

**Comments on Planning Application W2009/0915
following release of Planning Policy Statement 4
‘Planning for Sustainable Economic Development’ on 29
December 2009**

1. On 29th December 2009 the Government published Planning Policy Statement 4 (PPS4) ‘Planning for Sustainable Economic Growth’. PPS4 replaces the following National Planning Policy Guidance Notes/Statements:
 - *Planning Policy Guidance 4: Industrial, Commercial Development and Small Firms* (PPG4);
 - *Planning Policy Guidance 5: Simplified Planning Zones* (PPG5);
 - *Planning Policy Statement 6: Planning for Town Centres* (PPS6); and
 - The economic development sections of *Planning Policy Statement 7: Sustainable Development in Rural Areas* (PPS7).
2. The Report to Plans Board Committee of 6th January 2010 in respect to planning application W2009/0915, submitted by Asda Stores Ltd, makes no reference to PPS4. The references made to PPS6 and Draft PPS4 are no longer relevant to the planning application.
3. Within PPS4 the Government has made a number of revisions to its town centre policy, including the removal of the requirement for applicants to demonstrate that there is ‘need’ for development proposals that are in edge or out of centre locations and which are not supported by an up to date development plan. The Government’s approach also clearly differentiates between the role of need, impact and sequential site assessment in plan making, and the application of the sequential approach and impact tests in the development management process. The content of PPS4 must therefore be taken into account in determining planning application W2009/0915.
4. The Trustees have submitted detailed objections to planning application W2009/0915. The sequential approach to site selection and the likely ‘impact’ upon Telford Town Centre were key reasons which the Trustees highlighted in their objections dated 16th November 2009 and 14th December 2009. It is in the context highlighted above, that Policy EC17 of PPS4 is pivotal to the Asda planning application. Policy EC17, which is considered in further detail below, stresses that planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where the applicant fails to demonstrate compliance with the requirements of the sequential approach; or where there is clear evidence that the proposal is likely to lead to significant adverse impacts on town centres.
5. It is considered that the introduction of PPS4 provides further policy basis for the Trustees objections, and thus areas which the applicant and the Council must address.
6. Paragraph 3 of PPS4 states that ‘the policies in the PPS are a material consideration which must be taken into account in development

management decisions, where relevant. The development management policies in the PPS can be applied directly by the decision maker when determining planning applications. For the purposes of the policies in the PPS, economic development includes development within the B Use Classes, public and community uses and main town centre uses’.

7. PPS4 further emphasises the ‘town centres first’ approach. The need to promote vitality and viability of town centres is stressed in paragraph 10, which sets out the Government’s objectives for Prosperous Economies. The Government wants:
 - New economic growth and development of main town centre uses to be focused in existing centres, with the aim of offering a wide range of services to communities in an attractive and safe environment and remedying deficiencies in provision in areas with poor access to facilities;
 - Competition between retailers and enhanced consumer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres, which allow genuine choice to meet the needs of the entire community (particularly socially excluded groups);
 - The historic, archaeological and architectural heritage of centres to be conserved and, where appropriate, enhanced to provide a sense of place and a focus for the community and for civic activity.

8. PPS4 sets out specific policies to be used by Local Authorities for development control purposes. Aside from specific policies relating to retail and town centre development, Policy EC10 sets out new criteria against which all planning applications for economic development should be assessed against. These include:
 - Whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change;
 - The accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured;
 - Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions;
 - The impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives; and
 - The impact on local employment

9. This introduces new points new matters against which Local Authorities are required to assess planning applications against. However, the information submitted by the applicant is insufficient to demonstrate that the application would have a positive impact in terms of economic or physical regeneration. Only limited information has been submitted with regard to employment, and this relates solely to the proposal thus failing to consider the cumulative impact on employment within the wider town centre. The information submitted with regard to limiting carbon dioxide emissions and

minimising impact on climate change through sustainable construction techniques also appears to be insufficient to meet PPS4 requirements.

Sequential Assessment

10. Following on from guidance contained in PPS6, paragraph EC14.3 of PPS4 states that *'A sequential assessment (under Policy EC15) is required for planning applications for main town centres uses that are not in an existing centre and are not in accordance with an up to date development plan'*. This is clearly the case, as accepted by the Council in advertising the application as a departure from the adopted Wrekin Local Plan.
11. The Trustees objections to date have highlighted that in the context of paragraph 3.19 of PPS6 the applicant has failed to provide sufficient evidence that would highlight why sequentially preferable sites (namely Red Oak Car Park and Ash Grey Car Park) are not practicable alternatives to the proposed development in terms of 'availability', 'suitability' and 'viability'. However, PPS4 now places even greater emphasis on the sequential approach. Indeed Policy EC15 provides specific guidance for Local Authorities in considering sequential assessments. Local Authorities should:
 - Ensure that sites are assessed for their availability, suitability and viability;
 - Ensure that all in-centre options have been thoroughly assessed before less central sites are considered;
 - Ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access;
 - Ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
 - i. Scale: Reducing the floorspace of the development
 - ii. Format: More innovative site layouts and store configurations such as multi-storey developments with smaller footprints;
 - iii. Car parking provision; reduced or reconfigured car parking areas; and
 - iv. The scope for disaggregating specific parts of a retail or leisure development
12. Paragraph EC15.2 states that Local Planning Authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site, for example where a retailer would be limited to selling a significantly reduced range of products. To date the applicant has failed to present any such evidence, indeed it is evident from the material submitted as part of the Trustees objections, that an identical Sales Area to that proposed, can comfortably be accommodated within the Red Oak Car Park.
13. PPS4 is accompanied by Best practice Guidance on need, impact and the sequential approach. In this regard paragraph 5.6 specifically states that *'the sequential approach forms a key policy consideration, and can in itself*

be a clear reason for refusal. As such it is critical that applicants carry out a thorough assessment to explore alternative options, and that if more central opportunities are rejected, it is for sound reasons which are clearly explained and justified. As the onus rests on the applicant to demonstrate compliance with sequential approach, failure to undertake such an assessment would constitute a reason for refusal'.

14. It is considered that the evidence submitted by the applicant to date is not thorough, and fails to provide sound reasons as to why either the Ash Grey Car Park or the Red Oak Car Park cannot accommodate the proposed development. As per the Trustees objections dated 14th December 2009, the assertions made by Marsh & Baxter Properties Limited are disputed.
15. As in the case of PPS6, the Best Practice Guidance requires applicants to specifically demonstrate flexibility in their business model when considering sites in, or on the edge, of existing centres as part of applying the sequential approach to town centre uses. Paragraph 6.33 states that *'the decision by an individual retailer to promote a business model which cannot be accommodated in an existing centre will not justify discounting more central sites where they are available, suitable and viable'*. The applicants have failed to demonstrate flexibility in this regard, completely discounting sites of less than 2.2 Hectares and demanding a minimum of 500 car parking spaces adjacent to the store entrance.
16. The Best Practice Guide sets out detailed guidance on whether a site is 'available', 'suitable' or 'viable'. Paragraph 6.38 states that *'a site is considered available for development, when, on the best information available, there is confidence that there are no insurmountable legal or ownership problems, such as multiple ownerships, ransom strips, tenancies or operational requirements of landowners'*. This is evidently the case with regard to both the Ash Grey Car Park and the Red Oak Car Park, which are entirely owned by the Trustees. Indeed the only issue in this regard is that as per the Marsh & Baxter letter dated 1st December 2009 *'Asda would be able to block the early (i.e. before 2014) development at Red Oak'*. This is not sufficient to render a site unavailable as it is the applicant themselves which is preventing the development of a sequentially preferable site.
17. Furthermore the Best Practice Guidance states that *'any evidence of whether the owner(s) of the site appear willing to bring forward the site for development in question within a reasonable timescale'* is also a factor which the Local Authority need to take into account. In this instance the Trustees have submitted an outline planning application for development of a supermarket on the Red Oak Car Park, which can be tailored to the needs of a range of operators for a range of formats, including Asda. Therefore in the context of PPS4 evidence submitted by the applicant to date is insufficient to render either Red Oak Car Park or Ash Grey Car Park unavailable.
18. Paragraph 6.43 of the Best Practice Guidance sets out the following factors which are likely to be relevant when assessing whether a site offers a suitable location for development:
 - Policy restrictions – such as designations, protected areas, existing planning policy and corporate, or community strategy policy;
 - Physical problems or limitations – such as access, infrastructure, ground conditions, flood risk, hazardous risks, pollution or contamination;

- Potential impacts – including effects on landscape features and conservation.
 - The environmental conditions – which would be experienced by potential users of the proposal.
19. It should be noted that there are no policy restrictions to the development of the Red Oak Car Park or the Ash Grey Car Park. Both are allocated for retail development in the adopted Wrekin Local Plan. As demonstrated in the Trustees outline planning application submitted to Telford & Wrekin Council, the Red Oak Car Park is also not subject to physical or environmental constraints. It appears that the applicants reasoning behind declaring that Red Oak Car Park is not 'suitable' is based solely on assertions made by Marsh & Baxter. In the letter dated 1st December 2009 Marsh & Baxter suggest that the construction of Red Oak Car Park would represent an 80% impact upon Asda's existing store. However, this assertion is not supported by any evidence, and the planning application submitted by the Trustees for the Red Oak Car Park demonstrates that construction can be phased to minimise disruption to the existing Asda unit and that sufficient car parking would be available throughout the construction period for Asda's customers.
20. The applicants have not satisfactorily demonstrated that either the Ash Grey Car Park or the Red Oak Car Park are unsuitable to satisfactorily meet the need/demand their proposal is intended to serve. Therefore they are in conflict with Paragraph 6.45 of the Best Practice Guidance which specifically states that applicants should not reject sites based on self imposed requirements or preferences without demonstrating a serious attempt to overcome any identified constraints.
21. The applicants have stated that both the Red Oak Car Park and the Ash Grey Car Park sites are 'unviable'. However, in accordance with paragraph 6.48 of the Best Practice guide, the fact that a specific retailer or occupier is said to be unwilling to locate on a particular site is not necessarily evidence that it is unviable. The Trustees are actively seeking planning permission for a new supermarket on the Red Oak Car Park site and paragraph 6.49 of the best practice guidance states that *'where alternative sites are being actively promoted for new development by a developer/retailer, this is a reasonable indicator that the location is viable'*.
22. It is the Trustees view that the level of information submitted by Asda with regard to the viability of both Red Oak Car Park and Ash Grey Car Park is wholly insufficient to comply with the Best Practice Guidance which specifically states *'Given the timescale for bringing forward some town centre schemes, and their vital importance to the continuing vitality and viability of town centres, it would be inappropriate to reject a more central opportunity as being currently unviable, without allowing a reasonable period of time to test whether a viable opportunity is likely to come forward'*.
23. PPS4 and the supporting Best Practice Guidance makes it clear that Local Planning Authorities (LPA) should seek to make the best possible use of scarce town and city centre sites, promoting mixed use development wherever appropriate. Paragraph 5.7 of the Best Practice Guidance states that *'If the LPA proposes to refuse an application involving town centre uses on the basis of the sequential approach, it should be on the basis that it considers there is, or maybe, a reasonable prospect of a sequentially preferable opportunity coming forward which is likely to be capable of meeting the same requirements as the application is intended to meet'*. This is particularly important with regard to viability where in accordance

with Paragraph 6.37 the LPA needs to assess whether there is a reasonable prospect that development will occur on the site at a particular point in time. Again the importance of demonstrating the viability of alternatives depends in part on the nature of the need and the timescale over which it is to be met.

24. The application submitted by the Trustees surely demonstrates that there is a reasonable prospect that the Red Oak Car Park can be developed to accommodate the applicants requirements. The applicants propose an opening year of 2014, and the Trustees have demonstrated that the only obstruction to meeting the applicants requirements within an identical if not sooner timescale on the sequentially preferable Red Oak Car Park is the applicant themselves.
25. It is considered on this basis that the application cannot be considered to meet the requirements of PPS4 with regard to sequential assessment.

Impact

26. With the eradication of applicant's being required to demonstrate need, PPS4 places greater than PPS6 on the impact of proposals upon the vitality and viability of existing centres. In objections to date the Trustees have consistently argued that the applicants have failed to address the issue of impact, and it is considered that PPS4 further highlights weaknesses in the application submitted by Asda.
27. The key change to town centre policy remains the replacement of the current need and impact tests with an improved impact test which, supported by good practice guidance, will continue the strong focus on the town centre first policy. Indeed Policy EC16 sets out the new requirements for Impact Assessments, for development proposals which are not in centre or in accordance with an up-to-date development plan. Both clearly apply to the application, and therefore the application is to be assessed against the following impacts on centres:
 - a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal;
 - b) the impact of the proposal on town centre vitality and viability ,including local consumer choice and the range and quality of the comparison and convenience retail offer
 - c) the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan
 - d) in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy
 - e) if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
 - f) any locally important impacts on centres
28. The above tests generally follow those previously set out in paragraph 3.22 of PPS6. However, the accompanying Best Practice Guide provides further guidance on each of these.

29. The application submitted by Asda is for a 'replacement Asda supermarket' and therefore will result in the removal of a key anchor to Telford from an in-centre location to an edge of-centre location. It is inevitable that such a proposal will have an impact upon the turnover of existing retail operators in Telford. It will also have an impact on investor confidence and it is highly unlikely the Trustees will be able to attract new operators into the centre. However, despite ongoing objections to the application, the applicant has failed to provide evidence to the contrary.
30. Since purchase of the Town Centre from USS in 2007 the Trustees have sought to invest in the Town Centre and have presented a masterplan for comprehensive redevelopment of the Town Centre to Telford & Wrekin Council. The Council have generally supported the content of the Trustees proposals, and indeed the existing planning application for redevelopment of the Red Oak Car Park represents the next stage in the Trustees wider proposals for the town centre. In this regard paragraph 7.25 of the Best Practice Guidance states that *'where there is a clearly defined strategy to promote the expansion of a centre through new development, the potential impact on operator demand or investor confidence, and the risk to the development plan strategy are likely to be overriding concerns'*. The Best Practice Guide specifically states on Page 55 that *'Significant levels of trade diversion from the centre, or key sectors, can seriously undermine its vitality and viability resulting in reduced footfall, increased vacancies, a more 'down market' offer etc'*; and most specific to this application *'Loss of a key town centre use, or loss of demand from a prospective operator needed to reinforce the existing offer may be highly significant in some centres'*. Throughout their objections to the Asda application, the Trustees have explained that it will not be possible to attract a new anchor to the centre, whereas the applicants have continually sought to avoid the issue of impact on the assumption that an operator such as Tesco/Morrisons would operate from the existing store.
31. The Trustees strongly contest the assumption that an operator such as Tesco/Morrisons would re-occupy the existing store. Paragraph 2.27 of the Trustees objections dated 14th December 2009 emphasise the matter, and therefore it is evident that in isolation approximately £45m of trade will be diverted to an edge-of-centre location regardless of the impact on existing operators. With regard to impact on turnover/trade paragraph 7.30 of the Best Practice Guide states that *'it may be relevant to consider the effects of trade diversion, in terms of the possible consequences for increased vacancies and reduced footfall in other parts of the centre, and to consider mitigating factors as part of an overall strategy for the centre'*. At no point have Asda presented any information to highlight the likely impact on vacancies within the centre or footfall. The removal of such a key anchor would inevitably lead to a negative effect on both and there is certainly no evidence of mitigating factors within their application.
32. The applicants provide absolutely no evidence of the current and expected performance of existing retail operators within the centre, as a result of the proposal, or the turnover levels needed to maintain and enhance vitality and viability within Telford (as required by paragraph 7.31 of the Best Practice Guidance). Where, as in the case of Telford, particularly in the current market conditions, paragraph 7.32 of the Guidance states that *'where a centre is experiencing falling rents, high levels of vacancy and declining footfall, even modest levels of trade diversion can have significant adverse impacts'*.

33. Appendix D of the Best Practice Guidance provides specific guidance on how to quantify impact. Key to this is the need to undertake a comprehensive health check of town centres. It is the Trustees view that the retail assessment provided by RPS is lacking in this regard. Specifically with regard to retailer demand and representation (A4); Land values and the length of time key sites have remained undeveloped (A8); Pedestrian flows (footfall) measured by the numbers and movement of people on the streets, in different parts of the centre at different times of the day and evening (A9) and perhaps more importantly the proportion of vacant street level property (A6) is incorrect. Therefore the baseline position has not been properly quantified.
34. Section 5 is particularly pertinent to this planning application, as it considers the consequence of impact upon existing centres and facilities. Fundamental to this is the likely impact of new development upon the vitality and viability of existing centres. For example *'impact on existing turnover levels may have a key bearing on the ability to increase Zone A rents within the centre in order to make new investment viable, or may serve to dilute retailer demand, or redirect key retailer interest which is needed to underpin the viability of planned new investment'* (Paragraph D.35). Furthermore paragraph D.37 states that *'there may be cases where proposals are likely to lead to a disproportionate impact on a particular sector or part of a centre. An example may be where a proposal is likely to undermine the continued presence of a key anchor store, such as a department/ variety store or main foodstore anchor which could lead to a disproportionate knock on effect for the rest of the centre over time. In these circumstances it will be necessary to gain some understanding of the current viability of existing retailers, and in particular the current performance and intentions of key anchor stores in order to properly gauge the impact of new proposals.* In all cases the guidance clearly states (at Paragraph D.38) that it is important that the impacts are considered on the vitality and viability of the whole of a centre, not simply on individual facilities which may be similar to the proposed development. It is this evidence which the Trustees have consistently sought comfort from the applicant, but which has never been forthcoming.
35. It is in the context highlighted above, that Policy EC17 of PPS4 is most pertinent to the Asda planning application. Paragraph EC17.1 specifically states that Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where:
- the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or
 - there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.
36. In the context of PPS4 and the accompanying Best Practice Guidance it is considered that the application fails to demonstrate compliance with the sequential approach and would have significant adverse impacts on the vitality and viability of Telford town centre. In the context of PPS4 the application should be refused planning permission.