of the relevant circumstances relating to the development site and the development proposals.

In respect of the specific point on the need to consider disaggregation, the identified decisions clearly highlight that in determining whether this is required it is important that careful consideration is given to the specific circumstance of the development site and development proposal. However, what is clear is that there is no policy requirement to consider the disaggregation of schemes within the NPPF or PPG and this should only be considered where there are specific circumstances which require it.

In terms of availability, whether a site can be considered to be available, or available within a reasonable period, is a matter of planning judgement based upon the specifics of the proposed development and the complexities of the scheme.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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