

## **IPSWICH LOCAL PLAN REVIEW EXAMINATION**

### **HEARING STATEMENT ON BEHALF OF TESCO STORES LTD**

**Site IP047, Land at Commercial Road, Ipswich**

**Site IP236, Land West of Bridge Street, north of the River Orwell, Ipswich**

**Matter 4b - Residential Development Allocations (Policies SP2 and SP3)**

**Matter 6 - Employment Policies and Allocations (Policy SP5)**

**Matter 10 - Non-transport related Infrastructure and Services (Policy SP6)**

**Matter 11 - IP ONE Area Action Plan (Policy CS3 / Opportunity Area F)**

#### **Structure**

1. This Hearing Statement has been prepared in relation to Sites IP047 and IP236, which together comprise the largest redevelopment site within Opportunity Area F. Because the sites appear are identified across a range of policies (SP2, SP3, SP5, SP6 and CS3) and also raise a variety of interconnected issues, a single Hearing Statement has been prepared covering all matters raised by the Inspector. This is intended to simplify matters and avoid duplication; an approach that is accepted by the Programme Officer.

#### **Background**

2. There is an extensive history here, which must first be understood before giving consideration to the substantive components of site allocations IP047 and IP236.
3. The site was identified in the Ipswich Local Plan Proposal Map (November 1997) as an existing retail park, with a small to the east of the site identified as open space. Corresponding Local Plan policies (S10 and RL5 respectively), effectively protected these uses, subject to certain criteria. The identification of the site was consistent with its then use as a retail park (B&Q and Carpet Warehouse) and public open space (notwithstanding its private ownership).

4. Alongside the then emerging Core Strategy, the Council also prepare a development blueprint for the Greater Ipswich area, known as the IP-One Area Action Plan. Whilst this was never adopted, initial drafts of the document identified the site for a variety of uses, recognising its commercial potential. Concurrent with the emerging document were pre-application negotiations with Tesco in respect of proposals for the site's redevelopment. Planning permission was granted on 7<sup>th</sup> February 2011 for a significant mixed-use development comprising a foodstore, 4 further retail/restaurant units, two hotels and 129 flats on land situated between Grafton Way and the River Orwell. The site assembly was the result of Tesco's acquisition of retail units including B&Q and Carpet Warehouse (The Prudential) and former railway land (Network Rail), together with access rights over the adjoining retail / trade counter park (Cambridge University Pension Fund). Tesco's involvement effectively pieced together the land now forming the major part of Site Allocation IP047.
5. The Tesco consent was not easily secured, not simply because of the scale of retail and other development proposed, but due to the strategic issues associated with this quantum of development in close proximity to the town centre. However, positive negotiation resulted in a scheme of considerable merit; one which reflected known constraints and celebrated agreed opportunities, both in terms of the broad range of uses but also the intensity of development, reflecting the site's sustainable credentials, at the edge of the Ipswich Waterfront, adjacent to the town centre and mainline railway station. The scheme reflects the optimal use of the site.
6. Given this background, it is surprising the Council has not taken the allocation of land here as an opportunity to secure the continued optimisation of the site. However, before reviewing the substantive considerations, it is necessary to review the circumstances leading to the site's allocation.

### **The Extant Permission**

7. Until publication of the pre-submission modifications, Site IP047 remained unallocated, on the simple premise that it benefitted from extant planning permission (i.e., categorised under Policy SP3). Tesco had not, for that reason, sought to engage with the Local Plan process.
8. In Cabinet Paper preceding publication of the modifications, it was stated that the Council had evidence that “...*planning permissions on four of the sites listed in policy SP3 had lapsed*” and that “...*the Council needs to consider whether / how it wishes to allocate those sites for future use.*” In so doing, the Council effectively re-categorised the site under Policy SP2.
9. Significant concerns are raised regarding the Council’s approach.
10. To confirm, planning permission for Tesco’s scheme was granted in February 2011. By virtue of a failed Judicial Review, the life of the consent was extended by a further year (i.e., permission expiring 7<sup>th</sup> February 2015). Prior to this however, all conditions precedent were discharged and implementation works undertaken (laying of drainage to the foundations). The Council was clearly aware of the intention to implement the consent, if not through written confirmation but the efforts expended in respect of the discharge of conditions. It was subsequently confirmed to the Council that, in the opinion of Tesco, the works undertaken “...*comprised a material operation sufficient to implement and thus save the planning permission.*”
11. Thus, in Tesco’s view, there is no basis to allocate the site because, by virtue of the extant planning permission, Grafton Way should remain a ‘Policy SP3 site’.

12. It is readily acknowledged that a Lawful Development Certificate could be submitted to 'test' whether the planning permission was lawfully implemented and thus extant. However, that is to some extent, a technicality. Even if such an application was refused (notwithstanding the evidence available to demonstrate to the contrary), the 'Tesco scheme' was the most recent planning permission granted here and remains in our view, an important material consideration in the preparation of any subsequent site allocation. Unlike this planning permission, which was substantially geared towards the optimisation of this important Opportunity Area site, the current allocation fails to take account of well-established principles and objectives.
13. It should also be noted that the extant permission was subject to extensive consultation with the local planning authority and relevant statutory consultees, both in terms of the principle of development and its specific design. The scheme was extensively assessed by the Council's Conservation and Design Officers and CABI's Review Panel. The scheme underwent considerable adaptation to ensure it achieved high standards of design and usability. A number of challenges were overcome relating to retail impact, access and highway capacity, flood risk, public transport improvements, environmental considerations and design. Both Tesco and the Council committed significant resources to achieving a scheme which delivered respective aspirations for the benefit of Ipswich. To ignore the underlying principles of this scheme does not make for effective planning or support the positive future redevelopment of the site.
14. On the basis the Council continues to assert that the 'Tesco' planning permission has lapsed or is irrelevant to the drafting of a new allocation policy, then the following matters must be taken into account.

## **Understanding the Allocation**

15. The Council has approached the allocations on the basis of percentage proportions. No guidance is given on whether these proportions are to be considered in numerical terms (e.g., unit numbers, floorspace, etc) or in terms of land-take. In this respect, the Council ought, notwithstanding the further concerns which follow below, to either clarify how the proportions are to be interpreted or accept that different land uses classes will be 'measured' and promoted in different ways relative to one another. Neither is there any explanation or justification behind the proportions. They do not appear to have any particular basis, whether it be the specific development needs of Ipswich, Opportunity Area F or the immediate locality, viability or wider strategic considerations (with the exception of connectivity across the site and improvements to the river corridor). The proportions appear, at best, arbitrary and are in desperate need of reasoned justification.
  
16. The Council's approach to the drafting of the policy is problematic, in that, in order to achieve the stated proportions, under-provision and/or exceedances cannot, theoretically, be tolerated. Whilst this may be an unintended consequence, it could serve to render the allocation undeliverable in the event subsequent development proposals do not meet the specific proportions, however they are to be measured. Greater flexibility is necessary, and we therefore suggest that the policy is redrafted as a general mixed-use allocation, which clearly defines land use classes acceptable in principle, and sets out any minimum delivery requirements (along with suitable justification). In that way, developers can then understand the full range of potential uses and plan to meet minimum requirements. Only then will the allocation meet the requirements of Paragraph 157 and 158 of the NPPF.

### **Absence of a Justified Approach**

17. The 'eleventh-hour' introduction of Site IP047 into policies SP2, SP5 and SP6, may explain the absence of reasoned justification for the allocation policy, particularly the land use classes included and their relative proportions. There appears to have been limited review by Council of the opportunities and constraints of the site and limited consultation with the site owner over the long term development potential, which has resulted in a fragmented development outcome for the site under the current draft policy and significantly hinders the development potential of the site.
  
18. We review, below, the land uses included, and those excluded, and why, in combination, these make the policies unsound.

### **Inclusion of Office Use**

19. Notwithstanding the absence of any justification for B1(a) business floorspace in this location, Tesco does not object to its inclusion on the basis the policy text is amended to be clear that B1(a) floorspace is an option (i.e., alongside leisure and hotel uses) rather than a prerequisite. If the Council disagrees with this interpretation, Tesco then reserves its right to make further written or verbal representations regarding the appropriateness or otherwise, of office use in this location.

### **Inclusion of Leisure Use**

20. The inclusion of leisure is broadly supported. This is consistent with the extant planning permission, the nature and context of the surrounding area (in respect of Cardinal Park and the Waterfront generally) and in order to create a vibrant mix of uses, helping to improve the deliverability of the wider allocation. However, the policy would be enhanced by a clear definition of the uses classes understood to be included within the term 'leisure'. We have so far taken this to be a broad range A3, A4, A5 and D2 as a minimum. We also

recommend inclusion of D1 uses (e.g., clinics, crèches and galleries) in order to create greater flexibility.

### **Inclusion of Hotel Use**

21. This is supported given the known requirements for additional bedspaces to support the continuing growth of Ipswich as a commercial centre and visitor attraction. It is consistent with the extant planning permission and takes advantage of the location qualities of the site, adjacent to the town centre and within walking distance of Ipswich bus and railway stations.

### **Failure to optimise the Housing Allocation**

22. The evidence base submitted with the Local Plan submission suggests that Ipswich currently has capacity constraints with regards to housing land supply.

23. The Inspector's Interim Findings dated 19<sup>th</sup> April 2016 state that the borough is unable to accommodate entirely the 13,550 dwellings (677 dwellings per annum) contended by the Council to be the objectively-assessed need for housing within the borough and that more work is required to determine the need for housing in Ipswich.

24. We understand that this work is still being undertaken by Council to support the overall plan including revised Policy CS7 which will outline the objectively assessed need for housing, and the new policy concerning 5 year housing land supply and its implications for development management. Therefore, the evidence base used to assess individual sites potential against demand is out of date and requires modification. It is understood that this additional information may only be released on 3<sup>rd</sup> June, however this information is critical to determine what the unmet housing needs for the Borough are and

whether any increase in development potential of existing brownfield sites could accommodate this shortfall.

25. Policy DM30 requires development within the town centre, Ipswich Village and Waterfront to achieve a high density of at least 90 dwellings per hectare. On the basis that the site area is actually 3.13ha (see Additional Matters, below), this would generate at minimum 113 dwellings over 40% of the site. This provides a lower dwelling provision on the site than approved by IP/08/00953/FUL, 129 residential flats (i.e. the extant permission, as discussed below), and greatly underestimates the sites capacity to support greater residential development.

26. In addition to the above, the use split and Development Principles as currently proposed for this site are too ridged and do not reflect other policies proposed within the plan. For example, Clause 9.180 of Policy DM30 states:

*“In the vicinity of the Waterfront and Civic Dive in central Ipswich, the Council will expect high density development to exceed the minimum set out in the policy, because this is the area where tall buildings may be appropriate as identified through policy DM6. This also more closely reflects site capacities achieved through recent planning permissions”.*

27. There is extensive evidence of Council applying Clause 9.180 of Policy DM30 within developments along the waterfront resulting in high residential densities (Planning Permission 05/00590/FUL, 04/00313/FUL, 05/00296/FUL, 89/00262/FUL and 95/00711/FUL to name a few)

28. Therefore, there is ability for this site to provide higher density than 90dph and greater building heights than “*medium rise (4-6 stories) with opportunities*

*for enhanced scale in key locations”* as identified under the Development Principles for Opportunity Area F – River and Princes Street Corridor.

29. The site is ideally located to support residential development being located approximately 150m north east of the Ipswich Train Station. In addition, the site is on the periphery of the town centre and approximately 150m west of Neptune Quay which provides restaurants, services and shopping facilities for future residents within walking distance.
  
30. The Housing Supply Position Statement dated February 2016 (trajectory as of 1 April 2015) shows that the borough has a 3.05 year land supply (shortfall of 1,633 dwellings) and there is a clear need to maximise the development potential of this existing previously developed sites, rather than encroach on the Green Belt. Therefore, the approach should be to maximise development potential of development sites and not constrain development sites.
  
31. The extant planning permission, which found that 129 dwellings would be acceptable here, also remains an important material consideration. Whilst the type and size of those dwellings may well be very different to future proposals, the allocation for just 103 units fundamentally fails to appreciate the potential of the site, both in terms of its overall scale and its location on the periphery of the town centre and close to important public transport nodes. Given the level of housing need in Ipswich, identified above, it is important that the potential of the site is optimised. As explained, this is the sort of location where notably higher residential densities should be achieved, particularly in the context of housing shortfalls identified at Stage 1 of the Examination and on which basis the Council is now required to make further progress.

32. Whilst higher densities may be seen to support a type of residential accommodation which has historically been over-supplied in this part of Ipswich, placing an unnecessary cap on residential density now would fail to take a longer term view of the potential of the site and fundamentally fails to make efficient use of town centre land or optimise the development potential of the site, pursuant to paragraph 58.3 of the NPPF. We therefore recommend a change to the policy, either to remove the cap on residential units or cognisant with the approach taken in Clause 9.180 of Policy DM30.

### **Public Open Space**

33. The Local Plan and Core Strategy established important principles relating to the provision of public open space within urban areas and in terms of improving east-west links across Ipswich, including across the river frontage of site IP047. No objection is raised in this respect.

34. It is also established ground that, through the extant planning permission, land to the immediate north and east of Site IP047 would be preserved as public open space (indeed, the intention was to gift this to the Borough Council along with a contribution towards future maintenance). The Council is now seeking to formally allocate this land as public open space through allocation Site IP236.

35. We fundamentally object to the Council's approach here. The land involved is within Tesco's freehold control and is and must continue to be viewed as part of the wider redevelopment proposition. Indeed, notwithstanding known constraints (e.g., sewer main and other statutory utilities), the land continues to have a role, both in terms of providing access to the wider development area and with development potential of its own.

36. Thus, rather than progressing as a discrete allocation, Site IP236 should be deleted and the land therein bound by Site IP047. Indeed, it is the

development of Site IP047 which underpins the ability to deliver open space to the public benefit and must also be considered in the context of the scale and benefit of improvements to public realm to be secured across the site as a whole. Without this change, the prospect is that land will be left, unimproved.

### **Absence of a Retail Component**

37. The failure to specifically include, or even make reference to, the importance of retail uses here, fundamentally ignores historic principles and the benefit to the site, the Opportunity Area generally and the wider Ipswich Waterfront. It also fails to appreciate the logical connection with the adjacent Commercial Road retail area and nearby Cardinal Park.
  
38. Whilst the B&Q and Carpet Warehouse units have now been demolished, the existing development plan identifies the site for retailing. In proposing to allocate the site for alternative uses, the Council has undertaken no assessment of the loss of the historic or extant retail uses, both in terms of strategic implications and the deliverability of new development here, vis a vis, financial viability. Whilst no specific evidence is put forward here, it is clear that high acquisition costs, remediation, services diversions and other physical constraints conspire to threaten whether development absent of a retail component can achieve a competitive return. Indeed, the absence of any available viability testing is a considerable concern and the Council therefore runs the risk of failing the requirements of Paragraph 173 of the NPPF.
  
39. The absence of a retail component is all the more unusual given the Evidence Base (Strategic Perspectives Retail Study), which identifies an overwhelming requirement for additional retail floorspace in the Borough. This confirms a requirement for 71,458m<sup>2</sup> of comparison goods floorspace and a further 15,502m<sup>2</sup> convenience goods floorspace to 2031. Whilst a number of smaller

retail schemes have come forward since the Retail Study was published (2010), very little progress has been made in delivering this requirement. Indeed, if the Council is no longer treating Grafton Way as a commitment, this floorspace should be re-introduced in the capacity forecasts. Neither does the 2010 capacity forecast include Westgate or Cinram; thus, there is case to also re-introduce these into the capacity forecast.

40. The Council's Retail Evidence Base (Strategic Perspectives Retail Study 2010), identifies an overwhelming requirement for additional retail floorspace in the Borough. This identifies a need for 71,458m<sup>2</sup> of comparison goods floorspace and a further 15,502m<sup>2</sup> convenience goods floorspace to 2031. Whilst a number of smaller retail schemes have come forward since the Retail Study was published, if the Council is no longer treating Grafton Way as a commitment, this floorspace should be re-introduced in the capacity forecast.

41. To some extent, the Council accepts this limitation. It's more recent Topic Paper: 'Retail and Town Centre (October 2015)' states that "*capacity figures should be treated with caution*" although no justification for this view is given. This is disappointing, both in terms of the NPPF requirement to "*ensure that the Local Plan is based on adequate, up-to-date and relevant evidence*" (Paragraph 158) and even more so given the fundamental shift in retail strategy pursued by the Plan.

42. Notwithstanding this, the Core Strategy review seeks to provide just 15,000m<sup>2</sup> of new retail floorspace (both convenience and comparison). This has reduced substantially from the 35,000m<sup>2</sup> identified in the adopted Core Strategy, itself acknowledged to be a "*capacity gap*" (i.e., substantially less floorspace than the evidence base identified). The justification for this 'gap' is stated simply to prevent "*pressure for the release out of town centre sites first*" (Topic Paper: Retail and Town Centre – October 2015). The Topic Paper

also confirms that Westgate is “...*the only site allocated for large scale retail development.*”

43. The Council’s approach is fundamentally at odds with the Framework and the requirements of Ipswich, as identified by the evidence base. Paragraph 161.1 of the Framework confirms that the Council’s evidence base should be used to assess “...*the needs for land or floorspace for economic development including both the quantitative and qualitative needs for all foreseeable types of economic activity over the plan period, including for retail and leisure development.*” Furthermore, Paragraph 23.6 of the Framework is explicit when stating that “*It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability*” (our emphasis).

44. Clearly the Council has failed to meet both these requirements. It has started in the Central Shopping Area (CSA), failed to identify any sites and therefore proposes to extend the CSA to include Westgate. That site is allocated for a total of 15,000m<sup>2</sup>; comprising the entire provision of additional retail floorspace in Ipswich to 2026. Not only does this fail to meet identified retail needs in full, it also creates inner tensions within the retail chapter of the Core Strategy review which states that “*an extended Central Shopping Area...will go some way to addressing...gaps in the offer*” (again, our emphasis), which, by implication, accepts that other sites will be required to achieve the wider retail objective.

45. It is not good enough to simply allocate a single town centre site on the basis that to allocate edge and out-of-centre sites will result in them coming forward first. The order in which retail sites are subsequently developed is not a consideration for plan-making, particularly in the context of an evidence base which demonstrates a fundamental under-provision of floorspace. Indeed, the Framework confirms that, where suitable in-centre or edge-of-centre sites are

not available, LPAs should “...set policies for meeting the identified needs in other locations that are well-connected to the town centre”. Clearly, the Council has failed in this task by ring-fencing Westgate as the only major retail allocation, at the expense of bringing forward necessary retail development elsewhere. Of course, the reality is that, if suitable, well-connected out-of-centre sites are not allocated, there is a strong risk that less desirable out-of-centre sites will emerge by virtue of adverse applications to satisfy spare capacity.

46. It is thus vitally important the Council identifies appropriate, well-connected out-of-centre sites in order to satisfy identified capacity. We are unaware of any site better positioned to address this than IP047. The site has historically been used for retail uses, benefits from extant planning permission incorporating a substantial retail element, sits adjacent to existing retail and leisure uses, and is well-connected to the town centre. The allocation should therefore be amended to include a retail component.

47. As a final point, the Council has previously suggested that minor retail development here could be brought forward pursuant to Policy DM23.

48. Whilst the objective of this policy is readily understood (i.e., protecting against the proliferation of out of centre retail proposals), it ostensibly disadvantages larger sites because the policy applies whether the proposal is for 200m<sup>2</sup> of retail floorspace alone, or 200m<sup>2</sup> within the context of a substantial mixed-use development proposal, which may be entirely capable of sustaining a considerably greater quantum of retail development without detriment to the objectives of the policy.

49. For this reason, and those set out above, a more fundamental alteration to the policy is required.

## **Conclusion**

50. The allocation, as presently drafted, is a missed opportunity to fully optimise the development potential of the site. The policy text is overly simplistic and amounts to little more than a list of poorly defined land uses and proportions. There is no attempt to relate this to the constraints and opportunities offered by the site. The absence of any retail component within the allocation fails to reflect the ability of the site to contribute to Ipswich's current and significant under-supply of retail floorspace. Likewise, the suggestion that only 103 dwellings could be accommodated here fails to make efficient use of land or reflect the nature of development previously found to be acceptable. The site can achieve much greater residential densities and positively contribute to the housing stock provision within the Borough.

## **The Changes Required**

51. Whether or not changes are necessary is to some extent conditional upon the Council's response to this Statement, particularly in respect of reasoned justification for the policy and the used prescribed therein. However, until the Council substantiates its position, and Tesco and its advisers are given the opportunity to review that position, we continue to object to the allocation and require changes making it clear that: (a) the uses currently prescribed are acceptable but that others not presently prescribed may be equally acceptable, subject to an assessment of their merits; (b) removal of exact (percentage) land use proportions for each prescribed use; (c) broadening the range of acceptable uses; (d) the deletion of allocation Site IP236 and inclusion of the land within IP047; and (e) fundamentally enhancing and optimising the allocation as set out under the headings above, thus creating greater flexibility and ultimately, helping to improve the deliverability of the allocation. Furthermore, the development opportunities and principles in regard to Opportunity Area F should also be reconsidered to take account of

the opportunities that can be afforded to site IP047, as set out above. The modifications will also require amendments to the wording of SP5 and SP6.

**Additional Matters**

52. Policies SP2 and SP5 incorrectly nominate the site as being 2.86ha. The site area is actually 3.13ha (it is noted that the 3.1ha site area is identified correctly within Council's Housing Supply Position Statement dated February 2016).

**MRPP**  
**3<sup>rd</sup> June 2016**