



Examination Matters 8 – Retail Matters
Representor Reference: 2046

FURTHER REPRESENTATIONS BY RAPLEYS LLP

ON BEHALF OF AXA REAL ESTATE

NEWPORT CITY COUNCIL LOCAL DEVELOPMENT PLAN EXAMINATION

11 APRIL 2014

Hearing Session on 29th April 2014 on:

Matter 8 (4) – Policies R6/R12 – 28 East Retail Park

- 1) Is the non-designation of the 28 East Retail Park as a district centre supported by a logical and coherent rationale, which has regard to national policy guidance?
 - 2) Is policy R12 unreasonably restrictive, in particular in relation to refurbishment of existing units where no increase in floorspace or variation in permitted range of goods is proposed?
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1 INTRODUCTION

1.1 Rapleys previously submitted representations on behalf of Axa Real Estate to the Newport Local Development Plan 2011-2026 Revised Deposit consultation (June-July 2013). These further representations seek to respond to the Inspector's questions relative to Matter 8 Issue 4 in respect of our client's site, 28 East Retail Park. We request that the Inspector takes account of our further representations below in considering whether Policies R6 and R12 are *sound*.

2 REPRESENTATIONS

28 EAST RETAIL PARK

2.1 28 East Retail Park is an established retail park, which was granted full planning permission (ref: 00/0760) in 2001 (attached at **Appendix 1**). Since the retail park was built, there have been a number of applications for modernisation of the park to meet the needs of the occupiers, as well as the introduction of an additional complementary fitness centre. A wide range of retail goods (predominantly 'bulky goods' in nature together with other comparison goods) and complementary uses, are permitted on the site.

2.2 It is our client's long term commitment to ensure that the site is fully occupied, and thereby contributes to the local economy and creation of jobs in the local area. Indeed, retail use is defined as 'Economic land uses' in Planning Policy Wales Edition 6, February 2014 ('PPW'), which generate wealth, jobs and incomes. Therefore, it is imperative that the Newport Local Development Plan ('LDP') provides an appropriate policy framework for the continued operation of the site as a retail park. In these terms,



the LDP should identify the site as a district centre (to reflect the wide range of retail uses already consented) or as a retail park, on the proposals map, in order to provide a clear basis for the consideration of proposals for on-going qualitative improvements such as refurbishment and alterations in responding to changes in economic conditions and modern occupier requirements. This approach accords with PPW in that it requires LDPs to provide developers and the public with certainty in regard to the type of development that will be permitted at a given location.

- 2.3 It is important that the LDP is consistent with, and reflects the extant permissions that are approved on the site, particularly those which were implemented over 10 years ago, thereby establishing the subject site as a retail park. It is therefore considered that the LDP is unsound, and in that it fails to recognise the established retail park as part of the retail hierarchy and request that the site should be allocated as a district centre under Policy R6 or as a retail park. If the Inspector considers that the allocation of the site as a District Centre is unsound, then the LDP should allocate the site as a retail park on the proposals map, and clarify that Policy R12 is relevant in the determination of future applications, subject to amendments to Policy R12 (as set out below). In this regard, the policy framework for the site currently fails to provide a clear direction for the landowners/investors together with existing and prospective occupiers. In summary, such an approach falls outwith PPW, which seeks to ensure the economic benefits associated with development proposals are given consideration in the decision-making process.

WORDING OF POLICY R12 AND SUPPORTING TEXT

- 2.4 Policy R12 is relevant for the development of existing out of centre retail sites. On the basis that 28 East Retail Park is an out of centre retail site, this policy will be the key policy in the consideration of future applications for the site.
- 2.5 As stated in our previous representations, we strongly object to the wording of the policy, which is ambiguous, and does not provide clear and concise requirements/tests for redevelopment or alterations to existing retail sites.
- 2.6 With regard to economic land uses, PPW supports the principle of introducing criteria-based policies to deal with development not specifically allocated in the development plan and to help respond to unexpected change. On this basis, the criteria-based approach adopted in Policy R12 is supported (*subject to the deletion of criterion iv which cannot be effectively applied to out of centre sites, as set out in our previous representations*).
- 2.7 However, given the ambiguity of the wording, the policy could be interpreted to mean that all of the policy criteria would need to be satisfied by applicants for all types of proposals which require planning permission. Thus, our concern is that unjustified and unreasonable planning barriers could be placed upon our client's intention to review and facilitate opportunities and needs for the qualitative improvement and modernisation of existing retail outlets. These aspirations include such works as refurbishment, and internal and external alterations, which do not physically increase the level of floorspace or seek to alter or widen the broad range of goods permitted for sale.



- 2.8 The wording of Policy R12 is therefore not consistent with PPW, which requires LDPs to be clear and concise in order to provide developers and the public with certainty relating to the acceptability of proposals. The policy is considered overly restrictive, particularly for landowners who should not be overburdened with policy requirements, particularly in circumstances where they seek to invest in the local area through on-going improvement of existing retail sites and outlets.
- 2.9 It is clear that the Council's strategy is to improve the vitality and viability of the Newport City Centre, and the policy criteria are sought to impose the relevant retail tests on new retail developments. We consider that this approach is consistent with national policy. However, it is equally important that emerging policy does not unnecessarily restrict existing retail sites, such as 28 East Retail Park, which are already subject to other development management considerations, including the need to address established retail tests. On this basis, it is considered proposals - such as external and internal alterations and refurbishment - do not have any relevance to the Council's retail objective to promote and enhance the health of the town centre given that such works do not increase the level of floorspace or seek to widen the range of goods. If this is required, the relevant policy tests ensure this would be duly addressed.
- 2.10 We therefore consider that there is no robust justification for elements of the wording of Policy R12 and in order to be *sound*, the introduction of the policy should be amended to read as follows, as suggested in our previous representations:
- “Outside the City Centre and District Centres, and where planning permission is required, retail proposals, which would either increase the floorspace or vary the range of goods, will only be permitted provided that...”***
- 2.11 This will ensure that the policy criteria (i.e. the retail tests) are only applied to proposals which have the potential to undermine the Council's objective to protect and improve the viability and viability of the City Centre.
- 2.12 For the same reasons as the wording of Policy R12, the second sentence of the supporting paragraph 8.42 should be amended to read:
- “This Policy will also apply to internal alterations, where they require planning permission.”***
- 2.13 To give further justification and clarification for the requested alterations, this amendment is requested on the basis that no planning permission is required for internal alterations at 28 East Retail Park. This is confirmed by the relevant consent attached at Appendix 1.

3 CONCLUSION

- 3.1 To summarise, Axa Real Estates is committed to ongoing investment in 28 East Retail Park to ensure the continued economic viability and contribution it makes to the local economy. This should be recognised in the LDP, and it should be allocated as a District Centre or a Retail Park on the Proposals Map. It is considered that the Policy R12 and its supporting paragraph are unsound, without amendments we suggest to ensure that



there are no undue policy burdens being placed on our client to facilitate the ongoing improvement and modernisation of the site.

Appendix 1

Notice of Decision

TOWN AND COUNTRY PLANNING ACT 1990

To:

HLN ARCHITECTS LTD
WESTGATE COURT
WESTGATE STREET
CARDIFF
CF10 1XX

Application number: 00/0760



Application Type: FULL

Proposal: DEVELOPMENT OF 6/7 RETAIL UNITS AND A FAST FOOD OUTLET

Site/location: LAND ADJOINING DOCKS WAY MAESGLAS NEWPORT

In pursuance of its powers under the above Act, the Council of the County Borough of Newport notifies you of its decision in respect of your application, registered by them on 05/07/2000. The application has been:

GRANTED WITH CONDITIONS

STANDARD CONDITIONS

The development must begin not later than the expiration of five years from the date of this permission.
Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

ADDITIONAL CONDITIONS

- 01 No use shall be made of any unit until the footpaths, crossing points, parking, loading and access areas within the site have been provided and surfaced as shown on plan (20)200P, and individual parking spaces marked on the surface.
Reason: To ensure that adequate parking provision is made off the highway in the interests of road safety.
- 02 Notwithstanding the information accompanying the application hereby approved, no work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure the development is completed in a manner compatible with its surroundings.
- 03 Within 3 months of the development commencing, approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site (indicating inter alia the number, species, heights on planting and position of all shrubs). Such scheme as approved shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be adequately maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.
Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner.
- 04 Surface water drainage should be connected to the surface water system via a suitable petrol/oil interceptor in accordance with details to be first agreed in writing by the Local Planning Authority.
Reason: To prevent pollution of the drainage system.
- 05 None of the proposed retail units shall commence trading until access arrangements onto Docks Way have been fully implemented in accordance with approved plan 99232/51H.
Reason: In the interests of highway safety and efficient functioning of the site.
- 06 Prior to work first commencing on site, full details of access arrangements for construction traffic shall be agreed with the Local Planning Authority and all vehicles operating on the site shall then accord with these details.
Reason: In the interests of highway safety.
- 07 The units identified as 02, 03, 04, 05 and 06/07, as shown on plan (20)200P, shall only be used for the sale of DIY products (including building materials, kitchen and bathroom fittings, garden materials and goods), vehicle goods and accessories, furniture, carpets and floor coverings, electrical household goods, and household furnishings, and for no other purpose whatsoever, including any other purpose set out in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987.
Reason: To restrict the range of goods available from the units to protect the vitality and viability of the town centre.
- 08 The unit identified as 01 on plan (20)200P shall not exceed 9295 square metres of gross floorspace, including a 400 square metre ancillary café. The remainder of the floorspace including the 700 square metre garden centre shall only be used for the sale of DIY products (including building materials, kitchen and bathroom fittings, garden materials and goods), vehicle goods and accessories, furniture, carpets and floor coverings, electrical household goods, and household furnishings and the following:
No more than 1,000 square metres of retail floorspace shall be used for the sale of adults clothing and footwear.
No more than 630 square metres of retail floorspace shall be used for the sale of childrens clothing and footwear.
No more than 830 square metres of retail floorspace shall be used for the sale of toys/sports equipment.
No more than 740 square metres of retail floorspace shall be used for the sale of stationery, books and cards.
No more than 740 square metres of retail floorspace shall be used for the sale of health and beauty products.
No more than 550 square metres of retail floorspace shall be used for the sale of entertainment goods (CD's and videos), seasonal and novelty products.
No more than 400 square metres of retail floorspace shall be used for the sale of confectionery and snacks.
No more than 150 square metres of retail floorspace shall be used for the sale of household consumables.
The building shall not be used for the sale of food or drink (other than confectionery and snacks).
Reason: To restrict the range of goods available from the unit to protect the vitality and viability of the town centre.

Notice of Decision



- 09 The slab levels of the proposed buildings shall be a minimum of 9.8 AOD. Sections through the site at ten metre intervals showing existing and proposed levels shall be submitted to and approved by the Local Planning Authority prior to the commencement of development.
Reason: To protect the buildings from possible flooding.
- 10 Prior to work first commencing on site, full details, including sections, of storm water drainage lakes shall be submitted to and approved by the Local Planning Authority.
Reason: To protect drainage interests.
- 11 No plant or equipment shall be installed on the roof of the building approved without the prior written permission of the Local Planning Authority.
Reason: To ensure that the appearance of the building will be satisfactory.
- 12 Prior to the first use of the units hereby approved, the fences, walls and screens shown on the approved plan shall be erected and retained in perpetuity.
Reason: To ensure a satisfactory form of development.
- 13 No goods, materials, waste products or containers shall be stored outside any buildings erected pursuant to this permission without the prior written consent of the Local Planning Authority.
Reason: In the interests of visual amenities.
- 14 Prior to work first commencing on site, full details of the proposed sub stations shall be submitted to and approved by the Local Planning Authority.
Reason: To ensure a satisfactory form of development.
- 15 All service vehicles shall access the site via West Way Road.
Reason: In the interest of highway safety.
- 16 The cycle parking provision shown on plan (20)200P shall be provided prior to the first use of any unit.
Reason: In order to ensure that adequate cycle parking facilities are provided.
- 17 No units, caravans or vehicles displaying or selling food or other goods shall be located within the car parking area without the prior written consent of the Local Planning Authority.
Reason: In order to ensure that the parking provision within the site is safeguarded.
- 18 Prior to the commencement of development, details of foul drainage should be submitted to and approved in writing by the Local Planning Authority.
Reason: To prevent pollution of the water environment.
- 19 The remediation strategy detailed in the Ground Investigation Report (October 2000) and letter dated 1 November 2000 shall be carried out in its entirety prior to the completion of the development. Notwithstanding the submitted information, details of the location and type of ventilation to be provided shall be first submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the interests of future users of the site and to ensure that an acceptable system is provided.
- 20 On completion of the works of remediation the applicant shall provide a certification report, compiled by a suitably qualified engineer who has supervised the works, which confirms that the remediation works have been completed fully in accordance with the approved remediation strategy.
Reason: To ensure that the remediation strategy is effectively implemented in the interest of residential amenities and to safeguard the interests of future users of the site.
- 21 No material, other than that expressly allowed by this permission, shall be tipped or stored within 7 metres of any watercourse, ditch or spring.
Reason: In order to protect the drainage system.
- 22 Prior to work commencing on site full details of a detailed method statement regarding construction works, including details of wheelwash facilities, dust suppression, protection of the water environment and trees to be protected shall be submitted to and approved in writing by the Local Planning Authority, and the development shall then be undertaken fully in accordance with the details as agreed.
Reason: To protect residential amenity and the natural environment.

NOTE TO APPLICANT

The development should be carried out fully in accordance with the proposals shown in the application and in the plans and particulars accompanying such application as varied and amended by this permission.

This decision notice is in respect of **Planning Permission** and does not convey any decision which may be required under The Building Regulations.

This decision relates to plan Nos: (20)200P; FF(20)200; 90-200D; 204928/01/1D; 68-100B; (20)201G; (20)202D; 20-203E; (20)212E; (20)223E; (20)224E; (21)412C; (21)500; 99232/79; 99232/51H; Movement Impact Assessment (4003/1C); Retail Impact Assessment (204928(i) dated July 2000 and additional information received on 6 November 2000 and 29 November 2000; Ground Investigation Report dated October 2000 with letter dated 1 November 2000 and plans 99232/14C; 99232/13C.

Signed on behalf of the Council

Newport County Borough Council

Civic Centre
Newport
South Wales
NP20 4UR

Head of Planning and Economic Regeneration

Application No: 00/0760

Decision Date: 19/09/2001

IMPORTANT! PLEASE READ THE NOTES ON THE REVERSE OF THIS FORM