

**REPRESENTATIONS TO THE
MID-DEVON LOCAL PLAN REVIEW 2013 - 2033**

ON BEHALF OF

LOWMAN MANUFACTURING CO LTD

OBJECTOR REF 4564

AUGUST 2017

PREPARED BY



Policy J27

Representations made on behalf of Lowman by J&K Property Consultants Ltd

Objector Reference 4564

1. Is the evidence base sufficiently robust to demonstrate a need for the scale of the tourist attraction proposed?
 - a) No. The council's evidence base is the 2014 leisure study prepared by GL Hearn. This suggests an incremental strategy (paragraph 6.12) based upon extolling the district's natural beauty for outdoor recreational pursuits. It does not contain any references to the provision of large scale commercial leisure facilities other than low key facilities such as climbing walls etc. The scale of commercial leisure and retail facilities proposed at junction 27 is entirely inconsistent with the council's own evidence base.
 - b) The scale of commercial leisure facilities proposed at junction 27 is significant in its own right. However, there has currently been no proper assessment of whether this is the most suitable location given the need to focus development in sustainable locations and on previously developed land. No special justification has been set out that it justifies this greenfield location that is currently devoid of any public transport infrastructure.
2. Has a regional need for the retail element and the comparison goods floor-space in particular, been demonstrated?
 - c) No. The council's evidence base remains the 2014 GVA retail study that concludes at paragraph 7.5 and 7.8 that there is an insufficient need for the scale of allocation proposed at junction 27 and it is inconsistent with the sequential approach. Further advice sought from NLP in 2015 (paragraph 7.7) suggests that the retail element of the J27 proposal is excessive. It is not until NLP reports in 2016 and 2017 that their conclusion have been reversed.
 - d) A wide-ranging retail study commissioned by Exeter City Council and undertaken by GVA in 2017 appears to suggest that there is insufficient capacity within the regional catchment area to support existing development plan commitments as well as the junction 27 proposal. As the existing development commitments are consistent with up-to-date development plans and have previously considered in the context of the existing shopping hierarchy it would be perverse for the scale of retail floorspace proposed at junction 27 to take precedence over these existing commitments.
3. Has the 'sequential test' been approached with sufficient rigour?
 - e) No. Recent case law has provided clarity in the application of the sequential approach in relation to planning applications. However, the situation in relation to plan making is less clear. Clearly a pragmatic approach should be adopted and proposals where a developer seeks deliberately to combine disparate elements of a scheme simply to undermine the objectives of the sequential approach should be resisted. In the case of the junction 27 proposals the case has been made that all of the disparate elements are in some way related such that the scale of the combined scheme is so significant that it precludes itself from any existing town centre or edge of centre destinations. By definition this must be an abuse of the reasoning

behind the sequential approach which seeks to locate uses in the most sustainable location for the catchment area that they seek to serve. The promoters of the junction 27 proposal clearly identify that it seeks to perform a regional role and unsurprisingly there are no 50 acre greenfield sites within or adjacent to an existing town centre that are suitable, available or viable for the proposed development. It is considered that a robust case has not been presented by the promoters of the junction 27 scheme that demonstrates that each of the component elements are integral to one another and cannot exist without each other's contribution to scheme viability.

- f) It is accepted that in commercial terms the combination of these components will create a highly attractive and viable facility. However, the commercial objectives of the proposed operator should not be articulated as compliance with the sequential approach which is essentially concerned with locating traffic generating uses in the most sustainable locations.
4. Has the analysis of the potential impacts of the retail element (2 and 3 above) of the proposal properly fulfilled the duty to co-operate?
- g) No. The retail assessment prepared by the promoters of the junction 27 scheme has based its findings up on a household survey over a wide catchment. Other parties (Planning Potential on behalf of Hermes) have identified discrepancies in the analysis and the sample size used by CBRE suggesting it does not provide a robust basis for the assessment of impact. There are objections from adjacent planning authorities including Exeter City Council and North Devon District Council who have provided more robust information. In addition the owners of Princesshay shopping centre (Crown Estate and TH Real Estate) and Hermes have objected to the scheme. Clearly the purpose of the planning system is to protect existing and planned private and public sector investment aimed at securing the vitality and viability of existing centres that are located in sustainable areas. The junction 27 proposal undermines these well-established planning principles by locating a generator of significant travel demand immediately adjacent to a motorway junction in a location that is currently devoid of any public transport infrastructure.
5. Is there a 'clear synergy' between the Outlet Shopping Village (OSV) proposal and the tourism and leisure elements of the proposed allocation?
- h) In commercial terms there is a clear logic in co-locating the tourism and leisure elements as well as the OSV. This will maximise operating efficiencies and the destination's attractiveness as a recreational facility for the region. These are, however, commercial objectives and not planning ones. The promoters of the junction 27 proposal have not been able to identify a public benefit to the co-location of the scale of development proposed either in terms of community benefit in the form of restoring heritage assets or otherwise seeking the regeneration of the physical environment. Thus the case for enabling development has not been made.
6. If there is a need for the scale of tourist and leisure elements proposed, why is the OSV necessary?

- i) No robust evidence has been put forward to suggest that the OSV is a necessary and critical element of the proposal that will secure scheme viability or some wider community benefit that would not otherwise take place. The scale and range of leisure facilities and their combination with the OSV has been promoted purely on commercial grounds to create a destination of choice within the region.
 - j) Whilst this might be a proposal that has merits in commercial terms it has not been justified by the evidence base prepared by the council in planning terms with reference to its existing tourist and leisure strategy and the council's own retail study. Neither of these documents anticipated the scale of development proposed at the point of publication. The incorporation of the junction 27 proposals at this late stage in the local plan potentially undermines the earlier stages of local plan preparation where the whole plan might now be found to be unsound. This is likely to significantly delay the preparation of a development plan and involve the council in considerable further resources in subsequent re-drafting. To maintain the integrity of the local plan preparation process the junction 27 proposals should be omitted and the developers should pursue alternative (i.e. a planning application route) to promote its scheme.
7. If the OSV is necessary to enable or make viable the tourist and leisure elements of the proposal, where is the evidence that an OSV (or retail allocation) of the scale proposed, with its attendant effects, is necessary?
- k) It is considered that a convincing case that the OSV is necessary to the commercial viability of the overall scheme has not been made. Moreover, no special circumstances have been put forward that would justify the development of the scheme in the open countryside in a location that is devoid of public transport infrastructure when no overriding need for the scheme has been identified.
8. Can existing town centre uses be properly protected through 'planning controls'?
- l) No. Firstly it has been suggested that the scale of retail floorspace contained within the junction 27 proposals can be adequately addressed through planning conditions or other legal agreements to ensure it does not result in an adverse impact upon existing centres. In essence the OSV will sale comparison goods similar in all respects to those available in existing town centres. Therefore it is difficult to comprehend what planning condition could be attached that will mitigate the impact other than controlling the absolute scale of development permitted. It is accepted that the OSV aims to serve a discretionary leisure-based retail need as opposed to a day-to-day functional shopping need. However, larger centres such as Exeter clearly serve both of these shopping needs and its historic setting clearly means a significant proportion of shoppers in the town centre are there undertaking discretionary and recreational shopping trips. Accordingly, it will be a direct competitor for the tourist retail facility provided in larger centres.
 - m) Secondly, the promoters of the junction 27 scheme have suggested that these controls are sufficient to mitigate any adverse impact. The objections from Lowman stem from the council's indifference to identifying suitable sites within and adjacent to Tiverton town centre for a range of uses including convenience and comparison shopping as well as other leisure and tourist uses including a hotel. Therefore if the impact of the junction 27 proposals is to

be mitigated in a consistent manner the council needs to adopt a more consistent basis for proposals for retail, leisure and tourist facilities on sites within and adjacent to the town centre. The Lowman site is within an easy walking distance of the town centre and is able to accommodate a range of town centre uses. Despite this the council has ignored previous representations made on securing a suitable flexible town centre allocation for the site. Instead it chooses to allocate a greenfield site adjacent to a motorway junction for the provision of 14,000 m² of unrestricted retail floorspace in conjunction with additional leisure and tourist facilities. In no way does this provide a level playing ground for existing stakeholders in the town centre who have diligently pursued the local plan preparation process in promoting sites that are sequentially preferable to the junction 27 proposal. It is considered that a revised policy set out in Appendix 1 is required to ensure consistency of approach on existing sites that are sequentially preferable to the junction 27 scheme.

- n) The Lowman site should be allocated for mixed town centre uses and the J27 policy should be deleted.
9. Is the approach to the SAC sufficient and linked to that, what account is taken of the Priority Habitats that form part of the proposed allocation?
- o) No comment.
10. Does the evidence base lead to a conclusion that the impact on M5 Junction 27 can be properly managed?
- p) No comment.
11. Does provision need to be made for compensatory flood plain?
- q) No comment.

Appendix 1

Proposed Policy Drafting Allocation of the Lowman Site

The Lowman site should be allocated for commercial town centre uses in the emerging Local Plan Review 2013 - 2033 to accommodate the identified need of large format uses that cannot be readily accommodated in the historic fabric of the town.

Plan 1 sets out the scope of the proposed allocation.

The site should be subject to the following Policy Allocation:

The Lowman site is allocated for a range of large format town centre uses up to 7,200 sqm GIA including convenience and comparison goods (Class A1), catering uses in Classes A3, 4, 5 and non residential uses (Hotel) in Class C1. Any development in Use Classes A1, 3, 4, 5 and C1 will be subject to a minimum floor space restriction to ensure that they are uses that cannot be accommodated on more central locations in the town centre. Any retail development will be subject to a limitation on the range of goods sold to prevent any adverse impact on the town centre. Any development will provide satisfactory pedestrian access to the adjacent town centre.

Plan 1 Lowmans Site, Bundells Road, Tiverton

