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| <b>REFERENCE:</b>      | <b>10/00252/FUL</b>   |
| <b>SITE:</b>           | <b>Former Woodward International, Hatherley Lane</b>  |
| <b>PROPOSAL:</b>       | <b>Proposed mixed use development comprising 7,608 sq m of class B1 office space and 6,919 sq m of class A1 food store, petrol filling station, ancillary uses and associated works</b> |
| <b>RECOMMENDATION:</b> | <b>Permit subject to the successful completion of the Section 106 legal agreement</b>   |

#### 7.0 Impact on the proposed regeneration of Coronation Square

7.1 Members will recall that the initial objection submitted on behalf of B2 Retail suggested that it could be demonstrated beyond doubt that the proposed development at Hatherley Lane would have a detrimental impact on the Council's stated regeneration objectives for Coronation Square. Notwithstanding this claim, the objection was not substantiated and therefore it was considered reasonable for the objector to provide additional information to support their objections. A response on behalf of B2 Retail was provided on 28 May 2010. Within this response, the following pertinent issues were raised;

- B2 Retail have been in discussion with the Council regarding the regeneration of Coronation Square for approximately 18 months;
- The principal objective of the proposals is to revitalise and regenerate Coronation Square to the benefit of the local community;
- The target date for submission of a planning application has been reassessed to be August 2010. This will allow for a detailed public consultation exercise;
- The proposed mix of uses will include value fashion, footwear, household goods, electrical goods as well as the reinstatement of existing tenants such as Farmfoods, and Lloyds Chemist;
- The redevelopment will allow for the reinstatement of betting offices, as well as provision for cards, gifts and A3 uses (restaurants, cafes and snack bars);
- Provision will be made for an anchor foodstore in the region of 14000 sq. ft (1300 sq.m);
- Provision will be made for an opticians;
- Provision will be made for a dentist surgery;
- The total proposed retail floorspace equates to 65000sq.ft (6038sq.m.);
- Provision will be made for the outdoor market to continue to trade;

7.2 The letter goes on to state that the proposed regeneration will be anchored by a foodstore and members will be aware that the original letter submitted by B2 Retail (received on 18 May 2010) made reference to a Tesco store. A further letter has been provided from consultants acting on behalf of Tesco Foodstores, Macarthur Wilson, (received on 28 May 2010) suggesting that the opening of the proposed Asda at Hatherley Lane would '*cast serious doubt over the viability of not only my client's ability to trade at Coronation Square in Cheltenham, but also poses a serious risk to the vitality and viability of many of the other local shops which currently trade in this location.*'

7.3 B2 Retail, in the objection submitted on their behalf, go on to state that;

*Clearly, the withdrawal of interest from a potential occupier of an anchor store will have a significant impact on the viability of the regeneration proposal. The anchor tenants would be one of a number of new businesses required to make the scheme viable and successful in order to meet stated objectives and to secure smaller retail operatives.*

7.4 Whilst the details submitted to date suggest that the anchor tenant will be a food store, B2 Retail have also raised concern relating to the non-food, comparison goods offer that would be affected should the proposed Asda be granted consent. It is stated that as the schedule of

uses within the regeneration proposals for Coronation Square include provision for fashion, household and other electrical goods;

*The inclusion of a large element (40%) of the Asda store for comparison goods will have an equally, if not more, detrimental impact on Coronation Square. The complete retail offer provided for by the proposed Asda store will replicate that which is proposed for the regeneration of Coronation Square. The concern relating to the Asda proposal is therefore not simply generated by the impact of food sales, but the cumulative impact of a complete retail offer covering perishable and comparison goods, within 2km. This impact will compound the ability to attract users to a District Centre which already experiences social and economic difficulties.*

7.5 In response to this objection, the applicant's retail consultant CgMs, has reviewed the submission and makes the following observations;

- A planning application anticipated in August 2010 represents the fourth postponement of the submission that the applicant is aware of since 2008;
- The regeneration proposals show a significant increase in the total retail floorspace, almost treble, when compared to the existing scheme **[Officer note: This is not correct; the net level of retail floorspace in the current centre is approximately 4100m<sup>2</sup>. This is confirmed within the development brief for the site published in March 2008. When queried with HPP on behalf of B2 Retail, it has been suggested that the figures referred to in their submission for the proposed redevelopment (set out above) are gross figures];**
- The proposed regeneration proposals would not be capable of implementation without the formal agreement of the respective landowner;
- There is no reference to existing unexpired leases, for example the Somerfield lease runs until 2017

7.8 The applicant goes on to make reference to the Cheltenham Borough Retail and Leisure Study, 2006 (CBRLS) and the recommendations this document make for Coronation Square. Within the CBRLS, it is stated that;

*The centre is struggling in terms of its vitality and viability and is in need of modernisation. The area around the centre is being improved with the new Gloscat campus and housing regeneration. It is considered that the centre is physically too large for its current function and its redevelopment should be encouraged. The centre should be anchored by a food store, as it is now, with a range of other shops and services of a scale appropriate to its intended role in meeting the needs of residents on the western side of Cheltenham. Residential and office development as part of any redevelopment proposals would be welcome as they would contribute to the vitality of the centre.*

7.9 In light of these recommendations within the CBRLS, the applicant has commented that;

*The latest scheme proposals, in our view are not consistent with this recommendation, indeed they seek to significantly expand the retail element of the scheme (nearly threefold) in terms of floorspace and also seek to expand both the convenience and comparison goods components, neither of which appears to be consistent with the conclusions of the report or sustainable in terms of meeting the day to day shopping needs of a localised catchment population. )***[Officer note – see comments above relating to the correct levels of floorspace]**

7.10 As members are aware, the Council's independent retail consultant, DPDS, has reviewed all of the various submissions as this application has progressed and the following comments draw together their relevant conclusions;

*As requested, further to our conversation and various letters and emails, I am drawing together the responses to the objections by Hunter Page Planning by letter of 28<sup>th</sup> May and email of 16<sup>th</sup> June and Roger Tym's objections on behalf of the Co-op Group by letters dated*

28<sup>th</sup> May and 4<sup>th</sup> June. I have also borne in mind CgMs' comments on these representations and Peacock and Smiths letter of the 10<sup>th</sup> June.

In our report on the CgMs Economic Development Appraisal we concluded that in the absence of an objection from B2 Retail, we must conclude that the proposal would not have an adverse impact on the proposals for the redevelopment of Coronation Square. This conclusion must obviously be reviewed following these objections. B2 Retail have also supplied details of the proposed foodstore within any redevelopment which is significantly smaller than CgMs assumed in their Economic Development Appraisal.

Our broad conclusion is that the Coronation Square proposals are not that far advanced and that any application which is submitted in the near future will be some way from the final version. It is clear that an anchor retailer is not yet signed up and that there is considerable doubt with regards to the potential occupiers. This is not surprising given the current state of the economy, and as Hunter Page Planning note, it would be premature to expect agreements and pre-lets at this stage. However, a longer timescale does not detract from the proposals as a material consideration in determining this application and we do not doubt B2 Retail's intention to proceed with redevelopment when this becomes possible. Given the current condition of the development, it is very unlikely that B2 Retail would have acquired the lease without such an intention. The impact test set out in PPS4 Policy EC16.1a is not restricted to the impact on immediate investment. In the current circumstances, a longer time scale must be considered.

Securing an anchor store would, I am sure, be necessary for any redevelopment and other retailers are unlikely to commit until the identity of the anchor is known. There must be a risk that the Asda proposal would undermine these plans but it is certainly conceivable that an alternative scheme more as we envisaged in the Retail Study [CBRLS] could go ahead with perhaps a smaller foodstore. There are some 17,500 people living in the three local wards [Hesters Way, St. Marks and Springbank] and in my judgment there would be enough local trade to support such a store concentrating on top-up shopping and customers who do not do a weekly main shop, but shop more frequently. Thus although there is a risk that the proposals as currently envisaged by B2 retail would go not ahead and that this would be a significant impact, I conclude that the objections submitted on behalf of B2 Retail is far from the clear evidence that re-development would not take place if the Asda were permitted required in PPS4 policy EC17.1. The application therefore falls to be considered on the balance of positive and negative impacts under policy EC17.2.

I agree with many of the criticisms of CgMs's Economic Development Appraisal and its addendum made by Roger Tym and Peacock and Smith and many of these are identified in our report. However, most of these relate to the need and capacity calculations by CgMs and in my view a lack of need/capacity is not capable of forming an objection to a planning application. Nor do I believe that these undermine the sequential test submitted by CgMs because, quite simply, there are no sequentially preferable sites that would be capable of accommodating a sizeable foodstore providing for main food shopping trips.

I also agree that CgMs's estimate of the likely trade diversion impact on Coronation Square as it exists is inadequate and that there would be some trade diversion. However, there is a substantial population in the local area and as stated above, in my judgment there is enough expenditure to support a foodstore in Coronation Square. The evidence from our Retail Study is that the main foodshops are trading reasonably well which supports this judgment. Although the trade diversion would be higher than CgMs claim, I do not think that the closure of either food store is likely, and Roger Tym do not make this claim on behalf of the Co-op Group. I do not think that there is clear evidence of a significant adverse impact on the centre.

Having considered these objections, I therefore see no reason to change my earlier advice and conclude that the application should be determined under policy EC17.2 of PPS 4 on the balance between positive and negative impacts.

7.11 Officers consider this advice to be quite clear; it is likely that the proposed food store at Hatherley Lane will affect the regeneration proposals for Coronation Square, but the objections and information submitted since the deferral from last month's committee meeting has failed to provide any clear evidence of this. Furthermore, the details provided on behalf of B2 Retail imply that the regeneration proposals are not as advanced as is being suggested. As recognised in the comments above, this is understandable given the impact of the recession and officers consider that a longer time scale for the redevelopment proposals does not dilute the importance of this issue as a material consideration.

7.12 When determining a planning application for a main town centre use which is not in an existing centre, and not in accordance with an up to date development plan, the relevant policy within PPS4 is policy EC17. This policy has three sections to it, and EC17.1 states that permission should be refused where the applicant has not demonstrated compliance with the requirements of the sequential assessment, or there is clear evidence that the proposal is likely to lead to a significant adverse impact against any of the impact assessments outlined within policy EC16. The report circulated with the main committee papers confirms that officers are satisfied with the sequential assessment that the applicant has submitted; the key issue therefore relates to the whether or not there is '*clear evidence that the proposal is likely to lead to a significant adverse impact*' to the regeneration proposals for Coronation Square. The advice from the Council's retail consultant is that there is no such clear evidence and therefore planning permission should not be withheld on the basis of policy EC17.1 and that the proposal should therefore be determined under policy EC17.2 of PPS4.

#### 8.0 Policy EC17.2 of PPS4

8.1 Policy EC17.2 states that;

*Where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:*

- *the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and*
- *the likely cumulative effect of recent permissions, developments under construction and completed developments*

8.2 Officers accept that the policies contained within PPS4 are confusing given the number of cross references within them, but members should be aware that the original report circulated for the May committee meeting makes reference to all of the considerations identified within policies EC10.2 and 16.1. For clarity, the requirements of policy EC10.2 are set out below;

*All planning applications for economic development should be assessed against the following impact considerations*

- a) *Whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change*
- b) *The accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured*
- c) *Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions*
- d) *The impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives*
- e) *The impact on local employment*

8.3 With regard to criterion 'a' Member's attention is drawn section 10.0 'Sustainability' within the original committee report. This section sets out the sustainability credentials of the proposed development and officers are satisfied that the proposal complies with the requirements of this policy.

8.4 Furthermore, criterion 'b' is considered to have been addressed by the detailed response provided by the County Council as Highways Authority (section 7.0, Access and highway issues, within the original officer report). Importantly, criterion 'b' considers accessibility after public transport and traffic management measures have been secured. Members will be well aware of the sustainable transport contribution required for this application and this will certainly help to deliver improvements to public transport and traffic management within the locality.

8.5 Section 8.0 of the original officer report, Design and Layout, considers the requirements of criterion 'c', and officers are satisfied that the extensive discussions with the applicant regarding this matter has resulted in a high quality and inclusive design which will improve the character and quality of the area.

8.6 Criterion 'd' relates to the impact on economic and physical regeneration in the area, including impact on deprived areas and social inclusion objectives. It is quite clear that the proposal will bring back in to active use a large brownfield site on Hatherley Lane and this will have a significant economic impact in the locality. Officers consider, however, that this aspect of policy EC10.2 is more relevant to the proposals for Coronation Square.

8.7 As already outlined within this update report, whilst officers accept that there is likely to be an impact on the regeneration proposals at Coronation Square, the clear evidence required by policy EC17.1 of PPS4 has not been provided to demonstrate a significant adverse impact on these proposals. The Practice Guide to PPS4 advises that measuring the impact on proposed investment can depend on the following matters;

- *What stage they have reached e.g. are they contractually committed?*
- *The policy 'weight' attached to them e.g. are they a key provision of the development plan?*
- *Whether there is sufficient 'need' for both?*
- *Whether they are competing for the same market opportunity, or key retailers/occupiers?*
- *Whether there is evidence that retailers/investors/developers are concerned; and*
- *Whether the cumulative impact of both schemes would be a cause for concern.*

8.8 In response to this guidance within the PPS4 practice guidance, the objections provided on behalf of B2 Retail certainly do not suggest that there are any contractual commitments to redevelop, and there are certainly no agreed pre-lets with potential anchor stores. Furthermore, whilst the redevelopment of Coronation Square is a long held aspiration of the Council with the CBRLS clearly identifying that the centre is in need of modernisation, redevelopment is certainly not a key provision of the development plan.

8.9 In addition, whilst 'need' is no longer required to be demonstrated, the advice from the Council's independent retail consultant is that given the large local population, the catchment area could support the proposed Asda store at Hatherley Lane as well as a redeveloped district centre at Coronation Square, more in line with that envisaged within the CBRLS.

8.10 With regard to whether the two schemes are competing for same market opportunity, or key retailers/occupiers, it is evident that Coronation Square does not represent a site suitable for a large food store targeting main weekly shopping. Coronation Square caters for more

regular food shopping and top-up shopping and as outlined in the comments above, the Council's retail consultant considers that there is no reason why the local catchment area could not continue to support such a centre even with the development of the proposed Asda at Coronation Square. In this respect the two sites are very different and Coronation Square has been ruled out by the applicant within their sequential assessment to the satisfaction of the Council's retail consultant.

8.11 The submissions on behalf of B2 Retail and by Roger Tym and Partners, on behalf of the Co-operative Group would suggest that retailers and developers are concerned by the proposals for a new Asda, and as outlined within the Council's retail consultant's comments, this is understandable. The key question, however, remains that whilst there is concern, is this clear evidence of a significant adverse impact? The submissions presented on behalf of B2 Retail do not convince that an application is imminent and, as already commented, this is reasonable given the economic climate. Nevertheless, as highlighted by DPDS, the submissions are *far from the clear evidence* [required by PPS4] *that re-development would not take place if the Asda were permitted.*

8.12 Regarding the cumulative impact of both schemes, officers do not consider that this is a material consideration in this instance. Certainly our independent retail consultant has not drawn attention to this matter being of concern, and whilst need no longer has to be proven, the CBRLS certainly suggests that there is need for additional comparison goods floorspace which will be provided by both the proposals for the former Woodward site and the redevelopment proposals for Coronation Square.

8.13 In light of this analysis, officers are satisfied that the proposal complies with the objectives of policy EC10.2.

8.14 Members will note that to satisfy the requirements of policy EC17.2, the proposed development must also satisfy the impact assessments outlined within policy EC16.1. Consideration has previously been given to this policy in the first update report provided to members for the May committee meeting (circulated on 17 May 2010). The relevant section is 3.0 (page 5 of 11). In addition to that report, the report circulated with this month's papers clarifies the previously unresolved matters relating to this policy.

8.15 With reference to the previous reports which members already have copies of, and in light of the advice provided by the Council's independent retail consultant, officers consider that the proposed development satisfies all of the impact assessments identified within policy EC16.1.

8.16 Finally, policy EC17.2 requires consideration of the likely cumulative effect of recent permissions, developments under construction and completed developments. In light of this requirement, the following comments from the Council's retail consultant are of interest;

*There have been to the best of my knowledge no recent retail developments in the area and none are underway.*

*There are two extant retail permissions in the area, a permission for a food discounter on the B & Q site, and for an extension to the Morrisons store at Caernarvon Rd. The main issue with regards to the food discounter was the possible impact on investor confidence in Coronation Square and the possible loss of the retailer interest to support redevelopment. In the absence of a reference to this proposal in the objections from B2 Retail, or any objections at the time, I conclude that there is no significant cumulative impact issue in relation to this proposal.*

*The extension of the Morrisons store at Caernarvon Rd is unlikely to have any impact on redevelopment proposals for Coronation Square and would strengthen the Caernarvon Rd centre against the impact of this proposal and again no cumulative impact could be expected.*

*There is a current application for a 2231 sq m (gross) Tesco store in Churchdown (Application no. 10/00561/FUL). This does not have planning permission and cannot be considered to fall*

*under the cumulative impact test. PPS4 Policy EC17.2 b refers only to recent permissions, developments under construction and completed developments. CgMs did take it into account in the Economic Development assessment in relation to need/capacity but did not consider the combined effect of the two proposals. It would be difficult to take the cumulative impact into account in determining this application given the advice in PPS4 and indeed the uncertainty of how the Tesco application will be determined.*

8.17 In light of these comments, officers are satisfied that the proposed development fully complies with the requirements of PPS4 policy EC17.

#### 9.0 Other outstanding matters

9.1 Members will note that as well as the original objection based on the impact on the proposals for Coronation Square, submitted on behalf of B2 Retail, the submission also included an objection relating to the highway implications of the proposed mixed use development at Hatherley Lane. The objection queried the location of the proposed development, and also its impact on the local highway network. Officers consider that these matters have been more than adequately addressed in the consultation response provided by the County Council as Highways Authority, but it was requested that the County Council provide further thoughts in relation to this matter. In response, the County have offered the following comments on each aspect of the objection.

#### **1. The site is not sustainably located for food retail development and is in the wrong place. It will not minimise the need to travel**

*This statement is in 2 parts a) whether the site is sustainably located, and b) it will not minimise the need to travel;*

a) *The location of the site is within the development boundary of Cheltenham and within the residential areas of Reddings, Hatherley and Benhall, it has over 2300 dwellings within the 1000m walking isochrone, (PPG13 walking distance). Additionally the site will be well located for existing local businesses in the area, including the adjacent film studios, Nuffield Hospital and B & Q, plus the committed residential and office developments at the former M & G site and Grovefield Way respectively. Furthermore the office development proposed with this development offers obvious potential for linked trips. Therefore I consider given the potential customer base within 1000m, the good links to the existing 94, and 97/98 bus service, and good cycle links, the opportunity for staff from both the food store and the offices to access the development by other modes of travel, together with a robust Travel plan, and potential improvements delivered by the SPG contribution, the development is considered to be accessible.*

b) *This statement makes no sense, as the need to travel anywhere is a necessity. Possibly it refers to policy T1 of the Structure Plan, which refers to minimising the length and number of motorised journeys. The obvious geographical location of this proposed store, compared with existing stores at Morrison's in Warden Hill, Tesco's at Collets Drive and, Sainsbury's at Kingsditch means that a large percentage of existing supermarket shoppers would be given the opportunity to divert to this store, with a journey shorter than usual, therefore I find this statement completely polar to the facts.*

#### **2. The traffic impact associated with the scheme is likely to have a material effect on safety and operation.**

*The site has been assessed using the SATURN (Simulation and Assignment of Traffic in Urban Road Networks) traffic model which is a network analysis program developed at the Institute for Transport Studies, and distributed by WS Atkins. This model has been used to predict the traffic distribution based on the strategic model using existing flows, permitted development and RSS draft proposals. The model therefore includes the circa 57,000 dwellings as part of the RSS draft proposals, however as this build out rate is not expected to be achievable in the plan period, the model is considered to be extremely robust. Highway mitigation is by way of a transport contribution, which is delivered by way of a SPG*

*contribution, and this has been agreed at £1,962,523.70, the proposed highway improvements and safety measures that will be delivered by this contribution, will ensure that the roads and junctions in the vicinity of the proposal can accommodate and or mitigate the additional traffic. As already stated the site is within walking distance of 2 regular commercial bus services, is well located for business users for linked work trips with shopping trips, and the office staff, and staff of the retail will be encouraged to use alternative modes of travel by way of a monitored Travel Plan, thereby reducing vehicle trips.*

9.2 Furthermore, Hunter Page Planning, on behalf of B2 Retail criticised the proposed mixed use scheme in relation to Local Plan policy EM2. Members are advised that this matter was covered comprehensively in the original officer report (section 6.4 – Employment Land).

9.3 To summarise this section of the original report, officers are satisfied that in light of the current economic climate, the extant outline planning permission is an unrealistic form of development on this site. In addition, the outline proposal is for a maximum amount of floorspace, not a guaranteed provision. It is therefore considered appropriate and reasonable to consider the proposed development against the historic use on the site and against such an assessment the proposed mixed use scheme has to be considered favourably against the objectives of policy EM2, especially in the light of advice contained within PPS4.

9.4 As a final matter, members may recall from the original officer report that officers were waiting to receive comments from the applicant in response to concerns relating to the lighting scheme for the proposed development. The applicant has confirmed that they would be content if a condition was imposed to restrict the use of lights C16, C17 and C18 outside the hours of 2300 to 0700 hours. Officers consider that such an approach is reasonable and subject to this condition, do not therefore consider it necessary to restrict the hours of operation for the store.

## 10.0 Conclusion

10.1 To conclude, this application has been subject to a considerable level scrutiny by officers, consultants and developers alike and a considerable amount of information has had to be digested and considered. Following this process, officers are now satisfied that the proposed mixed use development is a high quality scheme which accords with the provisions of local and national planning policy.

10.2 The proposal is for a suitable mix of uses which comply with the objectives of Local Plan policy EM2 and following a significant level of analysis, no clear evidence has been presented that the proposed food store will have a significant impact on current trading of the district centres at Caernarvon Road or Coronation Square.

10.3 Furthermore, in accordance with the requirements of policy EC17.1 of PPS4, no clear evidence has been provided to demonstrate a significant adverse impact on the proposed regeneration of Coronation Square. Officers, and the Council's independent retail consultant do not doubt the intentions of B2 Retail to redevelop the centre, but it is apparent from the relevant submissions that the redevelopment is not imminent. It is therefore considered that when assessed against the requirements of EC17.1, there is no clear evidence of a significant adverse impact on the proposed regeneration of this district centre.

10.4 In light of the above, the determination of this application requires careful balancing and in this respect, the proposed mixed use development certainly brings with it a number of positive elements;

- The proposal will regenerate a large brownfield site in Cheltenham with over half of the proposed floorspace to be B1 office space;
- The proposal will release a previously land-locked parcel of land to be used for employment purposes (interest has already been expressed by a locally based PLC to invest in a new regional HQ on this part of the site);
- The proposal includes provision of incubator units suitable for small businesses to meet a need identified by the Council's economic development team;



- The creation of approximately 1000 jobs across the site;
- Significant highway improvements to mitigate the impact of the proposed development whilst also meeting an identified desire for traffic calming along Hatherley Lane and Hatherley Road.

10.5 Against this, members will be well aware of the concerns submitted on behalf of other food stores within the town. These have been assessed in a robust manner and the advice from the Council's retail consultant is that none of these objections demonstrate clear evidence of a significant adverse impact when assessed against the requirements of PPS4.

10.6 Members will also be well aware of the concerns raised by neighbouring residents. The applicant has responded in a positive manner to the majority of these concerns and subject to suitably worded conditions, matters relating to noise and light disturbance can be adequately mitigated against. Furthermore, the County Council is satisfied, that subject to the completion of a legal agreement to secure the necessary mitigation measures, the proposed development is acceptable when considered against matters of access and highway safety.

10.7 It is recommended that members resolve to grant planning permission for this mixed use proposal, subject to the completion of the necessary Section 106 legal agreement.