

APPENDIX – 1

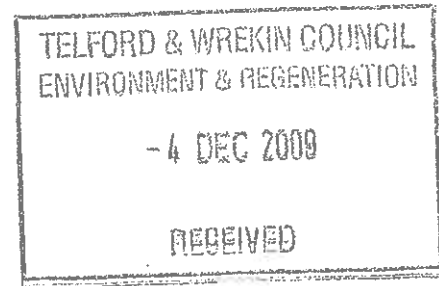
W2009/0915

**PROPOSED ASDA STORE AT LAND AT
WEST SOUTHWATER TELFORD.**

PW/JCC9033

03 December 2009

Mr Gareth Thomas
Development and Design
Telford & Wrekin Council
Darby House
PO BOX 212
Telford
TF3 4LB



Dear Mr Thomas,

Town and Country Planning Act 1990
Proposed Superstore Store at Land at West Southwater, Telford
Application made on behalf of Asda Stores Ltd (LPA Ref: W2009/0915)

We write in response to the letter of objection dated 16 November written by Drivers Jonas on behalf of Telford Trustees No. 1 Limited and Telford Trustees No. 2 Limited ("the Trustees"). Rather than respond on a paragraph by paragraph basis, we instead set out our comments under various topic headings.

Introduction

Many of the points raised in the Drivers Jonas introduction are summaries of points addressed below. However, there are two points that are better addressed up front. Drivers Jonas state that the proposed development would result in the loss of a key anchor from the town centre. This fundamental misconception, that the application is for a replacement superstore store, is carried right through their letter. In fact the application is for a new superstore to serve the needs of Telford, as identified in the WYG retail study and the RSS, and is not predicated upon Asda occupation (albeit that this will be the likely practical consequence of the development) or closure of the existing floorspace currently occupied by Asda.

They go on to say that the loss of such an anchor would damage confidence and future investment in the centre. However the redevelopment of the existing Asda store was a key element of Hark's proposals for the shopping mall and, by implication, Asda would have to move out within the same timeframe. Furthermore Drivers Jonas appear to take no account of the fact that the proposed development will actually 'kick-start' the regeneration of Southwater and, in concert with proposals which are the subject of a separate live planning application for Southwater Core, will actively encourage investment in the centre of Telford.

Sequential Approach*Red Oak car park*

Our retail assessment, submitted in support of the application, considered that the Red Oak car park would not be a viable option for Asda. Drivers Jonas question this conclusion and suggest that it is unsupported by appropriate evidence. Further evidence is therefore provided in this regard in the form of letters dated 25 November and 1 December 2009 from Asda's property agent Marsh and Baxter, as well as Illustrations A

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and B prepared by RPS (attached). The Marsh and Baxter letter dated 25 November makes clear that negotiations were held with the Trustees over an 18 month period during which time numerous options and different sites within the town centre were considered. The outcome of this process was reported to Asda's Board on a number of occasions, but was ultimately found to be unviable due in part to the inevitable impact upon the operation and trade of the existing store.

The same is true of the proposals now being put forward by the Trustees, the subject of the recently held public consultation event. The Marsh and Baxter letter dated 1 December confirms that the resultant loss of parking and disruption would have an impact on trade of circa 80%; a figure so high that the store (already under trading and impacted upon by parking charges, outdated design and poor layout) would have to close over the construction period.

While numerous options were considered during the 18 months of negotiations with the Trustees and a further option is now being put forward by the Trustees, the fundamental point is that the construction of a supermarket on the Red Oak car park would cause immense disruption and significantly reduce available car parking within the existing store's principal car park. This is true for any scheme in this location. To demonstrate this we have produced two illustrations. Illustration A shows a store footprint of 4,090 sqm net sales and 7,850 sqm gross as per our application scheme (red shading) and an appropriately sized service yard (yellow shading). To this we have added a 5m construction margin around the footprint and approximately a 2000 sqm allowance for a contractors compound (blue shading). It should be noted that the only allowance for car parking within this illustration is that which can be accommodated beneath the store. As you know from consideration of our West Southwater application, this level of parking is insufficient to service a store of this size. Accordingly, this is a very robust exercise. The Red Oak car park has approximately 750 spaces and the combined shaded area on Illustration A would take out around 450 of those spaces (approximately 60% of the parking).

In order to demonstrate flexibility, Illustration B shows the position for a smaller store of 3,250 sqm net sales and 7,150sqm gross (again making no allowance for parking other than beneath the footprint of the store). We consider that this takes flexibility to an unrealistic level as this would provide a store very considerably smaller than the proposed or existing store. Nonetheless, this would result in the loss of approximately 350 car parking spaces (approximately 46% of the total).

It should be clear from the above that the impact of losing around half of the Red Oak car parking spaces during construction would be simply untenable on the existing Asda store, with that impact being of a similar order of magnitude to that set out in the Marsh and Baxter letter of 1 December. Indeed, it is to protect against this sort of significant impact that Asda's existing lease of their store obliges the Trustees to maintain 600 parking spaces on the Red Oak car park.

While it may sometimes be possible to suffer significant disruption while continuing to viably trade from a store, this very much depends upon the trading characteristics of the store in question. A strongly performing store, trading above company average levels with limited competition, would be able to withstand the loss of trade associated with disruption far better than a poorly performing store. The existing Asda store is significantly under trading (some 20% below the company average), has a low spend per customer and

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within the context of Telford is surrounded by unconstrained active and attractive competitors resulting in it being far less able to withstand the disruption that would flow from redevelopment of the Red Oak car park.

Moreover, the end product of redeveloping the car park would not justify the investment of providing it as the potential store arrangements explored with the Trustees in the 18 months of negotiations, and the proposals now being put forward by the Trustees, result in poor compliance with Asda's minimum design principles.

Many of the comments made by Drivers Jonas on page 4 of their letter are all predicated upon the application being for a replacement Asda store. As previously stated, while the practical implications of approving the application will be that Asda relocate, the planning basis on which the application has been made is that additional superstore floorspace is needed in Telford to go some way in meeting the needs established in the WYG study and the RSS.

Before moving on, it is worth addressing the selective quotation of PPS 6 in this part of the Drivers Jonas letter. It is rarely helpful to quote national policy back to Local Planning Authorities, however, it is worth noting that, in considering suitability operators need to demonstrate flexibility in terms of scale, format, car parking and disaggregation (para 3.15 of PPS6). This we have done, as set out in the appended letter from Marsh and Baxter. Furthermore, paragraph 3.16 of PPS6 requires LPAs to take account of genuine difficulties in operating the applicant's business model in respect of assessing sequential sites. The construction of a superstore within the existing store's car park will clearly result in "genuine difficulties", as set out above. This will remain the case while the existing Asda continues trading.

Finally, Asda welcome the development of the car park for a foodstore, as noted at the bottom of page 4, providing its construction does not conflict with Asda's tenancy period for their existing store (i.e. not before 2014).

Ash Grey car park

We can confirm that Ash Grey was considered as part of the discussions with the Trustees, however, it was dismissed as the size of the site is inadequate to allow the required scale of development or for the design to meet detailed design and operational requirements, even taking a flexible approach. As noted in paragraph 5.11 of the submitted RIA, taking a flexible approach we consider that only sites in excess of 2.2 ha are capable of being suitable to accommodate the proposed development. The area of Ash Grey car park is approximately half that (between 0.95ha and 1.5ha depending on what allowance is made for maintaining servicing requirements of the existing key tenants in this locality. Clearly, this is very significantly below the size of site required.

Illustrations A and B perform the same exercise for the Ash Grey car park as that set out above in relation to Red Oak. It can be seen that the small size of the site results in wholesale loss of the Ash Grey car park and a physical inability to accommodate the development while maintaining service routes for existing stores in this location. Again, no account has been taken of the parking requirements associated with developments of this size other than that which could potentially be accommodated beneath the store's footprint. However, it is clear from the illustration that insufficient space exists to provide any frontage parking. Equally, no account has been taken of any rights the existing

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tenants (such as BHS, Primark and M&S) may have over the maintenance of service provision or customer parking.

Redevelopment or extension of the existing store

There are two primary points to note in this regard. Firstly, Asda's requirements for Telford are not for additional floorspace quantum, as demonstrated by their application. As such, the suggestion that the existing store could be extended is of no value whatsoever to Asda specifically and would have to practically double in size in order to meet the needs of Telford set out in the WYG report and the RSS. Accordingly, there is no value in pursuing an extension of this store.

Secondly, a refurbishment of the existing store would have impacts upon the existing operation even greater than the development of Red Oak car park, discussed above. Such a refurbishment would have to address the issues identified in the RIA (para. 5.21), namely relaying the floor, improving linkages between the store and the surface car park at the rear (in such a way as to avoid the loss of the bakery or the creation of security issues). The improvements would still result in a compromised store in comparison to competing modern stores in Telford and the effects of this work on a trading store would be so significant as to effectively demonstrate that the site is unavailable as well as unsuitable and unviable until such time as Asda no longer occupy the store (after 2014).

Finally, it should be noted that extension, or even refurbishment and continued operation of the store does nothing to assist the Trustees in their plans to redevelop the town centre as an enlarged sub-regional shopping centre and may very well present them with a significant additional constraint. Neither does it meet the need for additional floorspace identified in the RSS.

Edge of Centre Sites

The order of site assessment under the sequential approach to site selection is set out in paragraph 2.44 of PPS6 where, *inter alia*, it is confirmed that "in considering alternative sites with similar locational characteristics in terms of the sequential approach...local planning authorities should give weight to those locations that best serve the needs of deprived areas". The application site is edge of centre and, following PPS6, the only point at which another edge of centre site becomes preferable is where it better serves the needs of deprived areas.

The application site is better located than any other edge of centre site in terms of pedestrian links to the Malinslee area of Telford, allowing an almost straight line of pedestrian linkage with the town centre, via the enhanced pedestrian crossing over the Box Road.

The Central Southwater site, by contrast, is bounded to the south by the Town Park with no pedestrian routes linking to the residential areas further to the south. Moreover, while the Drivers Jonas letter places some weight upon the bridge link over the Box Road, no reference is made to the fact that this link closes every evening, reopening in the morning. While this closure would have no effect on customers of the town centre, as the town centre would also be closed, it does act as a barrier to movements to facilities such as the bus and train stations, customers of the proposed superstore living to the north and office and shop workers on their way to and from work. By contrast, the enhanced pedestrian crossing over the Box Road proposed as part of our application would remain open and available for use 24 hours a day. Drivers Jonas appear to be preoccupied with the nature

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of the existing linkages whereas the appropriate factor to consider is the nature of linkages that are proposed as part of the development.

In addition, the development of a large space user on the Central Southwater site would have a deleterious effect upon the regeneration plans for the Southwater area as a whole. Much of the design rationale for the form of the current application proposal is to provide a western anchor to the Southwater regeneration. The provision of this large scale development (which, by necessity, could only have one front) 'half way along' the Southwater regeneration area would result in sterilisation of remaining land to the north (i.e. the current application site).

In summary, the application site is better placed to serve the needs of deprived residential areas, being better connected to Malinslee. The proposed crossing of the Box Road would provide more convenient access to the town centre, both in terms of location and hours of available use, than the bridge link referred to by Drivers Jonas. As such, the edge of centre Central Southwater site is not sequentially preferable to the edge of centre application site.

Retail Impact

In considering what Drivers Jonas refer to as "the additional store argument" they appear to have confused the need to undertake a robust assessment of need (section 4 of the RIA, which Drivers Jonas quote from) with the commercial reality of reoccupying the existing Asda store in its current state. We agree with Drivers Jonas at paragraph 3.4 of their letter that the existing store is qualitatively deficient. However, an occupier *may* be found in the short term and could certainly be found in the medium term if the store were improved once it became available for the works to be carried out (i.e. after the Asda tenancy has ended). Accordingly, the only robust way to proceed with the assessment of retail capacity assessment is to assume that a high turnover occupier is in occupation of that unit. Irrespective of whether another retailer wishes to occupy it the store would remain as an existing building with planning permission for food retailing and our retail assessment therefore had to take account of that. Our analysis therefore proceeded on the basis that the new development would be an additional store rather than just a replacement. Our findings were that there is capacity, and hence a quantitative need, for an additional store in Telford that could trade alongside another retailer in the existing unit should that store be reoccupied. However, it is no part of our case that the proposed store is only acceptable if the existing store is re-let to another food occupier.

Drivers Jonas assert that the existence of planning permission on the application site would jeopardise the potential for a new foodstore on the Red Oak car park. We disagree; clearly the Trustees would have to be realistic about rental levels and parking arrangements but these are matters which are fully within their control. Furthermore one of the factors influencing viability, namely the impact of the construction of the new store on the trade of the existing Asda store while it is being built, would be removed. Our study demonstrates that need exists for both sites.

Vacancies

There is little to be gained in addressing the vitality and viability point made by Drivers Jonas at length as one only has to walk around the town centre to see that it is indeed a thriving centre with good vitality and viability in the current economic climate.

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On a couple of specific points it should be noted that the percentage rates quoted in paragraph 3.11 of the Drivers Jonas letter relate to vacancies "and short term let retail floor space". That is to say it relates to all vacant units and some units which are not vacant at all! Clearly, this is a very unusual premise to examine vacancy rates from. Furthermore, it is worth placing the vacancy figures in the context of the national average. As set out in the RIA (para 6.14), the vacancy rate of Telford shopping centre is actually below the national average of 11.7%. It should be noted that even Drivers Jonas only claim that the vacancy rate is "slightly above" the national average (paragraph 3.29 of the letter), even taking account of occupied units on short term tenancies. To conclude on this point, the level of vacancies within the shopping centre is close to the national average level and, from Goad and our own survey, appears to have decreased slightly over the last year.

In respect of the potential vacancy of the Asda store, this will not occur until 2014. Furthermore, regardless of the outcome of the current application, this vacancy is likely to occur given the difficulty of redeveloping the existing site while Asda remain in situ and the inability to agree viable terms with the Trustees. It would also occur under the Trustees' proposals to provide a foodstore on the Red Oak car park. Perhaps more pertinently, the Trustees' plans to redevelop the town centre will inevitably result in disruption and vacancy within the centre as that work is progressed. Given that Asda will remain in situ until 2014, it is likely that any vacancy of the unit will be seen in a completely different short term context of redevelopment and may even facilitate that redevelopment. Accordingly, the current planning application does not raise significant issues regarding the vacancy of this unit and its implications for the centre as a whole.

Quantitative Need

Drivers Jonas question the use of the WYG study notwithstanding the fact that PPS6 confirms that need assessments should "wherever possible, be based on the assessment carried out for the development plan document, updated as required..." The WYG study is an up-to-date, thorough, survey-based piece of work and provides an appropriate basis upon which to base our assessment and allows the LPA to consider our retail assessment against a consistent background.

Drivers Jonas then go on to accept that the Primary Catchment Area adopted for our assessment (assumed to be the same as that of the existing store from which 80% of its turnover is derived) comprises zones 4-6 is an improvement but ought to be supported by a 10-15 minute drive time. It should be noted that the identification of the PSA was undertaken with the benefit of knowing where the existing Asda store draws from, as set out in the household survey contained within the WYG report. That is to say, it is based upon the actual areas from where customers are drawn to a food store of approximately the same size as the proposed store, located in approximately the same location. To simply ignore the evidence available for the shopping patterns of the non-PSA zones would be illogical and require the use of significantly less robust assumptions. We consider, therefore, that it is beyond criticism. Nonetheless, we enclose a plan showing 10 and 15 minute drive time isochrones. One can see that there is a reasonable degree of correlation between the 10 minute isochrone and the PCA, notwithstanding inevitable differences between drive times and postcode sector boundaries, and if anything the isochrone is larger.

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What is absolutely clear is that the submitted RIA is not based upon a sub-regional shopping centre's catchment area, as claimed by Drivers Jonas in paragraph 3.30, rather it is based on actual food shopping patterns as detailed in the WYG retail study undertaken on behalf of the Council.

Drivers Jonas have suggested that it is impossible to identify which stores actually fall within our PCA (zones 4-6), but that is clearly not true. An examination of the study area plan included as Appendix 1 of our RIA readily indicates which stores/centres fall within which zones. If it will assist you we can confirm that Oakengates; Donnington (including the Asda at Donnington Wood); Hadley; Telford; Dawley; and Madeley all lie within zones 4-6.

At their paragraph 3.19 Drivers Jonas summarise the calculations in our convenience capacity table (Table 14) and say that our identified headroom potential/capacity of £54.8m at 2009 and £68m at 2016 is excessively large. However they provide no reasoning for that conclusion. They have made no objection to our estimates of total available expenditure within the PCA (which are derived from WYG's population figures and the latest Experian local per capita spending estimates), and both the level of spending retained by existing stores in the PCA and the level of spending from outside zones 4-6 that is also captured by the PCA stores are not our estimates but rather have been derived from the results of WYG's household survey. Similarly, the estimates of the benchmark company average turnovers of the existing stores have been largely derived from floorspace figures in the Council's retail study as well as the latest sales density estimates from Verdict. The estimates of the expenditure that is actually available within the PCA and the average level of turnover required by the existing stores therefore does not appear to be in dispute. The calculation of the headroom to accommodate additional floorspace is therefore straightforward and clearly shows a surplus of £68m at 2016, falling to £45m once existing commitments have been taken into account. That clearly demonstrates a quantitative need for additional floorspace within the PCA.

At their paragraph 3.20 Drivers Jonas point to the fact that the survey derived turnover of the existing Asda store (in our Table 12) shows the store is overtrading, while our RIA (Table 16) has contended it is undertrading. As you (and certainly your consultants WYG) will be aware, household shopper surveys can sometimes produce erroneous results and in this instance while the survey does suggest a turnover that is above the company average level, Asda themselves have informed us that their store is in fact trading significantly below the implied levels. However, this discrepancy makes no material difference to our capacity assessment. The level of available expenditure within the PCA is derived from the survey results (which includes the Asda overtrading); however if the turnover of the existing Asda were to be reduced to more accurately reflect its actual trading level, the overall level of spending within the PCA would remain largely the same, since the spending deducted from the Asda would logically be expected to be reapportioned to other stores in the area. The overall level of spending within the PCA, and hence the final headroom figure, would therefore remain largely the same. Even if that were not the case, our impact table (Table 12) assumes the existing Asda is trading around 10% below its company average level, which equates to almost 20% (£7.6m) below the level identified by the household survey. If that reduced level of turnover were to be incorporated in our capacity assessment but with the £7.6m of spending not reapportioned amongst other stores in the PCA, then the level of retained expenditure shown in our Table 14 would be reduced, which would in turn result in a reduction in the final headroom potential/capacity. However even in such a worst case scenario the level

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of headroom/capacity (£37.8M at 2016) would still be well in excess of the net increase in turnover that will result from the proposed development (£27.8M).

Qualitative Need

Once again Drivers Jonas fail to recognise that the application proposal is for a store *in addition* to the existing floorspace within the town centre. It is not a replacement of that store. Accordingly, their comments about the location within which qualitative improvements can be made and to which re-apportionment of trade can take place are misplaced as in fact, once the Asda tenancy has ceased, that floorspace can be qualitatively improved such that it too attracts additional trade.

Impact

At paragraph 3.30 Drivers Jonas reiterate their contention that our catchment area is too large, the WYG study having assessed the catchment of the sub-regional shopping centre. However as we have already said (in the quantitative need section above), while we have adopted the study area from the WYG study we have assumed the PCA of the proposed store will be smaller and only comprise zones 4-6. The WYG study area was utilised so as to comply with PPS6 guidance and allow us to make use of the household survey results, which allow both the inflow and outflow of expenditure to be identified. The wider extent of the study area is therefore not an issue, since the survey results allow us to identify how much spending is actually being captured by the PCA. Drivers Jonas' suggestion that we have identified an 'unrealistic level of expenditure' is therefore incorrect, since our capacity analysis (Table 14) only takes account of the spending that is already being captured by the PCA (zones 4-6). (We would emphasise that the PCA of the Asda store is clearly very different to the PCA of Telford Town Centre, reflecting the very different roles that are performed by food stores and sub-regional shopping centres).

In relation to the suggestion that we have omitted the Iceland and M&S stores from the analysis, our tables use the same format as the WYG study. Other stores such as Iceland and M&S are included within the 'other town centre stores' entry (£12m of turnover being estimated for these other shops in Telford town centre).

Paragraph 3.31 states that diversion of £30m of convenience expenditure from the existing Asda to a new store at West Southwater would represent 71% of all convenience expenditure being taken out of the primary shopping area, which they say would have a negative impact on the centre. However that overlooks the fact that: a) there is a clear quantitative capacity for another foodstore; and b) a new store at West Southwater would effectively function as part of the centre, because of its proximity and the good pedestrian linkage it will enjoy. In terms of the impact on shoppers visiting the centre, that should be positive, since they will have access to a better and more modern store and free car parking for Asda customers (and charges consistent with town centre car parks for other users). Further benefits will accrue if the existing Asda unit is reoccupied (which would provide more choice and competition) or the unit is incorporated within the Trustees' planned redevelopment. In terms of the comparison turnover of the proposed development, that is small compared to the capacity/need identified by your own consultants. Telford is a sub-regional shopping centre whose offer is primarily comparison goods based. The diversion of £13m of turnover, which is derived predominantly from items purchased as ancillary to a food shop and which is mostly already spent in the Asda store will have no impact on the vitality and viability of Telford, which the WYG study calculated (from their household survey) had a comparison goods turnover of £429.3m in 2006.

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Paragraph 3.32 of the letter calls into question the likelihood of linked trips being undertaken between the proposed store and the town centre. The public consultation exercise undertaken in relation to the proposal, set out in the Statement of Community Involvement, resulted in 1,600 questionnaires being handed out and 199 being returned. The questionnaire included a question on whether customers would continue to use the town centre for other shopping requirements; 94% of respondents confirmed they would.

The significant improvement to pedestrian crossing facilities across the Box Road at all times of the day, proposed as part of the development, will facilitate high levels of linked trips and, given the lack of suitable, viable and available sites within the town centre, we consider that the proposed development complies with national policy in this regard.

A substantial percentage of people will always undertake dedicated main food shopping trips wherever the store is located and will not link those trips with visits to other shops and services. However, it is now widely accepted, based on evidence, that there are linked trips to centres associated with large food stores, including from edge of centre locations. The degree of inter-linkage depends on a number of factors, including the distance of a store from the centre and its relationship to it. A Donaldsons' survey undertaken in 1995 in relation to a Sainsbury store in Devizes found: *"Of those respondents who had come specifically to shop at the Sainsbury more than half of them (59%) also visited other shops in Devizes on the same trip. These results illustrate the Sainsbury store's strong draw and the link this draw has with town centre retailing"*. It is relevant to add that the Sainsbury store (now Morrisons) in Devizes is separated from the town centre by a fairly major road and is 300m away from the centre.

Asda has also undertaken a number of surveys of linkage between its edge of centre stores and the nearby town centres. The findings of their exit surveys are outlined below together with the distance of the store from the town centre.

Centre	Distance from Asda Store (metres)	Percentage of Linked Trips
Bromsgrove	210	75%
Long Eaton	265	45%
Spennymoor	110	56%
Pwllheli	105	64%
Llangefni	150	46%

Drivers Jonas claim that no analysis has been undertaken of impact upon the town centre if the existing store were not reoccupied. That is incorrect as column 5 in our Table 16 details the impact of the proposed new store after the closure of the existing one but before its reoccupation (which is then noted in the subsequent columns).

Drivers Jonas query why the reoccupied Asda floorspace at The Border would draw more trade from out of centre locations than the proposed store at West Southwater. The reason is simply that many existing Asda customers will move across to the proposed new store and would therefore provide the majority of the turnover of the proposed new store. The occupier of the Border floorspace would be a new occupier and accordingly would draw its trade from existing facilities, many of which are out of centre. It can be expected that a large proportion of its turnover would come from the West Southwater Asda, since

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that would be the closest competitor: the remainder would largely be from other large stores in the wider area (food superstores generally compete with other comparable stores).

At their paragraph 3.35 Drivers Jonas note that even if the existing Asda unit is reoccupied, the trade diversion resulting from the new store at West Southwater would mean £5m less turnover in the primary shopping area than currently exists with the current Asda: since the application site is not currently within the PSA the turnover of the centre would therefore fall as a result of the proposed development. That is correct, however it ignores the fact that the proposed development will effectively function as part of the centre, having good linkage to the existing PSA. Given that Telford is a sub-regional shopping centre whose retail offer is primarily non-food based; the identified quantitative capacity for new food and non-food floorspace and the good linkage the new store will have to the PSA, it is not at all likely that the development will seriously undermine the vitality or viability of the centre.

Departure from Development Plan

We have accepted that the proposed development is in conflict with saved Local Plan policy TC2 but have drawn attention to the fact that this policy does not contemplate population growth and associated retail need beyond 2006. The RSS confirms a growth in households of 26,500 between 2006 and 2026 and the WYG retail and leisure study draws conclusions on behalf of the LPA as to the level of retail floorspace needed to meet this growth. Accordingly, while saved policies of the Local Plan have the weight of s38(6) of the Act, the RSS and the WYG report are very weighty material considerations which, given the time horizon of policy TC2 and the significant change in circumstances facing Telford since the Local Plan's adoption in February 2000, outweigh that policy. Even if no weight can be afforded to the RSS in this matter, as Drivers Jonas inexplicably imply, one can fall back on national policy as a weighty material consideration, in the form of PPS6, with which we fully comply.

A further policy consideration is Policy CS4 of the Core Strategy which, having cognisance of the RSS population figures and a time horizon to 2016, recognises that "the role of the Central Telford Area will be consolidated and enhanced as the hub of the service centres hierarchy by [inter alia] creating more shops..." The proposed development clearly complies with this.

Drivers Jonas seek to argue that the relocation of the Council offices from the application site constitutes the loss of a "community facility" to which Core Strategy policy CS10 applies. Paragraph 9.65 of the Core Strategy notes that community facilities include "education, health, and social facilities such as schools, health centres, hospitals, libraries, community/day centres, prisons, village and community halls, post offices and churches" with public houses and local shops also forming part of the fabric of a community. While this is not an exhaustive list none of the uses quoted are even close to Use Class B1 office use either in character or spirit. Accordingly, we do not consider that Policy CS10 is engaged. In any event, we understand that the Council are taking a report to committee in January 2010 recommending that the Civic Offices be retained within the Southwater area such that alternative provision will be able to be provided concurrently with the vacation of the current office (see attached letter from the Council's Head of Property and Design). As such, the requirements of policy CS10 would be complied with if it were to be engaged.

Drivers Jonas then move on to consider the weight to be afforded to CTAAP. It should be noted that our submission is in no way based upon the CTAAP as we recognised that it

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could be afforded limited weight at the time of the application submission. Drivers Jonas draw attention to the fact that they have objected to the document (without pointing out that others, including our client, have supported the document - a fact which potentially significantly affects the weight it could be afforded) and that the Inspector has made plain his thoughts on the soundness of the document as submitted. However, it is important to note that the Inspector's concerns set out at the Exploratory Meeting in no way related to the spatial distribution or quantum of retail allocation or the principle of regeneration being proposed through the development of Southwater. Indeed, he specifically applauded the vision and objectives of the document.

What is certainly the case is that the policies of the CTAAP represent the most up-to-date expression of the Council's aims, objectives and ambitions for Telford and that these include the regeneration of the Southwater area by mixed use development, including retail. Our proposals are not only in line with these ambitions but, in concert with the proposals for the Southwater Core, actually 'kick start' the process of regeneration.

Prematurity

Drivers Jonas seek to argue on the one hand that CTAAP can be afforded no weight at all and, on the other, that the application should be refused for being premature to CTAAP. This is clearly inconsistent.

Regardless of the status of CTAAP, the application before you is for retail development, for which there is a proven need, which is proposed on the most sequentially preferable site and results in no unacceptable retail impact. Paragraph 17 of the ODPM's document "The Planning System: General Principles" (2005) sets out that "in some circumstances" ... "it may be appropriate" to refuse permission on prematurity grounds. It is clear from this wording that this is a matter of discretion. It is our strong contention that it cannot be appropriate to refuse the Asda proposals on prematurity grounds when national policy (PPS6) is fully complied with and the policies and status of the document in question (CTAAP) are not being relied upon for that compliance. The proposals stand to be determined outside of CTAAP and cannot be considered premature to it.

Furthermore, the CTAAP position has moved on since the Drivers Jonas letter in that it has now been confirmed that the examination process has been suspended for a period of up to six months. "The Planning System: General Principles" notes that "Where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question." Given that the examination has been suspended to allow further work and associated consultation, we consider that this element of the ODPM's guidance is invoked and refusal on prematurity grounds is not justified because of the delay which this would impose in determining the application and the future use of the application site. The significant amount of additional work now being commissioned and consulted upon has the effect of placing the plan at "pre-submission" stage for the purposes of this issue.

Loss of Council Offices

As stated on the application form, the Civic Offices are to relocate, thus maintaining current employment levels. It is not the case that Telford and Wrekin can simply divest itself of all the functions currently carried out at the application site such that the jobs would be lost. Indeed, as stated above, we understand that the Council are taking a report to committee in January 2010 recommending that the Civic Offices be retained

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within the Southwater area (see attached letter from the Council's Head of Property and Design). We understand that the Council's Estates Department envisages being able to deliver vacant possession of the site in early 2013, allowing construction of the store in time for a seamless transition of employment for colleagues upon termination of Asda's existing lease. Furthermore, we understand that the Council is fully aware of the restrictive covenants referred to in Drivers Jonas' letter and we are confident the issues will be dealt with by them.

Highways Issues

Please see attached Technical note prepared by Savell Bird & Axon which address the highways matters raised.

Design Issues

Active frontages

In paragraph 8.3 of the Drivers Jonas letter they state that the store is "*within 5m distance of the existing job centre*". In actual fact the store will be no closer than 10m from the nearest point of the job centre and will be over 30m distant for much of its length. Drivers Jonas also state in paragraph 8.3 that "*this 75m long inactive edge is against an existing footpath*" whereas the actual length of the north west elevation nearest the footpath is under 50m, and this will be separated from the cycle way footpath by a 5m margin which contains soft landscape and tree planting. In conclusion, they suggest that this is "*creating a very hostile environment*" whereas the reality will be very different from the picture painted. The cycle way footpath is around 3m wide and flanked for much of its length by soft landscape margins on both sides. The job centre car parks to the north west are open to this existing path, so it will by no means feel narrow or confined. The north west store elevation which interfaces with this path is to the store warehouse, but incorporates a variety of materials and is screened by landscape and tree planting as noted above and illustrated by the application drawings.

Paragraph 8.2 also refers to the south west elevation as being "*a blank elevation completely devoid of any activity*". While the use and function of the building as a food store requires fixturation to run internally along this elevation, again a considered mixed pallet of materials has been used which includes "Kalwall" at high level above the height of the fixturation. This is a translucent material that will allow natural daylight into the store during the day and produce a soft glow of light during the hours of darkness to signify activity within the store.

The remaining two elevations are the south east elevation and the north east elevation facing Malinsgate. Both of these elevations are genuinely active elevations as described within the DAS. In paragraph 8.2 Drivers Jonas state that "*the only activity indicated is the centre door to the traveller*" whereas there are actually two entrances into the store illustrated by the application drawings, and the high proportion of glazing will afford views of the travellers within (inclined moving walkways) and the inner areas of the store beyond. A considerable degree of theatre and activity will be created and will be highly visible here.

As far as the north east elevation facing Malinsgate is concerned, a conscious effort has been made to locate the customer and colleagues restaurants and offices along this gable in order that views into these busy areas can be created from Malinsgate. This will also be reinforced by emitted light after dusk. The colleagues' and visitors' entrance to the store is also located on this elevation directly accessible off Malinsgate.

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Permeable urban development

Drivers Jonas state that the "car park is raised, resulting in a retaining wall along the site's western edge". As we have taken advantage of the site's natural topography, the car park is actually "cut in" below the store along the western edge and totally hidden from view here. We assume that their comments are really aimed at the south eastern boundary where by necessity of providing a balanced cut and fill across the site to meet sustainability objectives, the car park levels are elevated above the existing cycle way footpath. However, a positive pedestrian connection has been proposed to this cycle way footpath and the Southwater areas beyond by virtue of a 4m wide ambulant disabled flight of steps and an alternative ramped solution. The legibility at this point is reinforced by provision of a canopy and proposed signage as explained and illustrated by the DAS.

Access

The Drivers Jonas letter suggests that the recognized importance of pedestrian linkages has not been carried through, and that "the illustrative desire lines are not supported with active uses, enclosure or passive surveillance". In fact we have recognized and provided legible pedestrian linkages through the site which have good passive surveillance. The Malinslee / Town Centre linkage is located along the front of the proposed store and passes both entrances into the store. We are also proposing to make provision for public art installations to reinforce this linkage.

The linkage through the car park to the South East is wide (5m) and is defined by semi mature trees at around 6m tall at time of planting.

In conclusion, we consider Drivers Jonas' letter to be ill conceived and primarily aimed at securing a preferable negotiating position for their clients in the hope that, if refused, Asda will be forced to agree to commercially unfavourable terms being insisted upon by the Trustees. We consider the proposed development to be acceptable and beneficial to Telford's long term future for the reasons set out in the application submission and commentary above.

The aims of the application are to preserve 350 jobs and a viable business in Telford for the next generation. The contention that Asda can stay on a site whiles being redeveloped to give them, ultimately, an inadequate store at the end of it, is not credible. For this reason we ask you to grant planning permission for the application which has extremely high levels of support from the public.

Yours sincerely,



PETER WALDREN
Planning Director
waldrenp@rpsgroup.com

Encl.

c.c. Asda Stores Ltd



Drivers Jonas LLP
85 King William Street
London
EC4N 7BL
Tel 020 7896 8000
Fax 020 7896 8001
www.driversjonas.com

Planning Department
Development & Design
Telford & Wrekin Council
Darby House
PO Box 212
Telford
TF3 4LB

Our ref GB/LG/CM/62716

By email and post

16 November 2009



FAO: Gareth Thomas

Dear Mr Thomas

Town & Country Planning Act 1990
Proposed Asda Store at land at West Southwater, Telford.
Application made on behalf of Asda Stores Limited (LPA Ref. No. W2009/0915)

We act on behalf of Telford Trustee No. 1 Limited and Telford Trustee No. 2 Limited ("**the Trustees**") and write in connection with the above-mentioned planning application which was submitted to Telford & Wrekin Council ("**TWC**") by Asda Stores Limited on 13 October 2009. The application proposes a replacement for Asda's existing store within the town centre by a new store on the Civic Offices site at West Southwater on land owned by TWC.

This letter sets out the Trustees' initial representations on the planning application. The Trustees are still in the process of reviewing the detail of certain documents accompanying the planning application and, therefore, reserve their right to comment in due course on additional matters, for example the approach adopted in the Environmental Statement, once that process has been completed. They also reserve the right to submit additional representations on the points raised in this letter.

1. INTRODUCTION

- 1.1 The Trustees strongly object to the proposed development which would conflict with important national policy on planning for town centres, is recognised by Asda as being in conflict with the saved policies of the adopted Wrekin Local Plan (1995-2006) and would result in significant and unacceptable impacts on the existing town centre.
- 1.2 The proposed development would result in the unnecessary loss of the key food retail anchor store from the town centre to a site within the ownership of TWC. It is difficult to envisage a more stark example of a proposal that would damage confidence and future investment in the centre and cause an unacceptable retail impact. As such it flies in the face of the Government's town centre first policy particularly in current economically uncertain times.
- 1.3 Below we set out the Trustees' objections based on their initial review of the planning application. In summary the Trustee's initial objections are on the following grounds:
 - (i) **conflict with the sequential approach** – there are available, suitable and viable sites for the development proposed within and at the edge of the existing town centre which are sequentially preferable to the Civic Offices site. Asda has failed to provide evidence to demonstrate why sequentially preferable sites are not available, suitable and viable in accordance with Planning Policy Statement 6: Planning for Town Centres ("**PPS6**");
 - (ii) **unacceptable impact on the town centre** – the Retail Impact Assessment submitted in support of Asda's application is fundamentally flawed for a number of reasons as set out in section 3 below. The proposed development would cause a significant and unacceptable impact on the town centre;

- (iii) **conflict with the adopted development plan** – paragraph 4.5 of the Planning Statement acknowledges that the proposed development is "**in conflict with Policy TC2**" of the adopted Wrekin Local Plan. In addition, the proposal does not accord with Policy TC1 and is also in conflict with the vision set out in Policy CS4 and elsewhere within TWC's adopted Core Strategy Document 2007 to consolidate and enhance the Town Centre in the period to 2016. No weight should be attached to the emerging Central Telford Area Action Plan ("**CTAAP**");
- (iv) **prematurity** - the acceptability of retail on West Southwater and the Civic Offices site in terms of scale, location and phasing are key issues for CTAAP which has reached submission draft stage. The grant of planning permission for Asda in advance of the consideration of CTAAP at an Examination in Public would clearly have a substantial effect which would be so significant that granting planning permission would clearly prejudice CTAAP's consideration;
- (v) **uncertainty regarding the replacement for the Civic Offices** - no evidence has been submitted with the planning application explaining where it is proposed to relocate the Civic Offices to or to demonstrate that the assumption that Asda will obtain vacant possession of the application site by early 2013 is correct. Asda is clearly concerned about the potential for such a delay as, unusually, it has requested that the usual three year duration of any planning permission be extended to five years. Without clarity on this aspect the grant of permission could blight investment in the town centre for years to come;
- (vi) **highway impacts have not been adequately addressed** – the Transport Assessment prepared by Savell Bird & Axon in support of the application contains a number of serious omissions, deficiencies and inaccuracies; and
- (vii) **the scheme's design fails to address key urban planning requirements** – the proposed development has been designed as a stand alone superstore divorced from the town centre's primary shopping area ("**PSA**") with no proper regard to its urban environment.

2. CONFLICT WITH THE SEQUENTIAL APPROACH

- 2.1 Current guidance in PPS6 sets out at Chapter 3 the Government's advice on assessing proposed developments for town centre uses such as retail. Paragraphs 3.13 to 3.19 set out the sequential approach to site selection and state that when considering sites at edge or out of centre locations, all options within the relevant centre should be "**thoroughly assessed**" before such less central sites are considered.
- 2.2 RPS plc, Asda's planning consultants, acknowledge in their Retail Impact Assessment that the Civic Offices site is at an "**edge of centre**" location in sequential terms and, therefore, the sequential approach must be applied to establish whether there are any alternative sites within Telford's PSA that can be considered available, suitable and viable to accommodate the proposed development. RPS conclude that no such sites exist.
- 2.3 Paragraph 3.19 of PPS6 states that where it is argued that otherwise sequentially preferable sites are not appropriate for the particular development proposed, applicants should provide "**clear evidence to demonstrate why such sites are not practicable alternatives**" in terms of "**availability**", "**suitability**" and "**viability**".
- 2.4 The Government's advice is that unless applicants for development on edge or out of centre sites can provide such "**clear evidence**" then their applications should be refused permission to support the Government's policy of promoting and enhancing existing centres by focusing development in such centres. Mere assertion by the applicant is not sufficient. If it was then this would effectively circumvent the whole purpose of the Government's policy.
- 2.5 Paragraphs 5.19 to 5.75 of the Retail Impact Assessment submitted with the planning application set out as arguments as to why Asda considers it has satisfied the sequential approach although only at paragraphs 5.19 to 5.28 does the assessment briefly consider options within the PSA. For

the reasons set out below, however, it is clear that the applicant has failed to demonstrate that there are no available, suitable and viable sites for the development within the PSA or on sequentially preferable edge of centre sites.

Red Oak Car Park

- (i) one obvious sequentially preferable site for the proposed development is located within the existing surface level car park in the north east corner of the PSA known as the "**Red Oak**" car park. This site is available, suitable and viable for the development proposed;
- (ii) paragraph 5.25 of the Retail Impact Assessment submitted with Asda's planning application comments on this site. This is the only analysis of the Red Oak car park as an option within the PSA submitted with the Asda planning application and seeks to dismiss that option in a single paragraph on the basis that RPS have been "**advised**" by Asda that a viable scheme cannot be identified due to problems related to high costs and low trading potential coupled with alleged practical and financial implications for the operation of the existing food store and issues connected with continuity of trade. No clear evidence of the type required by paragraph 3.19 of PPS6 has been submitted to support these assertions;
- (iii) the Trustees note that nowhere is it suggested within the materials accompanying the application that the Red Oak car park site is not "**available**" or "**suitable**" for development for a food store of the type now proposed on TWC's Civic Offices site. Indeed, the letter from Marsh & Baxter Properties Limited to RPS dated 10 October 2009 attached to the Planning Statement accompanying the planning application acknowledges that there have been negotiations between Asda and the Trustees in respect of this option and that a store could be delivered which would have "**adequate but "poor" compliance with Asda's design principles**";
- (iv) as a result it is clear that the Red Oak car park site is available and suitable for the development proposed. The fact that Marsh & Baxter Properties Limited have acknowledged that a potential scheme was "**adequate**" in complying with Asda's design principles is material and the fact that Asda may consider that compliance "**poor**", according to Marsh & Baxter Properties Limited's letter, is not sufficient to render it unsuitable for the purposes of PPS6. Indeed paragraph 3.19 of PPS6 states that the test of "**suitability**" must be applied with due regard to the requirement for operators to demonstrate flexibility;
- (v) the sole purported objection to the Red Oak car park site as a sequentially preferable alternative to the Civic Offices site is therefore based on an assertion by Asda that its development would not be viable;
- (vi) in order to succeed on that point Asda would need to provide, in the words of paragraph 3.19 of PPS6, "**clear evidence to demonstrate**" why the development of the Red Oak car park site is not practicable in terms of its viability. In applying this element of the sequential approach to cases which have been the subject of appeals or call-ins the Secretary of State has made it clear that the onus is on the applicant to discharge this test;
- (vii) no cogent evidence has been submitted with the application to discharge this burden of proof and all that appears are assertions on the issue which should carry little or no weight in the determination of the planning application. As stated above paragraph 5.25 of the Retail Impact Assessment merely states that RPS was "**advised**" by Asda that a viable scheme could not be identified and the letter from Marsh & Baxter Properties Limited seeks to cast doubt on the actual viability of the scheme without providing any clear evidence. Their letter does not even rule out the possibility that Asda could approve a deal for the delivery of a new store at the Red Oak car park;
- (viii) the reality of the position is that the Trustees have been in discussions with Asda in respect of the opportunity to provide a new store on the Red Oak car park, other new build options and the renewal of the lease of their existing store in the PSA before and since the Trustees

acquired their freehold ownership of the Telford Shopping Centre and surrounding land interests including land at Central Southwater in 2007;

- (ix) extensive discussions between Asda's and the Trustees' architects took place in 2007 and 2008 and as a result the position was reached that a layout for a new store for Asda on the Red Oak car park site was considered by Asda to be generally sufficient for it to take to the next stage of considering the potential turnover to then inform detailed negotiations with the Trustees on the financial terms of a deal. That position was reached in early September 2008;
- (x) later in September 2008, however, TWC announced that it was seeking bidders for the development of the Civic Offices site and was prepared in its capacity as landowner to consider any form of redevelopment. Whilst it is clear that the site is not acceptable in planning terms for retail development, the potential threat to Asda of a competing operator securing the Civic Offices site for a food store would have been all too apparent. As has been noted by RPS in the materials submitted with the application the Civic Offices site offers a less constrained site outside the PSA with the ability to provide dedicated rather than town centre car parking, at grade and within the operator's sole control;
- (xi) realising the significant threat of another occupier seeking permission on the Civic Offices site and the significant impact that would have on its existing unit and the prospects of delivering a new unit on the Red Oak car park, Asda, it must be assumed, outbid other developers/food store operators to secure the Civic Offices site before the deadline for offers for the disposal of the Civic Offices site expired on 12 November 2008;
- (xii) whilst discussions on phasing and other matters continued until early in February 2009 from that point Asda did not progress discussions with the Trustees further on the Red Oak option seeking instead to discuss either the renewal of the lease of its existing store or its extension with the Trustees. Between September 2008 and February 2009 the Trustees awaited details of Asda's financial appraisal for the Red Oak option but they were not forthcoming and neither were the Trustees' asked by Asda for a detailed financial proposal for that option;
- (xiii) it is clear that Asda's decision not to progress such discussions was reached in light of the clear threat to the PSA posed by the possibility of a permission being granted for a new food store on the Civic Offices site. Had that threat not existed there is good reason to believe that following the identification of a scheme design that was adequate for Asda in September 2008 detailed financial negotiations with Asda on the Red Oak option would have proceeded and a deal could have been struck on a mutually acceptable basis to the Trustees and Asda;
- (xiv) that Asda chose not to pursue these detailed financial discussions with the Trustees is not surprising in circumstances where the threat of a store emerging on the Civic Offices site had arisen and Asda had decided to bid for it and would subsequently have been in negotiations with TWC about the purchase. Neither is the fact that it is alleged on behalf of Asda that the Red Oak option is not viable. Asda, having agreed that an adequate option exists for the Red Oak car park in design terms must clearly have realised when it made its bid to TWC for the Civic Offices site that it had to assert that the Red Oak scheme is unviable to overcome the sequential approach if it were to have any chance of securing consent on the Civic Offices site;
- (xv) as a result, the mere risk of a food store securing consent on the Civic Offices site, in forcing Asda to put the Red Oak option on hold, has already clearly had a negative effect on future private sector investment needed to safeguard and enhance the vitality and viability of the town centre;
- (xvi) the Trustees will be submitting a planning application for a food store on the Red Oak car park to TWC in December 2009 which will demonstrate that the site is suitable and available for the development now proposed by Asda at the Civic Offices site;

- (xvii) in the event that the current Asda planning application is refused, as the Trustees consider it should be, then the discussions between Asda and the Trustees should recommence on the Red Oak option. Given that those discussions appeared to be progressing well up until the point TWC started to market the Civic Offices site there is no reason why those discussions cannot recommence if the threat of a competing store at that site is removed;
- (xviii) paragraph 5.25 of the Retail Impact Assessment also refers to issues regarding continuity of trade during construction. Asda's concerns on this issue were being addressed in discussions on the Red Oak option before Asda withdrew from discussions on that option. This is an issue which often arises in town centre locations and is part and parcel of the urban regeneration process if town centres are to grow and expand their retail offer. Whilst in commercial terms Asda would clearly prefer to decant from the town centre to an unconstrained new store in a single move that is not a planning argument that should be afforded weight and runs totally contrary to the Government's policies for the sustainable regeneration of town centres. The Trustees working with their architects and project team have devised a construction strategy which would provide for continuity of trade during the construction process.

Other Sites within the PSA

- (xix) at paragraph 5.25 of the Retail Impact Assessment, RPS asserts that there is only one other potential site within the PSA, being the "Ash Grey" car park and conclude that the size of the site would be inadequate to allow the required scale of development or meet Asda's detailed design and operational requirements. The Trustees disagree with this assertion as it is clear that a store could be accommodated on the Ash Grey car park and, indeed, this was a location which was initially the basis of Asda's discussions with the Trustees;
- (xx) in addition RPS has failed to assess the options of redevelopment or extension of the existing Asda unit within the PSA. Again these options could provide an available, suitable and viable alternative within the PSA to the development now proposed at the Civic Offices site;

Summary of PSA Sites

- (xxi) the three options of the redevelopment of the Red Oak or Ash Grey car parks or the redevelopment or extension of the existing Asda store within the PSA all represent available, suitable and viable alternatives to the Civic Offices site. Each would satisfactorily perform the function of a northern food store anchor to the PSA and whilst the Trustees consider that the redevelopment of the Red Oak car park would provide the best option, all three would provide a more appropriate choice in applying the sequential approach than the Civic Offices site;

Edge of Centre Sites

- (xxii) in the Retail Impact Assessment, RPS also considers other edge of centre sites and at paragraphs 5.37 to 5.41 they comment on "Central Southwater". RPS recognise that the Central Southwater site is well related to the existing PSA with access available via a pedestrian bridge adjacent to the former market and library over the Box Road. RPS have also acknowledged that the site similarly benefits from close proximity to the bus station. Contrary to RPS's assertions to the contrary, however, this site is suitable, available and viable for development and sequentially preferable to the Civic Offices site;
- (xxiii) RPS asserts there is no evidence at present to suggest that the Central Southwater site is available for redevelopment and state that the largest unit on the site, the Range, is occupied. The position is, however, that the site is available for immediate redevelopment. A large proportion of the site is within the single ownership of the Trustees (with that area being sufficient to accommodate a food store of the type now proposed on the Civic Offices site). The site is occupied by two units, one vacant which extends to 1,780 sq. m. and one which is occupied by the Range on a short term lease which is capable of termination at any stage by the Trustees with minimal notice. The Range benefits from open Class A1 consent and has a

net sales area of just over 3,500 sq. m. Whilst not presenting any obstacle to redevelopment it could therefore also be occupied at short notice by a food retailer without the need for planning permission;

- (xxiv) RPS refer to the inevitable loss of car parking spaces and general disruption to the operation of the site if developed for a food store but none of those issues would prevent redevelopment and re-provision of adequate car parking and these issues are clearly insignificant when compared with the need to relocate TWC's functions from the existing Civic Offices on the site now proposed for redevelopment by Asda and the fact that no details of the relocation strategy for the Civic Offices have been submitted with Asda's application;
- (xxv) RPS state that notwithstanding its representations on these issues even if the site were available and viable to accommodate a new food store this site is not considered to be suitable as it would conflict with and be prejudicial to the aspirations of TWC as set out in the emerging CTAAP. For the reasons set out below no weight can be attached at this stage to the policies of CTAAP which are currently considered as being **"unsound"** by the independent Inspector who has been appointed by TWC to consider CTAAP;
- (xxvi) the existence of a well utilized and direct bridge link from Central Southwater to the PSA is also significant and means that it is already **"well connected to and within easy walking distance"** of the PSA (see the definition of **"edge of centre"** at Table 2 of PPS6). This is to be contrasted with the Civic Offices site which is described in Asda's own Planning Statement at paragraph 2.5 as being **"currently separated from the primary retail area of the Town Centre to the north-east by Malinsgate/Coach Central. This currently forms something of a barrier as pedestrian linkage across this road could be better"**. Again this indicates that the Central Southwater site is to be preferred sequentially to the Civic Offices site;
- (xxvii) if there were a need to consider edge of centre sites for the development proposed, which given the existence of options within the PSA it is clearly not, then Central Southwater would be sequentially preferable to the Civic Offices site.

CTAAP

- (xxviii) in the Retail Impact Assessment at paragraph 5.28, RPS make reference to the policies in the submission draft of the CTAAP. In the context of applying the sequential approach to the Asda planning application, no weight can be attached to CTAAP. This is because the relevant policies are the subject of significant detailed objections on behalf of not only the Trustees but other key stakeholders within Telford town centre and, indeed, TWC in its capacity as land owner.
- (xxix) In addition the Inspector appointed by TWC to conduct the Examination in Public into CTAAP has recently advised that he is currently minded to find the plan **"unsound because the absence of detail or content would make it ineffective or in conflict with national policy"**. As a result of his serious concerns regarding the policies within CTAAP the decision has been made to postpone consideration of CTAAP and it remains to be seen whether or not TWC will proceed with CTAAP as currently drafted or whether, as would appear necessary, it will be withdrawn or at the very least the subject of significant amendments;

Draft PPS4

- (xxx) in terms of emerging Government guidance, RPS has referred to draft Planning Policy Statement 4: Planning for Prosperous Economies (**"PPS4"**). In respect of the sequential approach, however, RPS has failed to refer to or explain that given the Government's commitment to protection and enhancement of existing town centres, it has proposed enhancing the importance of the sequential approach. At paragraph EC21.1(1) of draft PPS4 the Government has proposed that local planning authorities should **"refuse planning**

permission where the applicant has not demonstrated compliance with the requirements of the sequential approach".

- 2.6 As a result, the Trustees consider that the only reasonable course for TWC in its capacity as local planning authority is to refuse the Asda planning application on the basis of conflict with the sequential approach.

3. UNACCEPTABLE IMPACT ON THE TOWN CENTRE

The Additional Store Argument

- 3.1 Paragraphs 3.20 to paragraph 3.23 of PP6 set out the Government's advice on the preparation of impact assessments in respect of edge of centre proposals which are not in accordance with an up to date development plan strategy as is the case for the proposed development at the Civic Offices site.
- 3.2 The question of retail impact is dealt with at paragraphs 4.6 to 4.10 of the Planning Statement submitted with the Asda planning application and at section 6 of the Retail Impact Assessment.
- 3.3 As part of the assessment, however, paragraph 2.4 of the Retail Impact Assessment assumes that the Asda proposal on the Civic Offices site would represent an additional superstore that would provide a net increase in the quantum of retail floor space in Telford. The Retail Impact Assessment proceeds on the basis that the Asda proposal at the Civic Offices site would be an **"additional"** superstore on the assumption that the existing Asda unit within the PSA would be occupied by either Tesco or WM Morrisons whose average sales densities have been used in order to arrive at a notional benchmark for the turnover of the reoccupied store (see paragraph 4.22 of the Retail Impact Assessment).
- 3.4 The reality, however, is that if Asda secures consent on the Civic Offices site then it is highly unlikely that the existing store would be reoccupied by occupiers such as Tesco or WM Morrisons given that the existing Asda store within the PSA would be regarded as inferior to a new Asda store on the Civic Offices site by superstore operators as evidenced by Asda's current position.
- 3.5 The assumption of reoccupation of the existing Asda store by Tesco or WM Morrisons is further undermined by the information submitted with the Asda application and in particular:
- (i) Asda asserts that it has been unable to reach a satisfactory agreement with the Trustees on the renewal of its lease. As stated above, that assertion must be viewed in light of the need for Asda to argue that is the case as part of its attempt to satisfy the sequential approach and show that no alternative options exist within the PSA. The Trustees' position is that in the absence of the potential for a new store on the Civic Offices site then a deal could be done on acceptable terms and indeed discussions have progressed on this issue with Asda even since it completed its deal with TWC as the owner of the Civic Offices site. Even assuming Asda is correct that there is no prospect of a commercial renewal of its lease being agreed, which the Trustees disagree is the case, then on what basis can Asda reasonably argue that Tesco and WM Morrisons would be able to agree terms with the Trustees? Asda is seeking to argue this point both ways by saying that it would not be possible for it to reach agreement with the Trustees but that Tesco or WM Morrisons would;
 - (ii) paragraph 5.21 of the Retail Impact Assessment alleges that there are inherent deficiencies in the layout and operation of the existing unit (which the Trustees dispute) and that various other improvements would be required but that even if these were delivered this would still result in a **"compromised"** store in comparison to competing modern stores in Telford which RPS allege raises **"further questions over its viability as well as suitability in the short term"**. Again, although this is disputed, if it is true it would apply equally to an incoming Tesco or WM Morrisons occupation;

- (iii) whilst at paragraph 5.22 of the Retail Impact Assessment, RPS state that it would be logistically and commercially much easier for a new operator to secure the existing Asda site once its lease expires in 2014 and modernise and refit the unit without the constraint of having to secure continuity of trade, this ignores the effect which the existence of a planning permission for a new store at the Civic Offices site, which in the words of RPS at paragraph 4.9 of the Planning Statement is at a "**less constrained edge of centre location**" would have. It is clear that it would act as a major deterrent to any potential occupier.
- 3.6 As a result the Retail Impact Assessment which has been submitted with the Asda planning application is wholly insufficient and fails properly to assess the likely impact on the future vitality and viability of the PSA. Whilst at paragraph 1.5 of the Retail Impact Assessment RPS assert that they have assessed a "**worst case scenario**" this is plainly not the case and the potential impacts of the development have been grossly underestimated.
- 3.7 In addition and for similar reasons the grant of planning permission for food retail use on the less constrained Civic Offices site would seriously jeopardise the potential for a new food store development to come forward on the sequentially preferable Red Oak car park site.
- 3.8 As a result there would be likely to be an unacceptable impact on future public or private sector investment needed to safeguard the vitality and viability of the Town Centre for the purposes of paragraph 3.22 PPS6.
- 3.9 The likely effect, therefore, is that a food retail use on the Civic Offices site would remove the main dedicated food store offer from the existing PSA which would reduce the range of services provided by the Town Centre within the PSA and create an unacceptable impact again pursuant to one of the key issues identified by paragraph 3.22 of PPS6.

Vacancies

- 3.10 At paragraph 6.32 of the Retail Impact Assessment RPS assert that "**Telford is a thriving centre, with good vitality and viability. It continues to perform well in spite of difficult economic conditions and where many other centres nationally have experienced a sharp rise in the rate of vacant rates, Telford has been stable over the past 3 years, in fact experienced a small reduction over the past 12 months**"
- 3.11 On the contrary, however, during the last 12 months the decline in the economic climate has had a direct impact on the vitality and viability of the Telford Shopping Centre. Since the Trustees purchased the centre in 2007 the proportion of vacant and short term let retail floor space in the town centre has increased from 2.2% to over 14.4%, and this could increase further as the retail market is unlikely to improve in the short term. Short term lets are often used to provide activity where there have been permanent losses of long term tenants to try to reduce the adverse impact of gaps in the centre but are terminable at short notice by the occupiers.
- 3.12 RPS appear to contradict their earlier assertion by acknowledging in paragraph 6.33 of the Retail Impact Assessment that there are "**casualties of the recession**," but asserts these can be "**traced back to collapses of the retailer nationally, rather than underlying poor performance in Telford**". While some of the vacancies can be attributed to the winding up of national retailers, such as Woolworths, the closure of these stores has left gaps in the centre which have not been taken up, or units which are occupied by temporary low-end retailers. This reduces the retail offer in the town centre serving to weaken its appeal to both shoppers, investors and existing and potential retailers.
- 3.13 In measuring the vitality and viability of town centres Chapter 4 of PPS6 identifies retailer representation as an important factor and recognises that changes in representation of types of retailer can be significant. The marked increase in the short term lets since 2007 is clearly a case for significant concern in this respect.



- 3.14 In addition, and for the reasons referred to above the closure of the existing Asda store with little prospect of reoccupation for a food use by a Tesco or a WM Morrisons will leave a significant vacancy of itself.
- 3.15 In addition Asda claims a benefit of the proposal is that it would allow it to move to a "less constrained" edge of centre location and will "in turn also free up land within the primary shopping area, thus creating further floor space for the sale of non-food goods and helping to support the aim of bolstering and expanding Telford's role as a sub-regional centre" (paragraph 4.9 of the Planning Statement). This conflicts with statements elsewhere that the existing Asda store may be occupied by a replacement food store operator and undermines Asda's assessment both of the retail impact on that basis. It also ignores the very significant effects which would occur in the event that the existing centre is stripped of any major food store operator which creates significant footfall and there has been no assessment of the impact on investment and the value of the existing asset and activity levels which would arise if this were the case.
- 3.16 Paragraph 5.10 of the Retail Impact Assessment also makes the assertion that new superstores are rarely, if ever, incorporated within primary shopping frontages of sub-regional centres and generally they are located on the edge of such centres. This statement is completely at odds with the Government's advice in PPS6 and emerging policy contained within draft PPS4, and appears to be an argument that commercial priorities which will naturally seek out less constrained sites should take precedence over planning policy.

Quantitative Need - Convenience Goods

- 3.17 The Retail Impact Assessment prepared by RPS utilises the fundamentals and the study area of the White Young Green ("WYG") May 2009 Assessment. However, the WYG study was prepared for the town centre as a whole, whereas the Asda application is a stand alone food store. RPS's approach of using the wider study area is questionable, as people are often likely to travel shorter distances to undertake convenience shopping (a 10-15 minute drive time isochrone usually represents the standard model for a food store retail catchment plan even at peak times) than they would be for comparison. Therefore the study area is potentially too large, creating an oversized catchment that distorts the amount of expenditure available. This is also contrary to PPS6 which states at paragraph 3.10 ***'The catchment area that is used to assess future need should be realistic and well related to the size and function of the proposed development'***.
- 3.18 RPS reduce the Primary Catchment Area of the new Asda store to Zones 4, 5 and 6 of the WYG study. Whilst this represents an improvement, it is still not satisfactory and should be supported by a 10-15 minute drive time. Furthermore, it is impossible to identify which stores identified by RPS actually fall within Zones 4-6. Therefore stating that 69% of all the available expenditure from these three zones is spent within them is impossible to verify. Our concerns with regard to the study are highlighted further as we have reservations over the amount of available expenditure (and the fact that out-of-town expenditure was included) that was highlighted by WYG.
- 3.19 RPS add all of the expenditure from residents of other zones that is being spent in Zones 4-6. This equates to £48.7m in 2009, thus creating total expenditure within Zones 4-6 of £173.1m, which rises to £190.5m by 2016. RPS apply benchmark Sales Densities to each store, taken from Verdict's 'UK Grocery Retailers 2009'. The process of deducting benchmark turnover of all stores within Zones 4-6 from available expenditure allows a headroom capacity which is estimated to be £54.8m in 2009 rising to £68m by 2016. It is our view that this figure is excessively large.
- 3.20 Utilising Asda's benchmark national turnover the existing store would expect to achieve a turnover of £50.3m (of which £37.3m would be from convenience sales and a further £13m from the sale of comparison goods). RPS claim at paragraphs 4.23 and 4.24 of the Retail Impact Assessment that the existing store is trading below their company average level which they argue is a key justification for their move to the Civic Offices site. However, it can be clearly seen in Table 12 of the RPS Retail Impact Assessment that in fact the existing Asda has a turnover of £41.6m from the

sale of convenience goods. This actually represents a turnover of £4.4m above the benchmark (which is almost 12%). No reference is given for the turnover of comparison goods sales.

Qualitative Need

- 3.21 In qualitative terms Asda claims that in order to meet shopper's needs it must be provided with shops which they actually want to use. Access to a **'large modern store that provides a comfortable shopping environment and can offer a full range of goods with high quality, low cost car parking'**, is stated as necessary. RPS state that the existing Asda is trading at a distinct disadvantage compared to competing superstores as its car parking is poorly laid out, and that customers have to pay for resulting in queues. This is cited as a reason for the store under trading, even though evidence has been presented by RPS to the contrary (see above).
- 3.22 The proposed store at Civic Offices site is claimed to function as part of the town centre providing a more comfortable layout which will also be closer to the bus station and residential areas. We challenge Asda to prove this statement, as the proposals seem to represent a car only solution that is irrelevant to a town centre location. RPS state at paragraph 4.36 of the Retail Impact Assessment that 25% of all expenditure from the south of the town (Zone 5 of the Study Area) is being spent in Asda Donnington and the Tesco Extra at Wrekin Retail Park, both of which are in out-of-centre locations. In reality, the Table 4 of the RPS study identifies that only 10% is being spent in Asda Donnington. It is evident that 20% is being spent within the Tesco Extra. However, the Tesco Extra is significantly larger than the proposed Asda store and given the size and extent of the new store (i.e. smaller than the existing) it is surely unlikely that the new Asda can compete with the range of goods provided by the Tesco at Wrekin Retail Park.
- 3.23 The RPS Retail Impact Assessment, which is clearly flawed, identifies that the Tesco Extra is overtrading by approximately 70% and that the Asda Donnington is over trading by approximately 100%. Asda claim that offering an improved food store will allow the new Asda to compete with these stores and re-apportion some of that trade. However, if trade is being re-apportioned it should be directed to the town centre – i.e. the most sequentially preferable location. It is our view that there are four sequentially preferable locations to the application site (Red Oak Car Park, Ash Grey Car Park, the site of the existing Asda unit and Central Southwater). Furthermore, the proposed re-location of the Asda to the southwest will actually make it less accessible from the north as customers will have to traverse the Box Road. Therefore it is less likely that custom will be drawn from the Tesco Extra at Wrekin Retail Park, which is located to the north of the Town centre.
- 3.24 Asda also claim that the new store will increase choice and competition within the Town Centre, an assumption purely based upon the re-occupation of the existing Asda by another operator which we have already commented on above.

Impact

- 3.25 Paragraph 3.20 of PPS6 states **'Impact assessments should be undertaken for any application for a main town centre use which would be in an edge-of-centre or out-of-centre location and which is not in accordance with an up-to-date development plan'**. The application site is evidently not part of the PSA and is by definition edge-of-centre at best, due to its physical separation from the PSA. Furthermore, part of the application site is allocated in the adopted Local Plan (The Wrekin Local Plan) for employment use. Policy TC2 of the adopted Local Plan (New Shopping Development in Telford Town Centre) states that development of further shopping within the Town Centre boundary will only be permitted in areas defined on the Town Centre proposals Inset Map. The application site is not identified for development on the Inset Plan. Therefore the application should be supported by a robust assessment of impact upon Telford town centre.
- 3.26 To a large extent the applicant seeks to claim that the development plan is out of date, and to justify the proposed development against the policies set out in CTAAP, which as discussed elsewhere in this letter has been described as "unsound" by an independent inspector. However, it should be

noted that Policy TC2 of the adopted Local Plan was 'saved' by Telford & Wrekin Council in September 2007 and therefore clearly forms part of the adopted development plan, while no material weight can be put on CTAAP at this stage.

- 3.27 The information submitted by the applicant does not sufficiently consider the impact of the proposals upon Telford town centre. Paragraph 3.21 of PPS6 specifically states ***'In assessing sites, local planning authorities should consider the impact of the proposal on the vitality and viability of existing centres within the catchment area of the proposed development... The identification of need does not necessarily indicate that there will be no negative impact'***.
- 3.28 Paragraph 3.22 of PPS6 states that the following should be taken into account with regard to impact:
- (i) the extent to which the development would put at risk the spatial planning strategy for the area and the strategy for a particular centre or network of centres, or alter its role in the hierarchy of centres;
 - (ii) the likely effect on future public or private sector investment needed to safeguard the vitality and viability of the centre or centres;
 - (iii) the likely impact of the proposed development on trade/turnover and on the vitality and viability of existing centres within the catchment area of the proposed development;
 - (iv) changes to the range of services provided by centres that could be affected;
 - (v) likely impact upon the number of vacant properties in the primary shopping area;
 - (vi) Potential changes to the quality, attractiveness, physical condition and character of the centre or centres and to its role in the economic and social life of the community.
- 3.29 In this regard, the impact analysis within the RPS Retail Impact Assessment is wholly insufficient. In the first instance RPS provide an inaccurate analysis of the existing town centre. RPS state that the centre is performing relatively well given the current recession, and that there is no notable difference in the number of units or floor space which is vacant from the buoyant trading conditions of 2006, and even a drop in vacancies over the past 12 months. This is emphatically not the case. Information provided to us by the Trustees indicates that when they acquired the centre there were only 16 units which were vacant or on short term lets within their ownerships, which represented only 2.6% of the entire retail floor space within the Trustees' ownership. By October 2008 this number had risen to 29, which represented 9.3% of the entire floor space within the Trustees' ownership. This number has continued to rise steadily and at the 1st November 2009 stands at 35 units (14.4% of the retail floor space within the Trustees' ownership). This is slightly above the national average, contrary to the commentary provided by RPS. It is therefore evident that the centre has been severely affected by the recession.
- 3.30 The RPS analysis is almost entirely based upon evidence of overtrading. However, as previously discussed the catchment utilised is too large (a catchment for a Sub-Regional Shopping Centre as opposed to a food store), thus creating an unrealistic level of expenditure, to which survey results are applied. Furthermore, RPS state that Iceland is the only other main food store in the centre. This is incorrect, and disregards the Marks & Spencer store which has a relatively large convenience offer. RPS have not identified the turnover of these stores and therefore a claim that the convenience offer of the Town Centre is overtrading by 46% (as suggested by Table 12 of the RPS assessment) cannot be relied upon without further evidence.
- 3.31 Taking the proposed Asda at the Civic Offices site in isolation, RPS claim that £7m of convenience expenditure would be drawn into the centre from out-of-centre locations. They claim £2.5m will be drawn from the Sainsbury's at Forge Retail park, £2.5m from Asda Donnington and £2m from the Tesco Extra at Wrekin Retail Park. However, Table 16 highlights that £30.1m of convenience