

**EHDC/5/A**  
**PROOF OF EVIDENCE**  
**OF**  
**HUW PAUL WILLIAMS BA (HONS) MRTPI**  
**ON BEHALF OF**  
**EAST HERTFORDSHIRE DISTRICT COUNCIL**

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PREPARED AT THE OFFICES OF

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## **APPENDIX**

**(Bound Separately)**

EHDC/5C1 Overview of Planning Policy Framework

## **Qualifications and Experience**

My name is Huw Paul Williams. I am a Partner with Chase & Partners, an independent firm of Chartered Surveyors and Town Planners, specialising in the retail and leisure property market place throughout the United Kingdom and based 20 Regent Street, St James's, London SW1Y 4PH.

I have been involved in retail planning and development throughout my professional career. After a period in local government in the early 'eighties, I joined the Site Research Unit at Tesco Stores Ltd in 1985 and was instrumental in the production of the first research-led store development strategy for the UK; this subsequently informed the Company's site acquisition and new store development programme. In 1989 I was recruited by Sainsbury's Supermarkets – initially as an 'in house' planning advisor and, subsequently, as Head of Development Policy. As well as advising on individual store development proposals, I was also responsible for advising the Board on the impact of emerging national planning policies on the business, making representations as necessary, and formulating responses in relation to new store development activities, transportation, town centre management and development research.

For the last eight years I have worked in planning consultancy – firstly with Town Planning Consultancy/RPS Planning Environment & Transport, then at Cushman Wakefield and, since 2007, as Planning Partner at Chase & Partners. As well as advising a range of local planning authorities on retail matters I also continue to advise retailers (including Tesco – but not Sainsbury's), developers and investors on a wide range of retail-led development projects. This has included applications for new foodstores, retail warehousing, extensions to existing stores, retail-led mixed use schemes, and proposals by owners and investors to enhance value of existing retail portfolios.

I hold a BA(Hons) Degree in Urban & Regional Planning from Coventry (Lanchester) Polytechnic and am a member of the Royal Town Planning Institute. I have also chaired the British Property Federation's Planning & Environment Committee, was a founding member and director of the National Retail Planning Forum and served on the British Retail Consortium's Planning & Environment Task Force. I have also served as an External Examiner for the BA(Hons) Degree Course in Retail Management at Bournemouth University.

## **1 Introduction**

- 1.1 Chase & Partners were originally appointed by East Hertfordshire District Council (EHDC) in February 2008 to prepare the East Herts Retail and Town Centre Study as part of the 'evidence base' of the Council's emerging Local Development Framework (LDF); this Study was published in August 2008 **(CD/B11)**.
- 1.2 As **Section 2** of my evidence will explain, Chase & Partners were instructed to provide planning policy advice on the retail aspects of the current Sainsbury's application. By the time the application was determined by the Council's Development Control Committee in February 2009, Chase & Partners had advised that there was no basis for a refusal on retail planning policy grounds. The agreed position is now set out in the Statement of Common Ground **(SOCG/2)** on retail policy matters between the Council and the applicant.
- 1.3 **Section 3** of my evidence addresses the matters specifically raised in the Secretary of State's 'call-in' letter in relation to retail issues – namely

*"(i) the extent to which the proposed development is in accordance with the development plan for the area, having regard to the policies in the Regional Spatial Strategy for the East of England, the East Herts Local Plan Second Review 2007 and Local Transport Plan."*

and;

*"(iii) The extent to which the proposal is consistent with advice in Planning Policy Statement 6: Planning for Town Centres, to promote the vitality and viability of the town centre by supporting efficient, competitive and innovative retail, leisure tourism and other sectors with improving productivity; and improving accessibility, ensuring that existing or new development is, or will be, accessible and well-served by a choice of means of transport."*

## **2. Chase & Partners' Advice to EHDC on Retail Policy Matters**

- 2.1 Chase & Partners were originally instructed by EHDC to undertake an assessment of future retail requirements for the District's main settlements in February 2008. As well as providing the 'evidence base' for the Council's emerging Local Development Framework (LDF), the Study would also provide background information to assist the determination of individual planning applications for new retail development such as the appeal proposals. The Study was completed in August 2008 **(CD/B11)**.
- 2.2 Around the same time Chase & Partners were instructed to produce a critique of the Retail Statement prepared by Indigo Planning Ltd and submitted in support of the Sainsbury's application that is now the subject of this inquiry **(CD/C6)**. Our report, which was issued in October 2008, assessed the extent to which the applicant had adequately addressed the key issues of need, the sequential approach to site selection and potential impact of the development upon Hertford and other nearby town centres. Our report to the Council is included as an Inquiry Core Document **(CD/C20)**.
- 2.3 It was acknowledged that the East Herts Retail and Town Centres Study identified only limited quantitative need for additional convenience floorspace in Hertford. However, as our critique of the Indigo assessment explained, the potential floorspace need figures for Hertford are based on the existing centre only maintaining its existing market share over the plan period. It makes no allowance for either over-trading at existing stores within the catchment, or the potential for a new development to "clawback" local convenience expenditure which is currently being spent elsewhere.
- 2.4 It was agreed that overtrading on convenience goods at existing stores in the catchment would amount to approximately £14.2m in 2011<sup>1</sup>. This, in itself, would not demonstrate sufficient quantitative need to support the convenience element of the application proposals. However, based on the findings of both our own household survey and that commissioned by Indigo Planning in support of the application, it was clear that there is currently considerable leakage of convenience expenditure from the Hertford catchment to foodstores further afield that could be clawed back to a new Sainsbury's store at the Brewery Site.

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<sup>1</sup> see Table 6d in Appendix 3 of Indigo Planning's Retail Assessment

- 2.5 In the absence of any evidence from the applicant of the likely level of clawback that might be achieved, we concluded that, at that time, quantitative need for at least the convenience element of the application proposal had not been adequately demonstrated.
- 2.6 In relation to comparison goods, the Indigo Planning Retail Statement reflected the East Herts Retail and Town Centres study in identifying considerable quantitative need within Hertford for additional comparison goods floorspace. Accordingly it was agreed that quantitative need for the relatively modest comparison element of the application had been demonstrated.
- 2.7 In terms of the 'sequential approach' it was agreed that the Brewery site constitutes an "edge-of-centre" location<sup>2</sup> – albeit one that offered the potential for improved linkage to the town centre. It was accepted that there were no 'sequentially preferable' sites within Hertford town centre that could be considered suitable or available to accommodate the proposed development.
- 2.8 Despite our reservations regarding the quantitative need case, it was considered that the proposal was unlikely to have an unacceptable impact upon either Hertford town centre or Ware town centre. Indeed, it was recognised that there may be benefits to Hertford town centre through the encouragement of linked trips – providing a new bridge link to the heart of the town centre was provided and use of the proposed car park was controlled in a way to facilitate use by town centre shoppers.
- 2.9 In response to the concerns raised regarding the quantitative need for the convenience element of the proposals, Indigo Planning produced a Supplementary Retail Assessment in November 2008 (**CD/C21**). This clarified the earlier calculations of quantitative need and satisfied us that the methodology employed was sound.
- 2.10 Following receipt of this report, further advice was then provided to EHDC on the Supplementary Retail Statement in the form of a letter dated 6 November 2008; this is included as **CD/C22**. This letter indicated that our concerns regarding whether the applicant has demonstrated quantitative need for the proposal had been addressed and, on this basis, there was no basis to refuse the application on retail planning policy grounds. It was also indicated that the proposal had potential to support the vitality and viability of the town centre provided a satisfactory car park management regime could be agreed.

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<sup>2</sup> based on the definition contained within Table 2 of Annex A of PPS 6

- 2.11 The Sainsbury's application was duly considered by the Council's Development Control Committee on 14 January 2009 (**CD C/23**). Although the recommendation from officers was that the application be refused, Chase & Partners advice on retail matters was fully accepted and members were advised that there were no objections to the proposal on retail policy grounds as the relevant tests in both PPS6 and the development plan had been satisfied.

### **3. Relationship of the Application to the Prevailing Retail Planning Policy Framework**

3.1 **Appendix EHDC/5/C1** sets out the national, regional and local retail planning policy framework relevant to the application. Having regard to the retail policy issues raised in the Secretary of State's 'call-in' letter and, specifically, whether the application is consistent with the provisions of the development plan and the advice in PPS6, consideration needs to be given to the following matters:

#### **1. Whether the applicant has satisfactorily demonstrated that there is need for the proposed development**

##### **(i) Quantitative Need**

3.2 Until the Draft Proposed Changes to PPS4 and its incorporation of PPS6 are confirmed, any application for 'town centre' uses in either an out-of-centre or an edge-of-centre location (such as the Brewery site) has to demonstrate that there is a need for the proposals.

3.3 Paragraph 3.10 of PPS6 advises that quantitative need assessments should be based on the assessment carried out for the development plan document. The assessment should relate to the specific class of goods to be sold within the broad categories of comparison and convenience goods and assessed no more than five years ahead, on the basis that any sites in nearby centres may become available within this period. The catchment area used to assess future need should be realistic and well related to the size and function of the proposed development and take account of competing centres and facilities they offer.

3.4 The East Herts Retail and Town Centres Study identifies sufficient comparison expenditure to support the application proposals but, on the face of it, only identifies limited quantitative need for additional convenience floorspace in Hertford. However, as the Statement of Common Ground on retail matters explains, this takes no account of over-trading at existing stores in the catchment or the potential for a new foodstore of the type proposed to "clawback" convenience expenditure which is currently being spent elsewhere.

- 3.5 Having regard to the overtrading at existing stores (including the Tesco stores at Hertford and Ware), it is agreed that by 2011 over £14m could be available to support a new store at the Brewery Site<sup>3</sup>. Moreover, the application proposals might also be expected to “clawback” at least £3.84m of convenience expenditure currently being spent elsewhere<sup>4</sup>. On this basis it is agreed that over £18m of convenience expenditure would potentially be available within the primary catchment area (PCA) by 2011 which would be more than sufficient to support the proposed store<sup>5</sup>. In reality, it is agreed that it is now more likely that it will be 2013 by the time the store is developed and open for trading - by which time the quantitative need for the store would be even stronger.
- 3.6 On this basis I conclude that the applicant has demonstrated that sufficient quantitative need exists to support both the convenience and comparison elements of the application proposals.

**(ii) Qualitative Need**

- 3.7 In addition to quantitative considerations, PPS6 also advises that Authorities should also have regard to whether there are qualitative factors that might provide additional justification for the proposed development. Benefits such as regeneration and employment associated with development may also be material considerations - although the weight to be afforded to such qualitative considerations will depend on local circumstances.
- 3.8 There are, in my view, clear qualitative benefits arising from the proposed development. Based on the household survey commissioned by Chase & Partners when undertaking the Retail and Town Centres Study, the existing Tesco store at Ware Road takes 36% of all convenience expenditure from the Hertford area (Zone 1); in comparison all other foodstore retailers – including Waitrose and M&S Simply Food - as well as other grocery outlets (including local stores and market traders) cumulatively only take 28%<sup>6</sup>. A new Sainsbury store would introduce competition and challenge this existing market dominance, offering further choice for consumers - consistent with the aims of PPS6.

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<sup>3</sup> See para 2.18 of Statement of Common Ground between Chase & Partners (on behalf of East Hertfordshire DC) and Indigo Planning (on behalf of Sainsbury's) – August 2009

<sup>4</sup> Ibid para 2.19

<sup>5</sup> Ibid para 2.21

<sup>6</sup> East Herts Council – Retail and Town Centres Study - Appendix G - Table 11

3.9 Furthermore, as Councillor Ashley's evidence explains, the application proposals would also facilitate the regeneration of a 'brownfield' site in the Conservation Area and thereby enhance its appearance. It will also provide 250-300 job opportunities in the store as well as a further 80 jobs in the facilities being retained for the brewery and in the office/community uses proposed.

## **2. Whether the proposed development is of an appropriate scale**

3.10 PPS6 currently indicates that when development plan documents have not given guidance on the likely scale of any development that might be acceptable in a specific location (as in the case in Hertford), applicants are required to demonstrate that the scale of the proposals are directly related to the role and function of the centre within the wider hierarchy and the catchment it serves.

3.11 In our initial critique we expressed reservations about whether the scale of the application proposals had been properly justified. It was argued that a store of *between 2,137 sq m and 2,787 sq m (net sales area)* could provide Sainsbury's full grocery offer. Given the net sales area of the proposed store is 2,328 sq metres it was unclear why the additional floorspace above the minimum was required in this instance.

3.12 It was also argued that a store any smaller than that proposed would be unlikely to clawback shoppers currently leaving Hertford to do their main food shopping elsewhere and be unable to compete effectively with the existing Tesco store at Ware Road. Given, "clawback" was not part of the applicant's quantitative need case then this reasoning seemed inconsistent and, on this basis, we sought further clarification.

3.13 Indigo Planning's response indicated that the proposed store size was necessary in order to meet the requirements of online shopping. Sainsbury's currently source their online deliveries from the shop floor and so this potentially requires a greater quantity of stock to be available in the sales area than would otherwise be the case. Whilst this was accepted, we did question whether this was appropriate in this instance given the site constraints and traffic situation.

3.14 Overall, we believe that the main purpose of the 'scale' test within PPS6 is to prevent inappropriately large development locating in small centres and is not a test designed to trim proposals at the margins. We accordingly accepted that the scale of the proposals had been justified in this instance.

### **3. Whether there are more central sites available for development**

- 3.15 The sequential approach to site selection applies to all sites that are not within existing centres or not allocated for such development in an up-to-date development plan. It is agreed that the application site is an 'edge-of-centre' location according to the definition contained in Table 2 of Annex A of PPS6 **(CD/A5)**.
- 3.16 In these circumstances applicants are required to thoroughly assess all options that may be available in nearby centres. In doing so they must demonstrate that they have been flexible about their proposed business model in terms of the scale, format, car parking provision and the scope for disaggregation. In the case of retail development in edge-of-centre or out-of-centre locations, the applicant should also consider the degree to which the constituent units of the proposal could be accommodated on more centrally-located sites in accordance with the principles of the 'sequential approach'.
- 3.17 On the other hand the PPS also advises that local planning authorities need to take into account genuine difficulties in operating the applicant's business model from any sequentially preferable site - such as where a retailer would be required to provide a significantly reduced range of products. In this regard the PPS makes it clear that a single retailer should not be expected to split its store into separate units. Moreover, the PPS makes clear that it is not the intention of this policy to seek the arbitrary sub-division of proposals but ensure that due consideration is given to whether there are elements of a proposal which could reasonably - and successfully - be located on a separate sequentially preferable site or sites.
- 3.18 When it is argued that alternative 'sequentially preferable' sites are not appropriate, applicants are required to provide clear evidence that such sites are not practical alternatives in terms of availability (and in particular their availability within a "reasonable period of time"), suitability for the proposed use (having regard to the flexibility needed when applying the sequential approach) and whether development would be viable on the proposed site. Although the Proposed Changes to PPS6 retain the 'sequential approach' towards retail development, they do make a number of amendments to the current text. Nonetheless, applicants are still required to demonstrate that all options in the town centre have been thoroughly assessed before less central sites can be considered.

3.19 PPS6 does not, however, expect a single retailer to split their proposed development into separate sites where flexibility in terms of scale, format, car parking provision and scope for disaggregation has been demonstrated. In this regard the policy in PPS6 does not seek the arbitrary subdivision of proposal, but to

*"ensure that the consideration is given as to whether there are elements which could reasonably and successfully be located on a separate sequentially preferable site or sites."*<sup>7</sup>

3.20 In situations where applicants argue that sequentially preferable sites are not appropriate for a particular development, they should provide clear evidence to demonstrate why such sites are not practical in terms of their availability, suitability and viability.

3.21 The East Herts Retail and Town Centres Study 2008 identified a series of possible development sites in and around Hertford town centre – including the former McMullens Brewery site. Each of these sites were considered in Indigo Planning's assessment and it was accepted that none (other than the Brewery site itself) were appropriate for the development proposed in this application.

3.22 Moreover, to sub-divide the application proposals to allow them to be accommodated in either existing units that may currently be available in the town centre and/or in one or more central sites, would, in my opinion, be entirely arbitrary in this instance and therefore inconsistent with the advice in paragraph 3.18 of PPS6.

3.23 Furthermore, it is also relevant that the East Herts Retail and Town Centres Study recognises the potential of the application site for retail development<sup>8</sup>. It recommended that the existing allocation for employment use be reconsidered as part of the LDF process and the Brewery Site identified for retail development – providing contributions are made to or links are provided from the site to the town's primary retailing area.

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<sup>7</sup> PPS6 paragraph 3.18

<sup>8</sup> See paragraph 7.28 of the East Herts Retail and Town Centre Study

**4. Whether the application would cause an unacceptable impact on the vitality and viability of Hertford and other nearby centres**

- 3.24 In terms of assessing impact, the current PPS6 advises that local planning authorities should consider the impact of the proposal on the vitality and viability of existing centres within the catchment taking into account, as necessary, the potential cumulative effect of recent permissions and other developments.
- 3.25 Such assessments should generally have regard to not only the possible impact on trade/turnover and on the vitality and viability of existing centres nearby but also to a range of additional factors such as any material effects on the spatial strategy for the area, on future public or private sector investment needed to safeguard existing centres, changes in the range of services provided in those centres, likely impact on the number of vacant properties in the primary shopping area, or on the overall quality, attractiveness, physical condition, and character of nearby centres.
- 3.26 In our advice to the Council prior to determination of the application we advised that the application was unlikely to have an unacceptable impact upon either Hertford town centre or Ware town centre.
- 3.27 Since completing the East Herts Retail and Town Centre Study in August 2008 and then advising on the Sainsbury's application, we have seen the economic downturn affect Hertford town centre – as it has most centres throughout the Country.
- 3.28 Based on the latest surveys it is agreed<sup>9</sup> that the vacancy rate in Hertford town centre had increased – particularly in some key areas such as Maidenhead Street, and the loss of Woolworths had certainly deprived the town of a potential driver of footfall. Despite this, the vacancy rate in the town centre remains below the national average and, in my view, Hertford town centre remains vital and viable according to the measures contained in PPS6. Accordingly I remain convinced that the proposal is unlikely to have a harmful impact upon the vitality and viability of either Hertford or nearby town centres such as Ware.

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<sup>9</sup> See paragraph 2.30 of Statement of Common Ground between Chase & Partners (on behalf of East Hertfordshire DC) and Indigo Planning (on behalf of Sainsbury's) – August 2009

- 3.29 Given the effect of the economic downturn, it is important that consideration is also given to the extent to which the application might positively support the town centre. Our original advice to the Council was that the application on the Brewery Site had the *potential* to support the town centre – although this was dependent on the proposed bridge link to the town centre and an appropriate charging/management regime for the proposed car park.
- 3.30 Moreover, the fact that the proposed store will only offer a relatively limited comparison goods offer means that a proportion of customers visiting the proposed store will also chose to visit the town centre to purchase items not available in the store and/or use services elsewhere in the town centre. Similarly customers in the Hertford area who presently undertake their main food shopping elsewhere and would be “clawed back” to a new Sainsbury’s on the Brewery site might then undertake linked trips to Hertford town centre to obtain other goods and services.
- 3.31 On this basis I remain of the view that application proposals are unlikely to have an unacceptable impact on the vitality and viability of either Hertford or nearby town centres and therefore are in accordance with the provisions of the development plan and planning policy guidance contained in PPS6.

## **5. Accessibility**

- 3.32 Finally, authorities should consider the extent to which proposals are accessible by a choice of means of transport and the potential impact the proposal might have on car use, traffic and congestion.
- 3.33 It is agreed that the application site is accessible by a choice of means of transport, including by car, by public transport, by bicycle and on foot. It is also agreed that the measures proposed by the applicant in the S106 Agreement will further enhance the accessibility of the site by a choice of modes of transport.

## **Conclusions**

- 3.34 On the basis of our assessment, it is clear that there sufficient quantitative need to support both the convenience and comparison elements of the application proposals. It is also acknowledged that the application offers qualitative benefits in terms of promoting competition and enhancing the existing "offer" available to consumers as well as providing opportunities for additional employment.
- 3.35 The application proposals are of an appropriate scale having regard to the role and function of Hertford and the need to compete effectively with existing stores – particularly the existing Tesco store at Ware Road.
- 3.36 I am also convinced that the applicants have undertaken a thorough assessment of available sites and units that are currently available in Hertford town centre and that none can be considered suitable to accommodate the proposed development – either as proposed or if disaggregated.
- 3.37 Similarly, it is agreed that application proposals would also not cause material harm to the vitality and viability of either Hertford or other nearby town centres and that they will remain 'vital and viable' according to all the relevant measures.
- 3.38 Finally, it is also acknowledged that the application site is accessible by a variety of modes of transport and that the measures being proposed as part of the application will further enhance the accessibility of the site by all modes.
- 3.39 I therefore believe that the application is in compliance with relevant policies in the Development Plan and is consistent with prevailing advice in Planning Policy Statement 6: Planning for Town Centres. Moreover, the matters specifically raised in the Secretary of State's 'call-in' letter in relation to retail issues have, in my view, been fully addressed.
- 3.40 On this basis I believe that there is no basis in retail planning policy terms for an objection to the application proposals and would respectfully request that the Inspector recommend that the Secretary of State approve the application.

**Chase & Partners**

**August 2009**