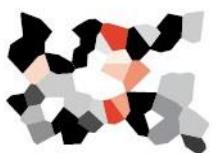
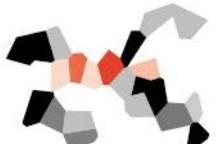
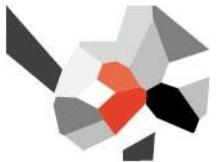


React Report

**Proposed Class A1 Foodstore and Drive-Thru Coffee
Shop - 17/00936/FUL**

**Land at Former BMW Site, Tewkesbury Road,
Cheltenham**

On behalf of Cheltenham Borough Council



August 2017

C10283



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On behalf of Cheltenham Borough Council

Client: Cheltenham BC

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1.0 Background

- 1.1 This report has been prepared by DPDS for Cheltenham Council and considers the Planning and Retail Assessment prepared by DPP for application 17/00936/FUL by Hinton Properties Ltd. It considers only the retail planning policy aspects of the proposed development.
- 1.2 The description of development is given as:

Full planning application for erection of 2,856 sqm food store (Use Class A1) and 223 sqm of coffee shop retail and drive-thru (Use Class A1/A3) with associated landscaping, parking and infrastructure.

The application form indicates that the floorspace figures are gross internal area. The retail impact assessment is based on a gross internal floorspace of 2574 sq m. We have assumed in our assessment that the maximum net sales floorspace would be controlled by a condition based on the floorspace used in the retail impact assessment. It is indicated that the occupier of the foodstore would be Lidl and of the coffee shop Starbucks. The applicant proposes a condition to limit the retail use to a foodstore as follows:

"Notwithstanding the permitted use falling within Class A1 of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2015 (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), the premises shall only be used for the sale of convenience goods with an ancillary amount of not more than 338 m2 GIA of comparison goods".

- 1.3 The Planning Statement and DAS indicate that the customer entrance and exits would be on Tewkesbury Road but that the foodstore would be serviced from Rutherford Road to the rear of the site. However, there is some conflict on this point and DPP (para 3.15) suggests that the Rutherford Road access would also be open for customers. From a commercial view, we can see why the latter would be preferred but it is a highways matter and not relevant to this report.
- 1.4 The latest site layout indicates 142 parking spaces. The application form indicates that there would be 60 full time jobs on the site, although in the Planning and Retail Statement this figure is described as full and part-time. The latter appears more likely.
- 1.5 The Retail Planning Statement (para 3.16 – 3.18) lists differences between Lidl and the mainstream food retailers as their "*everyday low pricing*", a concentration on a limited range of convenience goods and its own brand, restricted range of one-off comparison goods and lack of ancillary services such as pharmacies and post offices. We will assess the extent to which these features affect the retail assessment or indicate special circumstances in this report. Lidl is a limited assortment discount food retailer and like its most direct competitor, Aldi, has been gaining market share in recent years at the expense of the mainstream food retailers. This has been achieved by increasing the range of goods sold.
- 1.6 There are currently Lidl stores in Grosvenor Terrace in the town centre with a net sales floorspace of about 800 sq m and at Bishops Cleeve. There is an Aldi store further to the west along Tewkesbury Road, and planning permission under consideration for another Aldi store at Golden Valley as part of a larger development. Starbucks is well known brand and further description is not necessary. The number of coffee shops, both in town and out-of-town has been growing very rapidly with the take away service being an important element. Starbucks has

a shop at 1 The Promenade in the town centre.

- 1.7 The site is the former BMW dealership which is relocating to Golden Valley. Planning Permission was granted on the site in 2016 for 3 retail units with 3892 sq m floorspace in total, a public house and gym. It was indicated that the occupiers would include TK Maxx and Brantano, and that there was interest from Sofa Works and Peacocks. The permission was subject to a condition in the following terms

b) Other than in accordance with the terms of part 'c' and 'd' of this condition, the retail floor space hereby approved shall be used for the sale of furniture, electricals, carpets/floor coverings, DIY-related and garden products, and the sale of ancillary goods which are part of the usual product mix of retailers of the foregoing only;

Exceptions in part c enabled TK Maxx to operate from a unit of 1860 sq m and part d enabled Brantano from a unit of up to 640 sq m.

- 1.8 The reason for the condition was:

"The impact on the vitality and viability of the town centre has been assessed on the basis of the terms set out above and has been found to be acceptable. These restrictions are therefore necessary to ensure that the development approved does not prejudice the continuing vitality and viability of the town centre. The impact on the vitality and viability of the town centre has been assessed on the basis of the terms set out above and has been found to be acceptable. These restrictions are therefore necessary to ensure that the development approved does not prejudice the continuing vitality and viability of the town centre".

The permission was also subject to a S106 agreement which placed restrictions on letting to retailers already trading in the town centre

- 1.9 Brantano has gone into receivership, but the permission nevertheless represents a reasonable fall-back position.

- 1.10 The site is about 2.5 km from the main town centre (Boots Corner) and accepted as out-of-centre. It is on the northern side of Tewkesbury Rd between a car showroom to west and an M&S Homestore and the Kingsditch Retail Park to the east. The wider area is generally commercial in use. There are a number of other retail areas fronting Tewkesbury Rd, with the Gallagher Retail Park, Sainsbury, Whole Foods, Currys/PC World and Smyth's Toys all nearby.

- 1.11 We are familiar with the site, the town and other centres and retail stores in the area and have visited them many times. We are also familiar with the planning history of the main out-of-centre retail parks.

- 1.12 We can conveniently comment on the vitality and viability of the town's centres and the applicant's assessment of them at this stage. The Core Commercial Area is recognised as a vibrant and healthy centre with a good mix of town centre uses and good retailer representation. This is to be supplemented by John Lewis in 2018. The closure of the BHS store in the Regent Arcade is not noted by DPP. The application to sub-divide the unit for primarily restaurant uses will be referred to later, but here it is noted that it is a sign of weak retailer demand. This is a national phenomenon but indicative that the centre's health should not be taken for granted.

- 1.13 The health of the Lower High Street has improved in recent years and Phase II of the Brewery Quarter development will improve its prospects. The eastern end has seen investment by national businesses in recent years. At its western end, it continues to provide specialist shops and services mostly through independent businesses. Its vitality and viability has improved significantly in recent years but the reliance on independent businesses means that the western end is subject to significant churn and it will remain vulnerable to any economic downturn. Montpellier and Bath Road are both operating successfully at present and should not be a cause for concern in terms of the impact of this proposal.
- 1.14 The Caernarvon Road centre is dominated by the Morrison store. The household surveys have indicated that it is trading well. It is generally accepted that Coronation Square has significant difficulties and lacks recent investment. It is a traditional district centre in that it is dependent on its convenience goods trade for footfall. It has in our view improved notably recently which is probably attributable to the new Gloscat campus nearby. DPP comments that it primarily a top-up food shopping centre serving the local housing estate and that this will inevitably limit the extent which the proposed store will divert trade away from it. This is more an impact point and we will examine this claim in due course.
- 1.15 The main out of centre food retailing provision comprises the Tesco (Collets Ave), Sainsbury and Aldi (Tewkesbury Rd), M&S (Kingsditch Retail Park), Asda (Hatherley Lane), Waitrose (Honeybourne Way) and the Sainsbury at Oakley.

2.0 Planning Policy

The National Planning Policy Framework

- 2.1 The applicant's statement covers national planning policy accurately and there is no need to more than summarise it here. The presumption in favour of sustainable development and the emphasis on economic development are identified by the applicant. In relation to retail and other main town centre uses the sequential test (NPPF para 24) and the impact test (NPPF para 26) are the key issues with regard to our instructions. Para 27 indicates the planning permission should be refused if either test is failed. We will consider the advice and the National Planning Policy Guidance in more detail in considering the applicant's submissions on these tests as the need arises.

Cheltenham Local Plan 2nd Review 2006

- 2.2 The site is not in an identified town centre in the local plan and the development is therefore out-of-centre. The most relevant policy is RT7 for retail development in out of centre locations. This policy states that, subject to policy RT1, retail development outside of defined shopping areas will only be permitted where the need for the development has been demonstrated and the development, individually or in conjunction with other completed and permitted retail development would not harm the vitality and viability of centres. Policy RT1 sets out the sequential test, listing the preference in terms of the retail hierarchy of:-

Central shopping area;
 Montpellier;
 Elsewhere in the Core Commercial Area; and
 District and Neighbourhood centres.

Out-of-centre sites are the least preferable, and should be accessible by a choice of regular means of transport. Developers are expected to demonstrate flexibility and realism in format, design, scale and car parking. Both policies were "saved".

- 2.3 The Cheltenham Borough Local Plan polices RT1 and RT7 are in accordance with the NPPF advice with the exception of the requirement for applicants for out-of-centre retail development to demonstrate a need for the development, and we would recommend that little weight should now be given to this part of policy RT7.
- 2.4 The emerging Joint Core Strategy reflects the NPPF policies with regard to retail development. It defines the retail hierarchy and sets out the retail requirements for the main towns. Public consultation on the Main Modifications took place this spring and the Examinations Inspector is considering the submissions made at present. There is no need to consider the JCS polices in detail here or the weight to be accorded to them because they are compliant with the NPPF.
- 2.5 So far as our instructions are concerned, the two key issues for this application are the sequential approach to site selection as expressed in policy RT1 and the impact test as set out RT7.

3.0 Sequential Assessment

Preliminaries

- 3.1 The sequential approach set out in the NPPF is well understood, but it does need to be clear that the Council has approached it in the correct way. LPAs should require applications for main town centre uses to 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. When considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites which are well connected to the centre. Applicants and local planning authorities should be flexible on issues such as format and scale. Policy RT1 sets out the order of preference in terms of named centres.
- 3.2 The Dundee judgment of the Supreme Court is the leading case on the sequential test. It can be summarised as when assessing potential sites for their suitability, it is their suitability for the application proposal which has to be considered, although this is subject to a requirement for all parties to be flexible. A more recent judgment (*Aldergate Properties Ltd v Mansfield DC and Regal Sherwood Oaks Ltd* ([2016] EWHC 1670 (Admin)) found (para 35) that:

“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 judge considered this conclusion in the context of the Dundee judgment. In para 47 of his judgment he noted that the Supreme Court had not approached the case with the identity of an individual retailer in mind and in para 48, that what the Supreme Court had rejected was Tesco's argument about the role of need.

Availability

- 3.3 Sites have to be available but there is little further guidance in the NPPF and Practice Guidance. DPP notes the Rushden Lakes Secretary of State decision in which the Inspector noted that the NPPF, unlike the earlier guidance, did not refer to available within a reasonable period of time. This was widely argued to mean “available now”, but that view has tended to be rejected by Inspectors as too restrictive. The decision in the first place falls to the Local Planning Authority, but there is no doubt that alternative sites should be realistic opportunities which are likely to be available in the short term, but not necessarily immediately, and not subject to significant uncertainty.
- 3.4 The Secretary of State's decision in Exeter, referred to by DPP (APP/Y1110/W/15/3005333), concluded that availability referred to available to the occupiers and not available to the developer. The Inspector found (para 11.40) that:

“In the absence of any clearer interpretation, the preference in NPPF 24 should refer to availability to traders. It follows that it doesn't matter who develops the site so long as it can provide the proposed level of shop floorspace”.

The Secretary of State agreed with this approach.

- 3.5 This decision was issued a few days before the Mansfield judgment but that came to the same conclusion. In giving his reasons for finding the identity of the applicant was not generally relevant the judge stated (para 42).

"Fourth, there is a further reason why the identity of the applicant, as opposed to the sort of development it proposes, is not generally relevant to the sequential test. The sequential test in the NPPF is not just one of suitability; it covers availability: "only if suitable sites are not available, should out of centre sites be considered." A town centre site may be owned by a retailer already, to use itself for retailing, who is not going to make it available to another retailer. It is plainly available for retailing, though only to one retailer. That does not mean that another retailer can thus satisfy the sequential test and so go straight to sites outside the town centre. "Available" cannot mean available to a particular retailer but must mean available for the type of retail use for which permission is sought".

Suitability

- 3.6 In setting out the parameters for the sites, DPP states (para 7.8).

"Secondly, the business requirements of the contractually committed named-operators is of fundamental importance because if these are seriously compromised, this will undermine the viability of the proposed development".

- 3.7 In para 7.18 DPP comments:

"Lidl could not trade viably two such neighbouring stores and, as a consequence, a new Lidl store at North Place would result in the closure of the older, smaller and more compromised store in the town centre. Clearly, it is not the purpose of the sequential test to exert such an outcome whereby an edge of centre opportunity is favoured at the expense of an existing in-centre development. This, in our view, is an important material consideration in this particular case".

This reasoning would apply to all the town centre sites in Cheltenham although it is not raised as an objection to the other potential sites considered there. The situation is very similar to that which gave rise to the Mansfield case, which related to a proposal by Aldi and concerned the adoption of an area of search for sites which excluded the town centre because Aldi already had a store there. DPP's approach is clearly contrary to the Mansfield judgment and has to be rejected. The implications of this will be considered later.

- 3.8 It is clear that the general approach adopted by DPP is contrary to the Mansfield judgment and the Secretary of State's most recent decision, but that does not mean that there are suitable, sequentially preferable sites or that the sequential test is necessarily failed.

- 3.9 DPP also quotes the Inspector at the Rusden Lakes Inquiry in relation to the disaggregation of the proposal, where he noted that in contrast to the previous guidance, the NPPF does not require consideration to be given to disaggregation (i.e. considering different elements of the development separately). However, this does not mean that the possibility of disaggregating the proposed development is necessarily immaterial or contrary to national policy. In this case we do not believe that the functional links between the foodstore and the drive-thru would be strong and that there would be no scope for disaggregation. It would in our view be unreasonable to reject a more central site for a foodstore because it was unable to accommodate a drive-thru restaurant.

- 3.10 DPP suggests in para 7.4 that drive through coffee shops are not main town centre uses. They are however, generally A3 restaurant uses and the glossary to the NPPF includes these in the definition of main town centre uses. Even if it is argued that the coffee shop is not an A3 use, it is clear that a drive thru facility does not exclude the use from main town centre uses or the sequential test. In the Exeter decision referred to earlier, it was argued by the appellant that the more central site favoured by the LPA could not accommodate a drive-thru, but this was not seen as definitive (Inspector's Report para 11.33).
- 3.11 DPP comments (para 7.7) that the test is only relevant in the context of the “need” the proposed development will meet, which it identifies as discount food shopping for residents in north west Cheltenham and the “refreshment needs” of pass-by motorists and a more localised catchment comprising both local residents and workers based in the area. Examining sites further afield, that would meet an essentially different “need”, would therefore be irrelevant, as confirmed in the Braintree High Court case (1998).
- 3.12 However, as is clear from the Dundee and subsequent judgments, the main point of reference for the sequential test is the development plan policy. We are not familiar with the development plan policies in relation to the Braintree case, but as we have noted policy RT1 of the Cheltenham Local Plan sets out the sequential preferences in relation to particular centres in Cheltenham. It is also the case that the Plan post-dates the Braintree case. The sites should be assessed in accordance with this policy.
- 3.13 DPP comments under a separate heading of “viability” that there should be no obvious economic obstacles for development. For the avoidance of doubt, viability is no longer a separate part of the sequential test although it can be relevant to the suitability of sites.
- 3.14 The relevance of these considerations in this case depends on the sequential opportunities themselves. We consider that the minimum requirement for alternative sites or buildings is that they should be able to accommodate a medium sized foodstore.

The Central Shopping Area

- 3.15 DPP comments that that there are a number of vacant units in the Central Shopping Area but these do not come near to meeting the floorspace requirement. With the exceptions considered in more detail below, on the basis of a web search, we agree. DPP also states (par 7.14) that the historic fabric of the centre constrains large scale redevelopment. It is clear to us that large scale redevelopments have been accommodated successfully into the town centre and that there is no “blanket” constraint – each potential site would have to be assessed on its merits with regards to any limitations imposed by the historic character of the centre.

The Brewery Phases I and II

- 3.16 Since we considered the Brewery development in relation to the 2016 application, there have been significant lettings in the Phase 1 development - the former Habitat and Dwell units are now let. Phase II is available and Wilko and Tesco have occupied units. The information on the Brewery’s website brochure does not match that set out by DPP but there are a number of units to let. On their own they are too small and combined would not be suitable for a foodstore of the approximate scale contemplated. DPP also reject them as not providing dedicated on-site customer parking. We do not accept the need for dedicated parking, but regard the nearest parking in this case as too remote for a foodstore of the approximate size sought.

North Place

- 3.17 DPP states in para 7.18 that Morrisons are not going forward with the permitted development and that the site might therefore appear to be available. However, it concludes that it is not available for a supermarket development because it believes that it is very unlikely that the redevelopment of the site will, in the foreseeable future, include a major foodstore and furthermore that it understands that the two constituent sites were purchased for substantial amounts of money and that, as a consequence, their owners have particular expectations of the development value of their respective sites. DPP also understands that the development would also have to provide the public parking and affordable housing that was included in the Morrisons scheme and concludes that the whole re-development would have to be thoroughly reviewed and a new planning brief prepared in collaboration with the site's owners, to assist in promoting a major mixed-use scheme that is both viable and deliverable. It is not explained why a new development brief would have to be prepared. In view of the planning permission on the site, much stronger evidence would be needed to rule the site out.
- 3.18 As noted earlier, DPP also rules it out the site as too near to Lidl's existing unit. Little weight if any, however, should be given to the circumstances of individual retailers. On the basis of the information we have, we must conclude that the applicant has not demonstrated that the site is unsuitable or unavailable. The Council may be aware of the latest position and the owners' thinking.

Municipal Offices

- 3.19 DPP also refers to the Municipal Offices in the Promenade which has been mentioned in the past as a possible conversion to a number of uses with retail on the ground floor if the Council vacates the building. We understand that the Promenade scheme has progressed, but our understanding is that this is not to the stage where alternative uses have been settled for the existing building, or the time scale in which it might become available. Again the Council is in a better position to consider the availability of the site, but we can comment again if further information is supplied.

Former BHS Store, Regent Arcade

- 3.20 DPP does not consider the former BHS outlet in the Regent Arcade. The unit has about 4585 sq m with 2740 sq m on ground floor and 1845 sq m at basement level. Outline planning permission was granted in February this year for the conversion of the existing unit for mixed Class A1/A3 and D2 use across 6 units (pp ref: 16/02201/OUT). The Design and Access Statement submitted with that application indicates that the owner is still seeking retail use for the unit, but is "*exploring opportunities to subdivide Unit 30 to provide a mix of uses*" in view of the limited retailer demand in general at present. We conclude that the owner's current intentions have not ruled a retail use and the subdivision of the unit is clearly acceptable to the landlord. In our view it is doubtful if it is suitable for medium sized food store. Although there is car parking available it is only by lift, and while this is not uncommon, for instance at the Waitrose on Honeybourne Way, we do not consider the lifts have the capacity to serve food store customers in terms of lift size or number. Trolley management within the car park would also present great difficulty for the retailer. We therefore conclude that there is no need to request further information from the applicant on the unit relation to a foodstore proposal.

Lower High Street and Montpellier

- 3.21 Our web search through up a vacant unit in Montpellier and a few in the Lower High Street area, but none suitable for the operation of a medium sized foodstore.
- The Former Haines and Strange Garage/Odeon Cinema Site
- 3.22 The site has now been developed and is no longer available.
- Land at St George's Place/St James' Square
- 3.23 DPP rejects the St Georges Place/St James Square site as too small at 0.66ha for a stand-alone retail development and more suitable for housing – noting the SHLAA identifies it (ref S084) for 8 units. This is a case where full car parking would not be necessary in view of its location and the 2013 SHLAA states that it is suitable for housing in part only. It also identifies it as suitable for economic and commercial development, but gives the availability as 6-10 years. We conclude that the site can be ruled out as unavailable.
- Coronation Square
- 3.24 DPP does not consider opportunities in Coronation Square. It has been seen in the past as a redevelopment opportunity, but no schemes emerged. Units are being offered on full repairing leases although the lease term is not specified so it appears unlikely that there are current redevelopment proposals. The agent's brochure indicates three units available, but the maximum floorspace that could be offered in one unit would be 325 sq m on ground floor (formed from the amalgamation of two units in Edinburgh Place). Sites and units in the centre can be ruled out as unsuitable for a foodstore. However, the brochure does identify a development site at the southern end of Gresham Court, which elsewhere is described as available for a drive-thru restaurant. We are not sure of the planning status of this suggestion but can see no obvious objections of principle to the idea. We will consider this further in our conclusions.

Conclusions on the Sequential Test

- 3.25 We conclude that there are few opportunities for a foodstore development in or on the edge of relevant centres in Cheltenham. However, the applicant has not presented adequate evidence to assess the North Place site and further information would be needed to rule it out.
- 3.26 The position with regards to drive thru coffee shops is more complicated. There are obviously many opportunities for further coffee shops in the centres since they could be accommodated in many of the available units, although this may be subject to planning in many cases. Compliance with the sequential test depends on whether the drive-thru facility is a defining feature of the development or can be wrapped up in the requirement to demonstrate flexibility – whether it forms, in Mansfield terms, a separate broad type of development distinct from A3/A5 uses. This is a matter for judgement by the LPA but we doubt that it can. The Exeter inquiry decision referred to earlier reinforces this view. There is also a development opportunity in the Coronation Square centre. However, it is clear that proposals in the named centres would not operate in the same way – providing for the target customers, employees in the nearby employment areas or driving along the Tewksbury Road. Few people would divert from this location to a coffee shop in a defined centre. To this extent we do consider the coffee shop proposal as locationally specific and policy RT1 of limited significance. We will return to this matter having considered the retail impact of the proposal.

4.0 Retail Impact

General Matters

- 4.1 We will consider the likely quantitative retail impact assessment first as this is likely to be a guide the impact on investment in the centres. The proposal would create 2856 sq m of retail floorspace. This is above the threshold for the requirement of a full impact assessment.
- 4.2 DPP has relied on population data from the 2014 JCS retail study update and a household survey carried out in 2012 on behalf of CgMs in relation to the proposed Morrison store at North Place. However, as we noted in relation to DPP's assessment for an Aldi store at Golden Valley (16/01228/FUL) DPDS carried out a further update of the JCS retail study in 2015, based on a new household study, new demographic data and more, smaller zones. The 2015 update has considerable advantages in estimating the turnover of centres and stores, not least in including the expenditure flows from an area which includes almost all of Cheltenham's catchment area for food shopping. Having drawn DPP's attention to this earlier this year it is not clear why DPP has continued to use out-of-date data. We will examine DPP's estimates of the proposal's turnover and trade diversion in the context of the 2015 Retail Study Update results.
- 4.3 The DPP price base is 2009 to be compatible with the 2014 JCS Retail Study Update. The 2015 update was however, in 2015 prices and it is necessary to convert the DPP figures to 2015 prices. The Experian price indices for convenience goods are 86.7 in 2009 and 104.1 in 2015 (2012 = 100). There is little change in the comparison goods price index between 2009 and 2015 (98.5 in 2009 and 98.6 in 2015) and prices can be taken as stable between the two years.

The Design Year

- 4.4 The design year has been taken as 2021. This is described as in accordance with para 26 of the NPPF based on an application year of 2016 (DPP para 8.12). However, the NPPF refers to assessments being carried out up to 5 years from the submission of the application – not at the end of 5 years. The NPPG advises:

"The design year for impact testing should be selected to represent the year when the proposal has achieved a 'mature' trading pattern. This is conventionally taken as the second full calendar year of trading after opening of each phase of a new retail development, but it may take longer for some developments to become established".

The foodstore could be expected to start trading in 2018 and the second full calendar year of trading would be 2020. The difference between this year and 2021 would not be significant in the context of the impact methodology and we consider the design year as acceptable.

The Turnover of the Proposal

- 4.5 DPP estimates the turnover of the store at £10.0m in 2016 – £8.4m from convenience goods sales and £1.6m from comparison goods sales (DPP Appendix 1 Table 4). In 2015 prices this turnover would be £12.0m for convenience goods and £1.6m for comparison goods giving a total of £13.6m.
- 4.6 The estimate is based on the floorspace and sales densities (turnover/sq m) derived from Mintel Retail Rankings 2016. The proposal has 2856 sq m gross internal floorspace according to the

application form. The net sales floorspace is estimated at 1690 sq m which is 59% of the gross. However, DPP has based its assessment on a gross internal floorspace of 2574 sq m which would give a sales to gross ratio of 66%. We suspect that there is some confusion between gross internal and gross external between the consultants. We assume that the net sales floorspace will be controlled by condition to the amount assessed, so there is no need for us to consider the matter further. Convenience floorspace is taken to be 80% of the net sales and comparison 20%. This is fairly standard and would, presumably again, be controlled by condition.

- 4.7 The sales densities used are £6148/sq m for convenience goods and £4647/sq m for comparison goods. These figures convert to £7382/sq m for convenience and remain at £4647/sq m for comparison goods in 2015 prices. DPP comments in the footnotes to Appendix 1 Table 4 that in line with Experian Retail Planner advice, no increase in sales density has been made for convenience goods floorspace but Experian's floorspace efficiency factors have been used for comparison goods. It is not clear which of the two Experian forecasts (constant or changing floorspace) DPP has used. These are based on national forecasts of retail sales and floorspace and the local changes to these factors can be expected to lead to variation – if the available expenditure growth in an area outstrips floorspace growth, sales densities locally will increase more than nationally.
- 4.8 However, far more significant is the performance of individual operators. Lidl's sales density has grown rapidly in recent years in line with their rapidly increasing sales from a more slowly increasing total floorspace. The latest Lidl sales density figures from Mintel (2017) we have seen indicate a combined sales density of £6995/sq m. This compares with £5858/sq m used by DPP (which includes some forecast increase in the sales density for comparison goods floorspace). We consider that DPP have made insufficient allowance for Lidl's trading performance and conclude that DPP have underestimated the proposal's turnover in 2021. To give some idea of the scale of this underestimation, even at a relatively modest increase to £8,500/sq m for convenience goods would indicate a convenience goods turnover of about £11.5m in 2021.

The Turnover of Centres and the Main Foodstores

- 4.9 DPP has used the same base year population and expenditure figures as in its Grovefield Way Aldi Assessment (16/02208/FUL) taken from the 2014 JCS Retail Study Update but updated the 2021 forecasts to take account of latest Experian expenditure forecasts (Retail Planner Briefing Note 14 published in Nov 2016). This leads to marginally lower increases in the available expenditure. DPP has used the same household survey results (for CgMs in 2012) as before so the turnovers of existing facilities would be expected to marginally lower. This is largely true with the exception of the Lidl in town centre. The turnover is now estimated at £5.41m compared with £3.07m in the Grovefield Way impact assessment. DPP explains in para 8.18 that the Lidl town centre turnover was adjusted in the light of

"The need to increase Lidl's turnover to a level commensurate with the company benchmark turnover in light of the survey's under-recording of its turnover".

The turnovers of the other town centre outlets have been reduced to take account of this.

- 4.10 We find this explanation unconvincing but note that the 2015 study estimated the turnover of the Lidl at £7.22m in 2015 on the basis of the 2015 household survey. However, this might be an over-estimate for reasons explained in para 4.13 below in relation to Aldi. We are primarily concerned with the impact of the proposal on centres as a whole and will comment further on

this adjustment as necessary.

- 4.11 DPP and our own estimates of the centre turnovers (convenience goods only) are shown in the table below. Bearing in mind the different survey samples and local data, the figures are broadly similar. However the JCS figures incorporate more up-to-date household survey results which take account of more recent shopping developments (up until September 2015). DPP has taken account of the slower growth of expenditure growth now forecast by Experian, but the differences are marginal. The JCS figures are to be preferred.

Table 1 - The Turnover of Centres and the Main Foodstores

Centre	2015 JCS Update £m	DPP 2015 Prices £m
Cheltenham Town Centre	27.04	31.67
Morrison Caernarvon Rd	41.61	35.64
Co-op/Sainsbury's, Bath Road	7.11	7.20
Coronation Square	2.29	2.29
Tesco, Collets Way	24.12	39.05
Sainsbury, Tewkesbury Road	43.75	33.64
Waitrose, Honeybourne Way	42.69	27.94
M&S, Kingsditch Retail Park	5.62	2.41
Aldi, Tewkesbury Road	29.57	5.70
Asda, Hatherley Lane	29.33	18.98
Sainsbury, Priors Road Oakley	25.34	24.84
Bishops Cleeve	28.83	29.73
Total	£307.30	£259.01m

- 4.12 The overall difference between the figures is probably attributable to the restricted catchment area in the DPP figures. There are some notable differences at individual store/centre level - particularly with the turnover of the Asda store on Hatherley Lane and Aldi store on Tewkesbury Road. It appears to us the Asda turnover is substantially underestimated by DPP. The Asda store had not been open long in 2012 and may well not established its full trading pattern. We also suspect that a substantial part of its catchment area is omitted in DPP's study area.
- 4.13 The JCS figures show an improbably high turnover for the Aldi. This is a common problem with recent retail studies and probably derives from a combination of over reporting in surveys and an assumption that the "basket size" of shop at Aldi is the same as for the mainstream grocery retailers. On the other hand the turnover is likely to have increased substantially with its increased market share since the 2012 household survey and the DPP estimate appears to be significantly too low. The overestimation of its turnover in the JCS up-date indicates that the turnover of other destinations is underestimated. This will primarily affect the out of centre stores because of their much greater market share, particularly in main food shopping. We are,

however, primarily concerned with the impact on the town centre and Coronation Square and Bath Road centres and the effect on the estimates of turnover for these centres is limited.

- 4.14 The JCS estimates of the convenience goods turnover of the centres are:

Cheltenham Town Centre	£27.04m
Coronation Square	£2.29m
Bath Road	£7.11m

- 4.15 The comparison goods turnover of the town centre is estimated at £486m in the JCS Retail Study. Figures are not available for Coronation Square and Bath Road because of the limitations of surveys. DPP estimates the comparison turnover of the town centre at £650m in 2021, but the source of this figure is not given. We will work to the JCS figures.

Trade Draw

- 4.16 The trade draw assumed by DPP is shown in the table 2 below.

Table 2 – DPP Trade Draw

	DPP Trade Diversion £m 2009 Prices	% Trade Draw
Cheltenham Town Centre	0.42	5%
Morrison Caernarvon Rd	0.76	9%
Co-op/Sainsbury's, Bath Road	0.00	0%
Coronation Square	0.00	0%
Tesco, Collets Way	1.68	20%
Sainsbury , Tewkesbury Road	0.92	11%
Waitrose, Honeybourne Way	0.21	3%
M&S, Kingsditch Retail Park	0.08	1%
Aldi, Tewkesbury Road	1.64	20%
Asda, Hatherley Lane	.84	10%
Sainsbury Oakley	0.16	2%
Bishops Cleeve	0.00	0%
Morrison, North Place	1.26	15%
Other Stores	0.42	5%
Total	8.39	100%

- 4.17 The calculation of the trade draw is not described and we assume that it is based on judgement. The essential weakness of this approach is that there is no evidence to support the judgements made and there is no substantial response to contradiction. DPP includes diversion from Morrison North Place. It is illogical for to do so having already concluded that the permission would not be implemented. The implication is that the trade diversion from the existing stores as a result of the Lidl development would be greater, although cumulative impacts on the centres would be much reduced. In the event that the North Place development were built, we

regard 15% as too high a trade diversion compared with the 20% from Tesco on Collets Way and the 11% from the Sainsbury on Tewkesbury Road.

- 4.18 We regard the trade diversion from Morrison in Caernarvon Road at 9% as too high, particularly in comparison with the nearby Sainsbury at 11%, and this in turn seems rather low compared with the Tesco on Collets Way (20%). The trade draw of 20% from the Aldi appears low compared given that it would be the nearest competitor in the discount food sector and would be more conveniently located for a large number of people.

The Impact on the Vitality and Viability of the Town Centres

- 4.19 Most of these doubts are concerned with the trade draw from other out-of-centre stores. With regard to trade draw from centres, DPP estimates that only £0.42m would be diverted from the town centre. It is tempting to think of most of the shopping in the town centre as top-up shopping but the JCS Retail Study 2015 Update indicates that about 55% of its convenience goods turnover is derived from main food shopping. This may be over-estimated because the basket size of a main food shopping trip in the town centre may well be smaller than at a large food store, but that would also suggest a lower overall turnover, so the impact might be greater. Significantly most of shoppers in the survey using Lidl and Iceland in the town centre regarded that as their main food shop. We consider that DPP has underestimated the likely trade diversion from the town centre, particularly because of the likely impact on the Lidl store which accounts for over 25% of the town centre convenience goods turnover.
- 4.20 The question inevitably arises about the future of this store. DPP estimated the turnover at about £3m based on the 2012 household survey, but decided to base its turnover on the company average sales density of about £5.4m (6.48m in 2015 prices). The JCs figure, based on the 2015 household survey, gave an estimate of over £7m, a bit above the company average sales density. DPP's figure for trade draw is based on the assumption that the town centre food shopping is predominantly top-up shopping but that is not entirely correct. The 2015 household survey indicates that people use the Lidl for main food shopping and we conclude that DPP has significantly underestimated the trade diversion from the town centre and particularly from the Lidl there.
- 4.21 On the basis of the latest survey figures, which are more reflective of the companies surge in market share than DPPs, the store is overtrading and could accommodate a significant loss of trade. Against that it does not meet the company's current store requirements in terms of size or parking. While a few years ago, it would have been likely that the town centre store would be closed, we consider that, with Lidl's recent market performance, it is now more likely to be kept open than closed. This does of course depend on its lease of the town centre store – the store has been there a long time and it is reasonable to suppose that its lease may be coming to an end/renewal. If this is so there is an obvious risk of closure. However, we consider that Lidl's strategy at present is likely be for two stores to serve Cheltenham and, unless it has another site in the offing on the eastern side of the town, its preference would be keep the town centre store open.
- 4.22 However, it is clear that even if a substantially larger amount were diverted from the town centre as result of the proposal, and/or the town centre Lidl were closed, with a combined comparison and convenience goods turnover of about £513m in the town centre, the impact would not be significant.

- 4.23 Caernarvon Road is a designated centre and the impact is a material consideration. The centre comprises largely the Morrison store and the JCS estimates indicate that it is still trading well above the company average. We consider that the trade draw of 9% is too high given the distance of the centre from the proposed store. There would, however, be no realistic risk of the store's closure as a result of this proposal even at the higher trade draw.
- 4.24 DPP estimates no trade diversion from Bath Road. We agree that trade diversion from Bath Road, and smaller centres to the east of it, would be very small given the distance to the proposed store and the more local nature of the shopping in the centres.
- 4.25 DPP also estimates that there would be no trade diversion from Coronation Square. However, it is quite close to the proposal and the main food shops there, Iceland and Farmfoods, share Lidl's market orientation. There are factors which would limit the trade diversion from the centre. The Aldi on Tewkesbury Road is reasonably accessible to those residents in the centre's catchment and many will simply swap from one discount store to the other; the main impact on the centre will already have been experienced. The impact, in effect, would be on the Aldi rather than Coronation Square. We consider that there would be some trade diversion, but accept that it would be limited and note that it would be difficult to demonstrate a significant adverse impact. In part, this is because of the difficulty of establishing trading levels in small centres on the basis of sample surveys.
- 4.26 In coming to these conclusions we have borne in mind that DPP has only considered the convenience goods trade diversions in detail. It estimated the comparison goods turnover of the proposal at £1.6m (2009 prices). DPP sets out estimates in paras 8.26 -8.29. DPPs approach is not entirely satisfactory because it is based on an unrealistic estimate of the town centre's turnover. Assuming that comparison goods trade diversion followed the same pattern as for convenience would suggest trade diversions some 20% above the levels estimated by DPP. We regard this as reasonable assumption, bearing in mind that, like the supermarkets, the comparison goods will mostly be bought on shopping trips which are primarily for food. The additional trade diversion, however, cannot simply be added to the convenience goods trade diversion and compared with DPPs turnover figures in their appendix because these do not include comparison goods turnover. It is, however, clear that under any scenario, the trade diversion from the comparison goods trade will not be significant.
- 4.27 There is a further consideration in assessing the impact – the extant planning permission for comparison goods retailing. The turnover of this development was estimated at between £9 and £10m depending on the occupier. This is not dissimilar to the current proposal but the trade diversion can be expected to fall much more heavily on the town centre. The current proposal is likely to divert much less expenditure from the town centre. However, the main concern with the comparison goods proposal was the loss of leading retailers from the town centre and the planning conditions and S106 agreement reflect this. This concern does not arise in the same way with the current application and we conclude that in terms of retail planning policy, the current application is preferable.

Cumulative Impact

- 4.28 DPP sets out the trade diversions from commitments and cumulative impacts in Appendix 1 tables 6 and 7. The commitments taken into account are the extension to the Aldi on Tewkesbury Road and the Morrisons at North Place. The turnovers of the proposals are estimated at £2.15m and £24.3m respectively. The main impacts arising from commitments

overwhelmingly arise from the Morrisons proposal, and the cumulative impact figures largely reflect this proposal but it is clear that that proposal will not go ahead, at least as estimated in DPP's figures. While we can understand DPP's fear of criticism if they did not take the Morrison proposal into account, it is accepted that the proposal will not go ahead at least in its permitted form. Any retail development on the site will therefore need to be subject to a new planning application and the impact reassessed. We therefore conclude that DPP's cumulative impact figures are an unlikely scenario which will be of little help significantly in determining the application.

4.29 The main issue for the Council in terms of cumulative impact is, in fact, the proposal for an Aldi store at Grovefield Way. DPP estimates the turnover of the store at £11.84m – £9.57m from convenience goods sales and £2.70m from comparison goods sales. DPP presents a cumulative impact exercise including the Grovefield Way Aldi in App 1 Table 8. Not surprisingly, these show higher cumulative impacts with an estimate of 8.8% on the convenience goods trade of the town centre and 10.5% on Coronation Square. DPP comments that it regards its estimate of the convenience goods turnover of the Coronation Square as an underestimate arising from the 2012 survey results and that the cumulative impact of 10.5% overstates the impact. Our 2015 based estimate of Coronations Square's convenience goods turnover is slightly higher. However, DPP's impact figures are largely determined by the trade diversions estimated to the Morrison North Place proposal and, as already noted, we consider them of little assistance in determining the application.

4.30 The combined convenience goods turnover of the Aldi and Lidl proposals would be about 17.94m. However, the two stores would compete with each other very directly and the combined take is likely to be much less. DPP assumes the Lidl is operating first and estimates a trade diversion of about £0.6m from the new Lidl to the new Aldi. We regard this as a serious underestimate given that they would be competing in the same discount sector and in the same quadrant of Cheltenham. Allowing for these factors, we consider it would be reasonable to work on the basis that only about three-quarters of the combined total would be drawn from existing shops and centres – about £13.5m. The majority of this sum would be diverted from the out-of-centre foodstores. These have about 75% of the market share in Cheltenham so about 75% of the combined additional turnover could be expected to be diverted from the out-of-centre stores, leaving about £3.4m to be diverted from existing centres. Most of this would be from the Morrison at Caernarvon Square (to the Aldi at Grovefield Way) leaving not much more than £1m - £1.5m to be diverted from the town centre, Coronation Square and other smaller centres and individual shops. These figures are obviously very approximate but in our view indicate the likely scale combined trade diversions. We have tested other assumptions about the internal trade diversion between the two proposals and they do not lead to substantially different conclusions. We therefore conclude that the combined impacts of the Aldi and Lidl applications under consideration would not have a significant adverse impact.

Impact on Investment

4.31 The NPPG gives advice on assessing the impact on investment and identifies key considerations as:-

- the policy status of the investment
- the progress made in securing the investment
- the extent to which an application is likely to undermine planned investments based on the effects on current/forecast turnovers, operator demand and investor confidence.

- 4.32 DPP considers three investments in the town centre – the Brewery Phase II, the John Lewis department store and the North Place development. The Brewery Phase II is completed and John Lewis development well underway and cannot be considered at risk.
- 4.33 The North Place development as permitted was dependent on mainstream supermarket for retail development and fell foul of the reappraisal of the expansion schemes of all of these retailers. The currently permitted scheme is unlikely to go ahead and cannot be considered to be at risk from the application proposal. It could of course accommodate an alternative retail scheme which may include food retail and the development of another foodstore on Tewkesbury Road would make this less attractive. However, it is doubtful that this would prevent the whole investment going ahead unless the Council was determined to include substantial retail use in any development.
- 4.34 There have been various proposals for the redevelopment of Coronation Square over the years which have come to nothing. We are not aware of any current proposals and the current strategy appears to be based on gradual improvement through new lettings. This appears to be reasonably successful with a series of new lettings to good covenant tenants and is probably the result of the improved footfall from the nearby Gloscat development. We doubt that the proposed Lidl would undermine this approach and in the absence of objections from the landowner do not consider that a case could be made against the proposal on this ground.
- 4.35 We therefore conclude that the proposed Lidl store is unlikely to significantly undermine any investment proposals.

Overall Conclusions on Retail Impact

- 4.36 The proposal is relatively small and the impacts are likely to be experienced mostly by the existing foodstores. Although we disagree with DPP on the likely trade draw, the main foodstores are mostly out of centre and the impacts on centres are therefore likely to be limited. The centres where the potential impacts are greatest are the town centre, Caernarvon Road and Coronation Square.
- 4.37 The comparison goods turnover of the town centre is so large that the impact on the centre as a whole would be negligible even if much greater than forecast by DPP.
- 4.38 The impact on Caernarvon Road would be on the Morrison store which comprises the majority of the centre. This is operated by a major national company and the evidence suggests that it is trading considerably above the average for the company. Its closure as a result of this proposal or any cumulative impact is highly unlikely.
- 4.39 Coronation Square is a weak centre but has improved recently with significant new lettings. We conclude the trade diversion is likely to be small because the existing Aldi store on Tewkesbury Road and the Asda store on Hatherley Lane are already strong competitors. They are conveniently accessible to the users of the centre and the proposed store would offer little qualitatively that is not already available.
- 4.40 We have considered the proposal in the context of other commitments and the undetermined application for an Aldi store at Grovefield Way. We are not aware of any investment proposals in these centres which would be jeopardised by the application proposal on its own or in combination with the Aldi store proposed on Grovefield Way.

4.41 We therefore conclude that the impact tests are passed.

5.0 Other Benefits

Other Benefits

5.1 DPP set out the other benefits of the proposals in section 5 of its report as

- Regeneration of a brownfield site within the urban area
- Employment
- Improved retail provision
- Increased linked trips

The weight to be attached to them is for the Council to judge but it must understand the scale of the benefits if it is to do so.

Regeneration of a Brownfield Site

5.2 DPP comments in para 5.2 that the site is vacated and contributing nothing to the local economy. Moreover, it considers the existence of such a prominent roadside vacancy will also detract from the overall character of the townscape. The beneficial use of land is always to be welcomed but any development would have this effect – it is not established that alternative forms of development would not occur or that retail development is needed to redevelop the site. We doubt that this could reasonably be considered to outweigh any conflict with retail planning policy.

Employment

5.3 DPP states that the development would provide approximately 60 jobs. It is not clear whether these are full-time equivalent jobs (Planning Statement) or full and part-time (Retail Statement). If the Council is to give significant weight to the employment generation, this would have to be clarified. However, once displacement and leakage are taken onto account the net increase would in any case be small.

Improved Retail Provision

5.4 All retail development is likely to increase the range and choice available to local shoppers unless it entirely displaces existing provision. The town centre first policy works within this context and the development must offer something above this if the benefits to retail provision are to outweigh retail planning policy objections. Retail provision in the area is generally seen as good and the proposals do not seem to offer goods or services which are not currently available but would be more conveniently located for residents on the west of the town. The benefits are therefore limited and would be unlikely to overcome any retail planning objections.

Increased Linked Trips

5.5 DPP comments (para 5.8) that:

"The application site is located in close proximity to a number of existing 'Retail Parks' and several roadside commercial uses. The proposed development will, therefore, complement existing retail provision and encourage new linked trips with other retail and service businesses along Tewkesbury Road – with associated sustainability benefits"

No evidence is submitted to support this claim and no example of complementarity related to the proposals is offered. Any linked trips to nearby retail warehouses are likely to be by car. To the limited extent that it would displace town centre activity, where shopping and service activities are linked, we consider that the proposal is more likely to lead to less sustainable shopping patterns. The town centre first policy has, for many years, been partly based on the fact that out-of-town retail development is less sustainable. The coffee shop would provide a service for local employees which is currently rather limited and might reduce the length of trips a bit.

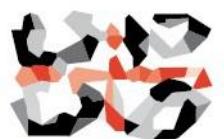
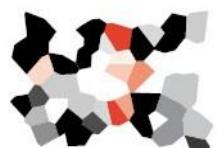
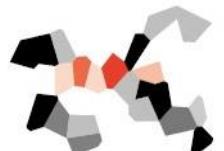
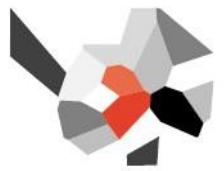
- 5.6 The weight to these other benefits is a matter of judgement for the Council to make, but we consider that little weight should be accorded to them.

6.0 Conclusions

- 6.1 We conclude that the applicant has not completely satisfied the sequential test. In relation to the foodstore proposal, the evidence of weak with regard to the availability of the North Place site and there is little information on the developer's intentions. We recognise that it can be difficult to obtain such information and the Council may be better informed, but the onus is on the applicant to demonstrate compliance with the test. The rejection of the site because it is located too close to the existing Lidl store is clearly contrary to the Mansfield judgement in relation to the broad type of development by reference to its approximate size, type and range of goods and the general exclusion of the identity and personal or corporate attitudes of an individual retailer.
- 6.2 There is no evidence that this site is unsuitable for a drive thru-restaurant or that it could not accommodate both the foodstore and the drive-thru outlet. The drive-thru facility should not be seen as a definitive in terms of the sequential test and there are a number of units which are available in the town and other centres which could accommodate a coffee shop. However, the applicant has identified a specific demand which is not well meet in relation to catering for local employment areas and the sequential test as set out in the NPPF and Local Plan does not address this sort of demand. We therefore conclude the sequential test is of limited assistance in considering the coffee shop aspect of this development.
- 6.3 Alternative views can be taken of much of the data used in assessing the impact on the vitality and viability of existing centres but the majority of the proposals turnover is likely to be diverted from existing out of centre stores. The turnover of the town centre is so large compared with the likely turnover of the proposal that it is clear that the proposal is unlikely, on its own, to cause significant adverse impact on it. The Caernarvon Road centre is too far from the proposal to be seriously affected. Coronation Square is likely to be adversely affected to some extent but the impact is likely to be limited by the wide range of competition already available to residents and the impact is unlikely to be sufficiently adverse to be able justify a refusal of planning permission.
- 6.4 The cumulative impacts identified by DPP are quite large but do not take account of the much larger comparison goods turnover of the centres. Furthermore much of the cumulative impact arises from the Morrisons scheme at North Place which it is accepted will not go ahead, at least in the permitted format. We consider that not much weight should be given to the cumulative impact exercise.
- 6.5 Of more concern is the combined impact of the proposed Aldi store at Golden Valley currently under consideration (App 16/02208/FUL) and this application. DPP assesses the combined impact but that also includes the hypothetical impact of the Morrison North Place permission. Our broad assessment of the combined impact of the two discount foodstore proposals indicates that this is not of sufficient concern to require more detailed analysis.
- 6.6 The current permission on the former BMW site (App 15/00321/OUT) represents a viable fall-back position for the applicant. The assessment of impact does not take the non-implementation of this permission into account, but the trade diversion from the town centre from this proposal would have been greater than from the current application. Although this earlier proposal was also considered to have a limited direct trade diversion effect, the risk to investment in the centre was considered to require conditions limiting the sale of goods and an

agreement from the developer not to accept retailers from the town centre as tenants. From the point of view of retail impact the current application is preferable to the existing permission.

- 6.7 In our view, the advantages of the current application over the existing permission on the site in terms of retail impact should outweigh the applicant's failure to completely satisfy the sequential test in this particular case.



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