

46 Burley Street, Leeds, LS3 1LB
Retail Statement

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1. Introduction

- 1.1. This statement supports the current planning application for the erection of a building for student accommodation with ancillary communal facilities and a ground floor retail unit at 46 Burley Street, Leeds (Ref: 14/03735/FU).
- 1.2. The application originally sought planning permission for a retail unit of 150 sqm, however, since the application was submitted an occupier has been secured for the proposed retail unit, who requires a unit of 288 sqm. By securing a retailer occupier of this size, the resultant capital receipts will facilitate the amendments to the scale and massing of the proposed building as requested by the Council and help deliver the redevelopment of the site.
- 1.3. The proposed retail unit will also remain integral to the student accommodation development, forming an important component of the overall scheme and providing an active ground floor frontage. It therefore cannot be disaggregated from the mixed-use scheme and the application site is the only location where this development can take place.
- 1.4. Furthermore, the proposed retail unit will help to meet the day to day shopping needs of both the proposed occupiers of the new development as well as existing local residents in an underserved area.
- 1.5. The proposed larger retail unit has been subject to further discussions with both the planning and policy officers (Chris Briggs and Robin Coughlan) who were supportive of the proposal given it complies with emerging Core Strategy Policy P4. Policy P4 permits proposals for foodstores up to 372sqm gross within residential areas *“where there is no local centre or shopping parade within a 500 metre radius that is capable of accommodating the proposal.”* In this case, whilst the retail unit is located within Leeds City Centre, it is located within a residential area and is more than 500m from the Primary Shopping Quarter (PSQ) and any other defined local centres or shopping parade.

2. Site Context

- 2.1. The application site is currently vacant and extends to 0.13ha, and is bounded by Burley Street to the south, Park Lane to the north, Rutland Mount to the east, and a large substation to the west.
- 2.2. The surrounding area includes a mix of commercial and residential uses, with numerous student accommodation blocks to the south and west of the site including Sentinel Towers, Concept Place and Opal 1 & 2 which include ground floor retail units.
- 2.3. The application site is located in close proximity to the University of Leeds and Leeds Metropolitan University, and within walking distance of a large residential community, and it is also well served by public transport with bus stops located on Burley Street.
- 2.4. The site therefore scores highly in respect of accessibility and connectivity, and is entirely appropriate for retail use and the student housing above.
- 2.5. However, whilst the site is located within the Leeds City Centre boundary as defined by the adopted Leeds UDP Review (LUDPR) (2006), it is circa 1km west of the PSQ (i.e. the Primary Shopping Area), and is therefore out-of-centre in retail policy terms and must be assessed against national and local plan retail policy.

3. Planning Policy

National Planning Policy

- 3.1. The National Planning Policy Framework (The Framework) (2012) adopts a presumption in favour of sustainable development, requiring this 'golden thread' to run through both plan making and decision taking.
- 3.2. Paragraphs 214-215 of The Framework state that the weight afforded to relevant policies in existing plans should reflect their degree of consistency with The Framework.
- 3.3. Paragraph 24 of The Framework states that when considering edge of centre and out of centre proposals for retail development, preference should be given to accessible sites that are well connected to the town centre.
- 3.4. The National Planning Practice Guidance (NPPG) provides further guidance to the policies of The Framework. With regard to the sequential approach, the NPPG emphasises the need for flexibility, but also recognises the importance of market and locational requirements of certain retailers which have the effect of dictating which locations are appropriate to accommodate their needs.
- 3.5. Central to this is the recognition that an operator's business model is a legitimate material consideration in the determination of planning applications, and LPAs should take into account any genuine difficulties which are likely to occur in operating from a 'sequentially preferable' site. This includes consideration of the scope for disaggregation of proposed floorspace.
- 3.6. This approach was endorsed in the Supreme Court decision *Tesco Stores Ltd v Dundee City Council* (2012 UKSC 13) and further endorsed in subsequent appeal decisions issued on behalf of the Secretary of State.
- 3.7. Paragraph 26 of The Framework requires a retail impact assessment for retail development that is not within a town centre or in accordance with an up to date Local Plan, when it exceeds a proportionally set local threshold (or a default of 2,500 sqm).
- 3.8. The adopted LUDPR does not set such a local threshold. Whilst Policy P8 of the emerging Core Strategy sets a local thresholds of 1,500sqm for convenience retailing, the proposal only extends to 278 sqm, well below this threshold, and as such an impact assessment is not required in support of the proposal.

Local Planning Policy

- 3.9. The site is unallocated in the LUDPR, but is located within the city centre as defined by the LUDPR, albeit it lies outside of the PSQ and is therefore out-of-centre in retail policy terms.
- 3.10. LUDPR Policy S6 supports convenience goods retailing proposals in areas where residents have poor access to these facilities such as Burley / Kirkstall / Hyde Park / Woodhouse. The application site is located in the Burley/Kirkstall area and as such the proposed retail unit will therefore meet the shopping needs of local residents in this underserved area.
- 3.11. The Council are currently preparing a new Development Plan, and have been affording weight to the emerging Core Strategy, which is expected to be adopted in the next few months, in the determination of planning applications.
- 3.12. Core Strategy Policy P4 permits proposals for standalone small scale food stores up to

372sqm gross within residential areas *“where there is no local centre or shopping parade within a 500 metre radius that is capable of accommodating the proposal within or adjacent to it”*.

- 3.13. As previously highlighted the proposed retail unit is more than 500m from any defined centre and is located within a residential area, the proposal is therefore acceptable in line with the requirements of Policy P4 as agreed by the policy officer.

4. Planning Analysis

- 4.1. The NPPF requires that applications for new out-of-centre retail development should be assessed against the sequential and impact tests to determine their acceptability. The NPPF expects applicants to demonstrate that retail proposals cannot be more suitably located on sequentially preferable sites, and that proposals exceeding 2,500m² (or a locally set threshold) will not result in significant adverse harm on existing centres.
- 4.2. In this case, the proposal falls significantly below the local threshold (i.e. 1,500 sqm). An impact assessment is therefore not required and the only relevant policy matter to address for the application is the sequential test in accordance with Paragraph 24 of The Framework. However, as explained in the preceding section and set out in further detail below the proposal complies with the emerging Core Strategy.

Sequential Test

- 4.3. It is an established principle that specific circumstances of each case will determine the application of the sequential test. The Supreme Court Case involving Tesco and Dundee Council considered the definition of ‘suitability’ and the degree to which an application should demonstrate flexibility. The decision concluded that *“the Council were correct to proceed on the basis that ‘suitable’ meant ‘suitable for the development proposed by the applicant’”*. It stated that:

“To refuse an out-of-centre planning consent on the ground that an admittedly smaller site is available within the town centre may be to take an entirely inappropriate business decision on behalf of the developer”.
[Paragraph 28]

- 4.4. This interpretation of ‘suitable’ was also adopted in the recent appeal at Cortonwood Drive, Brampton (PINS ref. APP/P4415/A/13/2197947), with paragraph 22 stating that:

“In this case there is no prospect of the retail units being developed, in full or in part, in any other location. The proposal is wholly specific to the appeal site as a means of redeveloping a partially used warehouse for a more commercially viable return”.

- 4.5. As such, when determining this planning application, due regard must be given to the specific circumstances of the case. In this case, the proposed retail floorspace is site-specific and would only come forward with the proposed student accommodation development (i.e. the retail unit would not come forward as an individual unit). The proposed retail unit is ancillary to the student accommodation and an important component of the entire scheme. There is therefore no realistic prospect of disaggregating the floorspace from the student accommodation scheme itself.
- 4.6. Moreover the application site is entirely appropriate for retail use; it is conveniently located within the city centre in a highly accessible location, within walking distance of the university campuses and within an area where the council has previously granted similar retail use. Locating the proposal within the city centre would not meet the objective of serving the shopping needs of the proposed students and immediate surrounding residents. This would also not provide the same benefits in regenerating the vacant site and providing student accommodation in this location.
- 4.7. The capital receipt secured from the retail unit is also required to enable the applicant to make the necessary amendments to the scale and massing of the proposed building to meet the Council’s requirements.

- 4.8. As such any other sites would be ruled out on suitability grounds for the reasons set out above.
- 4.9. Leaving aside the specific circumstances of this case which determine that it is not appropriate to disaggregate the retail unit from the remainder of the scheme, the application is in full compliance with the emerging Core Strategy. Core Strategy Policy 4 is permissive of such development within residential areas *“where there is no local centre or shopping parade within a 500 metre radius that is capable of accommodating the proposal within or adjacent to it”*.
- 4.10. In this case the retail unit is located within a residential area and there are no local centres or shopping parades within 500m from the site. The nearest centres are Wellington Street Local Convenience Shopping Centre which is circa 650m from the site; Burley Lodge off Woodsley Road which is circa 680m, and Woodhouse Lane Local Convenience Shopping Centre which is circa 1km. The city centre PSQ is also 1km from the site. As such given its distance from these centres, and the residential character of the area, the proposal would be acceptable in line with the requirements of Policy P4 as agreed with the policy officer.
- 4.11. Such an approach was adopted by the council for a recent planning application (Ref: 13/04862/FU) for student accommodation at the former Police Garages and St Michael's College, Belle Vue Road, Woodhouse which was approved on 11 September 2014. Two commercial units of 280sqm and 70sqm were approved as part of the application on the basis that they were compliant with Policy P4, being more than 500m from the nearest local centre or shopping parades. The Officer's Committee Report also highlighted that the proposed development would bring forward a number of benefits including *“shops and patronage of local shops and facilities by occupiers of the development.”*

Sustainable Development and Benefits

- 4.12. In addition to complying with national and local retail planning policy, the proposal will also result in a number of environmental, social and economic benefits for the surrounding area on a site appropriate for retail use.
- 4.13. The proposed development represents significant new investment in the local area, with the retail unit forming an integral part of the overall development which will ensure the future viable use of vacant unused land which is in need of regeneration.
- 4.14. It will also create new employment opportunities for the local community and improve local convenience provision for the new and existing residents in a highly sustainable location.
- 4.15. The local and national planning policy supports such investment where it satisfies relevant policy tests (in this case, the sequential test) and such proposals should be considered in the context of the presumption in favour of sustainable development.

5. Summary

- 5.1. Due to the scale of the proposed development it is not necessary to undertake a retail impact assessment, and given that the proposed retail unit is more than 500m from the PSQ and the nearest local centre or shopping parade, it complies with Policy P4 of the emerging Core Strategy. The UDP also promotes the provision of modern convenience goods retailing proposals in this area as residents currently have poor access to these facilities.
- 5.2. As such the proposed retail unit fully complies with both local and national planning policy, which contains a presumption in favour of such sustainable development, and it will provide a valuable addition to the area in a sustainable and accessible location appropriate for retail use.