



Department for
Communities and
Local Government

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Our Ref: APP/V2723/V/15/3132873
APP/V2723/V/16/3143678

1 December 2016

Dear Mr Quinsee

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY SCOTCH CORNER RICHMOND LLP
LAND AT WEST OF THE A618 BARRACKS BANK, SCOTCH CORNER, NORTH
YORKSHIRE, DL10 6NT
APPLICATION REFS: 14/687/FUL AND 15/00806/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of S R G Baird BA (Hons) MRTPI, who held a public local inquiry, which opened on 4 May 2016 and sat for 7 days with site visits on 6, 7 and 12 May 2016, into your client's applications for planning permission for the erection of a designer outlet centre (Class A1 non food) with restaurants (Class A3) and associated landscaping, car parking, servicing and access arrangements on land west of A6108 Barracks Bank, Scotch Corner, North Yorkshire, DL10 6NT, in accordance with application ref. 14/687/FUL, dated 29 August 2014 (Scheme 1) and application ref. 15/00806/FUL, dated 7 October 2015 (Scheme 2).
2. On 12 August 2015, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that Scheme 1 be referred to him instead of being dealt with by the local planning authority, Richmondshire District Council.
3. On 1 February 2016, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that Scheme 2 be referred to him instead of being dealt with by the local planning authority, Richmondshire District Council.

Inspector's recommendation and summary of the decision

4. The Inspector recommended that planning permission should be granted for both applications, subject to conditions.
5. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and his recommendations. He has decided to grant planning permission,

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subject to conditions, for both applications. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and statutory considerations

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of the Richmondshire Local Plan 2012–2028 Core Strategy (CS) adopted in December 2014 and saved policy 23 of the Richmondshire Plan 1999-2006 as modified by CS Policy CP4. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR4.2–4.5.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').

Main issues

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR11.1. He further agrees with the Inspector's assessment at IR11.2 of the relevance of the site's employment allocation and the extant planning permission for employment uses.

The extent to which the proposed developments are consistent with Government policies on ensuring the vitality of town centres – Framework Section 2

Sequential test

10. For the reasons given by the Inspector at IR11.6, the Secretary of State agrees with the Inspector that the fact that Policy CP9 (3) sets a threshold, i.e. it applies to schemes over 500 sq. m, is not a position inconsistent with the Framework. He agrees that given the largely rural nature of Richmondshire District Council, the CS policy takes a pragmatic approach to determining when the sequential and impact tests bite.
11. The Secretary of State agrees with the Inspector at IR11.7 that there is no evidence to suggest that the applicant has pitched the scale of the scheme so that it would be impossible to identify a town centre site. The Secretary of State notes that the applicant has undertaken a sequential assessment based on the primary catchment area and concentration on this area was agreed with the local planning authority as being appropriate. In addition, five local planning authorities were contacted to identify sequentially preferable sites for potential investigation. He notes that two sites, one in Darlington and one in Northallerton, were identified as sequentially suitable but that following assessment, it was agreed that these sites, by virtue of their size, location and availability, could not accommodate either scheme and are not sequentially preferable sites. Overall, for the reasons set out at IR11.7–11.9, the Secretary of State agrees with the Inspector that the application proposals do not fail the sequential test.

Impact test

12. The Secretary of State agrees with the Inspector that if the retail impact of Scheme 1, the larger of the two schemes, is acceptable, then by definition, the retail impact of Scheme 2 would also be acceptable (IR11.10) and agrees with the Inspector's approach of concentrating on the effect of Scheme 1. For the reasons given at IR11.11–11.15, he agrees with the Inspector's conclusions on the numerical assessments of the impact on town centre turnover put forward by various parties, and further agrees with the Inspector's conclusions in giving little weight to the 'sub-sectoral' approach put forward by Darlington Borough Council (IR11.15).

Existing, committed and planned public and private investment

13. The Secretary of State has assessed the proposals against the first bullet point of paragraph 26 of the Framework (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). For the reasons given at IR11.16–11.20, the Secretary of State agrees with the Inspector's conclusion at IR11.20 that the proposals do not conflict with the objectives of this bullet point.

Vitality and viability

14. The Secretary of State has assessed the proposals against the second bullet point of paragraph 26 of the Framework (the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area).

15. For the reasons given in IR11.23–11.30, he agrees with the Inspector's conclusions at IR11.30 that Darlington Town Centre remains in good health with a high level of vitality and viability, and would not be at material risk from competition from the designer outlet centre, particularly given the limited overlap of the type of goods to be sold. He further agrees that even on Darlington Borough Council's estimate of trade diversion (6.9%), the impact on DTC would not be significantly adverse.

16. The Secretary of State notes that the trading impact on Northallerton Town Centre is estimated at 3.5%. For the reasons given at IR11.31, he agrees with the Inspector that Northallerton Town Centre is a healthy, vital and viable town centre and that neither scheme would have a significant adverse impact on its vitality and viability.

17. The Secretary of State notes that the trading impact on Stockton-On-Tees Town Centre is estimated at 2.5%. For the reasons given at IR11.32, he agrees with the Inspector that there is no objective evidence that, given the particular trading nature of a designer outlet centre, there would be a significant adverse impact on the vitality and viability of Stockton-On-Tees Town Centre.

18. The Secretary of State notes that the trading impact on Middlesbrough Town Centre is estimated at 2.4%, and that Middlesbrough do not object to the proposals on the grounds that there would be a materially adverse impact on the town centre. He agrees with the Inspector at IR11.33 that there is no reason to disagree with that conclusion.

Conclusion on retail matters

19. The Secretary of State agrees with the Inspector at IR11.34 that although the proposals would have a trading impact on town centres within the catchment area, the evidence taken as a whole does not sustain a conclusion that either of the applications would be

likely to have a significant adverse impact on their vitality and viability. He agrees that there is no policy objection to the schemes in terms of inconsistency with Framework paragraphs 26 and 27, and further agrees that the schemes are supported by CS Policy CP9(3)(b).

The extent to which the proposed developments are consistent with government policies on promoting sustainable transport – Framework Section 4

20. For the reasons given at IR11.35-11.39, the Secretary of State agrees with the Inspector at IR11.39 that, given that this is an out-of-centre site, it will not minimise the need to travel and make maximum use of sustainable transport modes to the same extent as a town centre or edge of centre site would. He also agrees that, given that there are no sequentially preferable sites, these proposals would not be inconsistent with paragraph 34 of the Framework.
21. For the reasons given at IR11.40, the Secretary of State agrees with the Inspector that the provisions that either proposal would make for access by foot and cycle for potential customers and employees in the local area are as much as can reasonably be achieved. He further agrees that the measures which are proposed, coupled with a comprehensive Travel Plan, would provide a comprehensive suite of measures that pragmatically satisfy the test in the first bullet point of paragraph 32 of the Framework.
22. The Secretary of State has taken into account that the Statement of Common Ground on highway matters notes that there is no issue to be addressed in relation to bullet point 2 of paragraph 32 of the Framework (IR11.41). He has considered the issues raised by Darlington Borough Council relating to the applicability of paragraph 32 to other sustainability issues, i.e. CO₂ emissions and travel distances. However, for the reasons given at IR11.41-11.43, he agrees with the Inspector that when placed in the context of district and regional CO₂ levels, the impact of these developments cannot be considered to be severe in terms of paragraph 32 of the Framework.
23. Overall, the Secretary of State agrees with the Inspector at IR11.44 that these proposals would be consistent with Government policies on promoting sustainable transport as set out in Framework Section 4, and would not conflict with CS Policy CP3.

Benefits

24. The Secretary of State has taken into account that Scheme 1 will generate some 700 jobs and Scheme 2 will generate almost 500. For the reasons given at IR11.45, he agrees with the Inspector that both schemes would be of major benefit to the local economy, and that there would also be spin-off benefits in term of local tourism. He considers that these benefits carry significant weight in favour of both proposals.

Other matters

25. The Secretary of State agrees with the Inspector at IR11.46 that the proposals would result in a change in the appearance and character of the area, and would result in a loss of agricultural land. However, given the allocation of the site for employment purposes in an up-to-date development plan and an extant planning permission for substantial employment uses, the Secretary of State considers that this carries limited weight against both proposals.

Planning conditions

26. The Secretary of State has given consideration to the Inspector's analysis at IR11.47–11.48, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework.

Planning obligations

27. Having had regard to the Inspector's analysis at IR11.49, the planning obligations included within the S106 Agreement, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, directly related to the development, and are fairly and reasonably related in scale and kind to the development.

Planning balance and overall conclusion

28. The Secretary of State agrees with the Inspector's conclusion that both proposals would be consistent with the development plan. He has gone on to consider whether there are material considerations which indicate that the proposals should be determined other than in accordance with the development plan.

29. He considers that the economic benefits of both proposals carry significant weight. He also considers that both proposals would be in accordance with national policy on ensuring the vitality of town centres and promoting sustainable transport.

30. He considers that the change in appearance and character of the area, and loss of agricultural land, carries limited weight against both proposals.

31. The Secretary of State considers that there are no material considerations which indicate that the proposals should be determined other than in accordance with the development plan.

Formal decision

32. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants full planning permission for the erection of a designer outlet centre (Class A1 non food) with restaurants (Class A3) and associated landscaping, car parking, servicing and access arrangements on land west of A6108 Barracks Bank, Scotch Corner, North Yorkshire, DL10 6NT, in accordance with application ref. 14/687/FUL, dated 29 August 2014, subject to the conditions set out in Annex A of this letter (Scheme 1), and application ref. 15/00806/FUL, dated 7 October 2015, subject to the conditions set out in Annex B of this letter (Scheme 2).

33. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

34. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
35. A copy of this letter has been sent to Richmondshire District Council and Darlington Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

Maria Stasiak

Authorised by Secretary of State to sign in that behalf

Annex A List of conditions – Scheme 1

1. The development hereby permitted shall not be carried out except in accordance with the approved drawings and plans as set out below:
 1. unit area and type schedule (revised);
 2. site location plan (drawing 14011 0301);
 3. topographical survey (drawing 14011 0302);
 4. existing site plan (drawing 14011 0303);
 5. proposed site plan (drawing 14011 0304 A) & colour drawing 14011 0305;
 6. proposed roof plan (drawing 14011 0306);
 7. proposed elevations sheet 1 (drawing 14011 0310) and proposed elevations sheet 1 (colour) drawing 14011 0317;
 8. proposed elevations sheet 2 (drawing 14011 0311) and proposed elevations sheet 2 (colour) drawing 14011 0318;
 9. proposed elevations sheet 3 (drawing 14011 0312) and proposed elevations sheet 3 (colour) drawing 14011 0319;
 10. proposed elevations sheet 4 (drawing 14011 0313) and proposed elevations sheet 4 (colour) drawing 14011 0320;
 11. proposed elevations sheet 5 (drawing 14011 0314) and proposed elevations sheet 5 (colour) drawing 14011 0321;
 12. proposed elevations sheet 6 (drawing 14011 0315) and proposed elevations sheet 6 (colour) drawing 14011 0322;
 13. proposed elevations sheet 7 (drawing 14011 0316) and proposed elevations sheet 7 (colour) drawing 14011 0323;
 14. proposed sections (drawing 14011 0330);
 15. proposed perspective imagery (drawing 14011 0340);
 16. preliminary structural landscape proposals - sheet 1 of 3 (drawing 2064 - PL001(1) A);
 17. preliminary structural landscape proposals - sheet 2 of 3 (drawing 2064 - PL001(2) A);
 18. preliminary structural landscape proposals - sheet 3 of 3 (drawing 2064 - PL001(3) A);
 19. preliminary landscape treatment to village street (drawing 2064 - PL002);
 20. typical surface finishes - car park/pedestrian access (drawing 2064 - PL003);
 21. proposed surface water drainage strategy (30793-2001-001);
 22. proposed water main diversion (drawing 30793-2001-003);
 23. proposed security measures plan (drawing 14011-0350);
 24. proposed Highways Agency Blue Anchor Corner roundabout revised in accordance with Peter Evans Partnership Design Review September 2014 with Designer Outlet Centre accesses (drawing 2560.25A);
 25. proposed Highways Agency Blue Anchor Corner roundabout with Designer Outlet Centre accesses (drawing 2560.26B);
 26. proposed improvements to Middleton Tyas Lane (drawing 2560.31);
 27. proposed site layout and non-motorised user facilities for Designer Outlet Centre (drawing 2560.32A);
 28. proposed improvements to roundabout markings and A1(M) southbound off-slip (drawing 2560.39B).
2. The permission hereby granted authorises use of the site for specialised retailing as a Designer Outlet Centre with associated ancillary facilities only and no retail unit shall be used as a Class A1 outlet for the primary retail sale of garden products, books,

CDs, DVDs, electrical goods, computers and software, white goods and no unit shall be occupied as a newsagents, chemists, travel agency, post office, ticket agency (excluding the approved Tourist Information facility), hairdressers or dry cleaners.

For the purposes of this condition “specialised retailing” and “Designer Outlet Centre” means clearance stores operated by: a) manufacturers; b) retailers who do not directly manufacture, but who either own their own brand or retail branded goods; or, c) the franchisees or licensees or stockists of such manufacturers or retailers, in each case involving the retail sale of discounted comparison goods defined as previous season's stock, run-offs, over-runs, samples of branded goods, goods produced for subsequently cancelled orders, market testing lines, rejects, seconds, clearance goods and surplus stock and accessories.

3. For the avoidance of any doubt, the maximum amounts (gross internal floor space and net sales areas) and the mixture of uses provided for by this planning permission are as follows:
 - a) a maximum of 14,584 sq. m gross floor space (11,668 sq. m net sales area) for Class A1 retail uses at ground floor level;
 - b) a maximum of 5,833 sq. m gross floor space (4,528 sq. m net sales area) for Class A1 retail uses at mezzanine level;
 - c) a maximum of 2,029 sq. m for Class A3 restaurant and café uses;
 - d) the provision of toilet blocks, a site management suite (including police office), and a Tourist Information facility.

No individual retail unit, either as constructed or as a result of any subsequent combination of units, shall exceed 1,200 sq. m gross floor space (including any mezzanine floor space).

No building or part of any building shall be used for the sale of food other than confectionery or within a restaurant or café for consumption on the premises.

4. Following completion of the scheme and notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any subsequent Order revoking and re-enacting those Orders, no additional mezzanine floors shall be created within the scheme and no part of the scheme shall be used for any Class A2 (financial and professional services, other than automated teller machines), Class A4 (drinking establishments) or Class A5 (hot food takeaway) uses. Notwithstanding the provisions of Part 3 Classes A, G and J of the General Permitted Development Order, no changes of use otherwise permitted by those Classes shall take place.
5. In at least 90% of the floor space within the buildings subject to this permission that is used for sales to members of the public, any goods offered for sale shall be priced at least 20% below the normal price at which similar types of merchandise are or have been offered for sale in their usual place of sale. The operator of the retail floor space shall maintain detailed stock records of goods for sale and pricing, and shall upon written request from the local planning authority produce these records for the previous 12 months for inspection within 2 calendar weeks of the date of request.

6. None of the approved retail floor space should be occupied by any retailer who at the date of such occupation, or within a period of 6 months immediately prior to occupation, occupies retail floor space in the town centre of Darlington, as defined on plan DTC1; unless a scheme which commits the retailer to retaining their presence as a retailer within that town centre, for a minimum period of 5 years following the date of their occupation of retail floor space within the development, or until such time as they cease to occupy retail floor space within the development, whichever is sooner, has been submitted to and approved in writing by the local planning authority.
7. There shall be no excavation or other ground works, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until :
 - 1) details of the following highway improvement works have been submitted to and approved in writing by the local planning authority:
 - a) the approved site access from the Blue Anchor Roundabout, adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - b) the approved signalised junction from the site to the A6108 which shall include connection to the signal controller system at Scotch Corner junction, including approved signal management systems (e.g. MOVA and SCOOT) adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - c) the approved amendments to the A6108 between Scotch Corner Roundabout and Blue Anchor Roundabout adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15 including improvements to the bus stops;
 - d) the approved amendments to Scotch Corner roundabout and its slip roads and widening of Middleton Tyas Lane as shown in principle on drawing no. 2560.39B adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD 19/15;
 - e) the approved facilities for pedestrians and cyclists between Middleton Tyas Lane and the site based upon drawing no 2560.26A and drawing no 2560.31 adopting the findings of the independent Stage 2 Road Safety Audits in accordance with HD19/15.
 - 2) a programme for the completion of, and the methodology of the construction for the proposed works, has been submitted.

Development shall be carried out in accordance with the approved scheme and details.

8. No part of the development shall be brought into use until the following highways works have been constructed in accordance with the details approved in writing by the local planning authority under condition 7 above:
 - a) the approved site access from the Blue Anchor Roundabout, adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - b) the approved signalised junction from the site to the A6108 which shall include connection to the signal controller system at Scotch Corner junction, including approved signal management systems (e.g. MOVA and SCOOT) adopting the

findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;

- c) the approved amendments to the A6108 between Scotch Corner Roundabout and the Blue Anchor Roundabout adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15 including improvements to the bus stops;
 - d) the approved amendments to Scotch Corner roundabout and its slip roads and widening of Middleton Tyas Lane as shown in principle on drawing no. 2560.39B adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD 19/15; and,
 - e) the approved facilities for pedestrians and cyclists between Middleton Tyas Lane and the site based upon drawing no 2560.26A and drawing no 2560.31 adopting the findings of the independent Stage 2 Road Safety Audits in accordance with HD19/15.
9. There shall be no entry or egress by any vehicles prior to construction other than for site investigation or the purpose of creating the temporary site access between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the local planning authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the local planning authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the local planning authority agrees to their withdrawal.

Prior to construction of the permanent site access, no vehicles shall access the site except via an approved temporary access to be constructed in accordance with details approved in writing by the local planning authority for a minimum distance of 40m into the site at a minimum width of 7.3m. Any damage to the existing adopted highway occurring during use of the temporary access until the completion of all the permanent works shall be repaired immediately.

Before the development is first brought into use the highways verge/footway shall be fully reinstated in accordance with a scheme to be approved in writing by the local planning authority.

10. No part of the development shall be open for trading until the approved vehicle accesses, parking area, manoeuvring and turning areas have been constructed in accordance with drawing no 2560.32A and subsequently agreed amendments; and are available for use.
11. No development or any phase of the development shall take place until a Construction Method Statement/Management Plan for that phase has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period for the development and shall provide for the following in respect of each phase:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;

- d) erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate;
- e) wheel washing facilities;
- f) details of the routes to be used by Heavy Commercial Vehicle construction traffic; and,
- g) details of operating hours during construction works along with proposed mitigation measures with regard to dust and noise during construction.

The approved areas for on-site parking and materials storage shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

12. There shall be no Heavy Commercial Vehicles brought on to the site until a survey recording the existing highway condition including Middleton Tyas Lane, the A6108 along the development frontage up to and including Scotch Corner, and the new Blue Anchor Corner Roundabout has been undertaken in a manner approved by the local planning authority.
13. Prior to the development opening, a detailed Travel Plan shall have been submitted to and approved in writing by the local planning authority. This shall be generally in accordance with the approved Travel Plan, December 2014 and include:
 - a) the appointment of the Travel Plan Co-ordinator 3 months before opening and not less than one month before marketing of the opening of the site;
 - b) a partnership approach to influence travel behaviour;
 - c) measures to encourage the use of alternative modes of transport other than the private car, by people associated with the site;
 - d) provision of up to date details of public transport services including real time information at the internal bus stop and information centre;
 - e) annual appraisal of the Travel Plans and measures provided through the Travel Plan for 10 years or 5 years after 70% occupation, whichever comes first;
 - f) measures to improve safety for vulnerable road users;
 - g) a reduction in all vehicle trips and mileage;
 - h) a programme for the implementation of such measures; and,
 - i) procedures for monitoring the uptake of such modes of transport and providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

14. Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on drawing no. 2560.32A (and any additional areas subsequently provided in accordance with the requirements of condition 16 below) for parking spaces, turning areas and access shall be kept available for their intended purposes from one hour before opening until one hour after closing of any of the retail and restaurant/café businesses on the site.
15. There shall be no access or egress by any vehicles between the highway and the application site other than for site investigation until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation

have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and programme.

16. Prior to the start on site of Phase 2 of the development, the use of the customer and staff car parking provided for Phase 1 shall be reviewed based on traffic surveys and if required by the local planning authority, additional car parking shall be provided prior to the first opening of Phase 2 of the development in accordance with details and locations to be agreed.
17. Prior to any part of the development first opening for trade a Car Park Management Plan shall have been implemented in accordance with details submitted to and approved in writing by the local planning authority. The approved Car Park Management Plan shall thereafter remain in operation without modification unless otherwise approved by the local planning authority. The Car park Management Plan shall include provision and commitment to the following management proposals:
 - a) barrier or ANPR system to record arrivals and departures to/from both the staff and customer car park areas;
 - b) staff to register their vehicle number plate on a car park database;
 - c) vehicles not registered on the staff database either not allowed through a barrier, if in place, or if parked in the car park sent a parking fine;
 - d) if ANPR system not in place customers to register their number plate as they enter the retail outlet;
 - e) if barrier in place customers validate ticket in the Outlet Village prior to returning to their vehicles;
 - f) vehicles without a validated car registration sent a parking fine;
 - g) signage provided around the car park informing customers and staff of the parking restrictions in place.
18. No development shall take place until a surface water drainage scheme and associated management and maintenance plan for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage design should demonstrate that the surface water run-off generated during rainfall events up to and including the 1 in 100 critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance and shall also include:

- a) confirmation that the surface water run-off rate will be restricted to the greenfield run-off rate quoted in the Floor Risk Assessment of 4.5 l/s/ha;
- b) sufficient attenuation and long term storage to accommodate at least a 1 in 30 year storm. It will demonstrate that storm water resulting from the 1 in 100 year event, including a 20% allowance for climate change, and surcharging of the drainage system, can be stored on site without flowing into any watercourse;
- c) additional storage to be provided adjacent to the southern boundary to accommodate the volume of floodwater that cannot pass through the culvert in

the 1% annual probability (1 in 100 year) plus climate change event. This will be provided adjacent to the right bank of the ditch in the south western part of the site. The floodplain compensation basin is designed so that water is stored below ground level to reduce the potential for water to flow to the A6108;

- d) details of how the scheme will be maintained and managed after completion.

No piped discharge of surface water from the site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved in writing by the local planning authority before development commences.

19. Prior to the commencement of the approved surface water drainage works and in association with the submission of other surface water drainage details, full details shall be provided of the water storage/attenuation basins (including their finished appearance) and associated mounding and landscaping works in this part of the site, along with measures to prevent public access to open water areas. Development shall be carried out in accordance with the approved details.
20. Unless otherwise approved in writing by the local planning authority, no construction of buildings or other structures shall take place until measures to divert the water main that is laid within the site have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority.
21. There shall be no construction of new buildings on site prior to a feasibility study to understand the impact of the development on the sewerage system and for the provision of foul drainage to serve the development having been submitted to and approved in writing by the local planning authority. No building shall be occupied or brought into use until the findings and recommendations of the study and the approved foul drainage works (both on and off site) have been implemented in accordance with an agreed programme.
22. Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage should not be passed through any interceptor.
23. No development shall be commenced until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11, has been submitted to and approved in writing by the local planning authority. If deemed necessary, a scheme for the remediation of any contamination shall be submitted and approved in writing by the local planning authority before any development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

If contamination is found or suspected at any time during development that was not previously identified all works shall cease and the local planning authority shall be notified in writing immediately. No further works (other than approved remediation measures) shall be undertaken or the development occupied until an investigation and risk assessment carried out in accordance with CLR11, has been submitted to and approved in writing by the local planning authority. Where remediation is necessary a scheme for the remediation of any contamination shall be submitted and approved by

the local planning authority before any further development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

24. No development shall take place/commence until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:
- a) the programme and methodology of site investigation and recording;
 - b) community involvement and/or outreach proposals;
 - c) the programme for post investigation assessment;
 - d) provision to be made for analysis of the site investigation and recording;
 - e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - f) provision to be made for archive deposition of the analysis and records of the site investigation; and,
 - g) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

25. Prior to the commencement of building works, full details of all proposed hard and soft landscaping, including all mounding, street furniture, boundaries and means of enclosure shall have been submitted to the local planning authority. The details to be submitted shall also include the provision of supplementary landscaping between the northern boundary and the service/access road to mitigate the visual impact of the development from the adjoining caravan site.

The landscaping scheme shall include a management plan, providing long term design objectives, management responsibilities and maintenance schedules covering a 10 year period for all landscape areas.

Following approval in writing by the local planning authority of the hard and soft landscaping, mounding, street furniture, boundaries and means of enclosure, all such works shall be undertaken in association with the remainder of the development and be completed prior to any part of the site being open to the public. The management plan shall also be implemented as approved.

Thereafter, any trees or plants which, within a period of 10 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced no later than the end of the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

26. Details (including samples as appropriate) of any materials to be used for the external finish of any building, structure or hard surfacing on the site shall first have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
27. The stone to be used in the construction of the external walls of buildings shall be reclaimed natural stone to match the colour, shape and texture of stone found locally in Richmondshire without contamination by paint or soot, and with flat not pitched or sawn faces. With the exception of quoin details no individual stone shall exceed 150 mm. in height from its bed. All stonework shall be flush pointed with a lime/cement/sand (50:50 sharp:soft) mix in proportions of 1:1:6 and then brush finished.
28. Prior to the construction of the external walls of the first stone faced building a sample panel, not less than 2 sq. m in extent, of the stonework to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, the stonework and pointing for each stone faced building shall be precisely in accordance with the approved sample panel, which shall be kept on site throughout the period of works to which this permission relates.
29. Prior to the construction of the external walls of the first brick faced building a sample panel, not less than 2 sq. m in extent, of each type of brickwork to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, all brickwork shall be precisely in accordance with the approved sample panel(s) in terms of the type of bricks to be used, the method of bonding, mortar mix, colour and pointing style. The approved panel(s) shall be kept on site throughout the period of works to which this permission relates.
30. Prior to the construction of the external walls of the first rendered building a sample panel, not less than 2 sq. m in extent, of the render (including any colour finish(es)) to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, all render and any colour finish(es) shall be precisely in accordance with the approved sample panel, which shall be kept on site throughout the period of works to which this permission relates.
31. Notwithstanding the details accompanying the application hereby approved, before work commences on any building full working drawings of the external appearance of that building shall be submitted to, and approved in writing by, the local planning authority. Such working drawings shall be in accordance with the plans as hereby approved and shall incorporate all the architectural detailing thereon depicted, together with all requirements of this permission.
32. Prior to the foundations for any building being laid, the precise finished floor level of that building shall be confirmed on site by the local planning authority. Development shall be carried out in accordance with the approved details.
33. No part of the development shall be opened for trading until the public art work forming part of the scheme has been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The details to be submitted and approved shall also include arrangements for the commissioning of the public art.

34. Notwithstanding the provisions of the Advertisement Regulations currently in force, all external signage within the scheme (both at the outset and subsequently) shall be in accordance with a design framework scheme for signage (establishing the positions, sizes, materials, colours and lighting for all external signage across the site) that shall have been submitted to and approved in writing by the local planning authority before any part of the development opens for trading.
35. Prior to the construction of each building above damp proof course level a detailed energy statement for that building shall have been submitted to and approved in writing by the local planning authority in accordance with the principles established by the approved Design and Access Statement. The energy statement shall demonstrate how opportunities to deliver carbon savings in excess of Building Regulation requirements have been considered and demonstrate that carbon savings have been maximised by incorporating appropriate opportunities into the design of the building (having regard, if appropriate, to any opportunity for co-ordinating and linking of infrastructure with any other part of the whole development). Development shall be carried out in accordance with the approved details.
36. No development shall be commenced until a Noise Impact Assessment based on an initial measurement of background sound levels (in accordance with BS 4142 : 2014) undertaken at a time when sound levels are not affected by construction works associated with the current upgrading of the A1 has been submitted to and approved in writing by the local planning authority. The Assessment shall also include proposals, based on the findings of the survey work and having regard to the methods and timing of construction works along with the intended operation of the site following completion of the development, for any necessary noise mitigation measures to ensure that the development as a whole will have a low impact on the background sound level at defined sensitive receptors including the Scotch Corner Caravan Park; West View bungalow; the residential caravans to the south east on the opposite side of the A6108; and the private dwellings at Barracks Bank to the west. Thereafter, all noise mitigation measures shall be undertaken as part of the development and, where applicable, retained thereafter.
37. Prior to the commencement of development a scheme shall be submitted to and approved in writing by the local planning authority relating to the following matters:
- a) details of extract ventilation systems including emissions and methods of treatment i.e. suitable filters to remove potential odour;
 - b) details, including locations, of planned ground source heat pumps and biomass boiler units; and,
 - c) details, including times, of when deliveries and collections of waste will take place.

Development shall be carried out in accordance with the approved details.

38. The units on the western side of the northern boundary shall not be used at any time for the sale of food for consumption at the site (other than confectionery).
39. Details of any external lighting to be used on the site shall first be submitted to, and approved in writing by, the local planning authority. The information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any

measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting.

For the avoidance of doubt, there shall be no external or internal lighting of the 'spire' feature.

Thereafter the artificial lighting shall be installed, operated and maintained in accordance with the approved scheme. Changes to any element of the lighting scheme shall be submitted to, and approved in writing by, the local planning authority prior to the changes taking place.

40. The development shall only be carried out in accordance with the proposals and measures for community safety and security contained in the approved Security and Policing Statement. Details, where appropriate, of all safety and security measures forming part of the proposal shall be submitted to and approved in writing by the local planning authority and provided for as part of the development prior to any part of the development first opening for trading.
41. The development shall only be carried out in accordance with the recommendations and mitigation measures set out in the approved Ecological Assessment (Ecology Phase 1 Walk-Over Assessment – Peter Brett Associates).

Annex B List of Conditions – Scheme 2

1. The development hereby permitted shall not be carried out except in accordance with the approved drawings and plans as set out below:
 - 1) unit area and type schedule;
 - 2) site location plan (drawing 14011 0301);
 - 3) topographical survey (drawing 14011 0302);
 - 4) existing site plan (drawing 14011 0303);
 - 5) proposed site plan (drawing 14011 0304 E);
 - 6) proposed roof plan (drawing 14011 0306 A);
 - 7) proposed elevations sheet 1 (drawing 14011 0310 A);
 - 8) proposed elevations sheet 2 (drawing 14011 0311 A);
 - 9) proposed elevations sheet 3 (drawing 14011 0312 A);
 - 10) proposed elevations sheet 4 (drawing 14011 0313 A);
 - 11) proposed elevations sheet 5 (drawing 14011 0314 A);
 - 12) proposed elevations sheet 6 (drawing 14011 0315 B);
 - 13) proposed elevations sheet 7 (drawing 14011 0316 A);
 - 14) proposed sections (drawing 14011 0330 A);
 - 15) proposed perspective imagery (drawing 14011 0340 A);
 - 16) preliminary structural landscape proposals - sheet 1 of 3 (drawing 2064-PL001(1) B);
 - 17) preliminary structural landscape proposals - sheet 2 of 3 (drawing 2064-PL001(2) B);
 - 18) preliminary structural landscape proposals - sheet 3 of 3 (drawing 2064-PL001(3) D);
 - 19) typical surface finishes - car park/pedestrian access (drawing 2064 - PL003);
 - 20) proposed surface water drainage strategy (30793-2001-001);
 - 21) proposed water main diversion (drawing 30793-2001-003);
 - 22) proposed security measures plan (drawing 14011-0350).
 - 23) proposed Highways Agency Blue Anchor Corner roundabout revised in accordance with Peter Evans Partnership Design Review September 2014 with Designer Outlet Centre accesses (drawing 2560.25A);
 - 24) proposed Highways Agency Blue Anchor Corner roundabout with Designer Outlet Centre accesses (drawing 2560.26B)
 - 25) proposed improvements to Middleton Tyas Lane (drawing 2560.31);
A26) proposed site layout and non-motorised user facilities for Designer Outlet Centre (drawing 2560.32A).
2. The permission hereby granted authorises use of the site for specialised retailing as a Designer Outlet Centre with associated ancillary facilities only and no retail unit shall be used as a Class A1 outlet for the primary retail sale of garden products, books, CDs, DVDs, electrical goods, computers and software, white goods and no unit shall be occupied as a newsagents, chemists, travel agency, post office, ticket agency (excluding the approved Tourist Information facility), hairdressers or dry cleaners.

For the purposes of this condition 'specialised retailing' and 'Designer Outlet Centre' means clearance stores operated by: a) manufacturers; b) retailers who do not directly manufacture, but who either own their own brand or retail branded goods; or, c) the franchisees or licensees or stockists of such manufacturers or retailers, in each case involving the retail sale of discounted comparison goods defined as previous season's stock, run-offs, over-runs, samples of branded goods, goods produced for

subsequently cancelled orders, market testing lines, rejects, seconds, clearance goods and surplus stock and accessories.

3. For the avoidance of any doubt, the maximum amounts (gross internal floor space and net sales areas) and the mixture of uses provided for by this planning permission are as follows:
 - e) a maximum of 14,584 sq. m gross floor space (11,668 sq. m net sales area) for Class A1 retail uses at ground floor level;
 - f) a maximum of 5,833 sq. m gross floor space (4,528 sq. m net sales area) for Class A1 retail uses at mezzanine level;
 - g) a maximum of 2,029 sq. m for Class A3 restaurant and café uses;
 - h) provision of toilet blocks, site management suite (including police office), and Tourist Information facility.

No individual retail unit, either as constructed or as a result of any subsequent combination of units, shall exceed 1,200 sq. m gross floor space (including any mezzanine floor space).

No building or part of any building shall be used for the sale of food other than confectionery or within a restaurant or café for consumption on the premises.

4. Following completion of the scheme and notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any subsequent Order revoking and re-enacting those Orders, no additional mezzanine floors shall be created within the scheme and no part of the scheme shall be used for any Class A2 (financial and professional services, other than automated teller machines), Class A4 (drinking establishments) or Class A5 (hot food takeaway) uses. Notwithstanding the provisions of Part 3 Classes A, G and J of the General Permitted Development Order, no changes of use otherwise permitted by those Classes shall take place.
5. In at least 90% of the floor space within the buildings subject to this permission that is used for sales to members of the public, any goods offered for sale shall be priced at least 20% below the normal price at which similar types of merchandise are or have been offered for sale in their usual place of sale. The operator of the retail floor space shall maintain detailed stock records of goods for sale and pricing, and shall upon written request from the local planning authority produce these records for the previous 12 months for inspection within 2 calendar weeks of the date of request.
6. None of the approved retail floor space should be occupied by any retailer who at the date of such occupation, or within a period of 6 months immediately prior to occupation, occupies retail floor space in the town centre of Darlington, as defined on plan DTC1; unless a scheme which commits the retailer to retaining their presence as a retailer within that town centre, for a minimum period of 5 years following the date of their occupation of retail floor space within the development, or until such time as they cease to occupy retail floor space within the development, whichever is sooner, has been submitted to and approved in writing by the local planning authority.

7. There shall be no excavation or other ground works, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:
- 1) details of the following highway improvement works have been submitted to and approved in writing by the local planning authority:
 - a) the approved site access from the Blue Anchor Roundabout, adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - b) the approved signalised junction from the site to the A6108 which shall include connection to the signal controller system at Scotch Corner junction, including approved signal management systems (e.g. MOVA and SCOOT) adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - c) the approved amendments to the A6108 between Scotch Corner Roundabout and Blue Anchor Roundabout adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15 including improvements to the bus stops;
 - d) the approved amendments to Scotch Corner roundabout and its slip roads and widening of Middleton Tyas Lane as shown in principle on drawing no. 2560.39B adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD 19/15;
 - e) the approved facilities for pedestrians and cyclists between Middleton Tyas Lane and the site based upon drawing no 2560.26A and drawing no 2560.31 adopting the findings of the independent Stage 2 Road Safety Audits in accordance with HD19/15.
 - 2) a programme for the completion of, and the methodology of the construction for the proposed works, has been submitted.

Development shall be carried out in accordance with the approved scheme and details.

8. No part of the development shall be brought into use until the following highways works have been constructed in accordance with the details approved in writing by the local planning authority under condition 7 above:
- a) the approved site access from the Blue Anchor Roundabout, adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - b) the approved signalised junction from the site to the A6108 which shall include connection to the signal controller system at Scotch Corner junction, including approved signal management systems (e.g. MOVA and SCOOT) adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - c) the approved amendments to the A6108 between Scotch Corner Roundabout and the Blue Anchor Roundabout adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15 including improvements to the bus stops;
 - d) the approved amendments to Scotch Corner roundabout and its slip roads and widening of Middleton Tyas Lane as shown in principle on drawing no. 2560.39B

adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD 19/15; and,

- e) the approved facilities for pedestrians and cyclists between Middleton Tyas Lane and the site based upon drawing no 2560.26A and drawing no 2560.31 adopting the findings of the independent Stage 2 Road Safety Audits in accordance with HD19/15.

9. There shall be no entry or egress by any vehicles prior to construction other than for site investigation or the purpose of creating the temporary site access between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the local planning authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the local planning authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the local planning authority agrees to their withdrawal.

Prior to construction of the permanent site access, no vehicles shall access the site except via an approved temporary access to be constructed in accordance with details approved in writing by the local planning authority for a minimum distance of 40 metres into the site at a minimum width of 7.3 metres. Any damage to the existing adopted highway occurring during use of the temporary access until the completion of all the permanent works shall be repaired immediately.

Before the development is first brought into use the highways verge/footway shall be fully reinstated in accordance with a scheme to be approved in writing by the local planning authority.

10. No part of the development shall be open for trading until the approved vehicle accesses, parking area, manoeuvring and turning areas have been constructed in accordance with drawing number no 2560.32A and subsequently agreed amendments; and are available for use.
11. No development or any phase of the development shall take place until a Construction Method Statement/Management Plan for that phase has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period for the development and shall provide for the following in respect of each phase:
- a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate;
 - e) wheel washing facilities;
 - f) details of the routes to be used by Heavy Commercial Vehicle construction traffic; and,
 - g) details of operating hours during construction works along with proposed mitigation measures with regard to dust and noise during construction.

The approved areas for on-site parking and materials storage shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

12. There shall be no Heavy Commercial Vehicles brought on to the site until a survey recording the existing highway condition including Middleton Tyas Lane, the A6108 along the development frontage up to and including Scotch Corner, and the new Blue Anchor Corner Roundabout has been undertaken in a manner approved by the local planning authority.
13. Prior to the development opening, a detailed Travel Plan shall have been submitted to and approved in writing by the local planning authority. This shall be generally in accordance with the approved Travel Plan, December 2014 and include:
 - a) the appointment of the Travel Plan Co-ordinator 3 months before opening and not less than one month before marketing of the opening of the site;
 - b) a partnership approach to influence travel behaviour;
 - c) measures to encourage the use of alternative modes of transport other than the private car, by people associated with the site;
 - d) provision of up to date details of public transport services including real time information at the internal bus stop and information centre;
 - e) annual appraisal of the Travel Plans and measures provided through the Travel Plan for 10 years or 5 years after 70% occupation, whichever comes first;
 - f) measures to improve safety for vulnerable road users;
 - g) a reduction in all vehicle trips and mileage;
 - h) a programme for the implementation of such measures; and,
 - i) procedures for monitoring the uptake of such modes of transport and providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

14. Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on drawing no. 2560.32A (and any additional areas subsequently provided in accordance with the requirements of condition 16 below) for parking spaces, turning areas and access shall be kept available for their intended purposes from one hour before opening until one hour after closing of any of the retail and restaurant/café businesses on the site.
15. There shall be no access or egress by any vehicles between the highway and the application site other than for site investigation until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and programme.
16. Prior to any part of the development first opening for trade a Car Park Management Plan shall have been implemented in accordance with details submitted to and approved in writing by the local planning authority. The approved Car Park Management Plan shall thereafter remain in operation without modification unless

otherwise approved by the local planning authority. The Car park Management Plan shall include provision and commitment to the following management proposals:

- a) barrier or ANPR system to record arrivals and departures to/from both the staff and customer car park areas;
 - b) staff to register their vehicle number plate on a car park database;
 - c) vehicles not registered on the staff database either not allowed through a barrier, if in place, or if parked in the car park sent a parking fine;
 - d) if ANPR system not in place customers to register their number plate as they enter the retail outlet;
 - e) if barrier in place customers validate ticket in the Outlet Village prior to returning to their vehicles;
 - f) vehicles without a validated car registration sent a parking fine;
 - g) signage provided around the car park informing customers and staff of the parking restrictions in place.
17. No development shall take place until a surface water drainage scheme and associated management and maintenance plan for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage design should demonstrate that the surface water run-off generated during rainfall events up to and including the 1 in 100 critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance and shall also include:

- a) confirmation that the surface water run-off rate will be restricted to the greenfield run-off rate quoted in the Floor Risk Assessment of 4.5 l/s/ha;
- b) sufficient attenuation and long term storage to accommodate at least a 1 in 30 year storm. It will demonstrate that storm water resulting from the 1 in 100 year event, including a 20% allowance for climate change, and surcharging of the drainage system, can be stored on site without flowing into any watercourse;
- c) additional storage adjacent to the southern boundary to accommodate the volume of floodwater that cannot pass through the culvert in the 1% annual probability (1 in 100 year) plus climate change event. This will be provided adjacent to the right bank of the ditch in the south western part of the site. The floodplain compensation basin is designed so that water is stored below ground level to reduce the potential for water to flow to the A6108;
- d) details of how the scheme will be maintained and managed after completion.

No piped discharge of surface water shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved in writing by the local planning authority before development commences.

18. Prior to the commencement of the approved surface water drainage works and in association with the submission of other surface water drainage details, full details

shall also be provided of the water storage/attenuation basins (including their finished appearance) and associated mounding and landscaping works in this part of the site, along with measures to prevent public access to open water areas. Development shall be carried out in accordance with the approved details.

19. Unless otherwise approved in writing by the local planning authority, no construction of buildings or other structures shall take place until measures to divert the water main that is laid within the site have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority.
20. There shall be no construction of new buildings on site prior to a feasibility study to understand the impact of the development on the sewerage system and for the provision of foul drainage to serve the development having been submitted to and approved in writing by the local planning authority. No building shall be occupied or brought into use until the findings and recommendations of the study and the approved foul drainage works (both on and off site) have been implemented in accordance with an agreed programme.
21. Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage should not be passed through any interceptor.
22. No development shall be commenced until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11, has been submitted to and approved in writing by the local planning authority. If deemed necessary, a scheme for the remediation of any contamination shall be submitted and approved in writing by the local planning authority before any development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

If contamination is found or suspected at any time during development that was not previously identified all works shall cease and the local planning authority shall be notified in writing immediately. No further works (other than approved remediation measures) shall be undertaken or the development occupied until an investigation and risk assessment carried out in accordance with CLR11, has been submitted to and approved in writing by the local planning authority. Where remediation is necessary a scheme for the remediation of any contamination shall be submitted and approved by the local planning authority before any further development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

23. No development shall take place/commence until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:
 - a) the programme and methodology of site investigation and recording;
 - b) community involvement and/or outreach proposals;
 - c) the programme for post investigation assessment;

- d) provision to be made for analysis of the site investigation and recording;
- e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- f) provision to be made for archive deposition of the analysis and records of the site investigation; and,
- g) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

24. Prior to the commencement of building works, full details of all proposed hard and soft landscaping, including all mounding, street furniture, boundaries and means of enclosure shall have been submitted to the local planning authority. The details to be submitted shall also include the provision of supplementary landscaping between the northern boundary and the service/access road to mitigate the visual impact of the development from the adjoining caravan site.

The landscaping scheme shall include a management plan, providing long term design objectives, management responsibilities and maintenance schedules covering a 10 year period for all landscape areas.

Following approval in writing by the local planning authority of the hard and soft landscaping, mounding, street furniture, boundaries and means of enclosure, all such works shall be undertaken in association with the remainder of the development and be completed prior to any part of the site being open to the public. The management plan shall also be implemented as approved.

Thereafter, any trees or plants which, within a period of 10 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced no later than the end of the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

25. Details (including samples as appropriate) of any materials to be used for the external finish of any building, structure or hard surfacing on the site shall first have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
26. The stone to be used in the construction of the external walls of buildings shall be reclaimed natural stone to match the colour, shape and texture of stone found locally in Richmondshire without contamination by paint or soot, and with flat not pitched or sawn faces. With the exception of quoin details no individual stone shall exceed 150 mm. in height from its bed. All stonework shall be flush pointed with a lime/cement/sand (50:50 sharp:soft) mix in proportions of 1:1:6 and then brush finished.

27. Prior to the construction of the external walls of the first stone faced building a sample panel, not less than 2 sq. m in extent, of the stonework to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, the stonework and pointing for each stone faced building shall be precisely in accordance with the approved sample panel, which shall be kept on site throughout the period of works to which this permission relates.
28. Prior to the construction of the external walls of the first brick faced building a sample panel, not less than 2 sq. m in extent, of each type of brickwork to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, all brickwork shall be precisely in accordance with the approved sample panel(s) in terms of the type of bricks to be used, the method of bonding, mortar mix, colour and pointing style. The approved panel(s) shall be kept on site throughout the period of works to which this permission relates.
29. Prior to the construction of the external walls of the first rendered building a sample panel, not less than 2 sq. m in extent, of the render (including any colour finish(es)) to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, all render and any colour finish(es) shall be precisely in accordance with the approved sample panel, which shall be kept on site throughout the period of works to which this permission relates.
30. Notwithstanding the details accompanying the application hereby approved, before work commences on any building full working drawings of the external appearance of that building shall be submitted to, and approved in writing by, the local planning authority. Such working drawings shall be in accordance with the plans as hereby approved and shall incorporate all the architectural detailing thereon depicted, together with all requirements of this permission.
31. Prior to the foundations for any building being laid, the precise finished floor level of that building shall be confirmed on site by the local planning authority. Development shall be carried out in accordance with the approved details.
32. No part of the development shall be opened for trading until the public art work forming part of the scheme has been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The details to be submitted and approved shall also include arrangements for the commissioning of the public art.
33. Notwithstanding the provisions of the Advertisement Regulations currently in force, all external signage within the scheme (both at the outset and subsequently) shall be in accordance with a design framework scheme for signage (establishing the positions, sizes, materials, colours and lighting for all external signage across the site) that shall have been submitted to and approved in writing by the local planning authority before any part of the development opens for trading.
34. Prior to the construction of each building above damp proof course level a detailed energy statement for that building shall have been submitted to and approved in writing by the local planning authority in accordance with the principles established by the approved Design and Access Statement. The energy statement shall demonstrate how opportunities to deliver carbon savings in excess of Building Regulation requirements have been considered and demonstrate that carbon savings

have been maximised by incorporating appropriate opportunities into the design of the building (having regard, if appropriate, to any opportunity for co-ordinating and linking of infrastructure with any other part of the whole development). Development shall be carried out in accordance with the approved details.

35. No development shall be commenced until a Noise Impact Assessment based on an initial measurement of background sound levels (in accordance with BS 4142 : 2014) undertaken at a time when sound levels are not affected by construction works associated with the current upgrading of the A1 has been submitted to and approved in writing by the local planning authority. The Assessment shall also include proposals, based on the findings of the survey work and having regard to the methods and timing of construction works along with the intended operation of the site following completion of the development, for any necessary noise mitigation measures to ensure that the development as a whole will have a low impact on the background sound level at defined sensitive receptors including the Scotch Corner Caravan Park; West View bungalow; the residential caravans to the south east on the opposite side of the A6108; and the private dwellings at Barracks Bank to the west. Thereafter, all noise mitigation measures shall be undertaken as part of the development and, where applicable, retained thereafter.
36. Prior to the commencement of development a scheme shall be submitted to and approved in writing by the local planning authority relating to the following matters:
- a) details of extract ventilation systems including emissions and methods of treatment i.e. suitable filters to remove potential odour;
 - b) details, including locations, of planned ground source heat pumps and biomass boiler units; and,
 - c) details, including times, of when deliveries and collections of waste will take place.

Development shall be carried out in accordance with the approved details.

37. The units on the western side of the northern boundary shall not be used at any time for the sale of food for consumption at the site (other than confectionery).
38. Details of any external lighting to be used on the site shall first be submitted to, and approved in writing by, the local planning authority. The information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting.

For the avoidance of doubt, there shall be no external or internal lighting of the 'spire' feature.

Thereafter the artificial lighting shall be installed, operated and maintained in accordance with the approved scheme. Changes to any element of the lighting scheme shall be submitted to, and approved in writing by, the local planning authority prior to the changes taking place.

39. The development shall only be carried out in accordance with the proposals and measures for community safety and security contained in the approved Security and

Policing Statement. Details, where appropriate, of all safety and security measures forming part of the proposal shall be submitted to and approved in writing by the local planning authority and provided for as part of the development prior to any part of the development first opening for trading.

40. The development shall only be carried out in accordance with the recommendations and mitigation measures set out in the approved Ecological Assessment (Ecology Phase 1 Walk-Over Assessment – Peter Brett Associates).

Report to the Secretary of State for Communities and Local Government

by S R G Baird BA (Hons) MRTPI

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

Date: 8 August 2016

TOWN AND COUNTRY PLANNING ACT 1990

RICHMONDSHIRE DISTRICT COUNCIL

APPLICATION BY

SCOTCH CORNER RICHMOND LLP

Inquiry held on 4 May 2016

File Refs: APP/V2723/V/15/3132873 & APP/V2723/V/16/3143678

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GLOSSARY

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|-----------|-------------------------------------|
| CD | Core Document. |
| CP | Core Policy |
| CS | Core Strategy |
| DBC | Darlington Borough Council. |
| DD | Distinct Darlington. |
| DOC | Designer Outlet Centre |
| DTC | Darlington Town Centre. |
| Framework | National Planning Policy Framework. |
| HDC | Hambleton District Council. |
| HA | Highway Authority. |
| HE | Highways England. |
| LP | Local Plan. |
| lpa | Local Planning Authority. |
| NTC | Northallerton Town Centre. |
| PCA | Primary Catchment Area. |
| PPG | Planning Practice Guidance. |
| RDC | Richmondshire District Council. |
| RL | Rushden Lakes. |
| SoCG | Statement of Common Ground. |
| SoS | Secretary of State. |
| SP | Spatial Principle. |
| WYG | White Young Green. |

File Ref: APP/V2723/V/15/3132873

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990 on 12 August 2015.
- The application is made by Scotch Corner Richmond LLP.
- The application Ref 14/687/FUL is dated 29 August 2014.
- The development proposed is the erection of a designer outlet centre (Class A1 non-food) with restaurants (Class A3) and associated landscaping, car parking, servicing and access arrangements on land west of the A6108 Barracks Bank, Scotch Corner, North Yorkshire DL10 6NT.
- The reason given for making the direction was consistency with his policy on calling in planning applications.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 - the extent to which the proposed development is consistent with Government policies on ensuring the vitality of town centres and promoting sustainable transport (Framework sections 2 & 4);
 - the extent to which the proposed development is consistent with the development plan for the area;
 - any other matters the Inspector considers relevant.

Summary of Recommendation: The application be approved.

File Refs: APP/V2723/V/16/3143678

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990 on 1 February 2016.
- The application is made by Scotch Corner Richmond LLP.
- The application Ref 15/00806/FUL is dated 7 October 2015.
- The development proposed is the erection of the erection of a designer outlet centre (Class A1 non-food) with restaurants (Class A3) and associated landscaping, car parking, servicing and access arrangements on land west of the A6108 Barracks Bank, Scotch Corner, North Yorkshire DL10 6NT.
- The reason given for making the direction was consistency with his policy on calling in planning applications.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 - the extent to which the proposed development is consistent with Government policies on ensuring the vitality of town centres and promoting sustainable transport (Framework sections 2 & 4);
 - the extent to which the proposed development is consistent with the development plan for the area;
 - any other matters the Inspector considers relevant.
 -

Summary of Recommendation: The application be approved.

Preliminary Matters

- 1.1 The inquiry opened on 4 May 2016 and sat for 7 days. Unaccompanied visits were made to Darlington town centre (DTC) on Friday 6 and Thursday 12 May, the York and J32 Castleford Designer Outlet Centres (DOC) on Friday 6 May 2016; Cheshire Oaks DOC on Saturday 7 May; Northallerton, Catterick Garrison and Thirsk town centres and Teesside Retail Park on Thursday 12 May 2016.
- 1.2 At the opening of the inquiry the applicant and the local planning authority (lpa) agreed the list of application plans for each scheme (Annex A).
- 1.3 A S106 Agreement (Doc 12) is submitted and the lpa produced a note on CIL R122 compliance (Doc 25).
- 1.4 The list of documents includes opening and closing submissions and proofs of evidence from the main parties. The proofs of evidence are as originally submitted and do not take account of how that evidence may have been affected by cross-examination or subsequent discussions and agreement between the parties. In reporting the cases for the main parties, I have used the opening and closing submissions as the basis for their cases.

2. The Site and Surroundings

- 2.1 The site is the same in both applications and comprises an area of some 14ha contained within a single field to the west and north of the A6108, Barracks Bank, and south-west of the Scotch Corner roundabout junction of the A66 and A1 (CD1.1.3 Figure 2.1 & CD1.2.2). The A1 is a strategic route between London and the east of Scotland. The A66 provides access to Carlisle, Penrith and the west of Scotland via the M6. The Scotch Corner roundabout is partially signalised on the off-slips from the A1.
- 2.2 The site occupies an elevated position on open agricultural land that forms the southern side of a ridge that runs east-west broadly coinciding with the A66. To the north-west is Sedbury Plantation, a substantial block of mainly coniferous woodland. To the north, with vehicular access from Barracks Bank, is the Scotch Corner Caravan Site that has static and touring caravan pitches. The common boundary of the site is defined by fencing, hedging and tree planting. To the east of the caravan park is West View, a detached bungalow. Beyond the caravan park is the Scotch Corner Hotel with vehicular access off the roundabout and the Vintage Hotel, which has vehicular access off the A66. The eastern and southern edges of the site are largely open to Barracks Bank. Where it passes the site Barracks Bank is a dual carriageway. To the east of Barracks Bank are a range of commercial premises, including small industrial units, the vacant Dalesway Lodge a former hotel/roadhouse, a haulage depot and a small residential caravan park. Some 450m beyond the undefined western boundary of the site are 2 dwellings, Hill House and Thornfield House. To the north-east of the Scotch Corner Roundabout with access from Middleton Tyas Lane is a service area with a hotel and petrol filling station. Beyond, to the east, is the village of Middleton Tyas.
- 2.3 The A1 is currently being upgraded to a motorway (Leeming to Barton) with completion due in mid-2017 (Doc 60 Attachments 1-4). As part of the upgrade works, a new roundabout is being constructed at Blue Anchor Corner on the south-eastern edge of the site. This roundabout will be linked to Scotch Corner by Barracks Bank, which will remain a dual carriageway. To the south of the Blue Anchor Roundabout, a new single carriageway road running parallel to the A1 links to Barton. North of Scotch Corner a new single carriageway road is being constructed parallel to the A1.
- 2.4 The site has the benefit of an extant outline planning permission for employment development comprising 8,360 sq. m of B1 Business and 12,600 sq. m of B8 Storage or Distribution (Doc 58 pages 2-4). Vehicular access for this development is shown from the Blue Anchor Roundabout and Barracks Bank (CD1.1.6 page 5).

3. The Proposals

- 3.1 Scheme 1, is a full planning application is for a Designer Outlet Centre (Class A1 non-food) with restaurants (Class A3) and associated landscaping, car parking, servicing and access (Annex A & CD1.1.6). The total gross internal floor area (GIA) amounts to some 23,381 sq. m comprising 84 Class A1 Retail units with mezzanine floors; 8 Class A3 Food & Drink units, toilet areas and 1,291 car parking spaces. The total nett retail sales area would be some 16,196 sq. m (Doc 4). A full list of the application drawings is set out in Annex A and copies of the drawings are at CDs 1.2.1 to 1.2.37). Documents and reports supporting the application are contained at CDs 1.1.1 to CD1.1.19.
- 3.2 Scheme 2, is a full planning application for a Designer Outlet Centre (Class A1 non-food) with restaurants (Class A3) and associated landscaping, car parking, servicing and access (Annex A & CD2.1.5). The total gross internal floor area (GIA) amounts to some 16,178 sq. m comprising 70 Class A1 Retail units with mezzanine floors, of varying size; 8 Class A3 Food & Drink units, toilet areas and 1,138 car parking spaces. The total nett retail sales area would be some 11,048 sq. m (Doc 4). A full list of the application drawings is set out in Annex A and copies of the drawings are at CDs 2.2.1 to 2.2.24). Documents and reports supporting the application are contained at CDs 2.1.1 to CD 2.1.20.
- 3.3 Both schemes would adopt a linear alignment along the boundary on the western side of the site (CD1.2.5 & CD2.2.4). A main retail street would run north-south broken by a series of public spaces (CD 1.1.6). The units would be arranged in a staggered format to introduce a "village feel" (CD1.2.32). Buildings would be a maximum of 2-storey with varying rooflines finished in local materials, i.e. brick, stone, render with roofs finished in stone or slate tiles (CD1.1.6 Section 9).
- 3.4 Two points of vehicular access/exit are proposed. In the south, service and customer traffic would access/exit the site from a spur off the Blue Anchor Roundabout. Customer traffic would also access/exit the site off Barracks Bank at the north-east corner of the site (CD1.1.6 page 17). Car and coach parking would be positioned between the proposed units and the eastern boundary. There would be a variety of pedestrian accesses to the shops from the car park. The layout would incorporate a variety of hard and soft landscape features including swales along the eastern edge of the units, balancing ponds in the southern section of the site and a feature sculpture/artwork in the north-east corner.
- 3.5 For both schemes off-site highway works would: widen Middleton Tyas Lane on the approach to the roundabout; pedestrian and cycle improvements on the western and eastern sides of Barracks Bank from the signalised site access up to the roundabout; pedestrian/cycle crossing on Barracks Bank and improvements to bus shelters on barracks Bank and the provision of real-time service information (Doc 60 page 5). In addition Scheme 1, off-site highway works would include a 3-lane flare at the stop lines on the northern Scotch Corner over-bridge, a 3-lane flare on the A1(M) southbound off-slip and 2 exit lanes onto Barracks Bank (Doc 60 page 5)
- 3.6 Both schemes include the implementation of a Travel Plan and a S106 Agreement provides for enhancements to the existing bus services serving

Scotch Corner, provision of a new bus service and the introduction of a "Hopper Service" to run to villages and towns within a 1 hour bus journey of the site (Doc 12).

4. Planning Policy and Guidance

Development Plan Policy

- 4.1 The development plan comprises the Richmondshire Local Plan 2012-2028 Core Strategy (CS) adopted in December 2014 (CD3.1.3) and saved Policy 23 of the Richmondshire Local Plan (LP) 1999-2006 as modified by CS Policy CP4 (CD3.1.4). The Planning SoCG (Doc 58) and the Ipa Committee Reports (CD1.1.22 & CD2.1.2) list the relevant development plan policies. Of these, the following are the most relevant.
- 4.2 At its heart, the CS has 5 Spatial Principles (SP); of which 3 are relevant to these schemes. SP1 identifies 3 sub-areas and sets out the strategic approach for each. Scotch Corner is located within North Richmondshire; described as an area for modest growth reflecting its largely rural nature and the need to resist development pressures from and to support the regeneration of the neighbouring Tees Valley settlements, particularly Darlington. The strategy is to limit the scale of new housing development in order to resist in-migration and decrease pressures for cross-border migration. SP2 defines a settlement hierarchy where Richmond and Catterick are the main focus for, amongst other things, employment, shopping and leisure.
- 4.3 The LP allocated the application site for Class B1 and B8 employment uses. The CS continues this commitment with SP5 outlining the potential for traditional employment uses at Scotch Corner rather than town centre uses. The spatial strategy for North Richmondshire gives priority to the consolidation of the existing and committed employment development at Scotch Corner with no further expansion onto undeveloped land.
- 4.4 Core Policies (CP) add detail to the strategic approach. Reflecting the presumption in favour of development contained in National Planning Policy Framework (Framework), CP1 highlights that a positive approach to development will be adopted. Proposals will be approved wherever possible to secure development that improves economic, social and environmental conditions in the district. Policy CP3 relates to achieving sustainable development and, amongst other things, indicates that development should, as far as possible, be located so as to minimise the need to travel. Where possible convenient access by foot, cycle and public transport should exist or be provided encouraging the use of these modes of travel for local journeys and reducing the need for travel by car.
- 4.5 CP7 indicates that support will be given to: development of employment activities that diversify the current local offer; and development that promotes the sustainable growth of key economic sectors of retail and tourism. For retailing, CP9 sets out a town centre first policy and CP9 (3) provides that support will be given for retail and town centre developments of more than 500 sq. m outside of town centres where: (a) there are no suitable, viable and available sites, firstly within, then on the edge of, existing town centre; (b) an impact assessment has demonstrated there would be no adverse impact on the vitality and viability of the District's town centres, or on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; (c) it would be accessible by a choice of means of transport, and the local transport system is capable of

accommodating the potential traffic implications. CP10 encourages tourist related activities where they would make a sustainable contribution to the local economy and would not have a detrimental impact on the local environment/landscape.

National Planning Policy & Guidance

- 4.6 Framework paragraph 6 indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development has 3 dimensions, economic, social and environmental. Framework paragraph 14 outlines the presumption in favour of sustainable development.
- 4.7 Framework Section 2 identifies that the vitality of town centres is key to the delivery of sustainable economic growth and provides a wide range of social and environmental benefits. The Framework seeks to promote competitive town centres that provide customer choice and a diverse retail offer and highlights that the needs for retail uses are met in full and should not be compromised by limited site availability. Applications for main town centre uses should be located in town centres, then in edge-of-centre locations and only if suitable sites are not available should out-of-centre sites be considered. When considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants should demonstrate flexibility on issues such as format and scale.
- 4.8 Framework paragraphs 24 and 24 set out 2 tests, the sequential test and the impact test, to be applied to proposals for town centre uses which are not in an existing town centre and are not in accord with an up to date development plan. The sequential test identifies development that cannot be located in town centres and which would then be subject to the impact test. Planning Practice Guidance (PPG)¹ provides guidance on the application of the sequential test.
- 4.9 The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres. This includes an assessment of: 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; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area. PPG² provides guidance on the application of the impact test and the factors relevant in assessing the health of town centres³. Framework paragraph 27 says that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused.
- 4.10 Framework Section 4 deals with the promotion of sustainable transport and indicates that encouragement should be given to solutions which support reductions in greenhouse gas emissions. Whilst Framework paragraph 29

¹ Paragraphs 008 to 011 Reference ID: 2b-008 to 012-20140306.

² Paragraphs 013 to 018 Reference ID: 2b – 013 to 018-20140306.

³ Paragraph 005 Reference ID: 2b-005-20140306.

indicates that the transport system needs to be balanced in favour of sustainable transport modes, it recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.

- 4.11 Framework paragraph 32 states that decisions should take account of whether:
- (i) the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - (ii) safe and suitable access to the site can be achieved for all people; and
 - (iii) improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.
- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

5. The Case for Scotch Corner Richmond LLP

The material points are:-

INTRODUCTION

- 5.1 Designer Outlet Centre (DOC) retailing differs significantly from typical high street retailing both from the perspective of the consumer and the retailer. A DOC is a particular form of retail development where the goods sold in the individual shops are at least 20% cheaper than their full priced equivalents. They are, for example, previous season's stock, seconds, clearance goods and the like. Hence "Designer Outlet" and "Centre" because developments like these comprise an agglomeration of lots of such shops, each of which is generally small in size (CD1.2.1).
- 5.2 DOC customers are brand-aware people looking for a package of shopping, leisure and cultural experiences as part of a day out (Doc 21). Typically they visit DOCs 4 to 6 times a year, which explains why this sort of expenditure is not readily picked up in household surveys, as it is so infrequent and not usual. DOC shoppers' purchases are necessarily speculative because the range of choice of clothes, styles, colours and the availability of sizes is unpredictable. Thus, shopping such as this is "speculative shopping"⁴ because it very much relates to what DOC retailers have left by way of excess stock and it is a "lottery"⁵ whether shoppers find what they are looking for.
- 5.3 DOC retailing is very different to typical high street retailing where by contrast shoppers typically visit high street shops some 45 to 50 times a year to make specific purchases; they visit for less time rather than as, or as part of, a day out. Although there are sales as in "10% off" e.g. seasonal sales as in high street shops, these are periodic and in the main high street shops will be retailing this season's stock at full price. In a DOC every shop is selling discounted goods all the time, e.g. last season's unsold stock.
- 5.4 Retailers treat DOC retailing and high street (full price) retailing as separate "channels". DOC retailing enables retailers to have control over where and how their discounted stock is sold in order to protect their brand image; the development's image and ambiance must provide a "brand-enhancing environment". This last point explains why the quality of retailers and brands at the York DOC is markedly different and more upscale to those found at the more midscale outlet centre at J32 Castleford. Successive generations of outlet centre developments have seen ever higher quality schemes as this subset of retailing has become more sophisticated and more responsive to the requirements of retailers and shoppers alike. J32 Castleford is not a scheme of the high quality image and ambiance which the more upscale retailers require to project and protect their brand image.
- 5.5 The Scotch Corner schemes would be much more akin to the York and Cheshire Oaks DOCs in terms of the quality of retailers and brands that would be attracted. This would be the case because the architect's designs for the

⁴ Mr Gunn Evidence in Chief.

⁵ X-Examination Mr Gunn.

schemes display “all the right characteristics” for the sort of brand-enhancing environment sought by the more upscale retailers. The design is “beautiful, intimate and has all the right things going for it”⁶. The applicant’s evidence explains that the expected shopper profile for a DOC at Scotch Corner would support higher quality brands (Doc 21 page 31).

- 5.6 Darlington Borough Council’s⁷ (DBC) suggestion that there is nothing that distinguishes a DOC from a typical high street operation is wrong for the reasons set out above but also because DBC⁸ is unable to name any DTC retailers who trade in a manner that would comply with the restrictions that would apply to the Scotch Corner development. The applicant’s unchallenged evidence is that there is very little overlap between retailers found in DTC and the retailers who are likely to occupy units in a DOC at Scotch Corner (Doc 21). Indeed the telling point is that very few retailers in DTC have an outlet channel.
- 5.7 For those few DTC retailers who have full price and outlet channels, the proposed “no poaching” condition would mean that they could not close their town centre store and move to Scotch Corner. If they did want to be at Scotch Corner they would need to keep their town centre store open (Doc 27A Condition 6). The notion floated by DBC⁹ that Marks & Spencer (M&S) might close its DTC store, wait for the period of time specified in the condition and then open at Scotch Corner is not based on any evidence and is fanciful. It makes no sense that M&S would abandon the ability to sell this season’s clothes at full price in DTC and swap to only being able to sell last season’s and excess stock at heavily discounted prices out at Scotch Corner.

The extent to which the proposed development is consistent with the development plan for the area

- 5.8 The applicant agrees with the Ipa that the proposals comply with the development plan when read as whole (Doc 14 paragraphs 3.35 – 3.100 & Doc 16 paragraph 5.6). If it is concluded that there is some or other inconsistency with the development plan that would not mean that a decision to grant the applications would not be in accordance with the development plan. The test set out in the first limb of section 38(6) of the 2004 Act is not set in relation to each and every policy and element of policies in the development plan but rather to the plan when read as a whole, in an overall rounded manner.
- 5.9 DBC’s eventual position¹⁰ became one where, if it is concluded that the proposals satisfy the tests for retail applications, and in particular that found in Framework paragraphs 26 second bullet point and 27 concerning the impact on DTC’s vitality and viability, then there is nothing in RDC’s development plan that DBC relies upon to suggest that the applications should be refused. However, if it is concluded that granting the applications would not be in accordance with the development plan then it is submitted that material

⁶ Mr Gunn, response to Inspector’s question.

⁷ Mr Shepherd Evidence in Chief.

⁸ X-Examination Mr Shepherd.

⁹ X Examination Mr Quinsee.

¹⁰ X-Examinations of Mrs Williams & Mr Shepherd.

considerations indicate otherwise such that the permissions should be granted nonetheless under the second limb of S38 (6) of the 2004 Act. The key material consideration is compliance with the retail planning policies in the Framework. In addition there are significant benefits, such as the several hundreds of jobs that would be created to the benefit of Richmondshire and Darlington residents and which supports the case for granting the applications (Doc 14 paragraphs 3.101 & 3.102).

- 5.10 DBC¹¹ accepts that its planning policies "*add nothing to the SoS's determination*". DBC's planning policies are not the development plan for the purposes of S38 (6), and therefore at most could only be a material consideration. No weight should be given to DBC's development plan as a material consideration as its CS is out of date having been adopted prior to the Framework and the imperative to meet retail needs in full as introduced by the Framework in paragraph 23, sixth bullet point. DBC's emerging Making and Growing Places DPD has been withdrawn and DBC¹² agrees that DBC's Interim Planning Position Statement does not contain planning policies. DBC¹³ accepts that if it is concluded that the proposals satisfy the tests for retail applications, and in particular that found in Framework paragraph 26 second bullet point and paragraph 27 concerning impact on DTC's vitality and viability, then there is nothing in Darlington's development plan that DBC relies upon to suggest that the applications should be refused. Accordingly, all roads lead to the retail planning policies in the Framework.

The extent to which the proposed development is consistent with Government policies on promoting sustainable transport (Framework section 4)

Relevant policy

- 5.11 Framework paragraph 32 is the most relevant part of Section 4. Decision-makers are required by Framework paragraph 32 first bullet point to "take account" of amongst other things whether "*the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site...*". Accordingly, Framework paragraph 32 first bullet point must be applied in terms in the context of the nature and location of the site. It is obvious that the opportunities for taking up sustainable transport modes will vary from location to location and site to site. Logically, there can be no absolute standard and sensibly, one should do what is reasonable in the circumstances of the case in hand e.g. to improve bus services.
- 5.12 Framework paragraph 34 provides that "*decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised*". This statement is qualified immediately by the next sentence, "*However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas*". The qualification is fundamental. Read as a whole Framework paragraph 34 does not mean that permission should be refused for a development in a rural location if it does not minimise the need to travel and

¹¹ X-Examination of Mrs Williams.

¹² X-Examination of Mr Shepherd and Mrs Williams.

¹³ X-Examination of Mrs Williams.

maximise the use of sustainable transport modes in the way in which it would if the same or a similar development was to be proposed in an urban location. Once again, logically, there can be no absolute standard.

- 5.13 Framework paragraph 34 refers to "*policies set out elsewhere in this Framework*". In the case of retail development the sequential test in Framework paragraphs 24 and 27 allows retail development in out-of-centre/out-of-town locations where the test is satisfied. DBC agrees that the sequential test is met in the case of these applications. Necessarily out-of-centre/out-of-town locations for retail development will not minimise the need to travel and maximise the use of sustainable transport modes in the way in which a town centre or edge of centre site would. If the Framework had meant to debar out-of-centre/out-of-town locations on this basis then it would have said so explicitly. It does not do so.
- 5.14 Framework paragraph 34 also refers in the qualification of "*However...*" to policies set out elsewhere in the Framework "*particularly in rural areas*". This reference brings into play the explicit recognition in Framework paragraph 29 that: "*opportunities to maximise sustainable transport solutions will vary from urban to rural areas*" which bears out the point that Framework paragraph 34 cannot mean that there is some absolute, paradigm, standard. The reference to "*rural areas*" also echoes Framework paragraph 32 first bullet point that advocates taking up the opportunities for sustainable transport modes "*depending on the nature and location of the site...*" Accordingly, just as with Framework paragraph 32 first bullet point, so too with Framework paragraph 34: sensibly, one should do what is reasonable in the circumstances of the case in hand i.e. to improve bus services.
- 5.14.1 The highway authority¹⁴ (HA) and the strategic highway authority, Highways England, (HE) agree that the proposals accord with all relevant local and national transport policies, including policies promoting sustainable transport and neither object to the proposals. Despite this, DBC raises transport objections in relation to a site which is not within their administrative area, and in relation to issues which, even if right, would have absolutely no impact whatever on DBC's administrative area. This part of DBC's case is entirely makeweight and opportunistic. Such matters should have been left to the authorities responsible for considering them, namely the HA, HE and RDC.
- 5.15 DBC's transport objections initially comprised 3 assertions: (i) that the proposed car parking provision is inadequate; (ii) that the location would not minimise the need to travel and maximise the use of sustainable transport modes (Framework paragraph 34); and (iii) that the increases in distances travelled and increases in CO₂ emissions constitute "*severe*" impacts under Framework paragraph 32 third bullet point such that the proposals should be refused.
- 5.16 There was little if anything left of the car parking issue and the second issue (Framework paragraph 34) by the end of the examination of DBC's case¹⁵ and to the extent that the third issue (travel distance and CO₂ emissions) lingered

¹⁴ North Yorkshire County Council.

¹⁵ X-Examination of Dr Bunn.

on, it fell away following concessions¹⁶ by DBC. Therefore, in the light of the evidence and on the basis of a correct understanding of the meaning and effect of Framework paragraphs 32 and 34, they do not and cannot provide a basis for refusing these applications.

Parking

- 5.17 DBC agrees that the parking provision for Scheme 2 would be acceptable if Plan 0304 Rev E which provides for 1,138 car parking spaces were to become the approved plan (Doc 6). No one objects to the decision being made on the basis of this plan, which can be referred to in a condition. In relation to Scheme 1, a total of 1,291 car parking spaces would be provided. DBC agrees that would provide sufficient parking for Phase 1 of the scheme i.e. some 15,900 sq. m. This amount of parking may well be sufficient for the entire scheme however the applicant proposes a phasing condition under which prior to Phase 2 being implemented the car parking provision would be reviewed based on traffic surveys, and should there be a need to do so, additional parking would be provided in association with Phase 2 (Doc 27A Condition 16). DBC agrees with the proposed phasing condition.
- 5.18 As far as the applicant is concerned that is the appropriate, and adequate, way in which to deal with the matter. DBC insists that the additional 320 parking spaces which the applicant has shown could be accommodated on the site in various different ways should be provided at the outset. The applicant considers this to be unnecessary and unreasonable. The proposed phasing condition would mean that Phase 2 could not proceed without sufficient parking being provided. This might well be the 1,291 spaces provided at the outset because the assumption made by the applicant that all of the proposed mezzanine floorspace would be used for trading might well turn out not to be the case either in whole or part or, if additional parking is required, it might well be that fewer than 320 would suffice. The sensible way to get this right is via the proposed phasing condition. The applicant¹⁷ explained one should avoid providing more parking than is required.

Taking up opportunities for sustainable transport

- 5.19 The applicant has explained earlier the meaning and effect of Framework paragraph 34 and in particular that where in accordance with the first bullet point of Framework paragraph 32, the opportunities for sustainable transport have been taken up then that is sufficient to comply with the Framework. DBC argues otherwise in relation to Framework paragraph 34 but this argument is based on ignoring the second sentence of the paragraph, the "*However*" sentence, and as explained earlier this reading of Framework paragraph 34, in the context of Framework paragraph 32 first bullet point is plain wrong. DBC does not suggest that any other or different improvements for walkers and/or cyclists and/or public transport than those proposed by the applicant were necessary or reasonable. In other words, the opportunities for sustainable transport have, given the nature and location of the site, been taken up. It

¹⁶ X-Examination of Mrs Williams.

¹⁷ Evidence in Chief of Mr Kenyon.

would be remarkable, and wrong as a matter of first principles, to refuse the applications nonetheless.

- 5.20 The applicant's evidence¹⁸ together with the Highways SoCG and Addendum explain the ways in which opportunities for sustainable travel have been taken up. Although the nature of the use means that few people can be expected to walk or cycle to the site, a combination of existing provision, together with improvements that will be provided as part of the A1 upgrade and the applications mean that there would be suitable routes and facilities for those living close enough to the DOC to walk or cycle. The Travel Plan would encourage walking and cycling particularly for staff.
- 5.21 Buses and coaches are more likely modes of sustainable transport here. There would be a bus interchange facility at the site, bus shelters and real time travel information. The existing X26/X27/26a bus service (Darlington/Richmond/Catterick) would be diverted into the site and the frequency enhanced to 15 minutes from 20 minutes during the daytime on weekdays and Saturdays and every 30 minutes rather than hourly in the evenings and on Sundays. A new 2-hourly bus service between Scotch Corner, Brompton on Swale, Catterick and Northallerton would be provided. This would in effect replace the under threat existing 55 service. There would be a new Hopper Bus linking surrounding towns and villages. The service would start and finish at Scotch Corner 3 times a day. It would run: every day to Newton Aycliffe, Stockton-On-Tees and Middlesbrough; once a week to Northallerton, and twice a week to Bedale, Leyburn and Barnard Castle¹⁹. A large number of coaches pass through the Scotch Corner junction and marketing and incentives would specifically encourage coaches to come to the DOC. The HA agree with and support these improvements. DBC do not suggest that any other improvements could or should be taken up.

Increases in distances travelled and in CO₂ emissions

- 5.22 DBC acknowledged²⁰ that it no longer objects on the basis of alleging that increases in distances travelled and in CO₂ emissions would constitute a "severe" impact under Framework paragraph 32, third bullet point. DBC acknowledges that it had failed to compare the estimates of increases in distances travelled and in CO₂ emissions to anything e.g. nationally or regionally, in order to put them in context. Consequently, one could not make the judgment that the impact would be "severe". In any event, DBC's²¹ arguments are based on a misinterpretation of the meaning and effect of the Framework. The submissions made earlier on have addressed Framework paragraphs 29, 32 first bullet point and 34.
- 5.23 In relation to the sequential test, DBC²² misquoted Framework 24 as if it contains a requirement that out-of-centre sites should be "*well connected to town centres*". It does not: instead, it refers to a "*preference*" when

¹⁸ Mr Kenyon.

¹⁹ Evidence-in-Chief, Mr Kenyon.

²⁰ X-Examination of Mrs Williams.

²¹ Evidence of Dr Bunn.

²² Dr Bunn.

considering "edge-of-centre and out-of-centre proposals" for "accessible sites that are well connected to town centres." Logically, one can only express a "preference" where a choice falls to be made between several sites. Here, no choice falls to be made as DBC agrees that there is no sequentially preferable site to Scotch Corner for the proposals such that the sequential test in Framework paragraphs 24 and 27 is met. In similar vein, DBC's comment²³ that the proposals would lead to an increase in CO₂ emissions "that we do not have to have because the proposal could go elsewhere" ignores the fact that as DBC accepts the proposals meet the sequential test and so neither Scheme 1 nor 2 could go elsewhere.

- 5.24 DBC²⁴ pray in aid Framework paragraph 30 which advocates that: "*Encouragement should be given to solutions which support reductions in greenhouse gas emissions...*". However, this paragraph concerns plan-making, the second sentence says, "*...Local Plans ... should therefore...*" and the terminology "*solutions*" is inapt for decision-taking and does not constitute a policy that if emissions would not be reduced by a development it should be refused permission. The 3 key matters which should be taken into account in deciding whether to grant permission are set out explicitly in Framework paragraph 32.
- 5.25 Framework paragraph 32 third bullet point, the "*severe*" impacts policy, does not appear on its face to have within its ambit matters such as travel distance and CO₂ emissions, which appears to be dealt with under the injunction in Framework paragraph 32 first bullet point to take up the opportunities for sustainable transport. DBC sees it differently and argues that travel distances and CO₂ emissions fall to be considered under Framework 32 third bullet point. If that is so then Framework paragraph 32 is clear that: "*Development should only be refused...where the residual cumulative impacts of development are severe*". DBC²⁵ accepts that "*severe*" means very great²⁶. This is a very high hurdle, the highest set in the Framework paragraph.
- 5.26 One can only judge whether an impact would be severe in some form of context, with some form of benchmark, as one has when it comes to assessing accidents or highway capacity²⁷. Simply estimating that Y additional kilometres would be travelled and X tonnes of CO₂ would be produced, even if the methodologies employed are robust, which the applicant does not accept, is meaningless unless put into context. The absolute numbers thrown up by this sort of "analysis" will always look large in their own right. However, in order to assess whether the impacts would be severe one has to be able to understand the numbers in their proper context. Thus for example, as the Framework is national planning policy, in a national context, or regional, or county or district. In the case of an allocated site such as this, and bearing in mind that there is an extant planning permission for B1 and B8 development on the site, these, the allocation and the permission, also constitute the

²³ X-Examination Dr Bunn.

²⁴ Dr Bunn.

²⁵ X-Examination Dr Bunn.

²⁶ Oxford English Dictionary.

²⁷ Mrs Burnham and Mr Kenyon.

context within which to judge whether the impacts would be severe. DBC²⁸ agrees that the estimates of increases in distance travelled and CO₂ emissions are not placed into any form of context in order to judge whether the impacts would be severe. Instead, ultimately all DBC does is estimate some ostensibly large numbers and assert that there would be a severe impact. DBC's approach is fundamentally flawed and it cannot be said that even assuming that the estimates of travel distances and CO₂ emissions are broadly accurate the impacts would be severe.

- 5.27 On the contrary, as RDC²⁹ explain, the CO₂ emissions would be insignificant and "very minor" in the context of CO₂ emissions for RDC's area, let alone regionally or nationally. In similar vein, the applicant³⁰ explained that the extant B1/B8 planning permission would lead to greater increase in CO₂ emissions than the DOC proposal. Overall, the proposals are consistent with government policies on promoting sustainable transport.

The extent to which the proposed development accords with Government policies on ensuring the vitality of town centres (Framework Section 2)

- 5.28 Written representations have been made on behalf of Hambleton District Council (HDC) contending that the proposals would cause significant adverse impact on Northallerton Town Centre (NTC). This is ridiculous; NTC is strong and very healthy and any impact from a DOC at Scotch Corner would barely register let alone be significant. Investment in NTC has continued in full knowledge of the proposals and new retailers continue to be attracted to this thriving town centre.

Retail policy context

- 5.29 Framework paragraphs 24, 26 and 27 set out the tests that apply to making the decision whether to permit the DOC. The applicant, RDC and DBC agree that the proposals satisfy the requirements of the sequential test in Framework paragraphs 24 and 27.
- 5.30 Framework paragraph 26 first bullet point requires an assessment of the impact, if any, of the proposal on "*existing, committed and planned public and private investment*" in a centre. This requirement is straightforward, and Framework paragraph 27 protects from significant adverse impact only such investment as has been made, has been committed or is planned (Framework paragraph 26 first bullet point). The applicant, RDC and DBC agree that the proposals comply with the first bullet point of Framework paragraph 26.
- 5.31 DBC³¹ seeks to argue that the Framework also seeks to protect investment that is not "*existing, committed or planned*" not under the first bullet point of Framework paragraph 26 but under the second bullet point, the impact on town centre vitality and viability part of the paragraph in which investment is not mentioned. DBC's argument misinterprets the Framework paragraph and is plainly wrong in law. Inchoate possible future investment ("potential"

²⁸ X-Examination of Dr Bunn.

²⁹ Mrs Burnham.

³⁰ Mr Kenyon.

³¹ Mr Shepherd.

investment as it was described by DBC) does not fall within either bullet point in Framework paragraph 26 (Doc 40 paragraph 6). The specific types of investment that are protected by national policy are explicitly identified in the first bullet point. That is the point of having a specific part of the paragraph that deals with investment. The categories of investment listed there share the characteristics of being identifiable and measurable. It is telling that DBC³² was unable to specify the sort of nebulous investment that it claims would be endangered by the proposals, let alone to give any details so as to enable one to measure or quantify the impact and to assess whether it would be significant. If Framework paragraph 26 had meant to protect investment other than that explicitly referred to in the paragraph it would have said so.

- 5.32 DBC's approach is also contrary to the SoS's decision in Rushden Lakes (RL), where the SoS agreed with the Inspector's finding that "only investment that has been made, has been committed or is planned warrants consideration" (CD1.2.26 III). The RL decision does not support DBC's argument. It is clear from the Inspector's report that there was no planned or committed investment and that the focus was on the existing situation rather than some future hoped for investment. To be clear, if the Inspector and in agreeing with him, the SoS did conclude in the RL decision that Framework paragraph 26 second bullet point protects investment other than those types of investment specifically listed in the first bullet point of the paragraph, then this is wrong in law as it is a misconstruction of Framework paragraph 26 which should not be repeated here. Further and in any event, as DBC was unable to give any specific instances of the type of investment that it had in mind it is impossible to conclude that the proposals would have a significant adverse impact on it.
- 5.33 The retail impact test in Framework paragraph 26 second bullet point focuses on the solus impact of proposed development. This is clear from the language of the Framework. Framework paragraph 26 refers to "*applications*", "*the development*" and twice to the impact of "*the proposal*". Framework paragraph 27 focuses on the effect of "*an application*" and whether it is likely to have a significant adverse impact. Accordingly on a proper understanding of the meaning and effect of the Framework planning permission could be refused only if the impact of the proposal is found to be significantly adverse. There is no basis in the Framework for refusing planning permission for a proposed development because of the impact of some other permitted development. That is not to say that one should ignore the effect of the impact of other permitted development e.g. Princes Gate in Catterick where a town centre retail development opened last year.
- 5.34 Princes Gate will already have had the effect of lowering the amount of money spent in DTC and so has had an impact upon it. There is disagreement as to when, i.e. in what year, one should show this effect. The applicant³³ puts it in at 2016 as it is already trading whereas DBC does not put it in until 2020. DBC's position does not make sense and artificially inflates the impacts at 2020 when in the real world by 2020 DTC³⁴ would have long adjusted to and

³² Mr Shepherd.

³³ Mr Quinsee.

³⁴ Evidence in Chief of Mr Quinsee.

made up for the circa £8m diversion in question. Whenever the effect of Princes Gate is fed into the equation the point is simply that the Scotch Corner proposals cannot be refused permission on the basis of the impact of Princes Gate on DTC nor on the basis of some form of "cumulative" impact. It is only if the impact of the Scotch Corner proposals themselves is found to be significantly adverse that Framework paragraph 26 and 27 envisages refusal.

- 5.35 The Faverdale food store scheme would have a relatively minor impact on DTC. The unimplemented planning permission is for a food store with a comparison sales area of just 892 sq. m. It is extremely unlikely that, even if an operator is found for the store, it would divert that much comparison goods trade from DTC. The retail assessment for the Faverdale store shows a predicted comparison trade diversion from DTC of £1.27m which amounts to only 0.4% of DTC's comparison turnover.
- 5.36 Finally on matters of approach, there is no basis in the Framework or PPG for taking a sectoral or sub-sectoral approach as DBC³⁵ has done in those parts of its evidence where it seeks to calculate a percentage impact on town centre clothing and footwear retail, as a sub-set of comparison goods retail. Rather the language of the Framework points the other way given that the focus of Framework paragraph 26 is on the impact on "*the town centre*" which plainly means the trade of the town centre as a whole i.e. both comparison and convenience goods. In these applications the retail experts have assessed the impact of the proposals on the comparison goods sector and so their impact figures would be lower were the convenience turnover of the town centre brought into account as well. Be that as it may, there is certainly no warrant at all for descending to an analysis of a particular type of comparison goods retail. RDC³⁶ warned against undertaking a sectoral analysis because it would be "hazardous and full of assumptions".
- 5.37 The debate about whose impact figures are more likely to be right is pointless. The retail experts predict (solus) impacts in the range (Scheme 1) 6.9% (DBC) to 3.7% (applicant) and (Scheme 2) 5% to 2.6% respectively, with RDC much closer to the applicant in both cases.
- 5.38 RDC's³⁷ sensitivity testing provides a useful guide as to where in the range the impact is likely to fall. In relation to Scheme 1, RDC suggests that if 10% inflow is added into DBC's calculation to account for the fact that there will be additional expenditure from outside its catchment area then DBC's impact figure reduces from -6.9% to -6.1%. Then, if RDC's turnover for DTC is used the impact falls to -4.9%. If RDC's turnover for the scheme is used the impact falls to -4.4%. Finally if RDC's 15% trade draw from Darlington is assumed, rather than DBC's 20%, then the impact falls to -3.3%. RDC's judgment in light of this was that an impact of more than -5% was simply unrealistic.
- 5.39 DBC's analysis was on a worst-case scenario in every respect and it is implausible that every variable would be at DBC's end of the spectrum. If only some of the variables fall below DBC's extremes then the impact figure would

³⁵ Mr Shepherd.

³⁶ Dr England.

³⁷ Dr England.

fall below 5%. The difference in monetary terms between the applicant and DBC is at most £4.8m for Scheme 1 or £4.1m for Scheme 2 as against a comparison goods turnover using DBC's figures, for DTC of well over £300m (£318m) in 2016. Put simply, the experts are not that far apart and most importantly it cannot be said that whether the impact of the proposals would be significant turns upon which predicted impact is the right one to prefer. Whichever percentage impact is preferred as more likely to be the case makes no difference at all to deciding whether the impact would be significant or not. There is not a threshold or tipping point between any of the predicted percentage impacts. To some extent this is demonstrated by the fact that no party has sought to draw a distinction between the 2 schemes and their necessarily different levels of quantitative impact.

- 5.40 This point is made at the outset because it really does not matter at all and instead of obsessing about figures it is more to the point to consider whether there is any evidence at all to support the notion that there would be tangible, actual, significant adverse impacts on the vitality and viability of DTC. There is no such evidence.

Existing shopping patterns

- 5.41 In support of the applications the applicant commissioned a telephone household survey of comparison shopping patterns across the whole of the catchment area. The survey was conducted by a reputable and highly respected firm, NEMS, and the content of the survey questionnaire was agreed with RDC. NEMS has provided a letter explaining the process that it followed and it clarifies how it endeavoured to pin down which shopping locations respondents were referring to in answering the questions put (CD3.1.27 II)
- 5.42 A great deal of inquiry time was taken up with DBC's criticisms of the NEMS survey commissioned by the applicant. DBC relied on a NEMS survey commissioned for the 2014 Darlington Retail Study to argue that the applicant's survey had overestimated the comparison goods turnover of DTC. The applicant³⁸ accepted the "*real possibility*" that the latest NEMS survey had underestimated the comparison goods turnover of locations outside DTC. However, that does not automatically mean that DBC's estimated town centre turnover was right. The process is not binary and it is quite likely that the answer lies somewhere between the 2 survey-derived estimates.
- 5.43 DBC's NEMS survey estimates the comparison goods turnover for the Yarm Road Local Centre to be £8.7m, yet the centre comprises only 90 sq. m of comparison goods floorspace. Similarly, DBC's NEMS survey estimates the total comparison goods turnover for Neasham Road Local Centre, excluding Matalan, to be £4m but it comprises only 400 sq. m of comparison goods floorspace. Those estimates are implausibly high. Therefore, it may very well be the case that neither survey is spot on.
- 5.44 This debate is of no real significance given it accounts for some 2% of the difference of some 3% (3.2%) between the applicant's impact figure and DBC's and in respect of Scheme 2 some 1.5% of the difference of 2.4%.

³⁸ Evidence in Chief of Mr Quinsee.

Although of the differences in the figures between the 2 experts this one issue accounts for most of the difference ultimately it really does not matter who is right or wrong because the end result would be a low number come what may.

Turnover of the schemes

- 5.45 The applicant and RDC agree that the estimated turnover of Scheme 1 in the design year 2020 would be £96.26m compared to DBC's estimate of £106.4m. The applicant's advisor³⁹, who has unparalleled expertise of DOCs and unrivalled access to information about their trading performance, considered that a turnover of £80m would be more realistic. This view commands significant weight. Therefore, the applicant's assessment is conservative because a higher scheme turnover has been used than is likely.
- 5.46 DBC misses the point when it criticises the applicant for not building in growth in floorspace efficiency between 2014 and 2016, and for applying a 1.5% growth rate, rather than a higher rate, beyond 2016. The purpose of the exercise is to arrive at a realistic scheme turnover. Given the leading expert is saying that the estimated scheme turnover of £96.26m is some £15m above the likely turnover, it would be perverse to factor in even more growth and end up with an even more unrealistic turnover. DBC's fixation with process lost sight of the big picture which is whether the outcome made sense.

Inflow of trade from outside the catchment area

- 5.47 Both the applicant and RDC have assumed a 25% inflow of trade to the DOC from outside the catchment area. This is reasonable given the evidence of shopping patterns to the outlet centres at York and J32 Castleford. There is no reason to suppose that the schemes would have a lesser degree of attraction than this from outside the catchment, especially since over one million people stop at Scotch Corner each year already. In other words, Scotch Corner is well-located to attract trade from outside the catchment area. As best as one can tell, DBC does not contest the 25% assumed inflow.

Trade draw from centres within the catchment area

- 5.48 The applicant estimates a 27.5% trade draw from within the primary local catchment area; DBC, 35% from its Study Area. The 2 areas are not co-extensive. The applicant has a population which is some 40,000 less than DBC's. The applicant's DOC expert⁴⁰ has 50% from a yet differently geographically defined primary segment. To compare this 50% to DBC's 35% is not appropriate as 26% of the residents of the applicant's primary segment are not included in DBC's study area and 24% of the residents in DBC's study area are not included in the applicant's primary segment⁴¹. The applicant estimates that a more direct comparison would be some 42% (or 38%) and firmly rejects the suggestion that this shows that DBC's analysis to be conservative. This is because the predicted scheme turnover⁴² is hugely less than DBC's. In other words if one were to compare the same post code areas

³⁹ Mr Gunn.

⁴⁰ Mr Gunn.

⁴¹ Mr Gunn.

⁴² Mr Gunn's £80m.

the applicant would predict far less money actually being drawn from the same population than DBC. The applicant⁴³ suggests this is another one of those points that really does not matter as it probably accounts for 1% at most of the differences in the percentage impacts estimated by the applicant and by DBC, and ultimately the end result is a small figure whoever is right or wrong on this judgment-call.

Vitality and viability of Darlington Town Centre

- 5.49 The starting point is that a percentage impact figure is meaningless and does not tell us anything in its own right. DBC accepted⁴⁴ that there is no particular percentage impact which is "*significant*" in Framework terms. Instead whether a percentage impact is significant or not depends in large part upon the underlying strength or otherwise of the town centres in question. An example of this is Northallerton, which is such a strong and healthy town centre that the small predicted impact from Scotch Corner could not conceivably be characterised as significant adverse or even adverse at all.
- 5.50 The applicant considers DBC's analysis of the health of DTC published in September 2014 as part of the Darlington Retail and Town Centre Study to be a comprehensive, thorough and balanced assessment. The Study concluded that DTC is "*a generally healthy centre, which continues to perform a vital role for residents in the Borough*" and that: "*Overall, it is evident that Darlington exhibits many of the characteristics of a "vital" and "viable" town centre and plays an important role in meeting the needs of local residents and visitors alike*". Both the applicant and RDC consider this to be an apt description of the town centre now, just as it was then. Indeed, DTC has shown noticeable improvement in recent years both in terms of its physical environment and its retail offer.
- 5.51 DBC however seeks to portray DTC as having experienced a marked decline over the less than 2 years since the 2014 Study was published. This always seemed a highly unlikely proposition and unsurprisingly the evidence shows that DBC has been unduly pessimistic. Since 2014 rather than there being signs of decline, the Feethams leisure development has been completed and is part open, a major investor, New River, has bought the Cornmill Centre, there is less vacant floorspace, new retailers have opened in the town centre, units have been refurbished and re-let or are under refurbishment for forthcoming occupiers. Moreover, since DBC's February 2016 snapshot, there are fewer vacant units, most of which are not in the prime part of the centre anyway, and of the few that are, most are in the Queen Street development which is a small part of the town centre that just does not work well in contrast to the Cornmill Centre opposite. DTC has a strong independent sector. A useful way of testing the notion that DTC is on the slide is to cross-check the Venuescore rankings; far from going down, DTC has improved its position from 66th at the time of the 2014 Study to 60th now so as to be categorised as "major regional" whereas before it was simply a "regional" centre. At various times during

⁴³ Re-Examination of Mr Quinsee.

⁴⁴ X-Examination of Mr Shepherd.

evidence⁴⁵, DBC did acknowledge that DTC is attractive and has "*many positive aspects*".

- 5.52 DBC seeks to contrast the much higher number of retailer requirements recorded in 2014 compared to the handful that are known now (Doc 16). The fact that there is demand from retailers, and other town centre operators, e.g. the letting of units at the Feethams development, is a good sign but one cannot compare the position as at the 2 dates. This is because the comprehensive listing of retailers' requirements in 2014 was published by EGi and has since ceased to be published. Accordingly, there is no equivalent comprehensive data base now. Perfect Information Property is not a like for like substitute for EGi and in any event retailers have moved away from routinely publishing their requirements. The modern trend is for landlords to approach retailers directly. For these reasons the 5 published retailer requirements for DTC is unlikely to be a comprehensive list of retailer demand. The applicant tested this by checking the Perfect Information Property data for Northallerton and found that this also lists 5 retailer requirements. It is not credible that such an attractive, busy and healthy centre as Northallerton had only 5 retailer requirements.
- 5.53 Far from being an even-handed, objective update to the 2014 health check, DBC consistently downplays the vitality and viability of DTC (Doc 46 & Doc 47 Appendix RS06). Testing of whether DBC has been fair and even-handed on the subject the following points were established, all of which go to show that it has not.
- 5.54 DBC highlights that DTC's Venuescore ranking has decreased since 2010, but fails to note that DTC's ranking had in fact increased since 2014. DBC agreed⁴⁶ that it should have included that information. In fact DTC's most recent Venuescore ranking is 60th i.e. it has gone up and is now higher than 2010. DBC also fails to put Darlington's Venuescore ranking into context. In 2014, the Study noted that DTC was in the top 3%, but DBC omits that detail. DBC's submission that it is unhelpful to ascribe a percentage ranking misses the point. If the health check was truly an objective update then it ought to include the same qualitative commentary used in 2014.
- 5.55 The 2014 study was positive about the impact of the Feethams development, noting its potential to have tangible positive impacts and to create spin-off benefits. DTC agreed⁴⁷ that its evidence was "*different in tone*". In fact nowhere in DBC's written evidence can one find the sort of warm words of welcome for the Feethams development that appeared in the 2014 study. The positives referred to in 2014 are either not stated or they are downplayed. The 2014 study commented that DTC's 183 comparison units indicated that the town centre was "*relatively strong*". The same comment applies to the 180 comparison units in DTC today, yet DBC's evidence is silent on this point.
- 5.56 DBC merely sets out vacancies in absolute and percentage terms alongside national averages. The presentation of this information in 2014 was more

⁴⁵ X-Examination & Re-Examination of Mr Shepherd.

⁴⁶ X-Examination of Mr Shepherd.

⁴⁷ X-Examination of Mr Shepherd.

extensive and balanced. In particular the 2014 study included the important caveat that care should be taken when interpreting figures as vacant units will be found in even the strongest town centres as it is to be expected that there is some churn in the market with units changing representation and that vacancies can occur because units are unsuited to modern retail requirements (CD3.1.21 paragraph 5.28).

- 5.57 DBC makes no attempt to analyse the distribution of the vacancies as between the prime and other areas of the town centre whereas the 2014 Study did and found most of them were outside the prime area (CD3.1.21 paragraph 5.29). The 2014 Study noted that 13 units had remained vacant over 3 survey periods, yet DBC fails to mention that fact. This unconvincing explanation was that readers could work this out for themselves by looking back through the plans contained in the previous studies. The 2014 Study highlights this important point about long-term vacancies for the reader as one which shows a problem with the units rather than the town centre per se whereas DBC's update does not (CD3.1.21 paragraphs 5.30 & 5.31). In addition DBC fails to highlight the new retailers who have located to the primary shopping area.
- 5.58 DBC omits to mention that the NEMS household survey for DBC provides a valuable range of information for assessing the health of the town centre. For example the 2014 Study noted that the survey identified that "*by far the most popular reason for respondents to visit Darlington town centre is the choice and range of shops, which was mentioned by 60.3% of respondents as their main reason for visiting*". None of this helpful context was included in DBC's evidence.
- 5.59 In terms of retailer representation DBC notes that 24 out of the top 28 multiples were represented in DTC. But DBC does not record, as had the 2014 Study that there was (is) a "*relatively strong level of comparison goods units and floorspace in Darlington town centre*" nor as the 2014 Study concluded: "*It is evident that Darlington town centre is performing well and continues to sustain a strong variety of both national and independent traders*" (CD3.1.21 paragraphs 5.21 & 5.44). The potential closure of McDonalds, a franchise, says nothing about the health of DTC. McDonalds' business is now focused on its drive thru format and, in any event, the food offer in DTC has grown and improved.
- 5.60 The only top 28 retailer that has left DTC since 2014 is Burtons. This retailer has suffered from issues which are not related to the health or otherwise of DTC. The town centre was assessed as having a "*relatively strong*" line-up and a "*strong variety*" in the 2014 Study and the same is true today. DBC's unwillingness to view the evidence objectively was underscored by its insistence that the loss of Burtons from the top retailers represented in DTC meant that the line-up was now only "*reasonably strong*".
- 5.61 DBC reports the bad news but fails to highlight the significant number of independent retailers and the indoor and outdoor markets which the 2014 Study said means DTC "*successfully distinguishes itself from other retail destinations in the region...*" (CD3.1.21 paragraph 5.45). DTC is robust and healthy and its vitality and viability, points that are documented in the 2014 Study and which are readily apparent simply by walking around DTC, means

that it is not vulnerable and is readily capable of withstanding such competition as there would be from a DOC at Scotch Corner.

Significance of impacts

- 5.62 Even on DBC's predicted trade diversions of 6.9% and 5% the impact on DTC would not be significantly adverse and therefore the proposals would comply with Framework paragraph 26 second bullet point and paragraph 27. In order to characterise the impact on DTC's *"vitality and viability, including local consumer choice and trade"* as *"significant adverse"* (Framework paragraph 27) one would expect there to be convincing evidence that there would be some or other tangible, real, manifestation of impacts which would harm the retail health of the town centre in a noticeably significant way.
- 5.63 The evidence does not begin to substantiate that there would be anything like this type of impact. DBC⁴⁸ cannot name a single shop in DTC that would be likely to close as a result of competition from a DOC at Scotch Corner, still less a shop that would be likely to close and not be re-occupied by another retailer whether of comparison goods, or convenience goods, or one of the other types of use which all go to support the health of the town centre. Nor could the applicant.
- 5.64 This position should come as no surprise given, as PPG indicates⁴⁹, that impact is only likely to occur where the development would *"compete directly"* with shops in the town centre. In the case of DTC there would be *"very little overlap"*⁵⁰ between retailers in DTC and those likely to trade from the DOC because *"very few retailers in Darlington have an outlet channel"*. It is also noted that DTC's clothing offer is predominantly *"family"* fashion whereas the DOC would focus to a much greater extent on *"assured"* fashion i.e. different brands which would appeal to different consumers. The goods on offer at the DOC would generally not be available in the town centre⁵¹. In other words, a DOC at Scotch Corner would not *"compete directly"* with the high street shops in DTC to any significant extent.
- 5.65 Given the above it is also unsurprising that with one exception, Leggs Limited, DTC retailers have not represented that they consider that they would close as a result of competition from the DOC. The lack of representations from retailers is all the more telling given that Distinct Darlington (DD) has run a concerted campaign to try to whip up opposition. DD's *"Dear business"* email *"strongly urges" businesses to object "if you feel strongly about the potential impact of either of the proposals ... on your own business"* (Doc 8). Despite DD putting forward impacts which are higher than the solus impacts advocated by DBC, the net effect of its campaign is a letter from Leggs Limited (Doc 5). Leggs suggests that its business would reduce by 15%, which on the evidence seems unlikely, and that it would wish to *"transfer its business"* to the DOC, which under the *"no poaching"* condition it could not do anyway. Even were

⁴⁸ X-Examination of Mr Shepherd.

⁴⁹ Paragraph 2b-016.

⁵⁰ Mr Gunn Evidence in Chief.

⁵¹ X-Examination of Mr Gunn.

one to take this letter at face value, there is no evidence to suggest that if this retailer shut, another retailer would not occupy the shop in question.

- 5.66 The schemes are not a new issue because they have been well publicised since the first application in 2014. In all that time, apart from the letter from Leggs Limited, the only letter from a retailer which gets anywhere near implying that they might close is one in October 2015 from Seymour's of Darlington, who sell linens and curtains and who say that "*it is possible that we would have to relocate away from Darlington*" (Doc 43). Whilst it is hard to imagine how a DOC at Scotch Corner would pose any threat to this particular business and, as with Leggs' shop, there is no evidence to suggest that if Seymour's shut, another retailer would not occupy the shop.
- 5.67 Another way of testing whether there would be a significant adverse impact is to apply the approach taken by the SoS, agreeing with the Inspector, in the RL decision (CD3.1.26 III). In RL it was concluded that the impacts in question would not be significantly adverse because the centres' turnover in the future year of assessment would either be higher than in the base year, or similar. That is a simple and straightforward test to apply, and it makes complete sense.
- 5.68 In this case as DBC agreed⁵², the figures show that for Scheme 2 DTC's turnover would be £3.9m more in the design year, 2020, than the base year, 2016, it has utilised and thus would be "higher" and for Scheme 1 its figures show that the DTC's turnover in 2020 would be 99.2% of the 2016 turnover and thus would be "*similar*". DBC agreed that exactly the same conclusion could be reached that the impacts would not be significant in the case of these applications as was reached in RL on the basis of the Inspector's and the SoS approach there.
- 5.69 DBC argues that the approach was wrong because town centre retailers were "*entitled to expect*" growth in floor space turnover efficiency over time at the rate referred to by Experian (Doc 48 Appendix RS01 page 13). However, this paper explains that the growth rate is driven by "*continuing trends towards more modern, higher density, stores and the demolition of older inefficient space*" which is not what we are talking about with regards to DTC. The applicant submits that the SoS should follow the approach adopted in the RL and decision. That would be the consistent thing to do and there is no good basis to justify taking a different approach here.
- 5.70 Moreover, in RL the analysis was undertaken with a design year some 7 years on from the base year whereas here DBC's design year of 2020 is only 4 years on from its base year of 2016. The applicant uses a base year of 2014, six years from the design year, and thus closer to the approach in RL. On this basis the turnover of DTC on any of the figures in play would be very much higher in the design year, even after the impact of a DOC at Scotch Corner than it was in the base year.

⁵² X-Examination of Mr Shepherd.

5.71 DBC put⁵³ that if the SoS agrees with everything that DBC has said then it would be open to the SoS "*as a matter of law*" to refuse planning permission. Leaving aside the many good reasons for rejecting much of DBC's evidence and even positing that all of the applicant's and RDC's evidence is rejected and all of DBC's is accepted, the applicant does not accept that even then it would be open to the SoS to refuse planning permission. This is because even taking DBC's evidence in its entirety at face value, DBC simply does not substantiate, or even begin to substantiate, that the impacts that it puts forward would be "*significant adverse.*" DBC's evidence is long on numbers and short on substance. The basis upon which the question is put to the SoS by DBC is an example of wishful thinking. It is more likely that the SoS would find at least some, perhaps most of the evidence of the applicant and RDC to be persuasive. It is impossible to envisage how it can be concluded that DBC is right on everything.

Conclusion

5.72 The evidence taken as a whole does not substantiate that either of the applications is likely to have a significant adverse impact on the vitality and viability of DTC. The applications pass the impact test in Framework paragraphs 26 and 27. Independently, the SoS is told that there is overwhelming local support for the proposals (Doc 57). On the evidence before the SoS, there is no good reason to refuse either of the applications and every good reason to grant both of them.

⁵³ X-Examination of Mr Quinsee.

6. The Case for Richmondshire District Council

The material points are: -

Introduction

- 6.1 The lpa supports the proposals and there are no substantive issues between the lpa and the applicant and as such planning permission should be granted for both schemes subject to the imposition of conditions and S106 obligation (Docs 27A & B; Doc 12). The inquiry has focussed largely on DBC's objections. DBC's case is limited to (i) the schemes' impact on the vitality and viability of DTC and (ii) the schemes' compliance with Framework policy relating to sustainable transport. RDC's position with regard to all other relevant issues is as set out in the respective Committee Reports (Cd1.1.22 & CD2.1.20).
- 6.2 The development plan comprises the CS and saved LP Policy 23 as modified. The CS was adopted after the Framework and has been endorsed by the as being consistent with the Framework (Doc 35 Appendix 1). DBC suggests that in some respects the CS retail policies do not precisely reflect the wording of the Framework but accepted⁵⁴ that these points were not relevant to the determination of the applications (Doc 56 paragraph 3.18).
- 6.3 As to other material considerations, substantial weight should be given to the applicable policies of the Framework. That said, everyone at the inquiry accepted that if the proposals are found to comply with the applicable policies of the development plan then they would also comply with the relevant policies in the Framework, i.e. in all material respects the Development Plan and the Framework are consistent with each other. It follows that there is nothing in the Framework that suggests that the applications should be determined other than in accordance with the Development Plan.
- 6.4 Conversely, regarding DBC's development plan, DBC originally contended that the policies of its development plan should be treated as "*significant material planning considerations*" in the determination of these applications (Doc 56 paragraph 6.32). However, (i) DBC's development plan does not form part of the statutory development plan for the purposes of S38 (6); and (ii) DBC accepts⁵⁵ that its policies do not add anything material to the policies set out in the Framework in relation to the issues before the inquiry i.e. impact on the vitality and viability of town centres and the proposals' sustainable transport credentials. Moreover, it should be noted that DBC's CS was adopted before the Framework, its retail policies were based on survey data that has been superseded, its *Making and Growing Places DPD* has been abandoned and its Interim Planning Position Statement has no planning policy status at all (CD3.1.16; Doc 56 paragraphs 6.38 & 6.40; CD3.1.18.1-Introduction). DBC's policies are not material to the determination of the current applications.

⁵⁴ X-Examination of Mrs Williams.

⁵⁵ X-Examination of Mrs Williams.

Impact on the vitality and viability of DTC

- 6.5 It is important to put this issue into context. The application site is allocated for employment development in the CS and there is no in-principle policy objection to retail development on the site⁵⁶. The employment growth policies in the CS were informed by the Richmondshire's Employment Land Review 2012 which explains that employment growth in the District was mainly expected to come from "*non-traditional*" employment sectors, including retail (CD3.1.14). It is for this reason that the CS supports diverse employment development. SP5 provides that employment development should secure "*diverse economic improvement*" and promotes "*appropriate economic development*" at Scotch Corner. The supporting text at paragraph 3.1.39 cross-refers to the flexible approach to employment generation promoted in the 2012 Employment Land Review.
- 6.6 The North Richmondshire Spatial Strategy which explains that priority will be given to the consolidation of the existing and committed employment development at Scotch Corner but which maintains flexibility by not ruling out other economic development. Policy CP7 expressly supports SP5 by supporting development which promotes the sustainable growth of the key economic sectors in the area, including retail. Policy CP9 expressly supports retail development in out-of-centre locations where the sequential and impact tests are met and where the site "*would be accessible by a choice of means of transport, and the local transport system is capable of accommodating the potential traffic implications*".
- 6.7 The CS was adopted in compliance with the statutory duty to co-operate imposed by S33A of the 2004 Act (Doc 35 Appendix 1 paragraphs 6-13). DBC did not object to the allocation of the site in the terms set out above. Consistent with this position, DBC confirmed in that it does not have an in-principle objection to retail development at Scotch Corner⁵⁷. Thus, DBC's criticisms of the site's sustainable transport credentials are difficult to square with the fact that it does not have an in-principle objection to the retail-led redevelopment of the site, and that it did not object to the allocation of Scotch Corner for employment development in the CS.
- 6.8 As DBC has no in-principle objection to retail development at Scotch Corner, the schemes therefore comply with the employment allocation policies referred to above. DBC accepts that there are no sequentially preferable sites (Doc 46 Section 4 & Doc 56 paragraph 5.11). The schemes therefore comply with Policy CP9 (3) (a) and Framework paragraph 24. DBC agrees that the schemes would not have an adverse impact on any existing, committed or planned investment in any Town Centre (Doc 46 paragraphs 5.23-5.50 & Doc 56 paragraph 5.12). The schemes therefore comply in this regard with Policy CP9 (3) (b) and the first bullet point in Framework paragraph 26. Accordingly, so far as DBC's case is concerned, the only question for the inquiry is whether having regard to the second bullet point in

⁵⁶ X-Examination of Mrs Williams.

⁵⁷ X- Examination of Mrs Williams.

Framework paragraph 26 the scheme would have a significant adverse impact on the vitality and viability of DTC.

- 6.9 DTC is in good health with a high level of vitality and viability (Doc 33 paragraph 4.2). DTC was assessed as recently as 2014, and it was concluded that *"DTC is performing well and continues to sustain a strong variety of both national and independent traders"* (CD3.1.21). That remains the case today. DTC hosts 24 of the top 28 comparison goods retailers and has a strong independent sector too, the 2014 Study noting that this was a particular strength of the town in terms of its offer, a view shared by all parties at the inquiry⁵⁸ (Doc 36 paragraph 4.6). The vacancy rate has increased marginally in terms of unit numbers but fallen in terms of floorspace and there is no suggestion that there is a particular problem in terms of prime and secondary frontages (Doc 47 Appendix RS06 Table 3).
- 6.10 Further to the above, a number of units that were vacant earlier this year are already being refurbished⁵⁹. Evidence of natural "churn" is also demonstrated by the new retailers who have moved into the town over the past couple of years – including Hotter Shoes, Trespass and Sharps, Start Fitness and Amplifon (Doc 33 paragraph 4.5). Added to all of this there has been substantial investment in DTC with the recent opening of the Feethams development, accommodating a Vue Cinema, a Premier Inn, and a range of quality national restaurant chains including Nandos, Prezzo and Bella Italia (Doc 33 paragraph 4.9). The fact that Burtons has left the town and McDonalds has closed one burger outlet to focus its efforts on its drive-thru elsewhere in the town is not indicative of a centre in decline. In short, as the Ipa's retail consultant⁶⁰, who knows the town so well, rightly points out this is a healthy town centre.
- 6.11 The next question is what impact would the schemes have on DTC? Again, it is helpful to put this issue in context. DBC contends that Scheme 1 would have a 6.9% impact on the turnover of DTC. RDC says the impact would be 3.3%. The applicant suggests an impact of 3.7% but accepts in the light of DBC's criticisms of the applicant's survey work that the impact is likely to be somewhere between its figure and DBC's figure. There is therefore little between the parties in terms of their assessment of the schemes' overall impact and certainly nothing of the order usually seen at these sorts of inquiries.
- 6.12 It is also helpful to understand that the parties differ on a small number of points in relation to this issue i.e. the overall impact on DTC and that individually those points also count for very little. RDC explains⁶¹ the transition from DBC's 6.9% to its own 3.3% as follows:

⁵⁸ Evidence-in-Chief Mr Shepherd.

⁵⁹ Evidence-in-Chief Mr Quinsee.

⁶⁰ Dr. England.

⁶¹ Evidence in Chief and Re-Examination Dr. England.

| | |
|--|------|
| DBC's Assessment: | 6.9% |
| Increase DBC's estimate of DTC's turnover by 10%, to reflect the fact that there will be additional expenditure from outside his catchment area. | 6.1% |
| Use RDC's assessment of DTC turnover in 2020 of £436m (DBC contends for £317m excluding any inflow) | 4.9% |
| Use RDC's assessment of likely scheme turnover of £96m (DBC contends for £106m). | 4.4% |
| Assume the scheme will draw 15% of its turnover from DTC (DBC contends for 20%). | 3.3% |

Inflow from beyond DBC's catchment

- 6.13 DBC's survey upon which it bases an assessment of DTC's turnover (WYG Survey) does not capture the money that is spent in DTC by people living outside the survey area. It is therefore necessary to increase the turnover figure generated by the survey to reflect the missing inflow. RDC considers that the increase should be 18%, by comparing the expenditure identified in DBC's survey with the expenditure identified by the applicant's survey, which covered a wider area. This can be done by reference to the Retail SoCG Table 4B (Doc 59). Zones 1, 2 and 3 of the applicant's Survey are very similar to the area covered by the WYG survey. The applicant's survey shows that Zone 1 generates £50m; Zone 2 generates £70m and Zone 3 generates £187m, totalling £307m. The total expenditure for DTC is shown in the very final column, i.e. £373 m, showing that 18% of Darlington's expenditure is drawn from outside DBC's study area. It is plainly necessary to account for this additional expenditure. As set out in the table above, even adding a conservative 10% brings DBC's impact figure down by about 1 percentage point.

Expenditure from within the WYG catchment/PBA Zones 1–3

- 6.14 DBC argues that the applicant's survey overestimates the DTC's turnover. Essentially this criticism boils down to 2 points: (i) the applicant's survey suggests that Darlington Retail Park and Morton Park are trading at unrealistically low levels, given the benchmarks for the stores there; and (ii) this means that the applicant's survey must have overestimated the amount of spend going to DTC. The applicant accepts⁶² that this survey may well have underestimated the turnover of Darlington Retail Park and Morton Park, but did not agree that this meant that DTC's turnover was therefore as low as

⁶² X-Examination of Mr Quinsee.

suggested by the WYG Survey. Rather, and fairly, it pointed out that the 2 surveys gave contrasting results and that there was nothing wrong with the methodology underpinning the applicant's survey. The applicant's survey was carried out by NEMS, the market leader in this type of work, the methodology having been approved by RDC in advance. NEMS has subsequently confirmed the soundness of its approach (CD3.1.27 ii). In conclusion, DBC's contention that the applicant's survey must be rejected in favour of the WYG Survey is misplaced.

Scheme Turnover

- 6.15 RDC agrees with the applicant that it is reasonable to proceed on the basis that Scheme 1 would have a turnover of £96m per annum, whereas DBC contends for £106m. DBC argues that the scheme turnover must be calculated by growing the agreed sales density of £5,600/sq. m in 2014 by reference to the growth figures set by Experian (Doc 48 Appendix RS01; Doc 32 paragraph 5.37 & Doc 33 paragraph 2.6). But to do this would mean that the assumed scheme turnover would very substantially overshoot the applicant's estimate of scheme turnover of £80m (Doc 21 paragraphs 4.27-4.30). The applicant has engaged the leading expert in this field, and substantial weight should be given to that assessment. The applicant's overall conclusion, endorsed by RDC, gives a more realistic answer than DBC's.

Scheme draw

- 6.16 RDC considers that it is appropriate to assume that the schemes would draw 15% of their turnover from DTC, concluding that DBC's predictions of a 20% draw are unlikely to materialise in reality (Doc 32 paragraph 5.37 & Doc 33 paragraph 2.6). The difference between trade draws of 15% and 20% affects the impact figure by 1 percentage point. Whilst there is no hard and fast science to these issues, each ultimately turning on matters of professional judgement, plainly, on any analysis it would not be sound to conclude that the impact will be as much as 6.9% as contended for by DBC, which reduces to 6.1% when a conservative 10% inflow is added, about which there appears to be no dispute.
- 6.17 Even if the SoS accepts every point DBC makes, RDC and the applicant are absolutely clear that even on the worst case scenario presented by DBC, i.e. a 6.9% impact on the comparison goods turnover of DTC, there would not be a significant adverse impact on the vitality and viability of DBC sufficient to trigger a policy objection to the proposal (Scheme 1). The suggestion that RDC considers that anything more than 5% would be a significant adverse impact was a misreading of RDC's case (Doc 33 paragraph 4.1). 5% is the maximum impact figure that RDC identified pursuant to a sensitivity analysis and not the figure above which it considers there would be a policy objection to the scheme (Doc 32 paragraph 5.40). On the evidence, that is plainly the only sensible conclusion to draw.
- 6.18 DTC is healthy; there would be little overlap in terms of operators, few if any of DTC's current retailers having an "outlet" channel and/or being able to comply with the specialist retailer conditions to be imposed on the grant of permission. Further, most people in Darlington are shopping for "family

fashion”, whilst the proportion of “assured” brands is very small – in other words people would be shopping for different types of comparison goods⁶³.

- 6.19 There are no significant objections from DTC retailers, despite an orchestrated campaign by DD, who in fact told traders that the impacts would be even higher than the impacts for which DBC contends (Doc 8). The lack of objections shows that the overwhelming majority of DTC’s existing operators simply do not see the proposals as a threat. Leggs Limited objects, but this is on the basis of an assumed 15% impact on its trade, which is unsupported by any evidence (Doc 5). Moreover, DBC does not identify a single shop that would be likely to close if the schemes opened. Even if a shop did close, there is no suggestion that it is likely that the unit in question would remain unoccupied for any significant period of time; in fact the evidence of “churn” set out above shows that there is no basis for such a suggestion.
- 6.20 Whilst there is no suggestion that any existing occupiers want to develop an outlet channel, the “no-poaching” condition, endorsed by the High Court in *R (Skelmersdale) v West Lancashire BC* [2016] EWHC 109 (Admin) would significantly restrict the ability of any of the existing occupiers from upping sticks and moving to Scotch Corner (Doc 3). For example, Leggs Limited would not be able to comply with the condition unless it closed its store in DTC for 6 months, or even 12 months should the SoS think it necessary to amend the suggested condition; and DTC’s growth between now and the Design Year will exceed the impact of either scheme; i.e. even with either scheme in place DTC’s turnover would be healthier than it is today. This is plainly a relevant consideration, as accepted by the SoS in the RL decision (CD3.1.26 (iii): IR paragraph 8.86 & SoS’s decision paragraph 24).
- 6.21 In conclusion, the impact that the schemes would have cannot fairly be described as “*significant adverse impact*” even on the worst case presented by DBC. In terms of its impact on DTC, the schemes therefore accord with Policy CP9 (3) (b) of the CS and the second bullet point of Framework paragraphs 26 and 27.

Northallerton Town Centre

- 6.22 HDC’s contention that the future redevelopment of the former prison site is “planned” investment for the purposes of bullet point 1 of Framework paragraph 26 is misconceived. The site does not have planning permission, and no end-operators/development partners have been identified but in any event the schemes would not have an adverse impact on the masterplan proposals given the relatively limited amount of retail floor space currently proposed (Doc 32 paragraph 5.49 & Doc 24 paragraph 4).
- 6.23 Northallerton is a thriving market town as identified in HDC’s own retail assessment (CD3.1.29). The town has a good choice of convenience and comparison retailing, a wide range of services and entertainment facilities and a twice weekly market. There is a high demand for commercial floor space coupled with a relatively limited supply of accommodation for new retailers. The impact of the application proposals would be 3.5% at worst

⁶³ Evidence-in-Chief Mr Gunn.

Doc 24), a figure not disputed by HDC, in the context of continued forecast growth. That could not sensibly be described as a significant impact on the vitality and viability of NTC where the footfall is such that it can be difficult to walk along the town's wide pavements.

- 6.24 Neither scheme would have a significant adverse impact on the vitality and viability of any town centre. There is therefore no policy objection to the scheme in terms of Framework paragraphs 26 and 27 and the scheme is positively supported by CS Policy CP9 (3) (b).

Sustainable Transport,

- 6.25 DBC's objection to Scheme 1 in relation to car parking is resolved through the proposed phasing condition on Scheme 1 (SC16 Doc 27A). This condition would secure additional car parking should it be necessary, and the reversion to the "Revision E" car parking layout so as to provide 1,138 spaces (Doc 6).

CO₂ emissions

- 6.26 DBC argues that the schemes should be refused by reference to Framework paragraph 32 on the basis that they would result in additional road trips that would give rise to a "severe" impact in terms of CO₂ emissions. However, DBC accepted⁶⁴ (i) that in order to judge whether the schemes' CO₂ emissions would be severe it would be necessary to put them in context, e.g. on a national, regional or local scale; and (ii) that it had not undertaken any such assessment. It is, frankly, difficult to see how DBC could maintain this argument given the acceptance that it was not possible to reach a conclusion absent an essential component of the assessment. It is no doubt for this reason that DBC's planning witness⁶⁵ disowned the assertions made confirming that DBC no longer pursued the point. The position is thus that no party before the inquiry suggests that the schemes are objectionable in terms of the CO₂ they would generate, still less that this would justify refusal of the schemes.

Sustainable transport

- 6.27 DBC contends that the schemes would breach Policy CP9 (3) (c) and Framework paragraph 34. It is important to bear in mind what these policies actually say. Policy CP9 (3) (c) provides that schemes should be "*accessible by a choice of means of transport*". Framework paragraph 34 provides: "*Plans and decisions should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas*".

- 6.28 Framework paragraph 34 needs to be read in context, in particular with Framework paragraph 29 where the government stresses the importance of sustainable transport but recognises that different policies and measures will be required in different communities. It would of course be unreasonable to

⁶⁴ X-Examination of Dr Bunn.

⁶⁵ X-Examination of Mrs Williams.

expect development in rural communities to deliver the same sustainable transport opportunities as urban development. That does not rule out retail development in out-of-town locations; there would be no point in having the sequential test if it did.

- 6.29 It is also important to read Framework paragraph 34 in the context of Framework paragraph 30 which requires Ipas, in preparing their local plans, to *"support a pattern of development, which, where reasonable to do so, facilitates the use of sustainable modes of transport"*. This is of course what RDC has done, without demur from DBC, in allocating the site for employment development.
- 6.30 The question is therefore whether, given the site's allocation, given its location, and given that there is no sequentially preferable site for the scheme, are the proposed sustainable transport provisions adequate. As highway authority, NYCC considers they are (Doc 29 Sections 7 & 8; Doc 30 Section 3 & Doc 60 Section 8). Pedestrian and cyclist access to the site would be enhanced, allowing local residents, and people staying at the Scotch Corner Hotel, to access the site by non-car modes. Bus services would be enhanced and new services provided to a range of local centres. Importantly, DBC does not suggest that any extra services are needed to make the scheme policy compliant. Rather, DBC's objection is really one of principle, i.e. to the sustainability of the site, which ignores the site's allocation for employment development. It is clear that the schemes would comply with CS CP9 (3) (c) and the Framework sustainable transport policies.

Benefits

- 6.31 Given that there is no policy objection to the schemes and the fact that there is clear policy support for them as per Policy CP9, there is no need to look to the schemes' benefits in order to justify the grant of planning permission. But it is agreed between the parties that the very significant employment that the scheme would generate some 700 jobs for Scheme 1 and almost 500 for Scheme 2, both figures ignoring indirect job creation, would be a major benefit to the local economy⁶⁶ (Doc 35 Section 3 & Doc 58 Section 4). Whilst DBC flag up a concern as to job losses in Darlington it produces no evidence to support that statement (Doc 56 paragraph 7.7). There would also be spin off benefits in terms of local tourism, with shoppers treating their visit to Scotch Corner as part of a day trip to the area⁶⁷.

Conclusion

- 6.32 DBC's objections to the scheme do not come remotely close to justifying the refusal of the applications. There is simply no evidence to suggest that there will be any tangible, real impact on DTC. RDC therefore asks the SoS to conclude, that planning permission should be granted.

⁶⁶ X-examination of Mrs Williams.

⁶⁷ Evidence-in-Chief of Mr Gunn.

7. The Case for Darlington Borough Council

The material points are: -

Introduction

- 7.1 DBC's objections relate to 2 issues: (i) the environmental sustainability of the proposals in transportation terms and (ii) the extent to which the proposals would impact on the vitality and viability of DTC, which includes its need to secure future investment for further redevelopment and growth to increase its competitiveness.

Environmental Sustainability

- 7.2 Each application promotes a major, self-standing, out-of-centre retail development in a location that relies predominantly for access by motor vehicle and it is intended to draw these customers from very substantial distances from within and without the catchment areas. The key question is whether, on the balance of probability, the proposals would have the effect of increasing longer travel distances over existing and if so by how much. This is the key determinant in assessing associated increases in CO₂.
- 7.3 The essential policy considerations are those in the Framework. Government recognises that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions to minimise vulnerability and providing resilience to the impacts of climate change. This, along with the delivery of renewable and low carbon energy infrastructure is central to the three dimensions of sustainability (Framework paragraph 93). The Framework must be read as a whole and it is the case that the transportation and retail policies it contains have been drafted against this key objective, amongst others. It is, nonetheless, important to keep this objective in mind when considering the effect of other parts of the Framework in assessing the sustainability of the proposals.
- 7.4 The transportation policies of the Framework come under the heading "*promoting sustainable transport*". It is relevant to note that Government recognises that different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas, Framework paragraph 29. However, this is subject to the requirement that planning decisions should ensure that developments that generate significant movements, and there is no doubt that these proposals would do just that, are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised (Framework paragraph 34). The caveat that this requirement needs to take account of policies set out elsewhere in the Framework, is of relevance in this case.
- 7.5 All developments that generate significant amounts of movement should be supported by a TA. Framework, paragraph 32 bullet point, one provides that decisions should take account of, inter alia, whether opportunities for sustainable transport modes have been taken up, depending on the nature and location of the site, to reduce the need for major transport infrastructure. This is not a requirement that is relevant to this case. The Framework, paragraph 32 bullet point 3, deals with improvements to the transport

network that cost effectively limit the significant impacts of the development and there is no issue here, but then goes on to state that development should only be prevented or refused on transport grounds where the residual cumulative impacts are "severe". As a matter of construction, this bullet point raises some complications as it is not immediately obvious as to whether the test relates to impacts on the network or whether the test is wider and applicable to other sustainability issues. There is also the question as to what the residual cumulative impacts might, in any individual case, comprise. Nevertheless, taking the broader interpretation, DBC's case is that the additional mileage results in severe residual consequences. This view is maintained by DBC's transportation witness⁶⁸ albeit it is disavowed by DBC's planning witness⁶⁹ having regard to the posited absence of an appropriate comparator. Whatever the applicant and RDC make of this difference, the question that remains for the SoS is whether, if it is accepted that the proposals would likely result in additional mileage, that additional mileage and the associated CO₂ levels are acceptable having regard to the Framework taking into account the opinions of the experts.

- 7.6 The caveat in Framework paragraph 34 tell the decision maker to "*take account*" of policies set out elsewhere, but drawing specific attention to policies in relation to rural areas. Whilst it is true that the proposals are sited in a rural location it goes too far to suggest that Framework paragraph 28 applies to these proposals. Nonetheless the caveat must encompass Framework paragraph 24. In determining whether the proposals satisfy the criteria of Framework paragraph 34 it is necessary to take into account the fact that there is no other available or suitable site in the relevant study area. This fact alone cannot obviate the applicability of the requirements of Framework paragraph 34. It is still necessary for the SoS to consider whether the proposals are located where the need to travel would be minimised and the use of sustainable transport modes maximised. These are material considerations of great significance and must be weighed in the balance, taking into account the fact that the sequential test has been satisfied.
- 7.7 There is no evidence before the inquiry that Scotch Corner is a location where the need to travel is minimised. Other than the applicant's simple assertion that an infill location such as Scotch Corner would lead to journey distance savings there is no other evidence to support it (Doc 20 paragraph 3.1.4). Moreover, in relation to this assertion existing shopping patterns show very little expenditure going to distant retail destinations like Leeds and Newcastle and other DOCs outside the catchment. On the other hand we do know the gravity which the proposals are likely to have in the shopping dynamic and their ability to draw trade from considerable distances.
- 7.8 An analysis of the applicant's catchment area and an appreciation of the site's environs indicate that accessibility on foot and by bicycle would be extremely limited. The proposed improvements to public transport and the successful implementation of the TP would do little to improve the sustainability

⁶⁸ X-Examination of Dr. Bunn.

⁶⁹ X-Examination of Mrs Williams.

credentials of either scheme in transportation terms given the predominant reliance upon the private motor car, as a significant modal shift would be unlikely to occur. Even if the TP target is met, at best, the customer modal split would be 5% to 6% in favour of public transport (Doc 20, page 10, 3rd bullet point). The applicant may have sought to maximise the sustainable transport modes available to this site, but the penetration of bus services is limited having regard to the scope of the catchment area.

Travel Distance.

- 7.9 The basis of DBC's assessment is the retail surveys, but it is noteworthy that the applicant and DBC start from a common point, which is the applicant's retail assessment (Doc 18 paragraph 4.7.1). The retail assessments identify expenditure patterns. The applicant suggests that for comparison goods shopping there is a complex dynamic, i.e. that people visit multiple shopping destinations within a town or other locations before making a purchase, with only the location of the purchase being recorded in the retail surveys. The applicant also identifies frequency of visits as an issue, i.e. visits to a DOC are likely to be substantially less frequent per shopper, and one that cannot be identified through the survey data.
- 7.10 In relation to the multiple destinations issue, the applicant's approach is conjectural and underpinned by anecdote. Extrapolating the retail data to estimate the travel from zones within the relevant catchment to existing centres and the increase in travel distances from these zones to Scotch Corner is not going to result in a perfect picture that picks up all travel behaviour. But it is the best there is. The applicant⁷⁰ suggests that comparison goods shoppers may visit several shops within a town or may visit several retail destinations before making a purchase (Doc 20 paragraph 3.1.5). The retail surveys only record where the goods were purchased and not the number of places visited to make the purchase before this. On this basis the applicant says that estimates of travel distance for comparison goods shopping should not be carried out at all. However, the applicant provides no evidence, other than the anecdotal, to support this contention and makes no suggestion as to how this may affect the distances travelled. It remains possible, therefore, that the surveys underestimate travel distances by ignoring the "wasted" journeys, a prospect more likely in relation to a DOC, it seems, than a town centre. Indeed, the nature of outlet shopping was described by the applicant⁷¹ on the basis that these centres may not have the sought after product available or it may not be in the desired size or colour and, as a result, shoppers are similarly likely to visit the DOC as well as other retail destinations. Again, it follows that the multiple trip effect is likely to happen to journeys to both existing retail destinations and to the proposed DOC. The distance assessment carried out by DBC assumes that trips transferred to Scotch Corner from the catchment area are primary trips, i.e. home-shop-home trips. This is also the basis for the applicant's assessment in the 2014 and 2015 TA's both of which deal with

⁷⁰ X-Examination Mr Kenyon.

⁷¹ X-Examination of Mr Gunn.

primary transferred trips⁷² which the applicant suggests provides a “*robust assessment*”. The TA distributes the traffic on the basis of the applicant’s Retail Assessment which ascribes a number of trips to Darlington and other zones in the catchment area. DBC’s assessment has used the same traffic distribution to catchment zones as the applicant and so both have accounted for low frequency trips in the same way.

7.11 In the absence of any information on the multiple-trip effect the only reasonable basis to assess the change in travel distances is that carried out by DBC. DBC estimates that both proposals would result in a substantial increase in travel distance of between 17,700,000km (Scheme 2) and 25,700,000Km (Scheme 1) per year based on DBC’s retail assessment. This is without the pro-rata increases of 12% as suggested in applicant’s TA. RDC agrees⁷³ that DBC’s distance calculations are acceptable and that the more than doubling of the travel distance during the Saturday retail peak hour identified by reference to the applicant’s survey was a significant increase. An independent review for RDC of the methodology used to calculate the CO₂ emissions did not “*find anything fundamentally incorrect*” (Doc 30 Appendix MJV1). However, RDC’s posited comparisons with distance travelled overall in the RDC area and the North Yorkshire region are inappropriate. Any proposal, however unsustainable in travel distance terms, would barely register against these respective totals.

7.12 Thus, the applicant goes too far to suggest that DBC has undertaken an irrelevant exercise. There is no evidence presented by the applicant as to either what proportion of trips are multiple destination trips or what allowance or adjustment should be made to account for them or the proposition that trips to DOCs are less frequent. In terms of an employment user, the applicant suggests that the CO₂ emissions attributable to this are comparable if not more than that associated with the proposed DOC. DBC disputes this and no analysis was presented by the applicant to support this contention but, and in any event, the proper relevance of this as a baseline is questionable given the common acceptance that a traditional employment led B1/B8 scheme is unlikely to materialise. The Retail Surveys show in relation to existing shopping patterns: that the percentage of expenditure to existing DOCs is very small at about 0.5% to Dalton Park at Seaham and less at York. It is not part of the applicant’s case that there is a need, let alone an overriding need, for the proposals as a means of meeting any increase in available expenditure for comparison goods within their study area that cannot or could not be met in existing centres. There is no overriding justification for the impacts that would occur and there is nothing about the proposals that should set them apart as justifying this impact, irrespective of the fact that, as agreed, the sequential test has been satisfied.

Retail Impact

7.13 The SoS is exhorted to appreciate the discounted and designer nature of the retail offer of the proposals and its particular consequences in terms of, not

⁷² 2014 TA paragraph 4.77 & 2015 TA paragraph 4.9.11.

⁷³ X-Examination of Mrs Burnham.

only market share, but also the special appeal of the offer to the "aspirational" and the more affluent purchaser. Through the proposed conditions, the applicant and RDC go to great lengths to assure the SoS that once developed the retail park will maintain its "discount" profile. What does this really mean? Whatever labels the goods carry, whatever the name above the shop, the proposals fall to be considered as a comparison retail offer, characterised by a particular emphasis on clothes and shoes. The proposals will compete directly with a town centre comparison offer because they offer comparison goods, especially clothing and footwear, at prices that compete directly with the high street prices. Whilst most of the targeted retailers are in the so-called "middle" and "upper middle" segments, as characterised by the applicant, the discounted nature of the goods sold will be of broad appeal.

7.14 The applicant suggests that in actuality there would be little overlap between DTC and the proposal due to the supposed "higher end" nature of the goods: i.e. that DTC does not sell the type of designer goods that will be found in the DOC. The reliance here is on the label, not the nature of the goods. It is a matter of common sense that the consumer will treat the DOC as a valid and attractive alternative to DTC exactly because it brings such goods in range of the average consumer. In any event, reference to the target occupiers identifies very many brands or manufacturers one would expect to source from a centre like DTC, particularly in stores such as House of Fraser, albeit not continuously discounted (Doc 21 Appendix 10). Further, although the proposals are intended to capture the high-end tenant there can be no guarantee that this will be the case in practice.

7.15 The applicant attempts to distinguish the likes of J32 Castleford on the basis that it operates at a less aspirational level, though when one looks at the list of target occupiers and the tenant line up of J32, about 44% of the latter appears on the list (Doc 48 paragraph 4.10). There is no evidence to suggest that so called "assured", "family", "young" or "classic" shoppers in the Darlington area cannot find the clothing and footwear they seek. While the objective for these proposals is to serve a more affluent population over an extensive catchment area, if one also has regard to the applicant's evidence, it can be seen that Gretna Gateway trades in a manner that reflects its less affluent catchment (Doc 21 paragraph 5.15). It follows from the fact that the applicant predicates that 50% of turnover would be derived from the primary segment, the needs of the market could have a bearing on the composition of the tenant line up and there can be no guarantee that these proposals would necessarily operate in the way suggested or that if it does it is going to make any material difference given the broad appeal the proposals would have.

Turnover of the Proposals

7.16 The Retail SoCG identifies a 2014 trading density of £5,600. This much is agreed by DBC. The difference between the applicant and DBC is that DBC applies an appropriate increase to this density from 2014 in order to give an increased trading density at 2016 and thereafter. The applicant⁷⁴ despite

⁷⁴ X-Examination of Mr Quinsee.

adopting this figure for 2014 deployed it for 2016 without any allowance for increased efficiency and expenditure growth. The explanation for this is that the resultant turnover at 2016 would not be commensurate with the advice given⁷⁵ about the trading density of the scheme at 2016 had it had done so. The corollary of this is that the applicant's trading density at 2014 should be lower, yet there is no adequate explanation as to why the trading density originally adopted is in error, nor was the evidence amended to justify a lower starting position and there is nothing to question the continuing reliance by DBC on this figure as representing the appropriate starting point (Doc 16). It is of interest, if not surprising, in this regard, to take note of the applicant's Retail Statement of August 2014 submitted in support of the first scheme (CD1.1.4). There Table IA6, shows the starting figure of £5,600 was used for 2014 and that 1.5% growth was applied to the years 2015 and 2016.

- 7.17 The other matter which is problematic is the 1.5% which the applicant adopts for increased efficiency. The applicant claims⁷⁶ that the figure is derived from historical advice given some years ago by Experian to the Greater London Authority (GLA) for planning policy purposes. It is accepted that Experian provided a low, middle and high figure to the GLA and the applicant adopts the lowest figure. Be that as it may, we do not know why, notwithstanding this, it is an appropriate figure to be deployed in this case. The applicant is unable to explain or direct the SoS to documentation before the inquiry to substantiate, or explain, why the later Experian figures should be rejected.
- 7.18 The current Experian recommendation in respect of annual improvements in sales efficiency is an average figure that relates to all UK comparison goods floor space (Doc 48 Appendix RS01). These have been adopted and applied by DBC consistently. The advice given by Experian in relation to comparison floorspace that *"for comparison goods, continuing trends towards more modern, higher density, stores and the demolition of older inefficient space means that the expected density growth rate is likely to be close to 2% a year over the next two decades"* does not appear to qualify the figures in the table. Indeed, the figures for 2019 to 2035 show around 2%. It follows that there is no reason and there is no evidence before the SoS to justify a departure from the figures identified by Experian and as used by DBC.
- 7.19 The applicant accepts⁷⁷ that new floorspace such as that contained in the application proposals would be better able to realise improvements in sales efficiency. Thus, the SoS should reject 1.5% as an appropriate basis upon which to judge the increasing efficiency and attendant increase in trading density of the appeal proposals and that DBC's evidence should be preferred in this regard. It follows that the appropriate turnover figure for the design year 2020 that the SoS should adopt is that identified by DBC i.e. £106.4m at 2014 prices for the first scheme and £72.6m for the second scheme (Doc 48 Table 7.4).

⁷⁵ Mr Gunn.

⁷⁶ X-Examination of Mr Quinsee.

⁷⁷ X-Examination of Mr Quinsee.

Turnover of Darlington Town Centre

- 7.20 It is important that survey responses are properly coded and this requires careful stewardship of the process by the commissioning consultant. The concessions by the applicant⁷⁸ about the veracity of the retail survey and the turnover of the various Darlington retail destinations was made late in the day and surprising given that reliance continued to be placed on the NEMS letter to justify the survey results up until that point. It was obvious, even before the concession was made, that there was a problem with the results of the retail survey and it is a matter that should and could have been conceded earlier. These concessions serve to undermine the premise of RDC's appraisal of the schemes in terms of the turnover of DTC and its consequences in retail impact terms and expose a lack of critical analysis on RDC's part. The ramifications of this are: firstly, the SoS should not rely on the applicant's survey data as a basis upon which to judge the turnover of DTC at the design year and secondly, if the survey is flawed it does not justify the applicant's posited 20% level of inflow into DTC from beyond DBC's study area.
- 7.21 The applicant's other evidence in respect of the potential level of inflow into DTC from outside the DBC's study area relates to the findings of household surveys undertaken on behalf of nearby authorities of Durham, Hambleton, Middlesbrough and Stockton, to inform their respective retail studies. In undertaking the assessment the applicant utilises a 2008 report based on a 2007 survey to consider comparison goods shopping patterns in the Middlesbrough and Stockton areas. As is now clear, through the submission of the most recent survey data for the same area, very little comparison goods expenditure may now be said to go from these areas to DTC. The figure of £37m becomes £11m, thus total inflow across 3 areas becomes £29m (Doc 16 Table 3.3). The significance of this is that DBC's assumed 10% (£28.9m) inflow allowance from outside the DBC study area at 2016 is entirely appropriate (Doc 48 Table 3.1). DBC's £289m for DTC to which must be added 10% inflow i.e. £318m. This compares to the applicant's figure of £394.8m, which includes inherent inflow. Thus, DBC's estimate of the turnover of DTC should be relied upon.

Trade Draw

- 7.22 Again it is surprising that the applicant's analysis has evolved somewhat since 2014 but not in response to changing circumstances. The applicant's trade draw assumption has changed markedly since 2014. However, the applicant⁷⁹ could not recall the starting position (15.5%), or how it was derived. It was in response to RDC's concerns articulated in its 2014 Review, that it went from this figure to 23.5%. Subsequent to this it has risen to 27.5%. No evidence is provided to support any one of these figures and they remain, moreover, in stark contrast to consultant's evidence⁸⁰ on behalf of the same client. The applicant did offer an amended trade draw figure for

⁷⁸ Mr Quinsee Evidence-in-Chief.

⁷⁹ X-Examination of Mr Quinsee.

⁸⁰ Mr Gunn.

DBC's study area after undertaking an exercise that remains somewhat opaque, but nonetheless demonstrates that DBC's figure is conservative (37% becomes 42%). Surprisingly, no such similar exercise was carried out in relation to the applicant's figure, but there can be no doubt that it too would rise very significantly even allowing for the fact that the applicant has a 13% lower population in the primary catchment than the specialist consultant⁸¹. The applicant's case in relation to this issue is wholly contradictory.

- 7.23 Thus there is no reason to reject DBC's conservative approach other than the fact that it might be concluded that it is too conservative. Furthermore, by reference to the applicant's evidence⁸², it is clear that the assumed trade draw from the primary catchment is unreliably low. Quite obviously if the trade draw figure is materially increased it would have a commensurate upward effect on the level of trade diversion from DTC.

Trade Diversion

- 7.24 PPG⁸³ provides that one should establish the state of existing centres and the nature of current shopping patterns at the base year. Having undertaken a health check in relation to DTC it is necessary fully to appreciate the likely changes that would occur, ex development, between the base year and the design year, taking into consideration commitments that have not matured at the base year but which are likely to have an effect in the trading environment at the design year. In this case, Princes Gate at Catterick has only recently opened and its trading impacts have not fully materialised. The applicant purports to have accommodated this by increasing Catterick's market share at 2016 and decreased DTC's market share. The adjustment made is between the base year 2014 and the interim reporting year 2016. However, it is clear that the development has only been trading for a short period at this time. It is common ground that it takes time for new floorspace to reach maturity in terms of its trading performance. It also takes time for the impact arising from a proposal to materialise in terms of its impact on competing centres. On this basis DBC's approach, to take full account of it at the design year is entirely appropriate and provides a suitable context within which to judge the solus impact of the proposals on DTC. The SoS has the full picture taking this approach.

- 7.25 The SoS also needs to consider the changes which the applicant introduced to the impact table in reaction to the weaknesses of its survey. The applicant asserts⁸⁴ that, if it is accepted that if DBC's survey derived turnover for DTC is accurate, then this would result in an increase in the solus figure for Scheme 1 from 3.7% to around 5.7% i.e. about 2 percentage points. For Scheme 2 an increase from 2.6% to around 4.1% i.e. about 1.5 percentage points. This is beyond the level tested by RDC in respect of Scheme 1.

⁸¹ Mr Gunn.

⁸² Mr Gunn.

⁸³ Paragraph 017 ID: 2b-017-20140306.

⁸⁴ Evidence-in-Chief of Mr Quinsee.

- 7.26 The difference between the 2 in terms of solus impact has narrowed quite significantly, and it would appear that the remaining difference is attributable to a large degree by assumptions in respect of the amount of expenditure drawn from the local area. If the applicant had accounted for a higher trade draw in line with the specialist consultant's evidence⁸⁵, there is the real prospect that the impact figures would be higher than DBC's. There is no justification, given all of the above, for the SoS to "*split the difference*" in respect of either scheme.

Vitality and Viability of Darlington Town Centre

- 7.27 The most recent health check carried out by DBC indicates that DTC is in need of investment in order to maintain and enhance its competitiveness. Its overall trading health has decreased since DBC's initial health check and examination of DTC reveals that particular issues have arisen since then.
- 7.28 Firstly, there has been a significant reduction in the comparison goods offer of DTC in recent years. With reference to the Experian Goad definition of DTC, survey work indicates that, between December 2013 and February 2016, the centre lost 21 out of 201 comparison goods units and the overall quantum of gross comparison goods floorspace decreased by 1,700 sq. m from 52,750 sq. m to 51,050 sq. m. The loss of comparison goods units and floorspace has been more marked in DTC than that which has been experienced across the UK as a whole in percentage terms. None of the evidence before this inquiry countermands this.
- 7.29 Secondly, DTC's vacancy rate, based on the Experian Goad definition of the town centre, has increased from 12.6% at December 2013 to 14.0% at February 2016, despite the national vacancy rate decreasing by 0.3 percentage points over the same time frame. DTC's vacancy rate is now 2.7 percentage points above the national average and 23.8% higher in relative terms. In addition, the proportion of vacant floorspace in the town centre at 2016 stands at 11.2%, which is 2 percentage points above the national average. It should be noted that the proportion of vacant floorspace in DTC has fallen marginally since December 2013, but at a rate that is slightly behind the improvement that has been achieved nationally. The number of vacant units in the Cornmill Shopping Centre has increased from 2 in December 2013 to 5 in February 2016. Furthermore it would appear that additional retailers are likely to depart Cornmill in the near future if one is to place reliance on the Collier's letter of April 2016 (Doc 16 Annex 4). Moreover, Burton and Mothercare, departed in 2014 and McDonald's is to cease trading from its Northgate premises later in 2016. It is known that there were 39 retailer requirements at the time of DBC's Retail Study albeit and acknowledging the fact that EGi is no longer publishing this data, there is little to demonstrate that there remains a healthy retailer interest in DTC.
- 7.30 DBC is correct to conclude that as a consequence of the above, DTC's vitality and viability is less secure now than at the time of the previous health check undertaken. Proposed development has been stifled. There is no reason to

⁸⁵ Mr Gunn.

- suppose that absent increased confidence and investment this situation will improve.
- 7.31 DBC's sectoral impact analysis provides further context for considering the impact of the proposals on the vitality and viability of DTC, given the agreed fact that DTC's clothing and footwear and independent offer is important to its continuing health. It shows an enhanced impact on this sector because of the particular retailer profile of the DOC. This cannot be ignored.
- 7.32 DTC is and would remain vulnerable to the competition which the appeal proposals will bring to bear, not only in terms of the trade diversion which will occur, but also in terms of retailer and investor confidence. Even if there is at this moment in time no planned investment in DTC which might be affected, the real possibility of a downward effect on investor confidence needed to achieve town-centre regeneration is a material consideration of considerable importance. There is no issue between the parties that investment and regeneration is needed and that Commercial Street provides that opportunity. It follows that the prospective negative effect on the ability to realise this potential must be given due weight in assessing overall impact.
- 7.33 Having regard to all the above, it is appropriate to note PPG guidance: "*A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.*"⁸⁶ The estimated level of trade diversion from DTC to the application proposals, some £21.2m for Scheme 1 and £15.3m for Scheme 2 at 2020 from within DBC's study area, is very significantly in excess of what could reasonably be deemed a "very modest" trade diversion in context.
- 7.34 It would be wholly misguided and inappropriate in this case to take the RL decision as setting a precedent to the effect that in every case a posited increased growth in comparison sales density should be utilised to "set off" impact (CD 3.1.26 III). To use the trading growth of DTC between the base year and the design year which would be brought about by increased efficiency and comparison expenditure improvements would be to deny its inherent need to retain its comparative growth potential in order to maintain and enhance its competitiveness in the region on a like for like basis and, of course, its ability to retain expenditure in the future. Moreover, as RDC's review of the applicant's initial retail statement noted, "*...impact can only meaningfully be assessed based on the pre-impact turnover of these centres in the design year*".
- 7.35 The SoS would need to be satisfied that it would be appropriate to apply the same principle in the above case based on its particular facts. Quite obviously, the utilisation of the growth factor alone as a means of accommodating trade diversion could be applied in any number of cases. What is important, however, is to test the consequences of doing so. This means, in effect, making a judgment about the resilience of DTC to

⁸⁶ Paragraph 017 ID: 2b-017-20140306

competition without all the posited growth that would otherwise occur in relation to both competition from existing centres, commitments and the application proposals. The stated and implied position of the applicant and RDC is that DTC could withstand it, not least because it would benefit from increased growth after a relatively short period of time. However, this set-off would result in a loss that would result, logically, in a lower base position. Ultimately, the SoS must be satisfied and be reasonably confident that DTC would not, at the design year of 2020, be at a material disadvantage in its ability to compete against competition and continue adequately to improve its offer, with the prospective improvements that future and prospective investment would deliver. If there is not the required level of confidence to conclude so, it would be completely inappropriate to use this growth factor as a means of setting off impact. The evidence demonstrates, for the reasons given above, that the SoS cannot have the desired level of confidence to justify this set-off.

Conclusion

- 7.36 Whilst it is acknowledged that both schemes would bring employment benefits and increase consumer choice, these advantages are not such as to outweigh the identified harms. Either scheme would needlessly and substantially promote rather than reduce car usage and the need to travel. The harm to the vitality and viability of DTC would be significantly adverse. DBC invites the SoS to refuse both applications.

8. CONSULTATION RESPONSES & WRITTEN SUBMISSIONS

Application Stage

- 8.1 Copies of consultation responses and letters of objection or support and general observations for each scheme are provided at CD1.1.21 for Scheme 1 and in CD2.1.17 for Scheme 2. The various responses in relation to each application are summarised in the reports to the Planning Committee in CD1.1.22 for Scheme 1 and CD2.1.20 for Scheme 2

Call-In Stage

- 8.2 *Mr Nicholson* has concerns about adverse effects: on living conditions, on traffic and suggests there is an absence of need for the development (Doc 62.1).
- 8.3 *Mr Bleakley* has concerns about adverse impacts on: independent retailers in Northallerton, Catterick, Richmond, Bedale, Barnard Castle and Thirsk and on highway safety in the surrounding settlements and rural lanes (Doc 62.2).
- 8.4 *P Bulmer; Miss Finn; Seymour's of Darlington; Leggs Limited; Mr Wrigley & Mrs Hunter* have concerns about the adverse impact the scheme would have on businesses, particularly independent traders, in DTC, Richmond and Barnard Castle and the adverse impact on the character and appearance of the area (Docs 62.3, 4, 6 10 & 10a; Doc 63.1 & 2).
- 8.5 *NYCC*. The proposal would be a net creator of some 700 jobs. Whilst it is important that the development does not undermine existing town centres and market towns, the DOC concept is distinct and competition and/or displacement from local towns particularly Northallerton and Richmond would be minimal with the majority of displacement coming from Middlesbrough. The site is of archaeological interest with evidence of Roman settlement activity. Any permission should be subject to conditions relating to a scheme of archaeological mitigation (Doc 62.5).
- 8.6 *Cable Properties & Investments Limited*, who own 13 properties in DTC, highlight a downturn in trading patterns over recent years with turnover of properties increasing, longer vacancy periods and pressure for lower rents. DTC is a sub-regional centre and faces a challenging future. Footfall has decreased and the DOC would draw trade away from DTC and have an adverse effect. RDC's assessment of a limited impact on DTC is optimistic and contrary to assessments made by reputable consultants. The applications conflict with national planning policy.
- 8.7 *Highways England* has no objections subject to the imposition of conditions. If permitted the scheduling of the scheme should not to impact on the completion of the A1 improvement scheme (Doc 62.8).

- 8.8 *Darlington Centre*⁸⁷, express concern that the proposal would compete with and divert trade/footfall away from DTC and conflict with the development plan. Given the location of other outlet provision in the region there is no need for the scheme (Doc 62.9).
- 8.9 *North Yorkshire Local Access Forum* expresses concern that the highway design does not provide adequate provision for the safety of non-car users.
- 8.10 *Stockton-On-Tees Borough Council*. The site is an unsustainable location for this development taking in to account its remote location and strategic planning policy which seeks housing and retail growth in other areas. The sequential and impact tests are inadequate because: (i) the proposal has been designed to be so large that it cannot be located within a town centre and the sequential assessment does not consider more appropriate areas which would be better connected to town centres and also sites within the secondary catchment area; (ii) the impact assessment is based on a number of assumptions which understate the impact of the development on the established hierarchy of centres in the Tees Valley and North Yorkshire and (iii) the development would impact on centres within the Tees Valley and North Yorkshire and would result in a significant leakage of retail spend from these areas to an unsustainable location. If the application is permitted it should be bound by planning conditions relating to limitations on the sale of goods (Doc 62.12).
- 8.11 *New River Retail (UK) Limited* owns and manages the Hill Street Shopping Centre in Middlesbrough and the Cornmill Shopping Centre in Darlington and submits that:
- the proposal is a significant departure from the development plan where the site is allocated for employment uses rather than town centre uses;
 - the Framework seeks to ensure that out-of-centre schemes do not have a significant adverse effect on the vitality and viability of or planned investment in a town centre. The absence of named retailers means it is impossible to accurately assess the impact of the scheme;
 - the impact assessment is flawed with the turnover of the proposal underestimated and the turnover of existing centres overestimated;
 - the suggested conditions would not adequately control the nature of the offer; they are not enforceable or precise and cannot ensure that the scheme could deliver a high-end development, a concept that underpins the sequential and impact tests adopted;
 - the scheme would have a significant adverse impact on the vitality and viability of existing centres;
 - the proposal would significantly harm planned investment in nearby centres, including Darlington and Middlesbrough;

⁸⁷ Inspector's Note. Darlington Centre's objection was made in 2015. Subsequent correspondence from New River Retail (UK) Limited (Doc 62.13) dated April 2016 suggests that Darlington Centre no longer have an interest in the Cornmill Centre.

- the benefits of the scheme are outweighed by the significant adverse impacts on nearby centres.
- 8.12 The Cornmill Centre has suffered from a lack of investment and needs upgrading. Future investment decisions would be based on returns on investment and future income streams and will be heavily influenced by what happens at Scotch Corner. Future development decisions for DTC and the Cornmill Centre would be dependent on investors and tenants being confident that DTC represents an economically viable proposition. This would not be the case if the proposals are permitted. In light of the above, the proposals would conflict with the requirements of Framework paragraphs 14, 24, 26, 34 and 206 and should be refused (Doc 62.13).
- 8.13 *Davis Planning Partnership* submits that these proposals conflict with local and national planning policy and should be refused because:
- the site is in a unsustainable location, ill-related to existing town centres and the public transport network, it would increase in travel by car;
 - the applications fail the sequential test and the schemes would unacceptably affect the viability and vitality of town centres including Darlington, Richmond and Northallerton resulting in social exclusion;
 - increased traffic would unacceptably affect the performance of the A1/A66 junction and the appraisal is inadequate;
 - if the site is no longer required for employment uses it should be retained as open countryside given that it contributes to the openness of the countryside setting of the locality;
 - Scotch Corner is the gateway to the Yorkshire Dales and a DOC would adversely impact on the concept of it being the start of the journey. It would have an adverse urbanising impact on the overall concept of rural tourism in Richmondshire and Teesdale (Doc 62.14).
- 8.14 *Distinct Darlington (DD)* is the Business Improvement District Company for DTC and represents some 800 traders. The company's objective is to encourage inward investment into DTC, increase footfall and create a vibrant and welcoming destination. DD submits that:
- market research indicates that outside of Darlington the majority of visitors to DTC come from the North Yorkshire, south Durham and Tees Valley areas. The majority of visitors come by car and the main type of shopping is for clothing and footwear. The DOC would divert footfall away from DTC and draw trade away from the town;
 - the focus on high end retailers is an aspiration and cannot be guaranteed. There is the possibility that those leasing the units would be the same as the existing offer in DTC and thus compete directly with the town centre;
 - there is already adequate DOC provision in the region;
 - the DOC would reduce the potential for DTC to attract new retailers limiting the offer available and reduce competitiveness;

- the impact assessment has over-estimated the performance of DTC and underestimates the adverse impact. The study underestimates the level of expenditure from the PCA and the adverse impact on DTC.

8.15 *Hambleton District Council* submits that these developments would:

- include a type and scale of retail unit that would compete with similar retailers in Hambleton's town centres, particularly Northallerton. The DOC would sell a wide range of clothing and fashion goods and it is these goods that underpin the attractiveness of NTC. An integral element of a healthy centre is the ability for existing traders and landlords to invest. Investment is required to keep commercial property attractive and relevant for customers' needs. However to do this businesses must have a reasonable level of viability and confidence. The financial impact of the developments would affect viability and confidence in NTC. This would result in a poorer range of retail goods and services in the centre and deter new traders from locating in NTC. As such, there would be a significant adverse effect on the health of NTC;
- cause a significant effect on planned investment in NTC. Here, the Central Northallerton Masterplan and the area around the prison, the former Rural Payments Office and the Fire Station are relevant. The Masterplan includes provision for a large amount of retail space, including the potential for a food store and other retail floorspace. Significant progress is being made to deliver a mixed use development. HDC has purchased land, demolitions have been approved and HDC is currently seeking to procure a development partner. It is expected that a decision on a partner would be made in December 2016 with work starting on-site in late 2017. Retail provision is critical to delivery of the scheme and these schemes would have an adverse effect on the delivery of those elements of the Masterplan that include retail provision (Doc 61).

9. REPRESENTATIONS BY INTERESTED PERSONS AT THE INQUIRY

The material points are: -

- 9.1 *Cllr. John Blackie, Parish, District and County Councillor.* The key features that underpin RDC's support for these proposals are: the significant amount of direct and indirect employment the DOC would generate; the high quality nature of the retail offer would result in high quality employment opportunities available to both to Richmondshire and Darlington residents; that the DOC would be a destination centre on its own account with the potential that visitors would visit some of the significant attractions in the locality.
- 9.2 The trade impact of the DOC on other town centres, Darlington, Northallerton, Stockton and Richmond would be marginal. What would be on offer at the DOC would not directly replicate the offer in existing town centres within its catchment area. The objections from Darlington, Northallerton and other town centres and from some individual traders within those town centres were carefully assessed. However, based on independent advice, RDC felt that it could safely approve the planning application.
- 9.3 There are potential benefits to DBC residents in terms of the local employment the DOC would offer and the overflow trade from destination visitors searching for somewhere to go after a visit. Darlington, like Richmond, is just around 15 minutes' drive from Scotch Corner. Whilst DBC and some of its traders have strong objections to the DOC, Richmond Town Council and some of its traders quietly welcome it recognising its merits, which could be turned into trading advantages for the town and its attractions.
- 9.4 There is a universal and overwhelming welcome for a DOC. Local people are looking forward to being able to experience a different range of goods and services from those that are available locally. What excites them is that these new choices of goods would be on their doorstep rather than miles away. Whilst some objectors suggest the need/demand is satisfied by the existing DOCs these are some 70 miles away. For residents to have a DOC of the high quality proposed nearby and somewhere to buy something different without having to travel miles to reach, is an attractive proposition.

10. Conditions & S106 Agreement

Conditions

- 10.1 Documents 27A and 27B contains the suggested conditions discussed at the inquiry for both schemes.
- Scheme 1 (Doc 27A)
- 10.2 In line with PPG and to provide certainty, SC1 lists the plans for which approval is sought. SCs 2, 3, 4 and 5 define the permission and ensure that the schemes would not trade as an unrestricted Class A1 Centre.
- 10.3 SC3 specifies that the units would be for the sale of comparison goods only and sets the relevant floorspace limits for the various elements. The condition also provides for the retailing of convenience goods, up to a maximum of 300 sq. m in any unit where this type of retailing is ancillary to the comparison retailing. I asked for clarification of this part of the condition, particularly in light of the amount of convenience goods floor space retailing (3,230 sq. ft.) the condition would allow. DBC queried whether such floorspace could be considered as ancillary in the context of the proposed DOC use and highlights that the retail studies do not test the impact of convenience goods retailing. The applicant identifies 3 types of retailer that might wish to retail limited ranges of convenience items (Doc 11). These are Marks & Spencer whose outlet centres have a limited range of convenience items e.g. biscuits and sweets; outdoor clothing/equipment stores who offer small ranges of energy bars and similar items and stores specialising in kitchen equipment who might sell items such as ground coffee, coffee beans or coffee pods. Notwithstanding an agreement to include such provision within the condition, the lpa and applicant also indicated they were content for the convenience goods floorspace level to be reduced or removed.
- 10.4 SC6 is the "no poaching" clause (4.19), which would prevent existing retailers in DTC, or those who occupied town centre floorspace within 6 months of occupying a unit within the DOC, taking a unit unless they committed to maintaining a presence in DTC for a minimum of period of 5 years. DBC considers 6 months to be too short a period and suggested a minimum of 12 months. The applicant indicates that if the SoS considers that a longer period meets the PPG test of necessity and/or a longer period would make a difference to a decision, the applicant would accept 12 months.
- 10.5 SCs 7 to 12 relate to highway works necessary to ensure the safe operation of the strategic highway network during construction and the post construction operation of the DOC. In the interests of promoting sustainable travel, SC13 requires the submission of a Travel Plan. In the interests of highway safety, SCs 14 and 15 require details relating to car parking spaces and the vehicular access. Scheme 1 would be developed in 2 phases and SC16 provides for a review of car parking provision before the commencement of Phase 2 to ensure that appropriate levels of car parking are provided in the interests of highway safety. SC17 provides for a car park management plan to ensure that the car parking is available for customer car parking and not used as long-stay parking.

- 10.6 In the interests of providing adequate drainage and to avoid flooding, SCs 18, 19, 20, 21 and 22 relate to surface and foul water drainage and the protection of the water supply. In the interests of safety, SC23 provides for the remediation of potential areas of contaminated ground. SC24 provides for a scheme of archaeological investigation.
- 10.7 In the interests of the appearance of the development and the area, SCs 25 to 34 relate to the provision of details of: landscaping, finishing materials, finished floor levels, the proposed piece of public art and external advertising. In the interests of energy efficiency, SC35 provides for the submission of energy statements. In the interest of protecting the amenity of adjoining users, SC36 requires the submission of a background noise survey and if necessary a noise mitigation scheme, SC37 requires the submission of details of extract ventilation systems, SC 38 limits the location of the Class A3 units and SC39 requires details of external lighting to be submitted. In the interests of public safety, SC40 requires the submission of a Security and Policing Statement. In the interest of ecology, SC41 provides for the implementation of the submitted ecological assessment.

Scheme 2 (Doc 27B)

- 10.8 SCs 1 to 15 are the same as Scheme 1 and SCs 16 to 40 are the same as SCs 17 to 41 for Scheme 1.

S106 Agreement (Doc 12)

- 10.9 The signed S106 Agreement provides for:
- the provision and retention for no less than 15 years of an electronic 24-hour a day information point;
 - the installation of bus infrastructure comprising: a bus interchange, bus shelters and real time information and bus information at locations within the site. The bus infrastructure would be maintained for a minimum period of 5-years from first occupation;
 - the submission of a Travel Plan, the appointment of a Travel Plan Co-ordinator and the monitoring of the Travel Plan;
 - the implementation of a Hopper Bus Service to serve Barnard Castle, Newton Aycliffe, Stockton-On-Tees, Middlesbrough, Middleton Tyas, Richmond, Brompton-on-Swale, Leyburn, Catterick, Bedale and Northallerton on a rota basis;
 - the provision of the Darlington Bus Service Frequency Enhancements and the Darlington-Richmond Bus Service Diversion Enhancements. Up to £250,000 to be paid on the first occupation of the development and following the first, second, third and fourth anniversary of occupation further payments up to £250,000 less the amount by which fares and other revenue generated exceed the costs of providing the service;
 - the provision of the Northallerton Bus Service Contribution. £100,000 to be paid on first occupation and following the first, second, third and fourth anniversary of occupation pay up to £100,000 less the amount by

which fares and other revenue generated by the service exceed the costs of providing the service;

- a payment of £6,000 towards a Traffic Regulation Order to implement parking restrictions along the A6108/local access road and a reduction in the speed limit on the A6108 from 60mph to 40mph.

10.10 The Ipa provided a R122 CIL Compliance Schedule indicating that the provisions of the S106 Agreement were: necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development (Doc 25).

11. Inspector's Conclusion and Recommendation

The numbers in [] brackets refer to earlier paragraphs in this report or relevant documents.

11.1 The main considerations in these cases are:

- the extent to which the proposed developments are consistent with Government policies on ensuring the vitality of town centres and promoting sustainable transport (Framework sections 2 & 4);
- the extent to which the proposed developments are consistent with the development plan for the area.

11.2 In coming to a conclusion on these matters I have borne in mind that the application site has the benefit of an extant planning permission for employment development comprising some 8,360 sq. m of B1 Business and some 12,600 sq. m of B8 Storage or Distribution with vehicular access from the Blue Anchor Roundabout and Barracks Bank [2.4; Doc 58 pages 2-4 & CD1.1.6 page 5]. I have noted the submission by DBC as to whether the development would materialise [7.12]. I recognise that the employment allocation/planning permission for employment uses on this site have been longstanding. However, the continued upgrading of the A1 to a motorway is in my view, likely to be a major contributor to the attractiveness of this site for development.

The extent to which the proposed developments are consistent with Government policies on ensuring the vitality of town centres - Framework Section 2.

11.3 Framework section 2 identifies that the vitality of town centres is one of the keys to the delivery of sustainable economic growth and can provide a wide range of social and environmental benefits. Amongst other things, the Framework seeks to promote competitive town centres that provide for customer choice and a diverse retail offer and highlights that the need for retail uses should be met in full and not compromised by limited site availability.

11.4 Applications for main town centre uses should be located in town centres, then in edge-of-centre locations and only if suitable sites are not available should out-of-centre sites be considered. When considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants should demonstrate flexibility on issues such as format and scale.

11.5 The Framework identifies 2 tests to be applied to proposals for town centre uses which are not in an existing town centre and are not in accord with an up to date development plan. These are, the sequential test and the impact test [5.9]. The sequential test identifies development that cannot be located in town centres and which would then be subject to the impact test. Framework paragraph 27 says that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

- 11.6 There is no dispute in these cases that these proposals should be subject to the Framework tests above. There is an up to date development plan and the relevant policy, Policy CP9 (3) contains similar tests. The fact that Policy CP9 (3) sets a threshold i.e. it applies to schemes over 500 sq. m is not, in my view, a position inconsistent with the Framework. Given the largely rural nature of RDC, it appears to me that the CS policy takes a pragmatic approach to determining when the sequential and impacts tests bite. My conclusion on this matter is reinforced by the finding of the Examining Inspector that the CS, which post-dates the Framework, was sound [Doc 35 Appendix 1].

Sequential Test

- 11.7 In carrying out the sequential test it is acknowledged that whilst Framework paragraph 24 indicates that applicants should demonstrate flexibility on issues such as format and scale, it does not require the applicant to disaggregate the scheme. The sequential test seeks to see if the application, i.e. what is proposed, can be accommodated on a town centre site or on sequentially preferable sites. There is nothing in the evidence before me to suggest that the applicant has pitched the scale of the scheme so that would be impossible to identify a town centre site [8.10].
- 11.8 The applicant has undertaken a sequential assessment based on the primary catchment area and concentration on this area was agreed with the lpa as being appropriate. In addition, 5 lpas were contacted to identify sequentially preferable sites for potential investigation [Doc 46 paragraph 4.23]. Notwithstanding the comments made by Stockton-On-Tees and Middlesbrough no sites, other than the 2 dealt with below, were identified either by the applicant or the various lpas [8.10 & CD1.1.21].
- 11.9 Two sites, Commercial Street, Darlington and the Quadrangle Site in Northallerton were identified as being potentially sequential suitable. However, following assessment, it is common ground that these sites, by virtue of their size, location and availability, could not accommodate either scheme and are not sequentially preferable sites. Moreover, it should be noted that whilst HDC objects to these proposals it does not object on the basis that Central Northallerton is a sequentially preferable site or that it can identify any other sequentially preferable sites [Doc 61]. Accordingly, I conclude that the application proposals do not fail the sequential test.

Impact Test

- 11.10 The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres. This includes an assessment of: 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; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area. PPG provides guidance on the application of the impact test and the factors relevant in assessing the health of town centres. Working on the assumption that if the retail impact Scheme 1, the larger of the 2 schemes is acceptable then by definition Scheme 2, the

smaller scheme, would also be acceptable in retail impact terms, I have concentrated the following conclusions on the effect of Scheme 1.

- 11.11 The numerical assessment of the impact on town centre turnover is not an exact science and depends, as ably demonstrated in these cases, on the nature of the inputs and the study area. In these cases other than starting with the same 2014 trading density, the applicant and DBC use a different study area and a whole host of different variables [7.17]. In brief, based on the advice of an acknowledged expert in the field of DOC planning, the applicant has adopted an approach to the numerical assessment of impact that I would describe as “conservative realism” as opposed to the standard approach, albeit I consider it to be based on a “worst of the worst” case scenario adopted by DBC [5.39]. An example of this is the assessment of turnover of Scheme 1 in 2020 where the applicant’s approach estimates a turnover of some £96m and DBC estimate turnover at £106m [5.45]. Both approaches are, in my view, acceptable. In the context of the differences, RDC’s approach to the numerical assessment of impact can reasonably be viewed as a sensitivity analysis of the applicant’s/DBC’s assessment [6.12]. The outcome of the various assessments for Scheme 1, are a trading impact of 6.9% by DBC, 3.3% by RDC and 3.7% by the applicant [5.37 & 6.11].
- 11.12 Given that numerical impact assessments are not an exact science and given the applicant’s concession that there was the real possibility that at least one of the fundamental inputs, the turnover of DTC, may be an underestimate, it strikes me that the likely numerical impact of these schemes is somewhere between RDC’s sensitivity estimate of some 3.3% and some 4.9% [6.12 Table Row 2]. However, whilst the difference between the parties in percentage impact terms seems significant, the monetary difference in terms of impact and trade diversion is less stark at some £4.8m for Scheme 1 [5.39].
- 11.13 It is appropriate here to deal with the submissions made relating to a sectoral analysis. DBC in addition to assessing the impact of the proposals on the comparison goods sector has gone further and undertaken a “sub-sectoral” impact assessment. This is based on the premise that the bulk of the target retailers for the DOC would be in the clothing and footwear sector and as such would compete directly with the clothing and footwear sector of DTC’s trading base [Doc 46 pages 63 & 64]. Unsurprisingly, the potential impact assessed by DBC on this sector is materially higher (12.2%) than that estimated for the comparison sector as a whole [Doc 46 page 65 Table 5.16].
- 11.14 PPG⁸⁸ and previous iterations of national planning guidance identifies the guiding principle that retail impact “...*should be assessed on a like-for like basis in respect of that particular sector...*”. My experience of retail impact studies is that assessments are, depending on the nature of the proposal, conventionally undertaken in relation to the 2 key retailing sectors of either convenience and comparison goods retailing or a combination of the both. In these cases, given that any convenience retailing at the DOC would be de-

⁸⁸ Paragraph 016 Reference ID: 2b-016-20140306.

minimis, the relevant sector for testing is comparison goods retailing [Doc 11].

- 11.15 Superficially, DBC's "sub-sectoral" approach appears attractive. However, I agree with the applicant and RDC that such an approach conflicts with national policy where the impact test requires any adverse impact to be assessed in light of the vitality and viability of a town centre as a whole. Moreover, in my experience the statistical base for carrying out such an exercise in this case is generally sketchy and unreliable [5.36 & Doc 33 page 16]. Accordingly, I have attached little weight to DBC's approach on this matter.

Existing, Committed & Planned Public and Private Investment

- 11.16 This part of the impact test is, in my view, clear and straightforward. As the first bullet point of Framework paragraph 26 sets out and as confirmed by PPG⁸⁹, it is only existing public and/or private investment that has been made, committed or is planned that requires to be tested [5.30]. Existing and committed investment are straightforward terms. Whilst what constitutes planned investment is not specifically defined by either the Framework or PPG, paragraph 16 of PPG⁹⁰ identifies that the key considerations will include, (i) the policy status of the investment i.e. whether it is outlined in the development plan: (ii) the progress made towards securing the investment, e.g. if contracts are established and (iii) operator demand/investor confidence. These indicate to me that to be considered as planned investment a project has to be at a very advanced stage.

Darlington Town Centre

- 11.17 DBC, following an independent assessment of 3 potential investment proposals in DTC i.e. Commercial Street, the Northern Echo Site and the Cornmill Centre, agrees with the applicant and RDC that the applicant's schemes would not have an adverse impact on existing, committed and planned public and private investment in DTC [Doc 46 pages 35-40; 5.30; 6.8 & 7.32]. Whilst objecting to the applicant's proposals, Cable Properties and Investment Limited who own 13 units in DTC and New River Retail (UK) Limited (NRR) both significant investors in the town centre do not identify any existing, committed and planned investment that they have that would be affected.
- 11.18 DBC, whilst acknowledging that there is at this time no planned investment that might be affected, go on to suggest that the negative effect on potential investment needed to achieve town centre regeneration is a material consideration to be accorded due weight [Doc 40 paragraph 6 & Doc 41 paragraph 36]. Whilst in terms of assessing the impact of a scheme on vitality and viability, investor confidence is referred to in PPG⁹¹ as a consideration, in terms of the way it was put to the inquiry, the specific types of investment that are protected by national policy are explicitly identified in

⁸⁹ Paragraph 16 Reference ID: 2b-016-20140306.

⁹⁰ Paragraph 16 Reference ID: 2b-016-20140306.

⁹¹ Paragraph 16 Reference ID 2b-016-20140306 & Paragraph 18 Reference ID 2b-018-20140306.

the first bullet point. The categories of investment listed there share the characteristics of being identifiable and measurable.

Northallerton Town Centre

- 11.19 HDC identifies the Quadrangle Site to the east of the town centre as a planned investment that would be adversely affected by the applicant's proposals [8.15]. In terms of the stage that this project has reached, whilst a Development and Design Framework has been produced and the Ipa has invested in land acquisition, at the time of the inquiry, the position was that the site does not have a planning permission and no development partner or end occupiers have been identified. I viewed the site as part of my visits to NTC and it struck me as being located in a tertiary position to the east of the main shopping area and contained several buildings that are of historic/architectural interest. In my view, these factors place constraints on delivering a retail-led scheme. In this context, I consider HDC's estimate of a planning permission and start on-site by late 2017 to be optimistic. Taking all these factors together, I conclude that the Quadrangle development would not fall to be considered as committed and/or planned investment.
- 11.20 No other centres were identified where there was the potential for the applicant's schemes to have an effect on existing, committed and planned investment. In these circumstances, I conclude that the applicant's proposals do not conflict with the objectives of the first bullet point of Framework paragraph 26.

Vitality and Viability

- 11.21 There is no percentage impact that would form a threshold or tipping point beyond which the numerical assessment of impact would become significant in Framework terms [5.49]. Whether there is a significant effect in terms of Framework policy depends on a largely subjective assessment of the underlying strength of the town centres that might be affected i.e. its vitality and viability.
- 11.22 A key element in assessing the impact of a proposal on the vitality and viability of town centres is a judgement on "health" of the centre. PPG⁹² identifies a variety of indicators and their change over time that is relevant in assessing the health of a centre. These include, amongst other things, the diversity of uses; the proportion of vacant street level property; retailer representation and intentions to change representation, pedestrian flows and the environmental quality of the centre.

Darlington Town Centre

- 11.23 In 2014, as part of a Retail and Town Centre Study carried out as part of the evidence base for the development plan and to inform decisions on planning applications, DTC was the subject of a Health Check Assessment and DBC submitted to the inquiry a 2016 Health Check Appraisal [CD3.1.21 & Doc 47

⁹² Paragraph 05 Reference ID: 2b-005-20140306.

Appendix RS06]. Although produced by the same consultants there is a distinct difference in tone between the 2 studies [5.55].

- 11.24 The 2014 Study concluded that DTC was *"a generally healthy centre, which continues to perform a vital role for residents in the Borough"*, and *"Overall, it is evident that Darlington exhibits many of the characteristics of a "vital" and "viable" town centre and plays an important role in meeting the needs of local residents and visitors alike"*. Despite several national retailers moving into the town [6.10] and the recent opening of the Feethams leisure development the 2016 report concludes, *"Darlington contains a high proportion of top national retailers... There is also a strong representation from independent retailers... However, it is considered that analysis of particular key indicators suggest the centre is in decline as a comparison goods retail destination."*
- 11.25 In terms of the diversity of uses, DTC's proportion of comparison goods units is similar to the national average. The 2014 study identified that there were 183 comparison goods units in DTC and which it said indicated that the town centre was *"relatively strong"* [5.55]. At the time of the inquiry there were 180 comparison goods units in DTC. In my view, a reduction of 3 units in 2 years would not alter the conclusion that the town centre was strong in terms of its comparison goods offer.
- 11.26 In terms of vacant units, the 2016 study showed that the vacancy rate had increased from 12.6% in 2013 to 14.0% whilst over the same time the national vacancy rate has decreased by 0.3%. The proportion of vacant floorspace in 2016 is 11.2%, some 2% above the national average. Although DTC's vacancy rate has increased in terms of unit numbers the amount of vacant comparison floor space has fallen. Whilst these figures indicate that DTC is not performing as well as the national average, considerable care has to be exercised when interpreting figures such as the level of vacant units. It is acknowledged that vacant units will be found in even the strongest town centres as it is expected that there is some churn in the market, with units changing representation and that vacancies can occur because some units are no longer suited to modern retail requirements. This was a caveat explicitly recognised in DBC's 2014 Health Check but not carried forward into the 2016 Study.
- 11.27 Although as indicated above, DTC's vacancy rate has increased in terms of unit numbers the amount of vacant comparison floor space has fallen. Moreover, there is no indication that there is a particular problem of long-term vacancies in terms of the prime and secondary frontages (Doc 47 Appendix RS06 Table 3). The applicant's submission that since the 2016 study there are fewer vacant units, most of which are not in the prime part of the centre, and of the few that are, most are in the Queen Street development which appears to have its own particular problems and does not work well, in contrast to the Cornmill Centre opposite, was not challenged [5.51]. It appears to me that the level of vacancies in terms of absolute numbers and the amount of vacant comparison floor space is indicative of market churn rather than a structural problem with DTC.

- 11.28 Since 2014 the Feethams development, accommodating a Vue Cinema, a Premier Inn, and a range of quality national restaurant chains including Nandos, Prezzo and Bella Italia has opened [6.10] and new retailers—including Hotter Shoes, Trespass and Sharps, Start Fitness and Amplifon have moved into the town centre [6.10]. The 2014 study concluded that “DTC is performing well and continues to sustain a strong variety of both national and independent traders”. That appears to remain the case today with DTC hosting 24 of the top 28 comparison goods retailers as well as displaying a strong independent retailer sector [5.59 & 6.9]. The 2014 Study notes that the independent sector was a particular strength of the town in terms of its offer, a view which DBC did not dissent from at the inquiry⁹³. Whilst Burtons have closed a store and McDonalds have signalled their intention to move from the town centre, these changes are not, in my view, an indication of a material failing of DTC; rather they reflect particular issues with and market direction of these businesses [5.59 & 5.60]. Despite a comment by DBC that additional retailers are likely to depart the Cornmill Centre [7.29], something I find no evidence for [Doc 16 appendix 4], there is no indication that there are existing retailers who have intentions to change their representations [5.65].
- 11.29 During my visits to DTC, my overall impression of the town centre environment was good with evidence of recent and continuing improvements. Pedestrian flows were strong and I have no reason to conclude that that was a unique observation. Indeed, the Cornmill Centre has a footfall of some 6 million customers per annum [Doc 16 appendix 4]. Other than the Queen Street centre, there was no obvious concentration of vacant units or significant representations of charity shops.
- 11.30 Overall, my conclusion is that DTC remains in good health with a high level of vitality and viability. Indicative of this is DTC’s Venuescore rankings. DTC has improved its position from 66th in 2014 to 60th now. DTC is categorised as a “major regional” centre whereas before it was simply listed as a “regional” centre. In this context, I would not consider DTC to be at material risk from competition from the DOC. Whilst the DOC would have an emphasis on clothing and footwear, I consider, given the particular nature of DOC trading and the type of goods it would sell i.e. an emphasis on previous season’s stock, seconds, clearance goods, that there would be limited overlap between the DOC and town centre retailers. In this context and noting that with a DOC in place, DTC’s estimated turnover in 2020 would be some 99.2% of its 2016 turnover [5.68], I conclude that even on DBC’s conservative estimate of trade diversion the impact on DTC would not be significantly adverse. Accordingly, the proposals would comply with Framework paragraph 26 second bullet point.

Northallerton Town Centre

- 11.31 The trading impact on NTC is estimated at some 3.5%. HDC identify Northallerton as a thriving market town and my visits to this centre at different times of the day bore this out (CD3.1.29). NTC has a good choice of

⁹³ Evidence-in-Chief Mr Shepherd.

convenience and comparison retailing, a wide range of services and entertainment facilities; it has a twice weekly market and extensive on-street car parking. The number of vacant units is noticeably low and those that were vacant were undergoing refurbishment/refitting for occupation. Similarly, the number of charity shops is low in relation to the overall number of shops in the town centre. Pedestrian flows were high and steady at the time of my visits, a non-market day, and I have no reason to conclude that that was a unique observation. Taking all these factors together, I consider NTC is a healthy, vital and viable town centre. I conclude that neither scheme would have a significant adverse impact on the vitality and viability of NTC.

Stockton-On-Tees Town Centre

- 11.32 It is generally acknowledged that Stockton town centre has been in a poor state of health for several years. In my view, its location very close to Middlesbrough is a factor in its overall health. However, the town centre has been and continues to be the subject of town centre investment and environmental improvements. These have gone some way to improve its attractiveness for shoppers. The predicted impact of the DOC on Stockton is some 2.5%. Whilst the Ipa make several assertions regarding adverse impacts [8.10], there is no objective evidence before me to lead me to a conclusion that given the particular trading nature of a DOC, an impact of 2.5% would have a significant adverse impact on the vitality and viability of Stockton town centre.

Middlesbrough Town Centre

- 11.33 This is a major town centre on a par with DTC. The predicted trading impact on Middlesbrough town centre is some 2.4%. That said having reviewed the applicant's retail statements, Middlesbrough do not object to the proposals on the grounds that there would be a materially adverse impact on the town centre [CD1.1.21 (22)]. I have no reason to disagree with that conclusion.

Conclusion on Retail Matters

- 11.34 The proposed schemes would have a trading impact on the various town centres within the catchment area. However, the evidence taken as a whole does not sustain a conclusion that either of the applications would be likely to have a significant adverse impact on the vitality and viability of any of the town centres in the catchment area. There is therefore no policy objection to the scheme in terms of inconsistency with Framework paragraphs 26 and 27 and the scheme is supported by CS Policy CP9 (3) (b).

The extent to which the proposed developments are consistent with Government policies on promoting sustainable transport- Framework Section 4.

- 11.35 CS Policy CP3 relates to achieving sustainable development and, amongst other things indicates that development should, as far as possible, be located so as to minimise the need to travel. Where possible convenient access by foot, cycle and public transport should exist or be provided encouraging the use of these modes of travel for local journeys and reducing the need for

travel by car [4.4]. In the context of promoting sustainable transport, coming at the start Section 4 Framework paragraph 29 recognises that, "*...opportunities to maximise sustainable transport solutions will vary from urban to rural areas*".

- 11.36 Framework paragraph 30 highlights that, amongst other things, encouragement should be given to solutions which support reductions in greenhouse gas emissions. This paragraph, as a whole, deals with the role of local plans in developing patterns of development which, where reasonable to do so, facilitate the use of sustainable modes of transport. In this context, I consider this paragraph's relevance to the proposals before the inquiry primarily relates to the existing planning status of the site [5.24].
- 11.37 The application site is allocated in the development plan for employment uses and there is an extant planning permission for employment development comprising some 8,360 sq. m of B1 Business and some 12,600 sq. m of B8 Storage or Distribution (2.4). There was no objection to the continued allocation of the site for employment purposes or the proposals the subject of the extant planning permission by DBC [6.7]. Moreover, it is relevant to bear in mind that DBC does not have an in principle objection to retail development at Scotch Corner [6.7].
- 11.38 Framework paragraph 32 states that decisions should, amongst other things take account of whether: (i) the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site so as to reduce the need for major transport infrastructure; (ii) safe and suitable access to the site can be achieved; and (iii) improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 11.39 In my view, the first bullet point of paragraph 32 is a straightforward exercise. It is a question: have the proposals, given the nature and location of the site, taken up the opportunities for sustainable transport modes and if so have they reduced the need for major transport infrastructure? The proposals have not, in my view, generated a need for major transport infrastructure. This is an out-of-centre site where, in my view, it is a first principle that such sites, particularly those for retail uses, will not minimise the need to travel and make maximum use of sustainable transport modes to the same extent as a town centre or edge-of centre site would. This reflects Framework paragraph 29, which says "*...opportunities to maximise sustainable transport solution will vary from urban to rural areas*" and the important qualifications in Framework paragraphs 30, 32 and 34. Given it is accepted by all the main parties, and I have similarly concluded, that there are no sequentially preferable sites available to accommodate the development; I consider that these proposals would not be inconsistent with Framework paragraph 34.
- 11.40 In my view, the provisions that either proposal would make for access by foot and cycle for potential customers and employees in the local area are as much as can reasonably be achieved [5.20]. In this case, the key sustainable

modes of transport that would underpin the development are buses and coaches [5.21]. An existing bus service, Darlington, Richmond, Catterick, passes the site and its frequency would be enhanced. A new service linking the site to Northallerton would be provided via Brompton on Swale and Catterick and a Hopper bus service serving outlying settlements on a rota basis supported by the proposed on-site real-time information services would provide customers with the opportunity to plan their trips via public transport [5.21]. Coach parking and incentives to coach companies to provide services to the DOC would be part of the overall package. These, coupled with a comprehensive Travel Plan, in my view, provide a comprehensive suite of measures that pragmatically satisfy the test in the first bullet point of paragraph 32 that, "...opportunities for sustainable modes of transport have been taken up..." [5.21 & 6.27-6.30]. The site is adjacent to a strategic road junction that is undergoing improvement and, in my view, the off-site adjustments required by either development are not major [3.5].

- 11.41 The SoCG on highway matters notes that there is no issue to be addressed in relation to bullet point 2 of Framework paragraph 32. I have no reason to disagree with that conclusion. In objecting to the proposals on environmental sustainability in transportation terms, DBC pose a question as to whether the breadth of the exhortation at the end of paragraph 32 that, "*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*" can have a broad interpretation and is applicable to other sustainability issues i.e. CO₂ emissions and travel distances [7.5].
- 11.42 Whilst the applicant disagrees with this interpretation [5.25] it appears to me that, as a matter of simple paragraph construction, DBC's point is arguable. However, in the context of these cases, the matter is academic. DBC's planning witness, whose role is, amongst other things, to place the conclusions of expert witnesses, in this case a transportation witness, in the context of development plan and national policy and draw conclusions as to whether there is consistency or inconsistency, accepted that the estimates of distance travelled and CO₂ emissions have not been placed into context in order to judge whether the impacts would be severe and confirmed that DBC no longer pursued this point. [5.26, 6.26 & 7.5].
- 11.43 It is common ground that the test of severity contained in Framework paragraph 32 is a high hurdle to overcome [5.25]. A judgement on whether an impact is severe has to be reached in context i.e. a benchmarking exercise [5.26]. Moreover, it has to be judged in the context of the extant permission and the implications that implementation of that scheme would have in terms of mileage and CO₂ emissions. Whilst the methodologies adopted by DBC are not fundamentally incorrect, for the reasons outlined in the applicant's and RDC's submissions, I consider that considerable caution has to be applied to the calculations submitted by DBC. Moreover, as they have not been placed in any context they cannot be taken at face value to conclude that these proposals would, in principle, conflict with the objectives of the Framework regarding sustainable development/transport [Doc 20 page 4 and Doc 30 Appendix 1]. In these circumstances and when placed in the context of district and regional CO₂ levels, which are, in my view, the only objective

comparators currently available, the impact of these developments cannot be considered to be severe in terms of Framework paragraph 32.

Conclusion on Sustainability

- 11.44 Taking the evidence taken as a whole, I conclude that these proposals would be consistent with Government policies on promoting sustainable transport as set out in Framework Section 4. There is therefore no policy objection to the scheme in terms of inconsistency with Framework and the scheme would not conflict with CS Policy CP3.

Benefits

- 11.45 It is agreed between the parties that the very significant employment that the scheme will generate some 700 jobs for Scheme 1 and almost 500 for Scheme 2. Ignoring indirect job creation, both schemes would be of major benefit to the local economy (7.36, 6.31 & Doc 35 Section 3 & Doc 58 Section 4). RDC's estimates of employment figures are net figures designed to take into account possible job losses elsewhere [Doc 35 page 8 Table 1]. Whilst DBC flag up a concern as to job losses in Darlington it produces no evidence to support that statement (Doc 56 paragraph 7.7). There would also be spin-off benefits in terms of local tourism, with shoppers treating their visit to Scotch Corner as part of a day trip to the area [section 9].

Other Matters

- 11.46 Inevitably development of what is open land would result in a change in the appearance and character of the area and result in a loss of agricultural land. However, these factors have to be viewed in the context of the allocation of the site for employment purposes in an up-to-date development plan and an extant planning permission for substantial B1 and B1 employment uses [2.4 & 11.2].

Conditions & S106 Agreement

- 11.47 The lists of conditions attached at Annex C for Scheme 1 and Annex D for Scheme 2 reflect the suite of conditions agreed between the applicant and the lpa and discussed at the inquiry. I have assessed the suggested conditions in light of advice contained in PPG and where necessary in the interests of precision and enforceability I have reworded several of the conditions. The conditions listed at Annexes C and D should be imposed for the reasons set out in Documents 27A and B and at paragraphs 9.2 to 9.7.
- 11.48 For both schemes, I have amended Condition 3 and have deleted the reference to convenience retail ancillary to other comparison retailing on the grounds that it is vague and confusing. Given the explanation provided by the applicant on the nature of this retailing involved [9.3 & Doc 11] the scale of the floorspace that would be permitted by the condition i.e. 300 sq. m (3,229 sq. ft) is, in my view, excessive. It strikes me that the nature and scale of the convenience retailing referred to by the applicant could be considered as de-minimus and if it expanded beyond that it would be open to the lpa to take action. Having regard to all the evidence before the inquiry, I

consider Condition 6 is necessary and that the time period of 6 months is reasonable.

- 11.49 I have reviewed the obligations included within the S106 Agreement and having regard to the submissions made by the applicants and the Ipa, I consider they are all necessary to make the development acceptable in planning terms, directly related to the development and fair and reasonably related in scale and kind to the development. Accordingly, I conclude that the S106 Agreement is consistent with the guidance at Framework 204 and R122 of the CIL Regulations and I have attached weight to it in coming to my conclusion.

Overall Conclusions

- 11.50 There are no sequentially preferable sites available that could accommodate either of the schemes proposed. Whilst these proposals would result in some trading impact on town centres within the catchment area, that impact would not have a significant adverse effect on the health, vitality or viability of those centres. Opportunities for sustainable modes of transport have been taken up as far as practical and the lack of sequentially preferable sites. Safe and suitable access can be provided and the residual cumulative impacts of the development in highway terms would not be severe. A DOC would bring significant employment benefits and the potential for benefits to the wider tourist economy of the area. Any harm to the appearance of the area and the loss of agricultural land would be outweighed by the acknowledged employment benefits of the scheme. Taking all of the above factors into account, I conclude that on balance that both developments would be consistent with the development plan for the area and Government policies on ensuring the vitality of town centres and promoting sustainable transport (Framework sections 2 & 4).

Recommendations

Scheme 1

- 11.51 I recommend that planning permission be granted subject to the planning conditions attached at Annex C.

Scheme2

- 11.52 I recommend that planning permission be granted subject to the planning conditions attached at Annex D.

George Baird

Inspector

ANNEX A – APPLICATION PLANS

SCHEME 1 –APP/V2723/V/15/3143768

Site Location Plan: Drawing No. 0301
Topographical Survey: Drawing No. 0302
Existing Site Plan: Drawing No. 0303

Proposed Site Plan: Drawing No. 0304 Rev A
Proposed Site Plan: (Colour) Drawing No. 0305
Proposed Roof Plan: Drawing No. 0306

Proposed Elevations Sheet 1: Drawing No. 0310
Proposed Elevations Sheet 2: Drawing No. 0311
Proposed Elevations Sheet 3: Drawing No. 0312
Proposed Elevations Sheet 4: Drawing No. 0313
Proposed Elevations Sheet 5: Drawing No. 0314
Proposed Elevations Sheet 6: Drawing No. 0315
Proposed Elevations Sheet 7: Drawing No. 0316

Proposed Elevations Sheet 1: Drawing No. 0317
Proposed Elevations Sheet 2: Drawing No. 0318
Proposed Elevations Sheet 3: Drawing No. 0319
Proposed Elevations Sheet 4: Drawing No. 0320
Proposed Elevations Sheet 5: Drawing No. 0321
Proposed Elevations Sheet 6: Drawing No. 0322
Proposed Elevations Sheet 7: Drawing No. 0323

Proposed Sections: Drawing No. 0330;
Proposed Perspective Imagery: Drawing No. 0340

Structural Landscape Strategy Sheet 1: Drawing No.2064 PL001-1A
Structural Landscape Strategy Sheet 2: Drawing No. 2064 - PL001-2A
Structural Landscape Strategy Sheet 3: Drawing No. 2064 - PL001-3A
Hard Landscape Strategy: Drawing No. 2064 PL002 Village Street
Hard Landscape Strategy: Drawing No. 2064 - PL003-Car Park Detail

Proposed Surface Water Drainage Strategy – PBA 30793-2001-001
Proposed Water Main Diversion PBA - 30793-2001-003
Proposed Security Measures Drawing – C+W 14011-0350

16 Images of scheme

Peter Evans Partnership 2560.25A
Peter Evans Partnership 2560.26A
Peter Evans Partnership 2560.31
Peter Evans Partnership 2560.32A
Peter Evans Partnership 2560.39B

ANNEX B - APPLICATION PLANS

SCHEME 2 – APP/V2723/V/16/3143678

Site Location Plan: Drawing No.0301
Topographical Survey: Drawing No. 0302
Existing Site Plan: Drawing No. 0303

Proposed Site Plan: Drawing No. 0304 Rev E
Proposed Roof Plan: Drawing No. 0306 Rev A
Proposed Elevations Sheet 1: Drawing No. 0310 Rev A
Proposed Elevations Sheet 2: Drawing No. 0311 Rev A
Proposed Elevations Sheet 3: Drawing No. 0312 Rev A
Proposed Elevations Sheet 4: Drawing No. 0313 Rev A
Proposed Elevations Sheet 5: Drawing No. 0314 Rev A
Proposed Elevations Sheet 6: Drawing No. 0315 Rev B
Proposed Elevations Sheet 7: Drawing No. 0316 Rev A
Proposed Sections: Drawing No. 0330 Rev A
Proposed Perspective Imagery: Drawing No. 0340 Rev A

Structural Landscape Strategy Sheet 1: Drawing No. 2064 PL001 (1) Rev B
Structural Landscape Strategy Sheet 2: Drawing No. 2064 PL001 (2) Rev B
Structural Landscape Strategy Sheet 3: Drawing No. 2064 PL001 (3) Rev D
Proposed Hard Landscape Strategy: Drawing No. 2064 PL002 Rev B

Proposed Car Park Detail: Drawing No. 2064 – PL003

Proposed Surface Water Drainage Strategy – PBA 30793-2001-001
Proposed Water Main Diversion PBA - 30793-2001-003
Proposed Security Measures Drawing – C+W 14011-0350
Peter Evans Partnership 2560.33C

ANNEX C – SUGGESTED CONDITIONS - SCHEME 1
APP/V2723/V/15/3132873 – LPA Ref. 14/687/FUL

1. The development hereby permitted shall not be carried out except in accordance with the approved drawings and plans as set out below:
 1. unit area and type schedule (revised);
 2. site location plan (drawing 14011 0301);
 3. topographical survey (drawing 14011 0302);
 4. existing site plan (drawing 14011 0303);
 5. proposed site plan (drawing 14011 0304 A) & colour drawing 14011 0305;
 6. proposed roof plan (drawing 14011 0306);
 7. proposed elevations sheet 1 (drawing 14011 0310) and proposed elevations sheet 1 (colour) drawing 14011 0317;
 8. proposed elevations sheet 2 (drawing 14011 0311) and proposed elevations sheet 2 (colour) drawing 14011 0318;
 9. proposed elevations sheet 3 (drawing 14011 0312) and proposed elevations sheet 3 (colour) drawing 14011 0319;
 10. proposed elevations sheet 4 (drawing 14011 0313) and proposed elevations sheet 4 (colour) drawing 14011 0320;
 11. proposed elevations sheet 5 (drawing 14011 0314) and proposed elevations sheet 5 (colour) drawing 14011 0321;
 12. proposed elevations sheet 6 (drawing 14011 0315) and proposed elevations sheet 6 (colour) drawing 14011 0322;
 13. proposed elevations sheet 7 (drawing 14011 0316) and proposed elevations sheet 7 (colour) drawing 14011 0323;
 14. proposed sections (drawing 14011 0330);
 15. proposed perspective imagery (drawing 14011 0340);
 16. preliminary structural landscape proposals - sheet 1 of 3 (drawing 2064 - PL001(1) A);
 17. preliminary structural landscape proposals - sheet 2 of 3 (drawing 2064 - PL001(2) A);
 18. preliminary structural landscape proposals - sheet 3 of 3 (drawing 2064 - PL001(3) A);
 19. preliminary landscape treatment to village street (drawing 2064 - PL002);
 20. typical surface finishes - car park/pedestrian access (drawing 2064 - PL003);
 21. proposed surface water drainage strategy (30793-2001-001);
 22. proposed water main diversion (drawing 30793-2001-003);
 23. proposed security measures plan (drawing 14011-0350);
 24. proposed Highways Agency Blue Anchor Corner roundabout revised in accordance with Peter Evans Partnership Design Review September 2014 with Designer Outlet Centre accesses (drawing 2560.25A);
 25. proposed Highways Agency Blue Anchor Corner roundabout with Designer Outlet Centre accesses (drawing 2560.26B);
 26. proposed improvements to Middleton Tyas Lane (drawing 2560.31);
 27. proposed site layout and non-motorised user facilities for Designer Outlet Centre (drawing 2560.32A);

28. proposed improvements to roundabout markings and A1(M) southbound off-slip (drawing 2560.39B).
2. The permission hereby granted authorises use of the site for specialised retailing as a Designer Outlet Centre with associated ancillary facilities only and no retail unit shall be used as a Class A1 outlet for the primary retail sale of garden products, books, CDs, DVDs, electrical goods, computers and software, white goods and no unit shall be occupied as a newsagents, chemists, travel agency, post office, ticket agency (excluding the approved Tourist Information facility), hairdressers or dry cleaners.

For the purposes of this condition "specialised retailing" and "Designer Outlet Centre" means clearance stores operated by: a) manufacturers; b) retailers who do not directly manufacture, but who either own their own brand or retail branded goods; or, c) the franchisees or licensees or stockists of such manufacturers or retailers, in each case involving the retail sale of discounted comparison goods defined as previous season's stock, run-offs, over-runs, samples of branded goods, goods produced for subsequently cancelled orders, market testing lines, rejects, seconds, clearance goods and surplus stock and accessories.

3. For the avoidance of any doubt, the maximum amounts (gross internal floor space and net sales areas) and the mixture of uses provided for by this planning permission are as follows:
 - a) a maximum of 14,584 sq. m gross floor space (11,668 sq. m net sales area) for Class A1 retail uses at ground floor level;
 - b) a maximum of 5,833 sq. m gross floor space (4,528 sq. m net sales area) for Class A1 retail uses at mezzanine level;
 - c) a maximum of 2,029 sq. m for Class A3 restaurant and café uses;
 - d) the provision of toilet blocks, a site management suite (including police office), and a Tourist Information facility.

No individual retail unit, either as constructed or as a result of any subsequent combination of units, shall exceed 1,200 sq. m gross floor space (including any mezzanine floor space).

No building or part of any building shall be used for the sale of food other than confectionery or within a restaurant or café for consumption on the premises.

4. Following completion of the scheme and notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any subsequent Order revoking and re-enacting those Orders, no additional mezzanine floors shall be created within the scheme and no part of the scheme shall be used for any Class A2 (financial and professional services, other than automated teller machines), Class A4 (drinking establishments) or Class A5 (hot food takeaway) uses. Notwithstanding the provisions of Part 3 Classes A, G and J of the General Permitted Development Order, no changes of use otherwise permitted by those Classes shall take place.

5. In at least 90% of the floor space within the buildings subject to this permission that is used for sales to members of the public, any goods offered for sale shall be priced at least 20% below the normal price at which similar types of merchandise are or have been offered for sale in their usual place of sale. The operator of the retail floor space shall maintain detailed stock records of goods for sale and pricing, and shall upon written request from the local planning authority produce these records for the previous 12 months for inspection within 2 calendar weeks of the date of request.
6. None of the approved retail floor space should be occupied by any retailer who at the date of such occupation, or within a period of 6 months immediately prior to occupation, occupies retail floor space in the town centre of Darlington, as defined on plan DTC1; unless a scheme which commits the retailer to retaining their presence as a retailer within that town centre, for a minimum period of 5 years following the date of their occupation of retail floor space within the development, or until such time as they cease to occupy retail floor space within the development, whichever is sooner, has been submitted to and approved in writing by the local planning authority.
7. There shall be no excavation or other ground works, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until :
 - 1) details of the following highway improvement works have been submitted to and approved in writing by the local planning authority:
 - a) the approved site access from the Blue Anchor Roundabout, adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - b) the approved signalised junction from the site to the A6108 which shall include connection to the signal controller system at Scotch Corner junction, including approved signal management systems (e.g. MOVA and SCOOT) adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - c) the approved amendments to the A6108 between Scotch Corner Roundabout and Blue Anchor Roundabout adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15 including improvements to the bus stops;
 - d) the approved amendments to Scotch Corner roundabout and its slip roads and widening of Middleton Tyas Lane as shown in principle on drawing no. 2560.39B adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD 19/15;
 - e) the approved facilities for pedestrians and cyclists between Middleton Tyas Lane and the site based upon drawing no 2560.26A and drawing no 2560.31 adopting the findings of the independent Stage 2 Road Safety Audits in accordance with HD19/15.
 - 2) a programme for the completion of, and the methodology of the construction for the proposed works, has been submitted.

Development shall be carried out in accordance with the approved scheme and details.

8. No part of the development shall be brought into use until the following highways works have been constructed in accordance with the details approved in writing by the local planning authority under condition 7 above:
- a) the approved site access from the Blue Anchor Roundabout, adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - b) the approved signalised junction from the site to the A6108 which shall include connection to the signal controller system at Scotch Corner junction, including approved signal management systems (e.g. MOVA and SCOOT) adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - c) the approved amendments to the A6108 between Scotch Corner Roundabout and the Blue Anchor Roundabout adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15 including improvements to the bus stops;
 - d) the approved amendments to Scotch Corner roundabout and its slip roads and widening of Middleton Tyas Lane as shown in principle on drawing no. 2560.39B adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD 19/15; and,
 - e) the approved facilities for pedestrians and cyclists between Middleton Tyas Lane and the site based upon drawing no 2560.26A and drawing no 2560.31 adopting the findings of the independent Stage 2 Road Safety Audits in accordance with HD19/15.
9. There shall be no entry or egress by any vehicles prior to construction other than for site investigation or the purpose of creating the temporary site access between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the local planning authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the local planning authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the local planning authority agrees to their withdrawal.

Prior to construction of the permanent site access, no vehicles shall access the site except via an approved temporary access to be constructed in accordance with details approved in writing by the local planning authority for a minimum distance of 40m into the site at a minimum width of 7.3m. Any damage to the existing adopted highway occurring during use of the temporary access until the completion of all the permanent works shall be repaired immediately.

Before the development is first brought into use the highways verge/footway shall be fully reinstated in accordance with a scheme to be approved in writing by the local planning authority.

10. No part of the development shall be open for trading until the approved vehicle accesses, parking area, manoeuvring and turning areas have been constructed in accordance with drawing no 2560.32A and subsequently agreed amendments; and are available for use.

11. No development or any phase of the development shall take place until a Construction Method Statement/Management Plan for that phase has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period for the development and shall provide for the following in respect of each phase:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate;
 - e) wheel washing facilities;
 - f) details of the routes to be used by Heavy Commercial Vehicle construction traffic; and,
 - g) details of operating hours during construction works along with proposed mitigation measures with regard to dust and noise during construction.

The approved areas for on-site parking and materials storage shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

12. There shall be no Heavy Commercial Vehicles brought on to the site until a survey recording the existing highway condition including Middleton Tyas Lane, the A6108 along the development frontage up to and including Scotch Corner, and the new Blue Anchor Corner Roundabout has been undertaken in a manner approved by the local planning authority.

13. Prior to the development opening, a detailed Travel Plan shall have been submitted to and approved in writing by the local planning authority. This shall be generally in accordance with the approved Travel Plan, December 2014 and include:
 - a) the appointment of the Travel Plan Co-ordinator 3 months before opening and not less than one month before marketing of the opening of the site;
 - b) a partnership approach to influence travel behaviour;
 - c) measures to encourage the use of alternative modes of transport other than the private car, by people associated with the site;
 - d) provision of up to date details of public transport services including real time information at the internal bus stop and information centre;
 - e) annual appraisal of the Travel Plans and measures provided through the Travel Plan for 10 years or 5 years after 70% occupation, whichever comes first;
 - f) measures to improve safety for vulnerable road users;

- g) a reduction in all vehicle trips and mileage;
- h) a programme for the implementation of such measures; and,
- i) procedures for monitoring the uptake of such modes of transport and providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

14. Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on drawing no. 2560.32A (and any additional areas subsequently provided in accordance with the requirements of condition 16 below) for parking spaces, turning areas and access shall be kept available for their intended purposes from one hour before opening until one hour after closing of any of the retail and restaurant/café businesses on the site.
15. There shall be no access or egress by any vehicles between the highway and the application site other than for site investigation until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and programme.
16. Prior to the start on site of Phase 2 of the development, the use of the customer and staff car parking provided for Phase 1 shall be reviewed based on traffic surveys and if required by the local planning authority, additional car parking shall be provided prior to the first opening of Phase 2 of the development in accordance with details and locations to be agreed.
17. Prior to any part of the development first opening for trade a Car Park Management Plan shall have been implemented in accordance with details submitted to and approved in writing by the local planning authority. The approved Car Park Management Plan shall thereafter remain in operation without modification unless otherwise approved by the local planning authority. The Car park Management Plan shall include provision and commitment to the following management proposals:
 - a) barrier or ANPR system to record arrivals and departures to/from both the staff and customer car park areas;
 - b) staff to register their vehicle number plate on a car park database;
 - c) vehicles not registered on the staff database either not allowed through a barrier, if in place, or if parked in the car park sent a parking fine;
 - d) if ANPR system not in place customers to register their number plate as they enter the retail outlet;
 - e) if barrier in place customers validate ticket in the Outlet Village prior to returning to their vehicles;
 - f) vehicles without a validated car registration sent a parking fine;
 - g) signage provided around the car park informing customers and staff of the parking restrictions in place.

18. No development shall take place until a surface water drainage scheme and associated management and maintenance plan for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage design should demonstrate that the surface water run-off generated during rainfall events up to and including the 1 in 100 critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance and shall also include:

- a) confirmation that the surface water run-off rate will be restricted to the greenfield run-off rate quoted in the Floor Risk Assessment of 4.5 l/s/ha;
- b) sufficient attenuation and long term storage to accommodate at least a 1 in 30 year storm. It will demonstrate that storm water resulting from the 1 in 100 year event, including a 20% allowance for climate change, and surcharging of the drainage system, can be stored on site without flowing into any watercourse;
- c) additional storage to be provided adjacent to the southern boundary to accommodate the volume of floodwater that cannot pass through the culvert in the 1% annual probability (1 in 100 year) plus climate change event. This will be provided adjacent to the right bank of the ditch in the south western part of the site. The floodplain compensation basin is designed so that water is stored below ground level to reduce the potential for water to flow to the A6108;
- d) details of how the scheme will be maintained and managed after completion.

No piped discharge of surface water from the site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved in writing by the local planning authority before development commences.

19. Prior to the commencement of the approved surface water drainage works and in association with the submission of other surface water drainage details, full details shall be provided of the water storage/attenuation basins (including their finished appearance) and associated mounding and landscaping works in this part of the site, along with measures to prevent public access to open water areas. Development shall be carried out in accordance with the approved details.
20. Unless otherwise approved in writing by the local planning authority, no construction of buildings or other structures shall take place until measures to divert the water main that is laid within the site have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority.

21. There shall be no construction of new buildings on site prior to a feasibility study to understand the impact of the development on the sewerage system and for the provision of foul drainage to serve the development having been submitted to and approved in writing by the local planning authority. No building shall be occupied or brought into use until the findings and recommendations of the study and the approved foul drainage works (both on and off site) have been implemented in accordance with an agreed programme.
22. Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage should not be passed through any interceptor.
23. No development shall be commenced until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11, has been submitted to and approved in writing by the local planning authority. If deemed necessary, a scheme for the remediation of any contamination shall be submitted and approved in writing by the local planning authority before any development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

If contamination is found or suspected at any time during development that was not previously identified all works shall cease and the local planning authority shall be notified in writing immediately. No further works (other than approved remediation measures) shall be undertaken or the development occupied until an investigation and risk assessment carried out in accordance with CLR11, has been submitted to and approved in writing by the local planning authority. Where remediation is necessary a scheme for the remediation of any contamination shall be submitted and approved by the local planning authority before any further development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

24. No development shall take place/commence until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:
 - a) the programme and methodology of site investigation and recording;
 - b) community involvement and/or outreach proposals;
 - c) the programme for post investigation assessment;
 - d) provision to be made for analysis of the site investigation and recording;
 - e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - f) provision to be made for archive deposition of the analysis and records of the site investigation; and,

- g) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

25. Prior to the commencement of building works, full details of all proposed hard and soft landscaping, including all mounding, street furniture, boundaries and means of enclosure shall have been submitted to the local planning authority. The details to be submitted shall also include the provision of supplementary landscaping between the northern boundary and the service/access road to mitigate the visual impact of the development from the adjoining caravan site.

The landscaping scheme shall include a management plan, providing long term design objectives, management responsibilities and maintenance schedules covering a 10 year period for all landscape areas.

Following approval in writing by the local planning authority of the hard and soft landscaping, mounding, street furniture, boundaries and means of enclosure, all such works shall be undertaken in association with the remainder of the development and be completed prior to any part of the site being open to the public. The management plan shall also be implemented as approved.

Thereafter, any trees or plants which, within a period of 10 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced no later than the end of the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

26. Details (including samples as appropriate) of any materials to be used for the external finish of any building, structure or hard surfacing on the site shall first have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
27. The stone to be used in the construction of the external walls of buildings shall be reclaimed natural stone to match the colour, shape and texture of stone found locally in Richmondshire without contamination by paint or soot, and with flat not pitched or sawn faces. With the exception of quoin details no individual stone shall exceed 150 mm. in height from its bed. All stonework shall be flush pointed with a lime/cement/sand (50:50 sharp:soft) mix in proportions of 1:1:6 and then brush finished.
28. Prior to the construction of the external walls of the first stone faced building a sample panel, not less than 2 sq. m in extent, of the stonework to be used

shall be erected separately on site and approved in writing by the local planning authority. Thereafter, the stonework and pointing for each stone faced building shall be precisely in accordance with the approved sample panel, which shall be kept on site throughout the period of works to which this permission relates.

29. Prior to the construction of the external walls of the first brick faced building a sample panel, not less than 2 sq. m in extent, of each type of brickwork to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, all brickwork shall be precisely in accordance with the approved sample panel(s) in terms of the type of bricks to be used, the method of bonding, mortar mix, colour and pointing style. The approved panel(s) shall be kept on site throughout the period of works to which this permission relates.
30. Prior to the construction of the external walls of the first rendered building a sample panel, not less than 2 sq. m in extent, of the render (including any colour finish(es)) to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, all render and any colour finish(es) shall be precisely in accordance with the approved sample panel, which shall be kept on site throughout the period of works to which this permission relates.
31. Notwithstanding the details accompanying the application hereby approved, before work commences on any building full working drawings of the external appearance of that building shall be submitted to, and approved in writing by, the local planning authority. Such working drawings shall be in accordance with the plans as hereby approved and shall incorporate all the architectural detailing thereon depicted, together with all requirements of this permission.
32. Prior to the foundations for any building being laid, the precise finished floor level of that building shall be confirmed on site by the local planning authority. Development shall be carried out in accordance with the approved details.
33. No part of the development shall be opened for trading until the public art work forming part of the scheme has been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The details to be submitted and approved shall also include arrangements for the commissioning of the public art.
34. Notwithstanding the provisions of the Advertisement Regulations currently in force, all external signage within the scheme (both at the outset and subsequently) shall be in accordance with a design framework scheme for signage (establishing the positions, sizes, materials, colours and lighting for all external signage across the site) that shall have been submitted to and approved in writing by the local planning authority before any part of the development opens for trading.
35. Prior to the construction of each building above damp proof course level a detailed energy statement for that building shall have been submitted to and approved in writing by the local planning authority in accordance with the

principles established by the approved Design and Access Statement. The energy statement shall demonstrate how opportunities to deliver carbon savings in excess of Building Regulation requirements have been considered and demonstrate that carbon savings have been maximised by incorporating appropriate opportunities into the design of the building (having regard, if appropriate, to any opportunity for co-ordinating and linking of infrastructure with any other part of the whole development). Development shall be carried out in accordance with the approved details.

36. No development shall be commenced until a Noise Impact Assessment based on an initial measurement of background sound levels (in accordance with BS 4142 : 2014) undertaken at a time when sound levels are not affected by construction works associated with the current upgrading of the A1 has been submitted to and approved in writing by the local planning authority. The Assessment shall also include proposals, based on the findings of the survey work and having regard to the methods and timing of construction works along with the intended operation of the site following completion of the development, for any necessary noise mitigation measures to ensure that the development as a whole will have a low impact on the background sound level at defined sensitive receptors including the Scotch Corner Caravan Park; West View bungalow; the residential caravans to the south east on the opposite side of the A6108; and the private dwellings at Barracks Bank to the west. Thereafter, all noise mitigation measures shall be undertaken as part of the development and, where applicable, retained thereafter.
37. Prior to the commencement of development a scheme shall be submitted to and approved in writing by the local planning authority relating to the following matters:
- a) details of extract ventilation systems including emissions and methods of treatment i.e. suitable filters to remove potential odour;
 - b) details, including locations, of planned ground source heat pumps and biomass boiler units; and,
 - c) details, including times, of when deliveries and collections of waste will take place.

Development shall be carried out in accordance with the approved details.

38. The units on the western side of the northern boundary shall not be used at any time for the sale of food for consumption at the site (other than confectionery).
39. Details of any external lighting to be used on the site shall first be submitted to, and approved in writing by, the local planning authority. The information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting.

For the avoidance of doubt, there shall be no external or internal lighting of the 'spire' feature.

Thereafter the artificial lighting shall be installed, operated and maintained in accordance with the approved scheme. Changes to any element of the lighting scheme shall be submitted to, and approved in writing by, the local planning authority prior to the changes taking place.

40. The development shall only be carried out in accordance with the proposals and measures for community safety and security contained in the approved Security and Policing Statement. Details, where appropriate, of all safety and security measures forming part of the proposal shall be submitted to and approved in writing by the local planning authority and provided for as part of the development prior to any part of the development first opening for trading.
41. The development shall only be carried out in accordance with the recommendations and mitigation measures set out in the approved Ecological Assessment (Ecology Phase 1 Walk-Over Assessment – Peter Brett Associates).

ANNEX D SUGGESTED CONDITIONS - SCHEME 2
APP/V2723/V/16/3143678 – LPA Ref. 15/00806/FUL

1. The development hereby permitted shall not be carried out except in accordance with the approved drawings and plans as set out below:
 - 1) unit area and type schedule;
 - 2) site location plan (drawing 14011 0301);
 - 3) topographical survey (drawing 14011 0302);
 - 4) existing site plan (drawing 14011 0303);
 - 5) proposed site plan (drawing 14011 0304 E);
 - 6) proposed roof plan (drawing 14011 0306 A);
 - 7) proposed elevations sheet 1 (drawing 14011 0310 A);
 - 8) proposed elevations sheet 2 (drawing 14011 0311 A);
 - 9) proposed elevations sheet 3 (drawing 14011 0312 A);
 - 10) proposed elevations sheet 4 (drawing 14011 0313 A);
 - 11) proposed elevations sheet 5 (drawing 14011 0314 A);
 - 12) proposed elevations sheet 6 (drawing 14011 0315 B);
 - 13) proposed elevations sheet 7 (drawing 14011 0316 A);
 - 14) proposed sections (drawing 14011 0330 A);
 - 15) proposed perspective imagery (drawing 14011 0340 A);
 - 16) preliminary structural landscape proposals - sheet 1 of 3 (drawing 2064-PL001(1) B);
 - 17) preliminary structural landscape proposals - sheet 2 of 3 (drawing 2064-PL001(2) B);
 - 18) preliminary structural landscape proposals - sheet 3 of 3 (drawing 2064-PL001(3) D);
 - 19) typical surface finishes - car park/pedestrian access (drawing 2064 - PL003);
 - 20) proposed surface water drainage strategy (30793-2001-001);
 - 21) proposed water main diversion (drawing 30793-2001-003);
 - 22) proposed security measures plan (drawing 14011-0350).
 - 23) proposed Highways Agency Blue Anchor Corner roundabout revised in accordance with Peter Evans Partnership Design Review September 2014
with Designer Outlet Centre accesses (drawing 2560.25A);
 - 24) proposed Highways Agency Blue Anchor Corner roundabout with Designer Outlet Centre accesses (drawing 2560.26B)
 - 25) proposed improvements to Middleton Tyas Lane (drawing 2560.31);
A26) proposed site layout and non-motorised user facilities for Designer Outlet Centre (drawing 2560.32A).
2. The permission hereby granted authorises use of the site for specialised retailing as a Designer Outlet Centre with associated ancillary facilities only and no retail unit shall be used as a Class A1 outlet for the primary retail sale of garden products, books, CDs, DVDs, electrical goods, computers and software, white goods and no unit shall be occupied as a newsagents, chemists, travel agency, post office, ticket agency (excluding the approved Tourist Information facility), hairdressers or dry cleaners.

For the purposes of this condition 'specialised retailing' and 'Designer Outlet Centre' means clearance stores operated by: a) manufacturers; b) retailers who do not directly manufacture, but who either own their own brand or retail branded goods; or, c) the franchisees or licensees or stockists of such manufacturers or retailers, in each case involving the retail sale of discounted comparison goods defined as previous season's stock, run-offs, over-runs, samples of branded goods, goods produced for subsequently cancelled orders, market testing lines, rejects, seconds, clearance goods and surplus stock and accessories.

3. For the avoidance of any doubt, the maximum amounts (gross internal floor space and net sales areas) and the mixture of uses provided for by this planning permission are as follows:
 - e) a maximum of 14,584 sq. m gross floor space (11,668 sq. m net sales area) for Class A1 retail uses at ground floor level;
 - f) a maximum of 5,833 sq. m gross floor space (4,528 sq. m net sales area) for Class A1 retail uses at mezzanine level;
 - g) a maximum of 2,029 sq. m for Class A3 restaurant and café uses;
 - h) provision of toilet blocks, site management suite (including police office), and Tourist Information facility.

No individual retail unit, either as constructed or as a result of any subsequent combination of units, shall exceed 1,200 sq. m gross floor space (including any mezzanine floor space).

No building or part of any building shall be used for the sale of food other than confectionery or within a restaurant or café for consumption on the premises.

4. Following completion of the scheme and notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any subsequent Order revoking and re-enacting those Orders, no additional mezzanine floors shall be created within the scheme and no part of the scheme shall be used for any Class A2 (financial and professional services, other than automated teller machines), Class A4 (drinking establishments) or Class A5 (hot food takeaway) uses. Notwithstanding the provisions of Part 3 Classes A, G and J of the General Permitted Development Order, no changes of use otherwise permitted by those Classes shall take place.
5. In at least 90% of the floor space within the buildings subject to this permission that is used for sales to members of the public, any goods offered for sale shall be priced at least 20% below the normal price at which similar types of merchandise are or have been offered for sale in their usual place of sale. The operator of the retail floor space shall maintain detailed stock records of goods for sale and pricing, and shall upon written request from the local planning authority produce these records for the previous 12 months for inspection within 2 calendar weeks of the date of request.

6. None of the approved retail floor space should be occupied by any retailer who at the date of such occupation, or within a period of 6 months immediately prior to occupation, occupies retail floor space in the town centre of Darlington, as defined on plan DTC1; unless a scheme which commits the retailer to retaining their presence as a retailer within that town centre, for a minimum period of 5 years following the date of their occupation of retail floor space within the development, or until such time as they cease to occupy retail floor space within the development, whichever is sooner, has been submitted to and approved in writing by the local planning authority.
7. There shall be no excavation or other ground works, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:
 - 1) details of the following highway improvement works have been submitted to and approved in writing by the local planning authority:
 - a) the approved site access from the Blue Anchor Roundabout, adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - b) the approved signalised junction from the site to the A6108 which shall include connection to the signal controller system at Scotch Corner junction, including approved signal management systems (e.g. MOVA and SCOOT) adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - c) the approved amendments to the A6108 between Scotch Corner Roundabout and Blue Anchor Roundabout adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15 including improvements to the bus stops;
 - d) the approved amendments to Scotch Corner roundabout and its slip roads and widening of Middleton Tyas Lane as shown in principle on drawing no. 2560.39B adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD 19/15;
 - e) the approved facilities for pedestrians and cyclists between Middleton Tyas Lane and the site based upon drawing no 2560.26A and drawing no 2560.31 adopting the findings of the independent Stage 2 Road Safety Audits in accordance with HD19/15.
 - 2) a programme for the completion of, and the methodology of the construction for the proposed works, has been submitted.

Development shall be carried out in accordance with the approved scheme and details.

8. No part of the development shall be brought into use until the following highways works have been constructed in accordance with the details approved in writing by the local planning authority under condition 7 above:
 - a) the approved site access from the Blue Anchor Roundabout, adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;

- b) the approved signalised junction from the site to the A6108 which shall include connection to the signal controller system at Scotch Corner junction, including approved signal management systems (e.g. MOVA and SCOOT) adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15;
 - c) the approved amendments to the A6108 between Scotch Corner Roundabout and the Blue Anchor Roundabout adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD19/15 including improvements to the bus stops;
 - d) the approved amendments to Scotch Corner roundabout and its slip roads and widening of Middleton Tyas Lane as shown in principle on drawing no. 2560.39B adopting the findings of the independent Stage 2 Road Safety Audit in accordance with HD 19/15; and,
 - e) the approved facilities for pedestrians and cyclists between Middleton Tyas Lane and the site based upon drawing no 2560.26A and drawing no 2560.31 adopting the findings of the independent Stage 2 Road Safety Audits in accordance with HD19/15.
9. There shall be no entry or egress by any vehicles prior to construction other than for site investigation or the purpose of creating the temporary site access between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the local planning authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the local planning authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the local planning authority agrees to their withdrawal.
- Prior to construction of the permanent site access, no vehicles shall access the site except via an approved temporary access to be constructed in accordance with details approved in writing by the local planning authority for a minimum distance of 40 metres into the site at a minimum width of 7.3 metres. Any damage to the existing adopted highway occurring during use of the temporary access until the completion of all the permanent works shall be repaired immediately.
- Before the development is first brought into use the highways verge/footway shall be fully reinstated in accordance with a scheme to be approved in writing by the local planning authority.
10. No part of the development shall be open for trading until the approved vehicle accesses, parking area, manoeuvring and turning areas have been constructed in accordance with drawing number no 2560.32A and subsequently agreed amendments; and are available for use.
11. No development or any phase of the development shall take place until a Construction Method Statement/Management Plan for that phase has been submitted to, and approved in writing by, the local planning authority. The

approved statement shall be adhered to throughout the construction period for the development and shall provide for the following in respect of each phase:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate;
- e) wheel washing facilities;
- f) details of the routes to be used by Heavy Commercial Vehicle construction traffic; and,
- g) details of operating hours during construction works along with proposed mitigation measures with regard to dust and noise during construction.

The approved areas for on-site parking and materials storage shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

12. There shall be no Heavy Commercial Vehicles brought on to the site until a survey recording the existing highway condition including Middleton Tyas Lane, the A6108 along the development frontage up to and including Scotch Corner, and the new Blue Anchor Corner Roundabout has been undertaken in a manner approved by the local planning authority.
13. Prior to the development opening, a detailed Travel Plan shall have been submitted to and approved in writing by the local planning authority. This shall be generally in accordance with the approved Travel Plan, December 2014 and include:
 - a) the appointment of the Travel Plan Co-ordinator 3 months before opening and not less than one month before marketing of the opening of the site;
 - b) a partnership approach to influence travel behaviour;
 - c) measures to encourage the use of alternative modes of transport other than the private car, by people associated with the site;
 - d) provision of up to date details of public transport services including real time information at the internal bus stop and information centre;
 - e) annual appraisal of the Travel Plans and measures provided through the Travel Plan for 10 years or 5 years after 70% occupation, whichever comes first;
 - f) measures to improve safety for vulnerable road users;
 - g) a reduction in all vehicle trips and mileage;
 - h) a programme for the implementation of such measures; and,
 - i) procedures for monitoring the uptake of such modes of transport and providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

14. Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on drawing no. 2560.32A (and any additional areas subsequently provided in accordance with the requirements of condition 16 below) for parking spaces, turning areas and access shall be kept available for their intended purposes from one hour before opening until one hour after closing of any of the retail and restaurant/café businesses on the site.
15. There shall be no access or egress by any vehicles between the highway and the application site other than for site investigation until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and programme.
16. Prior to any part of the development first opening for trade a Car Park Management Plan shall have been implemented in accordance with details submitted to and approved in writing by the local planning authority. The approved Car Park Management Plan shall thereafter remain in operation without modification unless otherwise approved by the local planning authority. The Car park Management Plan shall include provision and commitment to the following management proposals:
 - a) barrier or ANPR system to record arrivals and departures to/from both the staff and customer car park areas;
 - b) staff to register their vehicle number plate on a car park database;
 - c) vehicles not registered on the staff database either not allowed through a barrier, if in place, or if parked in the car park sent a parking fine;
 - d) if ANPR system not in place customers to register their number plate as they enter the retail outlet;
 - e) if barrier in place customers validate ticket in the Outlet Village prior to returning to their vehicles;
 - f) vehicles without a validated car registration sent a parking fine;
 - g) signage provided around the car park informing customers and staff of the parking restrictions in place.
17. No development shall take place until a surface water drainage scheme and associated management and maintenance plan for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The surface water drainage design should demonstrate that the surface water run-off generated during rainfall events up to and including the 1 in 100 critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance and shall also include:

- a) confirmation that the surface water run-off rate will be restricted to the greenfield run-off rate quoted in the Floor Risk Assessment of 4.5 l/s/ha;
- b) sufficient attenuation and long term storage to accommodate at least a 1 in 30 year storm. It will demonstrate that storm water resulting from the 1 in 100 year event, including a 20% allowance for climate change, and surcharging of the drainage system, can be stored on site without flowing into any watercourse;
- c) additional storage adjacent to the southern boundary to accommodate the volume of floodwater that cannot pass through the culvert in the 1% annual probability (1 in 100 year) plus climate change event. This will be provided adjacent to the right bank of the ditch in the south western part of the site. The floodplain compensation basin is designed so that water is stored below ground level to reduce the potential for water to flow to the A6108;
- d) details of how the scheme will be maintained and managed after completion.

No piped discharge of surface water shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved in writing by the local planning authority before development commences.

18. Prior to the commencement of the approved surface water drainage works and in association with the submission of other surface water drainage details, full details shall also be provided of the water storage/attenuation basins (including their finished appearance) and associated mounding and landscaping works in this part of the site, along with measures to prevent public access to open water areas. Development shall be carried out in accordance with the approved details.
19. Unless otherwise approved in writing by the local planning authority, no construction of buildings or other structures shall take place until measures to divert the water main that is laid within the site have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority.
20. There shall be no construction of new buildings on site prior to a feasibility study to understand the impact of the development on the sewerage system and for the provision of foul drainage to serve the development having been submitted to and approved in writing by the local planning authority. No building shall be occupied or brought into use until the findings and recommendations of the study and the approved foul drainage works (both on and off site) have been implemented in accordance with an agreed programme.
21. Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage should not be passed through any interceptor.

22. No development shall be commenced until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11, has been submitted to and approved in writing by the local planning authority. If deemed necessary, a scheme for the remediation of any contamination shall be submitted and approved in writing by the local planning authority before any development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

If contamination is found or suspected at any time during development that was not previously identified all works shall cease and the local planning authority shall be notified in writing immediately. No further works (other than approved remediation measures) shall be undertaken or the development occupied until an investigation and risk assessment carried out in accordance with CLR11, has been submitted to and approved in writing by the local planning authority. Where remediation is necessary a scheme for the remediation of any contamination shall be submitted and approved by the local planning authority before any further development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

23. No development shall take place/commence until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:
- a) the programme and methodology of site investigation and recording;
 - b) community involvement and/or outreach proposals;
 - c) the programme for post investigation assessment;
 - d) provision to be made for analysis of the site investigation and recording;
 - e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - f) provision to be made for archive deposition of the analysis and records of the site investigation; and,
 - g) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

24. Prior to the commencement of building works, full details of all proposed hard and soft landscaping, including all mounding, street furniture, boundaries and means of enclosure shall have been submitted to the local planning authority. The details to be submitted shall also include the provision of supplementary landscaping between the northern boundary and the service/access road to mitigate the visual impact of the development from the adjoining caravan site.

The landscaping scheme shall include a management plan, providing long term design objectives, management responsibilities and maintenance schedules covering a 10 year period for all landscape areas.

Following approval in writing by the local planning authority of the hard and soft landscaping, mounding, street furniture, boundaries and means of enclosure, all such works shall be undertaken in association with the remainder of the development and be completed prior to any part of the site being open to the public. The management plan shall also be implemented as approved.

Thereafter, any trees or plants which, within a period of 10 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced no later than the end of the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

25. Details (including samples as appropriate) of any materials to be used for the external finish of any building, structure or hard surfacing on the site shall first have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
26. The stone to be used in the construction of the external walls of buildings shall be reclaimed natural stone to match the colour, shape and texture of stone found locally in Richmondshire without contamination by paint or soot, and with flat not pitched or sawn faces. With the exception of quoin details no individual stone shall exceed 150 mm. in height from its bed. All stonework shall be flush pointed with a lime/cement/sand (50:50 sharp:soft) mix in proportions of 1:1:6 and then brush finished.
27. Prior to the construction of the external walls of the first stone faced building a sample panel, not less than 2 sq. m in extent, of the stonework to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, the stonework and pointing for each stone faced building shall be precisely in accordance with the approved sample panel, which shall be kept on site throughout the period of works to which this permission relates.
28. Prior to the construction of the external walls of the first brick faced building a sample panel, not less than 2 sq. m in extent, of each type of brickwork to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, all brickwork shall be precisely in accordance with the approved sample panel(s) in terms of the type of bricks to be used, the method of bonding, mortar mix, colour and pointing style. The approved

panel(s) shall be kept on site throughout the period of works to which this permission relates.

29. Prior to the construction of the external walls of the first rendered building a sample panel, not less than 2 sq. m in extent, of the render (including any colour finish(es)) to be used shall be erected separately on site and approved in writing by the local planning authority. Thereafter, all render and any colour finish(es) shall be precisely in accordance with the approved sample panel, which shall be kept on site throughout the period of works to which this permission relates.
30. Notwithstanding the details accompanying the application hereby approved, before work commences on any building full working drawings of the external appearance of that building shall be submitted to, and approved in writing by, the local planning authority. Such working drawings shall be in accordance with the plans as hereby approved and shall incorporate all the architectural detailing thereon depicted, together with all requirements of this permission.
31. Prior to the foundations for any building being laid, the precise finished floor level of that building shall be confirmed on site by the local planning authority. Development shall be carried out in accordance with the approved details.
32. No part of the development shall be opened for trading until the public art work forming part of the scheme has been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The details to be submitted and approved shall also include arrangements for the commissioning of the public art.
33. Notwithstanding the provisions of the Advertisement Regulations currently in force, all external signage within the scheme (both at the outset and subsequently) shall be in accordance with a design framework scheme for signage (establishing the positions, sizes, materials, colours and lighting for all external signage across the site) that shall have been submitted to and approved in writing by the local planning authority before any part of the development opens for trading.
34. Prior to the construction of each building above damp proof course level a detailed energy statement for that building shall have been submitted to and approved in writing by the local planning authority in accordance with the principles established by the approved Design and Access Statement. The energy statement shall demonstrate how opportunities to deliver carbon savings in excess of Building Regulation requirements have been considered and demonstrate that carbon savings have been maximised by incorporating appropriate opportunities into the design of the building (having regard, if appropriate, to any opportunity for co-ordinating and linking of infrastructure with any other part of the whole development). Development shall be carried out in accordance with the approved details.
35. No development shall be commenced until a Noise Impact Assessment based on an initial measurement of background sound levels (in accordance with BS 4142 : 2014) undertaken at a time when sound levels are not affected by

construction works associated with the current upgrading of the A1 has been submitted to and approved in writing by the local planning authority. The Assessment shall also include proposals, based on the findings of the survey work and having regard to the methods and timing of construction works along with the intended operation of the site following completion of the development, for any necessary noise mitigation measures to ensure that the development as a whole will have a low impact on the background sound level at defined sensitive receptors including the Scotch Corner Caravan Park; West View bungalow; the residential caravans to the south east on the opposite side of the A6108; and the private dwellings at Barracks Bank to the west. Thereafter, all noise mitigation measures shall be undertaken as part of the development and, where applicable, retained thereafter.

36. Prior to the commencement of development a scheme shall be submitted to and approved in writing by the local planning authority relating to the following matters:
- a) details of extract ventilation systems including emissions and methods of treatment i.e. suitable filters to remove potential odour;
 - b) details, including locations, of planned ground source heat pumps and biomass boiler units; and,
 - c) details, including times, of when deliveries and collections of waste will take place.

Development shall be carried out in accordance with the approved details.

37. The units on the western side of the northern boundary shall not be used at any time for the sale of food for consumption at the site (other than confectionery).
38. Details of any external lighting to be used on the site shall first be submitted to, and approved in writing by, the local planning authority. The information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting.

For the avoidance of doubt, there shall be no external or internal lighting of the 'spire' feature.

Thereafter the artificial lighting shall be installed, operated and maintained in accordance with the approved scheme. Changes to any element of the lighting scheme shall be submitted to, and approved in writing by, the local planning authority prior to the changes taking place.

39. The development shall only be carried out in accordance with the proposals and measures for community safety and security contained in the approved Security and Policing Statement. Details, where appropriate, of all safety and security measures forming part of the proposal shall be submitted to and approved in writing by the local planning authority and provided for as part of the development prior to any part of the development first opening for trading.

40. The development shall only be carried out in accordance with the recommendations and mitigation measures set out in the approved Ecological Assessment (Ecology Phase 1 Walk-Over Assessment – Peter Brett Associates).

ANNEX E APPEARANCES & DOCUMENTS

FOR THE APPLICANT

Christopher Katkowski QC and Richard Moules of Counsel, instructed by Scotch Corner Richmond LLP.

They called:

Mr Quinsee BSc, MRICS, MRTPI, FRSA.
Partner, Peter Brett Associates.

Mr Gunn BSc.
Director, FSP.

Mr Kenyon BEng (Hons) FIHT.
Director, Peter Evans Partnership.

FOR THE LOCAL PLANNING AUTHORITY

Robert Walton of Counsel, instructed by Richmondshire District Council.

He called:

Mr Featherstone BA (Hons), MRTPI.
Planning and Development Manager, Richmondshire District Council.

Dr England, BA (Hons), Dip TP, MRTPI, MBE.
Consultant, ELG Planning.

Mrs Burnham.
Senior Transport and Development Engineer, North Yorkshire County Council.

Mr Hiles.
Senior Policy Officer, Richmondshire District Council.

FOR DARLINGTON BOROUGH COUNCIL

Paul Shadarevian of Counsel, instructed by Darlington Borough Council.

He called:

Mr Shepherd MRTPI.
Director, WYG Planning.

Dr Bunn BA (Hons), MCE, CMILT, CIHT.
Director, WYG Environment Planning Transport Limited.

Mrs Williams MA TCP.
Planning Officer (Policy), Darlington Borough Council.

INTERESTED PERSONS

Cllr. J Blackie.

DOCUMENTS

APPLICANT

- Doc 1 - Opening Submissions.
- Doc 2 - Closing Submissions.
- Doc 3 - R(oao Skelmersdale Limited Partnership) and West Lancashire Borough Council and St Modwen Developments (Skelmersdale) Ltd [2016] EWHC 109 (Admin).
- Doc 4 - Scotch Corner Fact Sheet.
- Doc 5 - Objection letter, Leggs Limited, 28 April 2016.
- Doc 6 - Email 5 May 2016 from Dr Bunn re car parking.
- Doc 7 - Email 5 May 2016 from Mouchel re CO₂ Emissions.
- Doc 8 - Email 26 April 2016 from Distinct Darlington to Darlington Retailers.
- Doc 9 - Applicant's response to Hambleton District Council submission.
- Doc 10 - Retail SoCG correction.
- Doc 11 - Applicant's note on proposed Condition 3.
- Doc 12 - S106 Agreement.

Mr Quinsee

- Doc 13 - Summary of Proof of Evidence.
- Doc 14 - Proof of Evidence.
- Doc 15 - Appendices 1 to 3.
- Doc 16 - Rebuttal Proof and Appendices 1 to 4.

Mr Kenyon

- Doc 17 - Summary Proof of Evidence.
- Doc 18 - Proof of Evidence.
- Doc 19 - Appendices AJK1 to AJK10.
- Doc 20 - Rebuttal Proof & Appendices REB/AJK1 to REB/AJK 3.

Mr Gunn

- Doc 21 - Proof of Evidence and Appendices 1 & 2.

LOCAL PLANNING AUTHORITY

- Doc 22 - Opening Submissions
- Doc 23 - Closing Submissions.
- Doc 24 - Written Statement in response to objection by Hambleton BC.
- Doc 25 - CIL Compliance Schedule.
- Doc 26 - Plan DTC1 - Darlington Town Centre.
- Doc 27A - List of Suggested Conditions - Scheme 1.
- Doc 27B - List of Suggested Conditions – Scheme 2.

Mrs Burnham

- Doc 28 - Summary Proof of Evidence.
- Doc 29 - Proof of Evidence and Appendices MB1 to MB3.
- Doc 30 - Supplementary Proof of Evidence and Appendix MJB1.

Dr England

- Doc 31 - Summary Proof of Evidence.
- Doc 32 - Proof of Evidence and Appendices 1 and 2.
- Doc 33 - Rebuttal Proof of Evidence and Appendix 1 and 2.

Mr Hiles

- Doc 34 - Summary Proof of Evidence.
- Doc 35 - Proof of Evidence and Appendix 1.
- Doc 36 - Supplementary Proof of Evidence.

Mr Featherstone

- Doc 37 - Summary Proof of Evidence.
- Doc 38 - Proof of Evidence and Appendices 1 to 8.
- Doc 39 - Supplementary Proof of Evidence.

DARLINGTON BOROUGH COUNCIL

- Doc 40 - Opening Submissions
- Doc 41 - Closing Submissions.
- Doc 42 - Table 19, Appendix 2, Rebuttal Proof of Mr Shepherd.
- Doc 43 - Bundle of objections to Scotch Corner Designer Outlet Centre.
- Doc 44 - Middlesbrough Household Survey 2016.

Mr Shepherd

- Doc 45 - Summary Proof of Evidence.
- Doc 46 - Proof of Evidence.
- Doc 47 - Appendices RS01 to RS22.
- Doc 48 - Rebuttal Proof and Appendices RS01 to RS08.

Dr Bunn

- Doc 49 - Summary Proof of Evidence of Dr Bunn.
- Doc 50 - Proof of Evidence of Dr Bunn.
- Doc 51 - Appendices 1 to 12.
- Doc 52 - Appendices 13 to 22.
- Doc 53 - Appendices 23 to 27.
- Doc 54 - NRB1 CO₂ Estimations.

Mrs Williams

- Doc 55 - Summary Proof of Evidence.
- Doc 56 - Proof of Evidence.

Interested Person

Doc 57 - Submission by Cllr. Blackie.

STATEMENTS OF COMMON GROUND

Doc 58 - Planning.
Doc 59 - Retail.
Doc 60 - Highways & Highways Addendum.

WRITTEN STATEMENTS

Doc 61 - Hambleton District Council.

RESPONSES FOLLOWING NOTIFICATION OF THE CALL-IN OF THE APPLICATIONS

Doc 62 - Scheme 1 - APP/V2723/V/15/3132873.
Doc 63 - Scheme 2 - APP/V2723/V/16/3143678.

CORE DOCUMENTS

CD1 First Application LPA Ref 14/00687/FULL - Sept 2014

CD1.1.1 Application Forms and Certificates August 2014
CD1.1.2 Covering Letter PBA August 2014
CD1.1.3 Planning Statement PBA August 2014
CD1.1.4 Retail Statement PBA August 2014
CD1.1.5 Supplementary Retail Statement and Appendices PBA December 2014
CD1.1.6 Design and Access Statement September 2014
CD1.1.7 Scotch Corner DOC A1-A66 Transport Assessment and Appendices & Addendum (Peter Evans Partnership) August & December 2014
CD1.1.8 Scotch Corner DOC A1-A66 Framework Travel Plan (Peter Evans Partnership) and Revised December 2014 August 2014 & December 2014
CD1.1.9 Statement of Community Involvement (Polity) August 2014
CD1.1.10 Archaeological Desk Based Assessment (July 2014), Geophysical Survey (November 2014), written scheme of investigation (December 2014) and Targeted Trial Trenching Evaluation (January 2015)
CD1.1.11 Landscape and Visual Impact Assessment, JB Landscape Assocs July 2014
CD1.1.12 Ecology – Phase 1 Walk-Over Assessment PBA August 2014
CD1.1.13 Flood Risk Assessment (and accompanying Foul and Surface Water Drainage Strategies) PBA August 2014
CD1.1.14 Phase 1 Ground Condition (Land Contamination) Survey PBA August 2014
CD1.1.15 England and Lyle Review of PBA Retail Statement December 2014
CD1.1.16 Designers Response to Stage 1 Road Safety Audits January 2015
CD1.1.17 Security and Policing Statement and security measures drawing ref. 14011-0350 Corstorphine +Wright January 2015
CD1.1.18 Correspondence in relation to water main diversion and accompanying drawings PBA – 30793-2001-001 and 30793-2001-003 8 January 2015
CD1.1.19 Correspondence between Agent and LPA including: i. 16 Dec 2014; ii. 18 Dec 2014; iii. 22 Jan 2015; iv. 15 Jan 2015; v. Transport Q&A
CD1.1.20 Number not used
CD1.1.21 Consultation responses

- CD1.1.22 Officer Report to Planning Committee 29 January 2015
- CD1.1.23 Committee Resolution/Minute January 2015
- CD1.1.24 Call In letter 12 August 2015

CD1.2 Scheme 1 - Application Drawings

- CD1.2.1 Schedule of Proposed Floorspace October 2014
- CD1.2.2 Site Location Plan: Drawing No. 0301 Rev
- CD1.2.3 Topographical Survey: Drawing No. 0302 Rev
- CD1.2.4 Existing Site Plan: Drawing No. 0303 Rev 29 August 2014
- CD1.2.5 Proposed Site Plan: Drawing No. 0304 Rev A 29 August 2014
- CD1.2.6 Proposed Site Plan: (Colour) Drawing No. 0305 29 August 2014
- CD1.2.7 Proposed Roof Plan: Drawing No. 0306 29 August 2014
- CD1.2.8 Proposed Elevations Sheet 1: Drawing No. 0310 29 August 2014
- CD1.2.9 Proposed Elevations Sheet 2: Drawing No. 0311 29 August 2014
- CD1.2.10 Proposed Elevations Sheet 3: Drawing No. 0312 29 August 2014
- CD1.2.11 Proposed Elevations Sheet 4: Drawing No. 0313 29 August 2014
- CD1.2.12 Proposed Elevations Sheet 5: Drawing No. 0314 29 August 2014
- CD1.2.13 Proposed Elevations Sheet 6: Drawing No. 0315 29 August 2014
- CD1.2.14 Proposed Elevations Sheet 7: Drawing No. 0316 29 August 2014
- CD1.2.15 Proposed Elevations Sheet 1: (Colour) Drawing No. 0317 29 August 2014
- CD1.2.16 Proposed Elevations Sheet 2: (Colour) Drawing No. 0318 29 August 2014
- CD1.2.17 Proposed Elevations Sheet 3: (Colour) Drawing No. 0319 29 August 2014
- CD1.2.18 Proposed Elevations Sheet 4: (Colour) Drawing No. 0320 29 August 2014
- CD1.2.19 Proposed Elevations Sheet 5: (Colour) Drawing No. 0321 29 August 2014
- CD1.2.20 Proposed Elevations Sheet 6: (Colour) Drawing No. 0322 29 August 2014
- CD1.2.21 Proposed Elevations Sheet 7: (Colour) Drawing No. 0323 29 August 2014
- CD1.2.22 Proposed Sections: Drawing No. 0330; 29 August 2014
- CD1.2.23 Proposed Perspective Imagery: Drawing No. 0340 29 August 2014
- CD1.2.24 Structural Landscape Strategy Sheet 1:
Drawing No. 2064 – PL001 - 1A 28 August 2014
- CD1.2.25 Structural Landscape Strategy Sheet 2:
Drawing No. 2064 – PL001 – 2A 28 August 2014
- CD1.2.26 Structural Landscape Strategy Sheet 3:
Drawing No. 2064 – PL001 – 3A 28 August 2014
- CD1.2.27 Hard Landscape Strategy: Drawing No. 2064 – PL002 Village Street
Treatment 28 August 2014
- CD1.2.28 Hard Landscape Strategy: Drawing No. 2064 – PL003 - Car Park Detail
27 August 2014
- CD1.2.29 Surface Water Drainage Strategy – PBA 30793-2001-001
- CD1.2.30 Proposed Water Main Diversion PBA - 30793-2001-003
- CD1.2.31 Proposed Security Measures Drawing – C+W 14011-0350
- CD1.2.32 Images of scheme x 16 Jan 2015
- CD1.2.33 Peter Evans Partnership 2560.25A October 2014
- CD1.2.34 Peter Evans Partnership 2560.26A October 2014
- CD1.2.35 Peter Evans Partnership 2560.31 December 2014
- CD1.2.36 Peter Evans Partnership 2560.32A October 2014
- CD1.2.37 Peter Evans Partnership 2560.39B - additional drawing Jan 2016

CD2 Scheme 2 - Application LPA Ref 15/00806/FULL

- CD2.1.1 Application Forms and Certificates October 2015
- CD2.1.2 Covering Letter Peter Brett Associates October 2015

- CD2.1.3 Planning and Economic Benefits Statement PBA October 2015
- CD2.1.4 Revised Retail Statement and Appendices –PBA Oct 2015
- CD2.1.5 Design and Access Statement October 2015
- CD2.1.6 Scotch Corner DOC A1-A66 Transport Assessment and Appendices (Peter Evans Partnership) October 2015
- CD2.1.7 Scotch Corner DOC A1-A66 Framework Travel Plan (Peter Evans Partnership) October 2015
- CD2.1.8 Statement of Community Engagement (See CD 1.1.9)
- CD2.1.9 Archaeological Desk Based Assessment (July 2014), Geophysical Survey (November 2014), written scheme of investigation (December 2014) and Targeted Trial Trenching Evaluation (January 2015) (See CD1.1.10)
- CD2.1.10 Landscape and Visual Impact Assessment– JB Landscape Associates (See CC1.1.11)
- CD2.1.11 Ecology – Phase 1 Walk-Over Assessment PBA (See CD 1.1.12)
- CD2.1.12 Flood Risk Assessment (and accompanying Foul and Surface Water Drainage Strategies – August 2014) October 2015 (See CD1.1.13)
- CD2.1.13 Phase 1 Ground Condition (Land Contamination) Survey PBA (See CD 1.1.14)
- CD2.1.14 England and Lyle Review of PBA Retail Statement November 2015
- CD2.1.15 Designers Response to Stage 1 Road Safety Audits (See CD 1.1.16)
- CD2.1.16 Security and Policing Statement and security measures drawing ref. 14011-0350 Corstorphine +Wright – Jan 2015 (See CD1.1.17)
- CD2.1.17 Consultation Responses Various
- CD2.1.18 PBA correspondence to LPA including: i. Email 16.11.16
- CD2.1.19 Draft Heads of Terms December 2015
- CD2.1.20 Officer Report to Planning Committee December 2015
- CD2.1.21 Committee Resolution
- CD2.1.22 Call In letter 1 February 2016

CD2.2. Scheme 2 - Application Drawings

- CD2.2.1 Site Location Plan: Drawing No. 0301 Rev (See CD1.2.2)
- CD2.2.2 Topographical Survey: Drawing No. 0302 Rev (See CD1.2.3)
- CD2.2.3 Existing Site Plan: Drawing No. 0303 Rev (See CD1.2.4)
- CD2.2.4 Proposed Site Plan: Drawing No. 0304 Rev F 16 Nov 2015
- CD2.2.5 Proposed Roof Plan: Drawing No. 0306 Rev A 6 Oct 15
- CD2.2.6 Proposed Elevations Sheet 1: Drawing No. 0310 Rev A 6 Oct 15
- CD2.2.7 Proposed Elevations Sheet 2: Drawing No. 0311 Rev A 2 Oct 15
- CD2.2.8 Proposed Elevations Sheet 3: Drawing No. 0312 Rev A 6 Oct 15
- CD2.2.9 Proposed Elevations Sheet 4: Drawing No. 0313 Rev-A 6 Oct 15
- CD2.2.10 Proposed Elevations Sheet 5: Drawing No. 0314 Rev A 2 Oct 15
- CD2.2.11 Proposed Elevations Sheet 6: Drawing No. 0315 Rev B 16 Nov 2015
- CD2.2.12 Proposed Elevations Sheet 7: Drawing No. 0316 Rev A 7 Oct 15
- CD2.2.13 Proposed Sections: Drawing No. 0330 Rev A; 7 Oct 15
- CD2.2.14 Proposed Perspective Imagery: Drawing No. 0340 Rev A 7 Oct 15
- CD2.2.15 Proposed Structural Landscape Strategy Sheet 1: Drawing No. 2064 – PL001(1) Rev B 27 Nov 2015
- CD2.2.16 Proposed Structural Landscape Strategy Sheet 2: Drawing No. 2064 – PL001(2) Rev B 27 Nov 2015
- CD2.2.17 Proposed Structural Landscape Strategy Sheet 3: Drawing No. 2064 – PL001(3) Rev D 6 Oct 2015
- CD2.2.18 Number not used
- CD2.2.19 Proposed Car Park Detail: Drawing No. 2064 – PL003 27 August.2014

- CD2.2.20 Schedule of Proposed Floorspace 16 Nov 2015
- CD2.2.21 Proposed Surface Water Drainage Strategy – PBA 30793-2001-001
(See CD1.1.18)
- CD2.2.22 Proposed Water Main Diversion PBA - 30793-2001-003 See (CD1.1.18)
- CD2.2.23 Proposed Security Measures Drawing – C+W 14011-0350
(See CD1.1.17)
- CD2.2.24 Peter Evans Partnership 2560.33C October 2015

CD3. Policy Documents

- CD3.1.1 National Planning Policy Framework 27 March 2012
- CD3.1.2 Planning Practice Guidance – August 2013 onwards
- CD3.1.3 Richmondshire Local Plan 2012-2028– Adopted Core Strategy December 2014
- CD3.1.4 Richmondshire Local Plan 1999-2006
- CD3.1.5 DfT Circular 02/2013 – The Strategic Road Network and the Delivery of Sustainable Development September 2013
- CD3.1.6 Number not used
- CD3.1.7 CIHT Guidelines for Providing for Journeys on Foot, DETR May 2000
- CD3.1.8 CIHT Planning for Public Transport in Development 1999
- CD3.1.9 DfT Local Transport Note 2/08 October 2008
- CD3.1.10 Highways England 'The Strategic Road Network Planning for the Future' 2015
- CD3.1.11 Experian Retail Planner Briefing Notes 12.1. and 13 October 2014/15
- CD3.1.12 Richmondshire District Council Demographic Forecasts 2011-2028: Employment-Led Demographic Forecasts (Edge Analytics Ltd). March 2014
- CD3.1.13 Impact Assessment of Employment-Led Demographic Forecasts (RDC - December 2014)
- CD3.1.14 Richmondshire District Council - Employment Land Review Update January 2012
- CD3.1.15 Richmondshire Strategic Housing and Employment Land Availability Assessment June 2010
- CD3.1.16 Darlington Core Strategy May 2011
- CD3.1.17 Saved policies of the Borough of Darlington Local Plan (1997, Alterations 2001)
- CD3.1.18 Making and Growing Places Development Plan Document, Preferred Options June 2013
- CD3.1.18.1 Darlington Interim Planning Position Statement April 2016
- CD3.1.19 Darlington Town Centre Regeneration Strategy Part 1: Developing the Vision – Cherishing the assets December 2012
- CD3.1.20 Tees Valley Local Economic Partnership Statement of Ambition 2012
- CD3.1.21 Darlington Retail and Town Centre Study (WYG) September 2014
- CD3.1.21.1 Darlington Retail Study, Martin Tonks November 2008
- CD3.1.21.2 Darlington Retail Study 2010 Update, Martin Tonks July 2010
- CD3.1.22 Economic Strategy for Darlington 2012-2026 (DBC) 2012
- CD3.1.23 Number not used
- CD3.1.24 HCA Additionally Guide, 2014, "Additionally Guide 4th Edition 2014
- CD3.1.25 HCA Employment Densities Guide, second Edition, HCA 2010
- CD3.1.26 Relevant Case Law:
- CD3.1.26 I. Tesco Stores Ltd vs Dundee City Council 2012 UKSC13
- CD3.1.26 II. Zurich Assurance Ltd (Threadneedle Property Ltd) vs North Lincolnshire Council 2012 EWHC3708

- III. LxB Rushden Lakes Call-in Decision APP/G2815/V/12/2190175
- IV. South Ruislip Judgement
- V. Braintree (PINS reference APP/Z1510/A/14/2219101
- CD3.1.27 Relevant File Notes, Meeting Notes and Correspondence:
 - I. The Northern Echo Press Report – Barkers of Northallerton
 - II. NEMS Clarification Letter
 - III. The Northern Echo Press Report – Darlington’s Cornmill Centre
 - IV. The Northern Echo Press Report – Opinions Divided
- CD3.1.28 City of York Retail Study Update – WYG Sept 2014
- CD3.1.29 HDC Retail and Town Centres Study January 2014
- CD3.1.30 Darlington and Stockton Times Press Article – ‘Family firm set to unveil its £3m revamped home store - expected to bring boost to Northallerton’s economy’ 8 February 2016
- CD3.1.31 Central Northallerton Development and Design Framework, IB Taylor Young May 2014
- CD3.1.32 Extracts of Venue score Rankings for Darlington 2013-2016
- CD3.1.33 Darlington Local Plan Annual Monitoring Reports;
 - i. Retail and Town Centre Fact Sheet 2012
 - ii. Retail and Town Centre Fact Sheet 2014/15
- CD3.1.34 Extract from Discovery Properties Website April 2016
- CD3.1.35 Extract from LTP3 2011-2016
- CD3.1.36 Extract from LTP4 2016-2045

CD4. Call-in Documentation – Rule 6 Statements of Case

- CD4.1.1 Applicant Statement of Case - Scheme 1 November 2015
- CD4.1.2 Statement of Case – RDC - Scheme 1 November 2015
- CD4.1.3 Statement of Case Highways England -Scheme 1 November 2015
- CD4.1.4 Statement of Case Darlington BC - Scheme 1 January 2016
- CD4.2.1 Applicant Statement of Case Scheme 2 March 2016
- CD4.2.2 Statement of Case – RDC Scheme 2 March 2016
- CD4.2.3 Statement of Case Darlington BC – Scheme 2 March 2016
- CD4.3.1 PINS Bespoke Programme Scheme 1 October 2015
- CD4.3.2 PINS Bespoke Programme Scheme 1 and Scheme 2 February 2016

CD5. Proofs of Evidence

Applicant

- CD5.1.1 Proof of Evidence and Annex of Chris Quinsee April 2016
- CD5.1.2 Summary of Chris Quinsee April 2016
- CD5.1.3 Proof of Evidence and Annex of Andrew Kenyon April 2016
- CD5.1.4 Summary of Andrew Kenyon April 2016
- CD5.1.5 Proof of Evidence of Ken Gunn and Annex April 2016
- CD5.1.6 Rebuttal Proof of Chris Quinsee April 2016
- CD5.1.7 Rebuttal Proof of Andrew Kenyon April 2016

Richmondshire DC

- CD5.2.1 Proof of Evidence of Peter Featherstone May 2016
- CD5.2.2 Summary of Peter Featherstone May 2016
- CD5.2.3 Proof of Evidence of John Hiles May 2016
- CD5.2.4 Summary of John Hiles May 2016

CD5.2.5 Proof of Evidence of John England May 2016
CD5.2.6 Summary of John England May 2016
CD5.2.7 Proof of Evidence of Melisa Burnham May 2016
CD5.2.8 Summary of Melisa Burnham May2016
CD5.2.9 Rebuttal Proof of Peter Featherstone April 2016
CD5.2.10 Rebuttal Proof of John England April 2016
CD5.2.11 Rebuttal Proof of John Hiles April 2016
CD5.2.12 Rebuttal Proof of Melisa Burnham April 2016
Darlington Borough Council

CD5.3.1 Proof of Evidence of Emma Williams April 2016
CD5.3.2 Summary of Emma Williams April 2016
CD5.3.3 Proof of Evidence of Richard Shepherd and Appendices April 2016
CD5.3.4 Summary of Richard Shepherd April 2016
CD5.3.5 Proof of Evidence of Nick Bunn and Appendices 1-27 April 2016
CD5.3.6 Summary of Nick Bunn April 2016
CD5.3.7 Rebuttal Proof of Richard Shepherd April 2016
CD5.3.8 Rebuttal Proof of Nick Bunn April 2016

CD6 Statements of Common Ground

CD6.1 Planning Statement of Common Ground April 2016
CD6.2 Retail Statement of Common Ground April 2016
CD6.3 Highways and Transport statement of Common Ground April 2016

Other

CD7.1 Number not used
CD7.2 Draft S106 Agreement April 2016
CD7.3 Preliminary Noise Assessment - Hepworth Consulting April 2016
CD7.4 Sustainability Statement - Corstorphine +Wright March 2016



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.