



Hearing Statement
Matter 10
Topic – Retail, Leisure and the Town Centre

On behalf of:
Derwent Development Management Ltd

In respect of:
Warrington Local Plan:
Examination in Public

Date:
July 2022

Reference:
MA/DDML/011-30/R001m

1.0 Introduction

- 1.1 This Hearing Statement is submitted in respect of document IDo2 as it pertains to Matter 10 in the context of those questions regarding the “Retail, Leisure and the Town Centre” topic. A key thrust of our response in this respect is the policy framework as it will pertain to the uses impacting Junction Nine Retail Park.
- 1.2 We have submitted other Hearing Statements which respond to other topics, including Matter 11 and Matter 13.
- 1.3 This comprises responses to the following questions pertaining to Matter 10 as set out in IDo2:
- Q1
 - Q5
 - Q6
 - Q7??
 - Q19
- 1.4 The Inspector may be aware that we issued representations to the consultation version of this Plan which highlighted concerns with the DEV5 framework and suggested additional clarity in order that the policy can be evidence-based and consistent with national policy guidance. We continue to feel that these objectives need to be resolved.
- 1.5 We are therefore compelled to prepare and submit this Statement to assist the Inspector to draw out this information from the Council at the Examination.
- 1.6 We reserve the right to respond to the Council’s comments regarding IDo2.

Responses to Key Questions

Matter 10 – Retail, Leisure and the Town Centre

Q1 What is the evidence base for determining the provisions of Policy DEV5 in setting out the hierarchy of centres providing for the range of shops, services and facilities across the Borough? Are the provisions of this policy justified and will they be effective across the plan period?

- 2.1 The evidence base is comprised of both of the 2021 Retail and Leisure Study Update and the 2019 Update.
- 2.2 For the sake of clarity, the 2021 Study is solely focused upon shopping requirements. This assessment of future requirements relies upon shopping patterns evidence from a 2014 household survey applied to available resident expenditure as of a bespoke 2021 report. This is also informed by consideration of planning commitments which could draw upon any residual resident expenditure once they are implemented.
- 2.3 The 2019 Study is more detailed also considers shopping requirements as well as a broader range of considerations including the vitality of defined centres. This was informed by primary data and healthchecks undertaken during June 2018.
- 2.4 Whilst the 2019 Study did note that there was a future opportunity for significant repurposing within the town centre, those were generic and since that point planning applications have been submitted for major mixed use development adjoining Cockhedge Shopping Park.
- 2.5 We also set out through prior representations that there were some substantive omissions in terms of commitments data which would inform consideration of latent capacity for future development. This may not necessarily change the overall conclusion in terms of there being any urgent quantitative requirement for new comparison floorspace, but it is important to set the scene for what current and future provision is likely to be.
- 2.6 Specifically, the 2021 Retail and Leisure Study Update (2021 RLSU) has not properly accounted for commitment schemes at Junction 9 Retail Park. The anomaly is acknowledged at paragraph 4.30 of the 2021 RLSU but the conclusion drawn is incorrect. It states: is flawed and makes a substantive difference to how these tables should be presented.
- "Furthermore, we have not accounted for the retail units at Junction 9 Retail Park (planning permission references 2016/29425, 2016/28791 and 2016/27464) as this too has now been implemented."*
- 2.7 In the context of the more significant 2016/29425 approval the consent is extant but none of

those units have been completed or occupied. As such, these should remain as commitments and by use of the same trading density utilised for the other schemes that equates to a commitment turnover of £37.6m at 2021. This should be accounted for.

- 2.8 More generally, we would welcome the Council's clarification and demonstration that the evidence base does reflect the Plan-led development that will significantly affect the vitality and function of Warrington town centre. As necessary, they should consider bolstering that evidence base.
- 2.9 We have also set out under our responses to Q5 and Q6 (primarily) and strongly resist the construction of DEV5 as it relates to the sequential and impact tests and the floorspace threshold proposed in terms of impact assessment.
- 2.10 In order to promote positive planning of town centres we would encourage the Council to take greater opportunity to amend DEV5 accordingly.

Q5 Are the requirements of Policy DEV5 points 5 to 7 consistent with the NPPF paragraphs 87-91?

- 2.11 Points 5 to 7 of Policy DEV5 are intended to provide a framework which would clarify how development proposals for retail and leisure uses that are located outside defined centres should be considered in Development Plan terms. As a point of principle, this covers the same types of planning remit addressed by paragraphs 87-91 of the NPPF.
- 2.12 However, the specific construction of points 5-7 must lend to a conclusion that it is not properly aligned to those NPPF paragraphs.
- 2.13 The NPPF tests are essentially separate, in that all proposals for main town centre uses located outside defined centres should have consideration of the sequential approach. This should reflect the advice set out at paragraphs 87-88 of the NPPF as well as more detailed content within the NPPG and other evidence as appropriate. Paragraph 89 provides a general exception to these requirements in the context of specific types of rural development.
- 2.14 The consideration of impact is addressed at paragraph 90, and is solely relevant to schemes for "retail and leisure development" outside town centres and has reference to a national floorspace threshold (2500m²) or other locally set threshold.
- 2.15 Paragraph 91 then provides a summary recommendation in the context of any such proposal where the conclusion would be that there is a failure to satisfy the sequential test or that there would be a significant adverse impact on investment or in the vitality of centres.

- 2.16 The text within paragraphs 5-7 fails to have any regard for:
- Rural exceptions set out within NPPF paragraph 8g;
 - The fact that the NPPF doesn't require impact testing for office uses; and
 - The fact that impact considerations do not apply below the stated floorspace threshold.
- 2.17 We also have significant concerns in respect of the proposed lower threshold (500m²) which we say is far too low. This is because there is no credible evidence that a store of that size located outside any defined centre would genuinely result in a significant adverse impact upon its vitality and viability. The detailed reasoning for this is set out in our response to Q6, but for the sake of brevity we would suggest that 500m² is not appropriate and have suggested an alternative of 1500m² as well as reference to a more detailed framework.
- 2.18 We suggest the following revisions to points 5-7 which we say will improve the effectiveness of the policy:
- "5. *Where retail or leisure uses are proposed outside of a defined centre, the applicant will be required to demonstrate that no suitable sites are available within the centre or in edge of centre locations through applying a sequential approach (following the advice of the NPPF and NPPG).*
- ~~6. *Where there are no suitable, available or viable sites within a defined centre, the proposal must demonstrate that there are no significant adverse impact on that centre(s).*~~
7. *Proposals for retail and leisure and office uses located outside of a defined centre over 500 1500 square metres gross will need to provide justification in the form of an impact test proportionate to the scale of the proposal. This should demonstrate that there are no significant adverse impact on defined centre(s) in the catchment."*
- Q6** *Is the threshold set at Policy DEV5 point 7 for impact assessments being required for proposals over 500m² justified?*
- 2.19 We have significant concerns in respect of the proposed lower threshold (500m²) which we say is far too low. This is because there is no credible evidence that a store of that size located outside any defined centre would genuinely result in a significant adverse impact upon its vitality and viability. The detailed reasoning for this is set out in our response to Q6, but for the sake of brevity we would suggest that 500m² is not appropriate and have suggested an alternative of 1500m² as well as reference to a more detailed framework.
- 2.20 For the sake of argument, we cite a hypothetical proposal for a scheme for two units that would deliver 700m² of retail floorspace in an out-of-centre location close to Warrington town centre that would accommodate a Tesco Express and a Greggs unit. It would not be credible to argue that a scheme of that scale would function to draw a magnitude of turnover from

Warrington town centre to justify a conclusion of significant adverse impact.

- 2.21 We would accept that there would be examples of development where stores below the 2500m² national threshold (such as a food discounter) could have a material effect upon shopping patterns if it was sited near to a smaller centre. This reflects a wider change in retail planning since the 2500m² threshold was originally introduced in PPG6 where those formats were far less important in terms of the ability to genuinely meet main food shopping needs.
- 2.22 That principle could justify the need for that impact to be assessed, but it would be based upon consideration of the scale/function of those centres and in any event the floorspace threshold should be higher than 500m².
- 2.23 We would suggest that a figure of 1500m² would be more appropriate, but would invite the Council to reconsider as they deem appropriate which might include consideration of a more detailed framework where the threshold was tailored to the scale/function of centres that might form part of the catchment of any given development proposal.
- 2.24 If the Council does feel unable to provide a compelling framework for locally based thresholds, then the only credible alternative option is to revert to the national 2500m² threshold.

Q7 Are the provisions of Policy DEV5 point 8 consistent with national policy? How does this align with the requirements of Policy INF4, particularly in relation to cultural facilities?

- 2.25 Policy DEV5 point 8 is currently worded to resist changes from certain specified uses, absent of any consideration of market demand for those uses or to refer to any planning balance exercise that might consider any planning harms with the benefits accrued from an alternative use. This would appear to be applicable in a town centre location or any other location.
- 2.26 Given the overriding direction of travel to ensure that the planning system should remove barriers for town centres to thrive, it would be incongruous to prevent a premises to be re-occupied for an indefinite period and thereby prejudice ongoing vitality and viability of the centre and otherwise to impede sustainable economic development.
- 2.27 We would also note that Policy INF4 sets out within its General Principles section that:
"Where possible such facilities should be located in defined centres or neighbourhood hubs. (See Policy DEV5 Retail and Leisure Needs)."
- 2.28 The above suggests that the intent of IF4 and the relevant sections of DEV5 was intended to relate to the retention or promotion of such premises within defined centres.

2.29 In reality, the provisions of Class E of the Use Classes Order extend this flexibility to all locations, which means that a number of these types of change of end usage would not require recourse to planning consent at all, unless the Council was to commit further resource to seek to impose bespoke Article 4 Directions.

2.30 Given that the Government has provided recent guidance to “raise the bar” in terms of the justification for new Article 4 directions that would otherwise impede these types of flexibility, this tends towards a conclusion that Policy DEV5 point 8 is not consistent with national policy.

2.31 In order to resolve this conflict, it would be appropriate to amend point 8 to clarify that it would only relate to town centre locations and that it would have reference to demonstration that such uses are not viable and give weight to the relative contribution of the alternate use to supporting town centre vitality. Our suggested revisions are set out below:

Sustaining local shops and services

The Council will ~~seek to~~ support the health and wellbeing of local communities by ensuring development proposals ~~located in defined centres seek to~~;

- a. avoid the loss or change of use of viable convenience shops, cultural facilities, post offices and public houses where the loss would impact on the diversity of local services in communities;*
- b. avoid an overconcentration of hot food takeaways in accordance with the approach set out in the Council's Hot Food Takeaway SPD;*
- c. support the retention of viable local health and community facilities.*

Where necessary and proportionate, the applicant should demonstrate that the prior use is not economically sustainable, and/or consider the relative contribution to town centre vitality.

2.32 Policy INF4 sets out that these types of facility are important components of a town centre offer. As such, if INF4 is to be supported then (in order to minimize the conflict with national policy) we have suggested changes to Policy DEV5 point 8 which would mean that these restrictions are only applied in town centre locations. We feel that these revisions are appropriate and well-considered and invite the Inspector to consider those as set out above.

2.33 In the context of the term “cultural facilities”, this needs to be interrogated to ensure that the policy would genuinely address issues of planning importance. Whilst it is for the Council to formulate and justify that framework, we would simply mention the Assets of Community Value legislation which is already available.

2.34 Whilst it is not our preferred position, if the Inspector did feel that there was merit in providing support to cultural facilities in town centre locations then we feel it would be crucial to identify which types of infrastructure or facility genuinely warrant that policy support through the

Development Plan.

Q19 *Are any main modifications to the above policies necessary for soundness?*

- 2.35 We have set out above our proposed text revisions to policy DEV5 which we would envisage will be concluded to represent Main Modifications (as they go beyond a scope for a Minor Modification) to the submitted Plan.
- 2.36 We would be extremely grateful if the Council could confirm that the amendments we have proposed are acceptable and can be agreed at or prior to the Examination. This is important because our conclusion is that (without these revisions) we would regrettably conclude that Policy DEV5 is not capable of being found sound.