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# Appeal Decision

Inquiry held on 8 May 2013

Site visit made on 7 and 22 May 2013

**by Alan Novitzky BArch(Hons) MA(RCA) PhD RIBA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2 July 2013**

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**Appeal Ref: APP/P4605/A/12/2187738**

**Land off Pershore Road/Fordhouse Lane, Stirchley, Birmingham, West Midlands B30 3BW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Asda Stores Ltd & Revelan PLC against the decision of Birmingham City Council.
  - The application Ref 2011/03485/PA, dated 31 May 2011, was refused by notice dated 27 September 2012.
  - The development proposed is redevelopment of land for a food store (3,136 sq.m net) and associated service areas, car parking and landscaping on land off Pershore Road, Fordhouse Lane, Stirchley, Birmingham.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Inquiry sat for 8 days from 8 May to 21 May inclusive. The site visits were unaccompanied.
3. Proofs of evidence are included as Documents. These are as originally submitted and do not take account of how the evidence may have been affected by questioning or by other aspects of the Inquiry. Opening and closing submissions are also included and have been amended in red to more accurately reflect their delivered content. Typographical errors to Documents, where detected, have also been corrected in red.

## Main Issues

4. The main issues are:
  - Whether the loss of industrial land is justified.
  - Whether the proposal is satisfactory in terms of the retail tests.

## Policy

5. The development plan comprises saved policies of the Birmingham Unitary Development Plan<sup>1</sup> (UDP) originally adopted 1993 and incorporating alterations approved for adoption in 2005. The Stirchley Framework (SF)<sup>2</sup> was approved as supplementary planning guidance (SPG) to the UDP in 1994 and amended in

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<sup>1</sup> CD3

<sup>2</sup> CD8

2002. Supplementary planning documents include Loss of Industrial Land to Alternative Uses (Industrial land SPD),<sup>3</sup> adopted in 2006; and Shopping and Local Centres (Shopping SPD),<sup>4</sup> adopted in March 2012. Also relevant but of minor weight is the 2010 Consultation Draft of the Core Strategy (CS),<sup>5</sup> now replaced by a revised document, the Birmingham Development Plan which is at a very early stage of preparation and can be given very little weight.

6. The National Planning Policy Framework<sup>6</sup> (NPPF) was published in March 2012 and tells us in paragraph 215 that, beyond a period of 12 months from its publication, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. Planning for Town Centres, Practice Guidance on Need, Impact and the Sequential Approach (PG)<sup>7</sup> has not been withdrawn and can be followed where consistent with current policy.

### **Site and Surroundings**

7. Stirchley comprises a district centre, lying to the east and west of Pershore Road, the A441. The site lies in the southern part of Stirchley, east of Pershore Road and north of the A4040 Fordhouse Lane, largely set back behind the street frontage. A number of existing properties, fronting Pershore Road and Mayfield Road, which runs off Pershore Road, lie within the red line application boundary.
8. The main and vehicle entrance to the proposed development would be off Fordhouse Lane, with an alternative pedestrian entrance off Mayfield Road. Approximately 8% of the site falls within the district centre boundary shown in the Shopping SPD. This is the part embracing the plots fronting Pershore Road and Mayfield Road. Of this, all but a small southern section also falls within the Primary Shopping Area (PSA) defined within the SPD.
9. The site is previously developed, vacant land, the majority of which was occupied by the Arvin Meritor works, most of whose buildings were demolished in 2009. Land between the site and Fordhouse Lane, which had been part of the Arvin Meritor site, has recently been developed with offices, leaving a site area of some 2.8 hectares. Asda's earlier application for a supermarket on the site was dismissed at appeal in 2003.<sup>8</sup>
10. The Midlands Co-operative Society (Co-op) operate a supermarket of 2,790 sq. m net floorspace within the northern part of the PSA, the only major foodstore in Stirchley. Planning permission exists for a supermarket of 4,070 sq.m net at Hazelwell Lane, which is also within the northern part of the PSA. Recently this site was the subject of a compulsory purchase order (CPO) which would provide Tesco with the opportunity of developing it after some 10 years involvement. The only major objector, the Co-op, withdrew at the CPO inquiry and the inspector's report is now with the Secretary of State for consideration.

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<sup>3</sup> CD7

<sup>4</sup> CD5

<sup>5</sup> CD4

<sup>6</sup> CD1

<sup>7</sup> CD10

<sup>8</sup> CD24, APP/P4605/A/02/1085277

## Reasons

### *First Issue – Loss of Employment Land*

11. UDP paragraph 4.31 (Maintaining the Supply of Industrial Land) notes that opportunities for industrial development in the built up area of the City are diminishing. It tells us that, in order to reduce pressure on greenfield sites the loss of industrial land to retail or other non-industrial uses will be resisted. This policy must be viewed in the light of NPPF paragraph 22 which states that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose, and that land allocations should be regularly reviewed.
12. The UDP sets out the principles on which industrial land release policies are based at paragraph 4.19. These include the creation of a balanced portfolio of readily available industrial land, providing a choice of site by size, location and quality and ensuring that supply in each identifiable sub-market of readily available land should lead demand but the quantity kept within reasonable limits. These principles are not inconsistent with the aims of the NPPF. UDP paragraph 4.20 defines sub-markets, with 'Good Urban' noted as good quality sites suitable for locally-based clients, paragraph 4.21 requires that minimum amounts of industrial land should be available in each sub-market, and Figure 4.1 tabulates these requirements.
13. The Industrial Land SPD further defines sub-markets at paragraph 3.2. In relation to 'Good Urban Sites' it tells us that these are generally greater than 0.4 hectares, are suitable for locally based companies, and are capable of commanding local speculative private investment. It also notes that although the quality of site and location can vary significantly, the lower quality sites can still be attractive to the market. The Statement of Common Ground (SoCG)<sup>9</sup> tells us that the site is 'good urban' industrial land which, having regard to the UDP and SPD definitions, I see no reason to question.
14. The Employment Land Review 2012 (ELR 2012),<sup>10</sup> whose regular publication can be seen as being consistent with the NPPF's requirement for regular review of land allocations, recommends a number of key actions. One of the key actions notes that, given the supply of good urban land is low and the scope for new opportunities is limited, existing good urban employment land [should] be retained in industrial use and new opportunities safeguarded. Clearly the supply and completion figures can be cast in various ways, as they were at the Inquiry. However, having heard evidence and submissions, I broadly agree with the content of this key action, particularly in relation to the appeal site.
15. The site is not included in the Council's portfolio of available employment sites set out in Appendix 2 of the ELR 2012. However, should the appeal be dismissed and a planning application submitted for industrial use, there is little doubt that planning permission would be granted and the site then included.
16. The appeal site, which is in unified ownership, has few constraints compared to others within the ELR 2012 portfolio of available sites, with no evidence before the Inquiry of poor ground conditions or contamination, or the need to divert major infrastructure services. The rear gardens of residential properties border the site to the north and west, and to the south, across Fordhouse Lane, are

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<sup>9</sup> ID1

<sup>10</sup> CD12

residential fronts. This may imply some restrictions relating to the protection of living conditions which could be clarified through an application for planning permission.

17. The junction of Pershore Road and Fordhouse Lane is not ideal for the passage of industrial traffic and the lack of parking restrictions at present on Fordhouse Lane might cause difficulties for larger vehicles. However, these and other highways points would not be fatal to the prospect of industrial reuse and grant funding may be available for junction improvements. Nor would the site's location in relation to the motorway network necessarily be a disincentive to a locally based company. As the Industrial Land SPD definition of good urban land implies, the site might well find its place in the market at an appropriate price, reflecting its location. Moreover, similar sites are scarce or simply unavailable in this part of South Birmingham, regardless of whether they are in the Council's portfolio of available employment sites.
18. Section 5 of the Industrial Land SPD sets out the information required when submitting a planning application involving the loss of industrial land. Three criteria are identified. From the way the text is written, it appears that any of them could, on their own, justify the loss of industrial land in a particular case. The first, non-conforming uses, is not relevant in this case. The third, viability, applies where it is being argued that high redevelopment costs make industrial development commercially unviable, an argument not used in this case. The second, active marketing, applies where lack of demand for a particular industrial site is being argued, as it is in this case.
19. Paragraph 5.3 of the SPD sets out the form such marketing should take. The fundamental requirement is active marketing for a reasonable period, (normally a minimum of 2 years). Some, but not all, of the associated requirements have been met, but the site was marketed in its present form for less than a year to summer 2010, after which it was actively promoted for retail use. It is also unclear whether Asda's earlier involvement in the site discouraged interest during the period of marketing for industrial use.
20. Marketing also took place between 2003 and September 2009, whilst Arvin Meritor still occupied part of the site, and it had yet to be cleared of obsolete buildings. I note that, in the latter part of that period, the Council were content to see the Fordhouse Lane frontage released for B1 offices, the 2006 committee report commenting that the site had been on the market since 2003 and is not attractive to the market in its current form.<sup>11</sup> Also, CS Policy S10 suggests that encouragement would be given to conversion and redevelopment of the site for high quality residential, office and non-retail uses (but not retail uses).
21. However, it is far from clear that a sustained and committed period of marketing of the site for industrial use, in the form now proposed for the alternative use, was realistically undertaken. On this basis, I am not persuaded that the loss of industrial land has been shown to be justified. The proposal conflicts with the development plan policies to which reference has been made. Although it is not explicit as to how the reasonable prospect of a site being used for the allocated employment use should be assessed, I also find that the loss cannot be justified under the NPPF.

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<sup>11</sup> MJ2 Appendix 5

## *Second Issue – Retail Tests*

### *Introduction*

22. The amended Stirchley Framework (SF) identifies a retail core in the north of the settlement, within which new investment should be concentrated. Paragraph 7.26 and Figure 7.1 of the UDP point to Stirchley amongst those shopping centres likely to experience a reduction in floorspace where a retail core will be identified to concentrate new retail investment and to improve attractiveness to shoppers. Paragraph 20.35 notes that the SF provides detailed guidance for future investment and development, has defined a retail core area and that the Hazelwell Lane site is proposed for mixed use development but with a substantial retail element given the site's location within the core of Stirchley Centre.
23. The Birmingham Retail Needs Assessment 2009 (BRNA)<sup>12</sup> states, at paragraph 3.80, that the abundance of vacant retail units in Stirchley dominates the town centre environment and the town centre would benefit from consolidation around a central core. Policy S10 of the Consultation Draft CS advises that development should seek to consolidate Stirchley's retail area into a more viable retail core and assist the regeneration of the centre. Outside the core, it notes, encouragement will be given to conversion and redevelopment for high quality residential, office and non retail uses.
24. The Stirchley Feasibility Study 2009<sup>13</sup> is not an adopted document. However, its conclusions are consistent with adopted policy. They call for a clear vision which might comprise a consolidated but enhanced centre, with a change in emphasis to a central core focus around Hazelwell Street, and reduction of the number of shop units at either end of Pershore Road.
25. The SoCG records agreement that the SF is no longer a material consideration in relation to the centre boundary, primary shopping area boundary, or in relation to the sequential status of the appeal site.<sup>14</sup> It notes that the Shopping SPD identifies Stirchley as a District Centre and defines the Stirchley Centre Boundary and the PSA.<sup>15</sup> The Shopping SPD also tells us that in some very long "ribbon" centres, the PSA has been deliberately drawn to assist the contraction of the centre to a healthier more viable size.<sup>16</sup>
26. The consistent trend in policy and commentary has, therefore, been one of concentrating retail investment in a consolidated centre to the north, albeit the PSA is shown extending further south in the Shopping SPD than is the retail core in earlier documents. The Council considers the appeal site to be edge of centre for the purposes of the NPPF, whilst the Appellants say it is part in and part edge of centre. However, their retail analysis places it edge of centre. Within this decision, I regard it as edge of centre, but note its relationship to the centre and the PSA.
27. The Hazelwell Lane site is within both the centre and the PSA and is therefore sequentially preferable to the appeal site. The Appellants promote the appeal site on the basis of the urgent need to improve Stirchley's shopping function, with its very low expenditure retention, since the Asda store is expected to

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<sup>12</sup> CD14

<sup>13</sup> MJ8

<sup>14</sup> ID1 para 9.3

<sup>15</sup> CD5 p.43 Plan 57

<sup>16</sup> CD5 p.6

open before the Tesco store; and on the availability of expenditure capacity to support both the Tesco store at Hazelwell Lane (4,070 sq.m net) and the present Asda proposal (3,136 sq.m net). They also refer to the distribution of the existing shopping function along Pershore Road, which they contend is more active towards the south, nearer the appeal site, and which would benefit from linked trips associated with the Asda scheme.

### *The Sequential Test*

28. Paragraph 24 of the NPPF and relevant parts of the UDP paragraph 7.27 require a sequential test to be applied to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan, as in this case. When considering edge of centre proposals, preference should be given to accessible sites that are well connected to the town centre.
29. The Council and the Appellants take radically different approaches to the catchment area on which they base their retail analysis. The Council use Zone 24 of the BRNA, which both main parties regard as Stirchley's Primary Catchment Area (PCA). The Appellants use Zones 22, 23, 27 and 28, the Secondary Catchment Area (SCA), together with Zone 24, as an Overall Catchment Area (OCA). In my view, either approach can be acceptable provided the full implications of each are appreciated.
30. In response to questioning, some reworking of the retail analyses took place during the Inquiry. The expenditure available to support the proposed Asda store, whose agreed turnover would be £25.27m in the 2018 design year, has been revised to £30.6m in the Appellants' analysis and to a shortfall of £37.55m in the Council's analysis.
31. The difference springs essentially from a disagreement over whether trading above company benchmark averages in town centre stores within the OCA can be taken as expenditure available to support the proposed store. The Appellants point to the Practice Guide (PG)<sup>17</sup> at paragraph 3.17, which states that overtrading, demonstrated by overcrowding/congestion, is an indicator of quantitative as well as qualitative need. However, the PG goes on to explain that where existing services are claimed to be overtrading this should be backed up by corroborating evidence such as overcrowding and congestion rather than simply by comparison with a retailer's company average turnover.
32. The Appellants have not provided this evidence, and I saw no persuasive evidence of overcrowding or congestion at the site visits, except at Selly Oak's Sainsbury where the overtrading will be absorbed by the committed reconstruction and enlargement of the store. Little weight can therefore be placed on this element of the Appellants' analysis. It therefore appears that there would be insufficient expenditure available to support both stores, even if it were acceptable in terms of policy for both to proceed.
33. In addition, the Appellants have confined their sequential search to agreed sites in the PCA, but modelled expenditure from the OCA. There may well be edge of centre sites within the OCA but beyond the PCA - that is, within the SCA - which are sequentially preferable to the appeal site. Therefore, on the Appellants' interpretation of policy, any available expenditure should be directed towards these sites rather than towards the appeal site.

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<sup>17</sup> CD10

34. Referring to Vincent Fraser QC's opinion, the Appellants argue that, given adequate available expenditure and acceptable impact, there is no reason why development of the proposal should await the sequentially preferable site at Hazelwell Lane. Fundamental to this approach is the idea that the proper application of the sequential test is spatial rather than temporal. However, the NPPF clearly states, at paragraph 27, that where an application fails to satisfy the sequential test, it should be refused.
35. Moreover, operation of the store on the sequentially inferior site before that on the superior site would result in the establishment of shopping patterns which fail to optimise the accessibility and linked trip objectives of PG paragraph 6.2. These patterns might then be resistant to change with the development of the sequentially superior site. Moreover, in reducing the expenditure headroom available to the sequentially superior site, the commercial decision to proceed with the store might be cancelled or delayed. If delayed, the circumstances of the catchment area might change in any number of ways, perhaps acting to discourage development.
36. The Appellants point to Inspector Cullingford's appeal decision<sup>18</sup> to support their argument. However, the case does not offer a direct parallel. It involves the proposed erection of a retail unit in an out of centre retail park in a location where development on more central sites has failed to take place over a period of several years despite there being sufficient expenditure available to support not just the appeal site but all the floor space likely to emerge in the foreseeable future.<sup>19</sup> As the Inspector notes, what is required is that development at a sequentially preferable site should not be delayed, stalled or otherwise impaired by development permitted at a less central location.<sup>20</sup> Although this would be unlikely in Inspector Cullingford's case, it might well apply to the present proposal.
37. The Hazelwell Lane site has been subject to significant difficulties in assembly over the years. However, at the recent CPO inquiry, the Co-op - the main objector - withdrew. Moreover, there would be no preconditions on the transfer of CPO properties to Tesco relating to the relocation of remaining occupiers, and the stopping up order would depend simply on the grant of planning permission. Although a fresh planning application is sought, from the evidence submitted to the present Inquiry, it is extremely unlikely that this will cause difficulties or result in delay.
38. It emerged from the Inquiry that a realistic estimate for the opening of the Asda scheme is the end of 2014, and that for the Tesco scheme is the end of 2015. In my view, the Hazelwell Lane site is suitable, available and viable in accordance with PG paras 6.36 to 6.50. There are no insurmountable legal or ownership problems and the site is likely to become available for development within a reasonable period of time.
39. The Appellants argue that the Hazelwell Lane site is available to no-one but Tesco. However, PG paragraph 6.41 states that it will not be appropriate to dismiss a more central location on the basis that it is not available to the developer/retailer in question. The Appellants also contend that the site, if available now, will no longer be available once development begins. Guidance

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<sup>18</sup> CD25 – APP/C2741/A/02/1106592

<sup>19</sup> CD25, para 8

<sup>20</sup> CD25, para 9

is silent on this matter but it can equally be argued that the site is available for retail development until development is complete and the retail function established.

40. Overall, I find that, the Hazelwell Lane site is sequentially preferable to the appeal site. There is no persuasive evidence to suggest that there would be sufficient expenditure capacity for both sites to proceed successfully. Nor, if there were, that development of the the appeal site should precede development of the Hazelwell Lane site.

#### *The Impact Assessment*

41. Paragraph 26 of the NPPF and relevant parts of UDP paragraph 7.28 point to the need, when assessing applications outside of town centres, to assess impact on existing, committed and planned investment in a centre or centres; and the impact on town centre vitality and viability.

#### *Investment*

42. The major focus of the effect on investment arising from the proposal is the Hazelwell Lane site. Tesco's witness confirmed that they are, and will remain, fully committed to the Hazelwell Lane scheme, and a similar commitment was made at the CPO inquiry. According to recent reports, Tesco have decided not to proceed with some of its planned investment. However, their witness stated that the development of Hazelwell Lane was not in doubt, and a letter submitted during the Inquiry from Tesco's Group Property Director confirms that, in the absence of planning permission for the Asda proposal, this is the case.<sup>21</sup>
43. Nevertheless, the letter expresses serious concerns over the impact of the Asda proposal, should it be implemented, on the Tesco scheme. The writer comments that, if the Hazelwell Lane site were being approached as a new site, and had Asda secured planning permission, Tesco would certainly not proceed.
44. Tesco have already committed considerable funds to the Hazelwell Lane site, reportedly over £20m out of a planned investment of in excess of £50m.<sup>22</sup> It is unlikely that they would wish to see this money go to waste. Moreover, the continuing high cost of holding the site suggests that Tesco would like to proceed with development as quickly as possible. Were the Asda proposal to go ahead, I do not think that this would halt the Tesco development. However, reduced expenditure at the Hazelwell Lane site because of competition against Asda at the appeal site might well discourage other retail investment within the core, and possibly also regeneration of vacant sites such as the disused public baths.

#### *Vitality and Viability*

45. The effect of the retail development of both of the sites would be to establish separate foci of expenditure some distance apart. These foci would not operate as anchors drawing footfall between them, along Pershore Street, because they would provide essentially the same offer. Having shopped at Asda, there would be no need to visit Tesco and vice versa. The office content of the Asda site would not attract footfall from the northern core, except possibly to and from the railway station. On the other hand, the Tesco store would attract office

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<sup>21</sup> CA18

<sup>22</sup> CA17 p.14 and CA1 para 4.14

workers, drawing footfall along the length of Pershore Road. The analogy with other linear shopping centres in Birmingham is not appropriate, since those to which reference was made provide, in general, a mixed and varied offer attracting footfall along the main shopping street.

46. A number of active retail outlets towards the south of the PSA and beyond would benefit from linked trips associated with the Asda store. However, this would be at the expense of retail activity and consequent vitality in the core to the north, the area of Stirchley most in need of regeneration.
47. There would be a real risk that the existing Co-op would be unable to withstand trade draw from both Tesco and Asda, resulting in closure. This would leave a site with considerable difficulties with regard to subdivision and re-letting, unattractive to deep discounters and others. There might also be a consequential effect on community uses associated with the public houses, the library, the former baths and the school.
48. The Appellants point to a marked decline in retail activity since the 2003 appeal decision and also since the BRSA of 2009. They suggest there should be no objection to the increase in expenditure retention which would be brought about by the development of the two stores, given the very low level of less than 25% of convenience expenditure retained within the PSA at present. However, the lack of expenditure capacity overall, exacerbating the dilution of expenditure in the northern core brought about by the Asda development, would be harmful, its consequences possibly including the closure of the Co-op. It would also give rise to an inappropriate scale of retail function with a greater concentration of convenience floorspace than at Selly Oak, a nearby higher order centre towards which policy directs future growth.
49. Besides economic harm, the proposal would cause harm of a physical nature to the vitality and viability of the District Centre through the absence of an active frontage onto Pershore Road and the awkwardness of the transition between Mayfield Road and the site. By way of contrast, the Tesco scheme would provide an active frontage to Pershore Road.

#### *Conclusion*

50. Overall, the proposal would fail the sequential test and be unacceptable in terms of its impact on Stirchley and surrounding centres. It conflicts with Section 2 of the NPPF (Ensuring the Vitality of Town Centres), with UDP paragraphs 7.27 and 7.28 where consistent with the NPPF, and with UDP paragraphs 7.26 and 20.35 with regard to consolidation of the retail core. The regeneration aims of Stirchley would be better met by other uses on the site.

#### **Conditions and Obligations**

51. The Council's suggested conditions accompanied their Statement of Case.<sup>23</sup> The Appellants produced a commentary,<sup>24</sup> and the two documents were discussed at the Inquiry. The conditions do not provide mitigation sufficient to overcome the harm identified.
52. The Appellants have submitted completed s106 unilateral undertakings,<sup>25</sup> and provided a commentary on their compliance with Community Infrastructure

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<sup>23</sup> C1

<sup>24</sup> MJ17

<sup>25</sup> A5 and A6

Levy Regulation 122 tests.<sup>26</sup> The undertakings involve contributions to the Town Centre Management Fund, the Combined Centre Initiative Fund, to enhance footways and cycleways, and for public transport infrastructure. The Appellants claim they are necessary to mitigate trade diversion impacts, to enhance connection with the centre, and to encourage sustainable travel.

53. Although these contributions relate tangentially to some of the concerns raised by the proposal, they do not address the substantive harm identified. Since the proposal is to be dismissed for reasons beyond the planning obligation, it is not necessary to apply the tests in Regulation 122.

### **Conclusion**

54. The proposal is unacceptable in terms of loss of industrial land and in terms of the retail tests. Overall it conflicts with the development plan and the aims of the NPPF. It does not comprise sustainable development.

**Alan Novitzky**

Inspector

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<sup>26</sup> MJ19

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY

Anthony Crean QC

Instructed by Birmingham City Council

He called:

Michael Holliss BA MPhil  
MRTPI

Partner, Hollissvincent  
- *Retail and Planning*

Tim Suffield BSc(Hons)  
FRICS

Consultant, Savills  
- *Commercial Surveyor*

Ian MacLeod BA(Hons) MSc  
MRTPI

Development Planning Manager with the Council  
- *Employment Land*

### FOR THE APPELLANT

Paul Tucker QC

Instructed by Mathew Jones, Director, Deloitte  
Real Estate LLP

He called:

Richard Meering RICS

Senior Director, CBRE Birmingham  
- *Commercial Surveyor*

Graham Stock BA MA MRTPI  
AIEMA

Partner, Deloitte  
- *Retail*

Mathew Jones BSc(Hons)  
DipTP MRTPI AIEMA

Director, Deloitte  
- *Planning*

### FOR TESCO STORES LTD (Rule 6(6) Party)

David Elvin QC

Instructed by Ashurst LLP

He called:

Craig Alsbury BA(Hons) BTP  
MRTPI

Director, GVA  
- *Planning and Retail*

### FOR THE MIDLANDS CO-OPERATIVE SOCIETY LTD (Rule 6(6) Party)

David Holgate QC

Instructed by Marrons

He called:

David Prichard BSc MA  
MRTPI

Director of Planning, Marrons  
- *Planning and Retail*

## **DOCUMENTS**

### **Appellants' Documents**

#### *General Documents*

- A1 Statement of Case
- A2 Draft s106 Unilateral Undertaking
- A3 Appellants' Opening Statement
- A4 Appellants' Closing Submissions
- A5 Completed s106 Unilateral Undertaking
- A6 Landowner's completed s106 Unilateral Undertaking
- A7 Power of Attorney by National Westminster Bank Plc

#### *Witness Documents*

- MJ1 Mathew Jones' Proof of Evidence
  - MJ2 Appendices to Mathew Jones' Proof of Evidence
  - MJ3 Mathew Jones' Summary Proof
  - MJ4 Mathew Jones' Rebuttal to Ian MacLeod's Proof
  - MJ5 Stirchley District Centre Plan (Deloitte)
  - MJ6 Combination of Employment Land Review 2012 (CD12) Graphs 3 and 6
  - MJ7 Birmingham City Council CPO Inquiry Statement Extract
  - MJ8 Drivers Jonas Stirchley Feasibility Study, August 2009
  - MJ9 Midlands Co-operative objection to Hazelwell Lane CPO
  - MJ10 Stirchley District Centre Plan adding Framework Core onto GS5 Plan
  - MJ11 Plan showing progression of Stirchley Core and PSA over time
  - MJ12 Mathew Jones' Evidence in Chief Speaking Notes
  - MJ13 Letter dated 14 May 2013 from Wragge and Co
  - MJ14 Letter dated 16 May 2013 from Asda Stores
  - MJ15 Map showing location of local trader support
  - MJ16 Map showing walking distance from centre of Asda car park to Pershore Rd
  - MJ17 Commentary on Suggested Conditions
  - MJ18 Further letter, dated 20 May 2013 from Wragge and Co
  - MJ19 S106 Unilateral Undertaking CIL compliance note
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- RM1 Richard Meering's Proof of Evidence and Appendices
  - RM2 Richard Meering's Summary Proof
  - RM3 Richard Meering's Rebuttal Proof and Appendices
  - RM4 Birmingham City Council Prospectus Document 1
  - RM5 Birmingham City Council Prospectus Document 2
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- GS1 Graham Stock's Proof of Evidence
  - GS2 Appendices to Graham Stock's Proof including revised Appendices B and C
  - GS3 Graham Stock's Summary Proof
  - GS4 Graham Stock's Rebuttal Proof and Appendices
  - GS5 Note on proportion of A1-A5 uses within Retail Core
  - GS6 Extract from Kings Norton Foodstore Retail Assessment
  - GS7 Re-worked Table 5.1 of Mike Hollis's Proof
  - GS8 Graham Stock's Evidence in Chief Speaking Notes
  - GS9 Extract from University of Southampton Linked Trips Study
  - GS10 Note clarifying capacity assessment data and updated Table 40
  - GS11 Updated Table 40

## **Birmingham City Council's Documents**

### *General Documents*

- C1 Statement of Case
- C2 Council's Opening Statement
- C3 Council's Closing Submissions

### *Witness Documents*

- IM1 Ian Macleod's Proof of Evidence and Appendices
- IM2 Ian Macleod's Summary Proof
- IM3 Map of Readily Available Employment Land
- IM4 Map of Readily Available and Non-Readily Available Employment Land

- TS1 Tim Suffield's Proof of Evidence and Appendices
- TS2 Tim Suffield's Summary Proof
- TS3 Tim Suffield's Supplementary Proof
- TS4 Nexis Report
- TS5 Industrial Report
- TS6 DTZ Document
- TS7 Aerial Photograph

- MH1 Mike Holliss's Proof of Evidence
- MH2 Appendices to Mike Holliss's Proof of Evidence
- MH3 Mike Holliss's Supplementary Proof
- MH4 Email dated 2 May 2013 responding to DP3
- MH5 Centres and Stores Map
- MH6 Annotated Data Sheets
- MH7 Revised Spreadsheet 6 and accompanying note
- MH8 Note clarifying points raised in GS XX and MH commentary on GS Table 40

## **Tesco Stores Ltd Documents**

### *General Documents*

- T1 Statement of Case
- T2 Tesco's Opening Statement
- T3 Tesco's Closing Submissions

### *Witness Documents*

- CA1 Craig Alsbury's Proof of Evidence
- CA2 Craig Alsbury's supplementary Proof and Appendices
- CA3 Birmingham City Council UDP Chapter 7
- CA4 SPD Consultation Statement
- CA5 Extract from Birmingham Core Strategy Consultation Draft
- CA6 Extract from UDP Proposals Map
- CA7 Craig Alsbury Evidence in Chief Speaking Notes
- CA8 Asda store layout, 2002 Inquiry

- CA9 Plan of Stirchley Framework Core overlaid onto CD5 Plan 57
- CA10 DJD Birmingham Core Strategy representations
- CA11 DJD response to planning application representations
- CA12 Revised application plans
- CA13 Appeal scheme original Design and Access Statement
- CA14 Appeal scheme Design and Access Statement Addendum
- CA15 Plan of adopted highways in the vicinity of the appeal site
- CA16 Birmingham City Council's Comments on latest Tesco proposals
- CA17 Birmingham City Council's letter dated 22 March 2013 re: proposed stopping up order
- CA18 Letter dated 13 May 2013 from Tesco to Mr Alsbury
- CA19 University of Southampton paper on retail impact, dated December 2010

## **Midlands Co-operative Society Ltd Documents**

### *General Documents*

- M1 Statement of Case
- M2 Midlands Co-operative Society Opening
- M3 Midlands Co-operative Society Closing Submissions

### *Witness Documents*

- DP1 David Prichard's Proof of Evidence
- DP2 Appendices to David Prichard's Proof of Evidence
- DP3 Letter dated 30 April 2013 commenting on Mike Holliss's Proof
- DP4 David Prichard's Rebuttal and Appendices
- DP5 David Prichard's Addendum Proof and Retail Impact Assessment
- DP6 Letter dated 2 May 2013 from Midlands Co-operative Society
- DP7 David Prichard's Evidence in Chief speaking notes
- DP8 Note, points arising from examination of David Prichard

## **General Inquiry Documents**

- ID1 Statement of Common Ground between Appellant and Council
- ID2 Agreed note on retail impact issues, 2 May 2013
- ID3 Schedule of suggested planning conditions
- ID4 Suggested site visit itinerary
- ID5 Letter of notification and list of people notified
- ID6 Written representations in response
- ID7 Additional suggested condition

## **Other Documents**

- X1 Representations from local businesses submitted at the Inquiry

## Core Documents

- CD1 National Planning Policy Framework (March 2012)
- CD2 Extracts from West Midlands Regional Spatial Strategy (January 2008)
- CD3 Extracts from saved policies of the Birmingham City Council Unitary Development Plan (October 2005)
- CD4 Extracts from Birmingham City Council Consultation Draft Core Strategy (December 2010)
- CD5 Birmingham City Council: Shopping and Local Centres, Supplementary Planning Document (March 2012)
- CD6 Birmingham City Council: Sustainable Management of Urban Rivers and Floodplains, Supplementary Planning Document (June 2007)
- CD7 Birmingham City Council: Loss of Industrial Land to Alternative Uses, Supplementary Planning Document (February 2006)
- CD8 Birmingham City Council: Stirchley Development Framework, Supplementary Planning Guidance (2002)
- CD9 Birmingham City Council: Places for the Future, Draft Supplementary Planning Document (February 2012)
- CD10 Planning for Town Centres, Practice Guidance on Need, Impact and the Sequential Test (December 2009)
- CD11 Birmingham City Council: Employment Land Review (2010)
- CD12 Birmingham City Council: Employment Land Review (2012)
- CD13 Birmingham City Council Sustainable Community Strategy: Birmingham 2026 - Our Vision for the Future (September 2008)
- CD14 Roger Tym and Partners: Birmingham Retail Needs Assessment (October 2009)
- CD15 Hollissvincent: Birmingham Retail Needs Assessment Update (February 2013)
- CD16 Hollissvincent: Audit of Applicants Support Material Final report (December 2011)
- CD17 Drivers Jonas Deloitte: Response to Points Raised in Hollissvincent Report (October 2011)
- CD18 Drivers Jonas Deloitte: Supplementary Retail Report and Appendices (November 2011)
- CD19 Drivers Jonas Deloitte: Response to Planning Applications Representations (November 2011)
- CD20 Drivers Jonas Deloitte: Asda Stirchley Retail Assessment Scoping Note (January 2011)
- CD21 Appeal form and Grounds of Appeal
- CD22 Birmingham City Council: Planning Committee Report of 27 September 2012 in respect of Application 2011/03485/PA
- CD23 Birmingham City Council: Planning Committee Report of 26 April 2012 in respect of Application 2011/08182/PA
- CD24 Appeal Decision APP/P4605/A/02/1085277 – Asda Stirchley (February 2003)
- CD25 Appeal Decision APP/C2741/A/02/1106592 – Clifton Moor Retail Park, York (December 2003)
- CD26 Appeal Decision APP/J4423/A/11/2153926 – Tesco Halfway, Sheffield (March 2012)
- CD27 Key Planning Documents (Site Plan, Committee Report and Decision Notice) Application 2002/01752/PA
- CD28 Key Planning Documents (Site Plan, Committee Report and Decision Notice) Application 2003/00260/PA

- CD29 Key Planning Documents (Site Plan, Committee Report and Decision Notice) Application 2007/03727/PA
- CD30 Key Planning Documents (Site Plan, Committee Report and Decision Notice) Application 2009/05456/PA
- CD31 Key Planning Documents (Site Plan, Committee Report and Decision Notice) Application 2010/05404/PA
- CD32 Tesco West One, Eccles, SoS Decision and Inspector's report APP/U4230V/10/2131671
- CD33 Tithebarn SoS Decision APP/N2345/V/09/2113472
- CD34 Drivers Jonas Deloitte: PPS4 Statement and Appendices (May 2011)
- CD35 Drivers Jonas Deloitte: Planning and Economic Statement (May 2011)
- CD36 Vincent Fraser QC's Opinion of 15 November 2011