

## Mid Devon Local Plan Review: Examination

### Hearing Statement: Matter Policy J27, Issue 3

This statement has been prepared by CBRE and should be read in conjunction with the representations<sup>1</sup> made by GL Hearn and the retail evidence<sup>2</sup> prepared by CBRE on behalf of Friends Life Ltd (c/o Aviva Investors Global Services Ltd) (herein FLL). It seeks to complement and expand on those representations as necessary to assist the Inspector in determining the extent to which the Local Plan meets the appropriate tests of legal compliance and soundness.

#### 3. HAS THE 'SEQUENTIAL TEST' BEEN APPROACHED WITH SUFFICIENT RIGOUR?

- 3.1. A Statement of Common Ground (SoCG) for Issues 2, 3, 4 and 8 has been prepared between Mid Devon District Council (MDDC) and Friends Life Ltd (FLL) (August 2017) which sets out the matters of agreement in respect of retail matters. This hearing statement expands upon that SoCG where necessary and relevant to Issue 3.

##### Planning policy and guidance

- 3.2. The NPPF (paragraph 23) states that local planning authorities should:

- Allocate a range of suitable sites to meet the need for town centre uses over the plan period.
- Assess the need to expand town centres and, if suitable town centre and edge-of-centre sites cannot be identified, then other accessible locations that are well connected to town centre should be allocated.

- 3.3. The Planning Practice Guidance says (PPG) (paragraph 009; reference ID: 2b-009-20140306) that:

*In plan-making, the sequential approach requires a thorough assessment of the suitability, viability and availability of locations for main town centre uses. It requires clearly explained reasoning if more central opportunities to locate main town centre uses are rejected.*

- 3.4. The sequential approach requires, therefore:

- A thorough assessment of the suitability, viability and availability of locations for main town centre uses.
- Clearly explained reasoning if more central opportunities to locate main town centre uses are rejected.

<sup>1</sup> Representations To Mid Devon District Council's Consultation On Its Proposed Submission Local Plan (February 2015) on Behalf Of The Eden Westwood Partnership (April 2015); and Representations To The Mid Devon Local Plan Review Proposed Submission (Incorporating Proposed Modifications) January 2017 on Behalf Of Friends Life Limited (C/O Aviva Investors Global Services Limited) (February 2017);

<sup>2</sup> Town Centre Uses Statement: Proposed Tourism and Leisure Led Mixed Use Development at Eden Westwood (April 2015) prepared by CBRE; Town Centre Uses Statement [Draft] and Supplementary Addendum (August 2016 and September 2016) prepared by CBRE

3.5. The PPG also provides a checklist of matters that should be considered when taking a sequential assessment to plan-making (paragraph 009; reference ID: 2b-009-20140306):

- ***Has the need for main town centre uses been assessed? The assessment should consider the current situation, recent up-take of land for main town centre uses, the supply of and demand for land for main town centre uses, forecast of future need and the type of land needed for main town centre uses.***
- ***Can the identified need for main town centre uses land be accommodated on town centre sites? When identifying sites, the suitability, availability and viability of the site should be considered, with particular regard to the nature of the need that is to be addressed.***
- ***If the additional main town centre uses required cannot be accommodated in town centre sites, what are the next sequentially preferable sites that it can be accommodated on?***

3.6. There is no additional guidance on the meaning of suitability, availability and viability in the NPPF or Planning Practice Guidance, but the Government's Guidance on Need, Impact and the Sequential Approach<sup>3</sup> identified a number of considerations (at paragraphs 6.37 to 6.50). Whilst the guidance document was withdrawn in 2014, the considerations it sets out are entirely relevant. They are summarised at Appendix 3A of this statement.

#### **The approach required for a rigorous application of the 'sequential test'**

3.7. A rigorous application of the 'sequential test' requires that the approach set out in national policy and guidance is followed. That has been the approach taken by CBRE on behalf of FLL and which has led them to conclude that the proposed allocation is sequentially preferable. The basis on which that conclusion was reached is set out below.

#### **The approach taken**

*PPG matter #1: Has the need for main town centre uses been assessed?*

3.8. There is both a qualitative and quantitative need, at a regional scale, for an outlet shopping village, for the reasons explained in the part of this statement dealing with issue 2.

3.9. In addition, as also set out FLL's response to Issue 2, the need for the retail floorspace must also be seen in the context of its ability to:

- Help deliver a step-change in the tourism offer in Mid Devon, by acting as an attraction in itself and as one of a range of attractions between which there will be linked trips (an issue addressed in the parts of this statement dealing with issues 1, 5, 6 and 7); and
- Enable the development of other elements of the development sought in the allocation (an issue addressed in the parts of this statement dealing with issues 1, 5, 6 and 7)

3.10. There is, therefore, a clear need for co-location of the retail floorspace with the other uses sought in the allocation. Each element of the development sought by the draft allocation is a critical and integral component of an overall scheme of development intended to deliver a major tourist destination in Mid Devon that acts as a gateway attraction, accessible to the M5 where it can capture passing tourist trade. That is a key element of Mid Devon's wider strategy.

<sup>3</sup> Planning for Town Centres Practice guidance on need, impact and the sequential approach (Department for Communities and Local Government, December 2009)

- 3.11. In this context, the disaggregation of different elements of the development would fail to reflect the underlying commercial logic and planning rationale for the scheme.
- 3.12. In any case:
- Whilst paragraph 24 of the NPPF indicates that (in a development management context) applicants should demonstrate flexibility on issues such as format and scale, it does not require the applicant to disaggregate the scheme.
  - The NPPF contains no specific guidance on the issue of disaggregation in the context of plan-making, and there is no proper basis for requiring disaggregation in this context when it is not required in development management decision-making.
- 3.13. It is, therefore, right and proper to search for sites which can accommodate the uses sought by the allocation at one single location. That would require a site of c28ha. That is the approach followed by CBRE, on behalf of Friends Life Ltd, in their evidence submitted during the plan-making process:
- Town Centre Uses Statement for Local Plan Proposed Submission Consultation (paragraphs 7.7 to 7.14), CBRE for Friends Life Ltd, 27 April 2015
  - Town Centre Uses Statement (updated) (paragraphs 7.7 to 7.15), CBRE for Friends Life Ltd, 3 August 2016
- 3.14. The concerns about the approach to the disaggregation raised by Montagu Evans (in representations for The Crown Estate and TH Real Estate dated 14 February 2017), by Taunton Deane Borough Council (in representations dated 13 February 2017) and by Exeter City Council (in representations dated 13 February 2017) are, therefore, unfounded.
- PPG matter #2: Can the identified need for main town centre uses land be accommodated on town centre sites?*
- 3.15. The first step at this point is to identify the area of search for sites to accommodate the uses sought in the draft allocation. That area must be identified in the context of the key objective of the proposals: to provide a major tourist destination for Mid Devon and the south west that acts as a gateway attraction for the region, accessible to the M5 where it can capture passing tourist trade.
- 3.16. Junction 27 is ideally located, given that is within a 90 minute drive of almost all of the south west of England (as is evident from the map at Appendix C of CBRE's Town Centre Uses Statement (updated), 3 August 2016), thereby allowing at development at that location to serve residents and holidaymakers across the region. A development located up to 30 minutes' drive of Tiverton would also be able to serve largely the same area. A development that is up to 60 minutes' drive from Tiverton is, however, less likely to be able to properly serve the south west region. Were it to be located in Yeovil, for example, the entire area south west of the Dartmoor National Park would fall outside a 90 minute drivetime. Similarly, were it to be located in, say, Okehampton, the development could not realistically serve residents and holidaymakers beyond Yeovil. In other words, development located more than 30 minutes from the proposed location of the development would not meet the regional need that has been identified.
- 3.17. The concerns about the area of search raised by Montagu Evans (in representations for The Crown Estate and TH Real Estate dated 14 February 2017), Rocke Associates/Planning Potential (in representations for Hermes dated 13 February 2017) and by North Devon Council (in representations dated 14 February 2017) are, therefore, unfounded.

- 3.18. The next step is to assess potential alternative sites within the 30 minute drivetime.
- 3.19. As we note above, the PPG advises that when identifying sites, their suitability, availability and viability should be considered, with particular regard to the nature of the need that is to be addressed. That need is as set out above, and provided the basis for the sequential assessments by CBRE (for Friends Life Ltd).
- 3.20. Those assessments are set out at:
- Town Centre Uses Statement (updated) (section 7), CBRE for Friends Life Ltd, 3 August 2016
  - Critique of Retail and Leisure Statement (section 4), NLP (now Lichfields) for MDDC, 7 March 2016<sup>4</sup>
- 3.21. The assessments conclude that, taking account of the nature of the need, all of the town centre sites considered are unsuitable and/or unavailable and/or incapable of viable development. In each case, a thorough assessment of each site has been made and the reason (or reasons) why each site has been dismissed has been clearly explained.
- 3.22. All potential alternative sites in town centres which have any realistic prospect of accommodating the development sought by the draft allocation were considered. No party has identified any specific site which, in their view, ought to have been considered.
- PPG matter #3: If the additional main town centre uses required cannot be accommodated in town centre sites, what are the next sequentially preferable sites that it can be accommodated on?*
- 3.23. Taking account of the nature of the need, all of the edge of centre sites considered, together with those out-of-centre sites which have prospects of forming links with town centres, are unsuitable and/or unavailable and/or incapable of viable development. In each case, a thorough assessment of each site has been made and the reason (or reasons) why each site has been clearly explained.
- 3.24. All potential alternative sites at edge of centre locations, or at out-of-centre locations which have prospects of forming links with town centres, which have any realistic prospect of accommodating the development sought by the draft allocation were considered. No party has identified any specific site which, in their view, ought to have been considered.

**Conclusions on whether the 'sequential test' has been approached with sufficient rigour**

- 3.25. In conclusion, the sequential test has been approached with sufficient rigour and, therefore, the conclusion drawn, that there are no sites sequentially preferable to the allocation site, is robust.

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<sup>4</sup> SSE16



APPENDIX 3A: SEQUENTIAL ASSESSMENT CRITERIA – ENGLAND (SOURCE: CBRE)

# SEQUENTIAL ASSESSMENT CRITERIA – ENGLAND

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## Availability

### Legal or ownership problems

- Such as:
  - Multiple ownerships
  - Ransom strips
  - Tenancies
  - Operational requirements of landowners

### Pre-conditions to development

- Such as:
  - Allocation in DPD
  - Remedial action by third parties

### Ownership

- Such as:
  - Willingness of owner to bring forward the site for development within a reasonable timescale
  - Progress made by the authority on site assembly through compulsory purchase

# SEQUENTIAL ASSESSMENT CRITERIA – ENGLAND

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## Suitability

### Policy restrictions

- Such as:
  - Designations and protected areas
  - Existing planning policy
  - Corporate or community strategy policy

### Physical problems

- Such as:
  - Access
  - Infrastructure
  - Ground conditions
  - Flood risk
  - Hazardous risks
  - Pollution or contamination

### Potential impacts

- Such as effects on:
  - Landscape features
  - Built heritage

### Amenity of future users

# SEQUENTIAL ASSESSMENT CRITERIA – ENGLAND

## Viability

### Market factors

- Such as:
  - Adjacent uses
  - Economic return of existing, proposed and alternative uses in terms of land values
  - Attractiveness of the locality
  - Level of potential market demand

### Cost factors

- Such as:
  - Site preparation costs related to any physical constraints
  - Any exceptional works
  - Planning policies or obligations bearing on the site
  - Prospect of funding or investment to address identified constraints or assist development

### Delivery factors

- Such as:
  - Developer's own phasing
  - Realistic build-out rates on larger sites (including likely earliest and latest start and completion dates)
  - S106/CIL costs
  - Whether there is a single developer or several developers and their size and capacity