

**Former Kendray Public House,
Birk Avenue, Barnsley**

Retail Statement
on behalf of
Commercial Development Projects Limited

October 2014



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Appendices

Appendix 1

Plan of Local Area

1. Introduction

- 1.1. This Retail Statement has been prepared by Plan A (North West) Limited in support of a planning application made on behalf of Commercial Development Projects Limited proposing the development of two local retail units, a further storage unit and eight dwellings on the site of the former Kendray Public House on Birk Avenue in Barnsley (the Application Site).
 - 1.2. The retail proposals comprise a single building of 372m² gross that will be sub-divided to provide a Use Class A1 retail store of 237m² gross (Unit 1), a Use Class A2 unit of 93m² gross (Unit 2) and a non-sales storage area of 42m² (Storage Unit). The proposals will be served by 12 customer parking spaces located to the front and side of the building, with 2 dedicated staff parking spaces located within an enclosed service yard.
 - 1.3. This Retail Statement provides an assessment of the Use Class A1 and A2 elements of the proposed development in accordance with relevant development plan policies and national guidance. Full details about the proposed development are provided in the accompanying Planning, Design and Access Statement by Knight Frank LLP.
 - 1.4. This statement is structured as follows:
 - Section 2: provides a review of relevant planning policies;
 - Section 3: presents an assessment of the proposals against Core Strategy policy;
 - Section 4: assesses the weight that may be attached to material considerations; and
 - Section 5: forms the conclusions drawn.
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2. Planning Policy Review

- 2.1. This section identifies the key planning policies and other guidance that is relevant to determination of this application, to include both national and local planning policy.

National Guidance

- 2.2. The National Planning Policy Framework (NPPF) was published on 27 March 2012 and represents the most up-to-date national planning guidance. It does not change the status of the Development Plan, but offers guidance which should be considered as a material consideration in determining planning applications (paragraph 12).

- 2.3. The NPPF is fundamentally based on a presumption in favour of sustainable development. As set out at paragraph 14, with regard to decision-making, this means:

'Granting planning permission unless:

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole; or*
- *Specific policies in this Framework indicate development should be restricted.'*

- 2.4. At paragraph 17, the NPPF identifies a number of 'Core Principles' that should underpin plan-making and decision-taking. These principles include:

- Ensuring that planning is not just about scrutiny, but a creative exercise in finding ways to enhance and improve places;
- Proactively driving and supporting sustainable economic development through the planning system; and
- Promoting mixed-use developments and encouraging multiple benefits from the use of land in urban areas.

- 2.5. There is an underlying '*commitment to securing economic growth in order to create jobs and prosperity*' (paragraph 18). As such, it states that significant weight is to be placed on the need to support economic growth through the planning system (paragraph 19). In addition, paragraph 20 and 21 set out that '*investment in business should not be overburdened by the combined requirements of planning policy expectations*' and that local planning authorities should be proactive in meeting the needs of business.

- 2.6. Paragraph 24 confirms that the sequential approach should be applied to planning applications for main town centre uses. It states that local planning authorities should require:

'main town centre uses to 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 and local planning authorities should demonstrate flexibility on issues such as format and scale.'

- 2.7. The NPPF requires an assessment of the impact of retail development proposals over 2,500m², unless a local threshold has been set for such assessments.
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Development Plan Policy

2.8. Barnsley Core Strategy was adopted in September 2011. Policy CSP31 identifies the local retail hierarchy and advises that retail development proposals occupying edge or out-of-centre locations will be required to address the requirements of national planning policy.

2.9. Notwithstanding the above, Policy CSP32 has regard to the provision of small local shops and states:

'Outside existing centres, we will allow small convenience shops that meet the daily shopping needs of the local community if:

- *The shops are of a type and in a place that would meet local needs and this need is not already met by existing shops; and*
- *The shops are located and designed to encourage trips by pedestrians and cyclists and would not encourage car trips'.*

2.10. Paragraph 9.229 of the Reasoned Justification advises that small shops are defined as having a gross floor area of 500m² or less and which must not include *'large dedicated car parks'*.

Conclusion

2.11. The adopted Core Strategy requires the proposed retail development to address the requirements of Policy CSP32. As assessment against Policy CSP31 and the NPPF retail tests is required in terms of the proposed Use Class A2 unit and may also be required if the Use Class A1 proposal is in breach of Policy CSP32. This assessment is presented in the following sections of this Statement.

3. Policy Assessment

- 3.1. The scale of the proposed retail unit is below 500m² gross floorspace and, therefore, the proposal can be classified as 'small local shops'. Accordingly, the requirements of Core Strategy Policy CSP 32 must be addressed, and this exercise is presented below.

The shops are of a type and in a place that would meet local needs and this need is not already met by existing shops

- 3.2. At 237m² gross, the scale of the proposed retail unit falls below the 500m² threshold set out in the Core Strategy and, therefore, the proposal is classified as a local shop which, by definition, is intended to meet local needs. The proposal is certainly not of a scale to meet bulk food shopping needs or to stock a wide range of goods that may attract customers from a wide area.
- 3.3. Furthermore, the Application Site is located within the heart of a densely populated residential area and not on a main highway or a key through-route. Accordingly, the location of the site does not represent a commercial opportunity for retail uses that seek widely accessible and highly prominent locations in order to appeal to as wide a customer base as possible. Instead, the site is well-placed to meet the needs of the local population only. The location will be convenient for residents in the immediate area, but not convenient for residents living further afield.
- 3.4. In terms of the existing shopping provision within the locality of the proposed development, the local area has been defined as a 500-800m walking distance from the application site. The 800m distance represents the maximum preferred walking distance identified by the Institution of Highways and Transportation (2000) in their report entitled '*Guidelines For Providing For Journeys On Foot*'. However, the Planning Inspectorate has accepted a lesser distance of 500m as a reasonable measure to define the local area when approving consent for a 355m² gross retail unit and a 215m² gross unit for use within Use Classes A2, A3, B1, B8 and/or D1 (Mansion House Appeal ref: APP/C4235/A/09/2101599).
- 3.5. A plan identifying the local area is provided at **Appendix 1**.
- 3.6. A survey of the local area identified a number of existing shops and services, to include:
- Premier convenience store and Post Office on Birk Avenue adjacent to the application site;
 - Betfred bookmakers and convenience store on Birk Avenue 140m to the east of the application site;
 - Convenience store and fish and chip take-away on Birk Avenue 260m to the west of the application site;
 - One Stop Shop convenience store and take-away on Neville Avenue 800m to the north;
 - A fish and chip take-away on Farm Road 800m to the south west.
- 3.7. The survey found that the range and choice of goods and services on offer at the existing local shops is limited, particularly in terms of the range and choice of food goods, especially fresh food. Indeed, the existing local convenience offer is limited, being predicated upon confectionery, newspapers, tobacco, alcoholic and other drinks and non-perishable foods. It is noted that the largest existing convenience store with the most extensive (albeit still modest) range and choice of goods is the One Stop Shop on Neville Avenue, which is located
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on the very fringe of the local area and 800m from the Application Site.

- 3.8. The local provision of other retail uses is also limited. For example, there is no dedicated butcher or bakery, chemist or hairdresser in the local area.
- 3.9. It is, therefore, concluded that the existing local shopping provision is not extensive. Whilst there are a number of existing convenience stores, the range and choice of goods available is limited. The introduction of a new convenience store on the application site is more than likely to extend the range and choice of day-to-day goods available to local residents.
- 3.10. Other than convenience stores, the existing retail offer is very limited. The proposal is, therefore, likely to attract operators that will extend the range and choice of retail goods and services to the benefit of local residents. Conversely, the proposal is unlikely to attract an operator that will simply duplicate the existing retail offer.
- 3.11. In conclusion, the proposal fully accords with this requirement of Policy CSP32.

The shops are located and designed to encourage trips by pedestrians and cyclists and would not encourage car trips

- 3.12. The scale and location of the proposed retail unit, as set out above, indicates that a retail occupier is likely to draw the majority of customers from the local area. Furthermore, being within the heart of a densely populated residential area and widely accessible from that area, the proposal is well-placed to attract shopping trips on foot, by bicycle and on public transport, with bus stops being located on the site frontage.
- 3.13. The proposal does not seek to encourage trips made by car. However, it is inevitable that some customers will travel by car to the proposal and, therefore, off-street parking provision has been accommodated within the development proposals. This parking is, however, considered to be necessary to discourage on-street parking and reduce potential conflicts with the function of the bus stop on the site frontage. The level of parking provision is not excessive and the proposals will not deliver a '*large dedicated car park*'.
- 3.14. In conclusion, it is clear that the proposal will primarily draw customers from the local residential area and will be accessible on foot for the majority of those customers. The proposal is, therefore, fully compliant with the requirements of Policy CSP32 in this regard.

Conclusion

- 3.15. The proposed retail unit is of a scale and location to meet the day-to-day needs of local residents, with scale of the proposals being well below the 500m² threshold adopted by the Local Planning Authority to define '*local shops*'. The development will be supported by a suitable level of off-street parking provision, which is necessary to discourage on-street parking conflicting with the function of the bus stops located to the front of the site.
- 3.16. The level of existing retail provision in the local area is limited to small convenience stores, bookmakers and hot food take-away uses. There are no butchers, bakers, hairdressers or chemists, for example. The proposal, therefore, creates an opportunity to diversify the local offer, to the benefit of local residents.
- 3.17. Whilst there are three convenience stores in relatively close proximity, the cumulative range and choice of goods is limited, particularly in terms of fresh food. The proposed development provides an opportunity for new retailers to be introduced to the local area that will broaden the range and choice of goods available to local people.
- 3.18. The proposed development, therefore, fully accords with the requirements of Core Strategy Policy CSP32.
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4. Other Material Considerations

- 4.1. It has been demonstrated in Section 3 that the proposed Class A1 retail unit fully accords with the requirements of Core Strategy Policy CSP32. This policy does not, however, also relate to the proposed Class A2 unit. Accordingly, this element of the proposals has been assessed in accordance with Core Strategy Policy CSP31, which requires proposals to comply with the NPPF. This exercise is presented below.
- 4.2. Notwithstanding this, the NPPF policy tests are also a material consideration to the assessment of the Class A1 retail element of the development proposals. A further material consideration arises from a fall-back position established by the existing use of the site. Accordingly, the weight that can be attached to each of these matters is also assessed below.

NPPF

- 4.3. The adopted Core Strategy pre-dates up-to-date national planning policy guidance set out in the NPPF. Accordingly, it is relevant to consider whether the proposals accord with the NPPF, which requires proposals for town centre uses, to include Class A1 and A2 uses, that are located outside defined town centres to satisfy the sequential and impact tests.
- 4.4. In terms of the sequential test, the proposed retail development seeks to meet local, day-to-day shopping needs. Given this local role and function, the appropriate area of search for alternative sites is the local area, which can again be defined as a 500-800m walking distance from the application site. The basis of defining the area of search in this manner has been set out at paragraph 3.4.
- 4.5. The plan at **Appendix 1** seeks to identify the local area with regard to these distances. There are no defined town centres within the area of search, with Stairfoot Local Centre being beyond the 800m walking distance.
- 4.6. It can, therefore, be concluded that there are no town centres within an appropriate area of search to which the proposed Class A1 or Class A2 units could individually or cumulatively be redirected towards. As there are no appropriate town centres, there can be no sequentially preferable sites.
- 4.7. Turning to the NPPF impact test, Paragraph 26 of the NPPF advises that an assessment of impact is required if a retail development proposal is not in accordance with an up-to-date Development Plan and the development is over 2,500m² gross floorspace, unless a local threshold has been set. The adopted Core Strategy does not set a local threshold.
- 4.8. At 237m² and 93m² gross retail floorspace, the two units proposed individually and cumulatively fall well below the threshold for impact assessment. Accordingly, an assessment of impact is not required.
- 4.9. It can, therefore, be concluded that the proposal fully accords with the sequential approach to site selection and the retail impact tests set out in the NPPF. By virtue of compliance with the NPPF, the proposal development must also be considered to accord with Core Strategy Policy CSP31

Fall-Back Position

- 4.10. Notwithstanding the proposals compliance with Core Strategy Policies CSP31 and CSP32 and the NPPF, there is a fall-back position to the proposed development, to which significant and overriding weight must be attached.
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- 4.11. The application site currently accommodates a public house, which falls within Use Class A4 (drinking establishment) of the Use Classes order. Changes of use from Class A4 to Class A1 (shops) or Class A2 are allowed under Permitted Development Rights without the need for planning permission. Accordingly, the existing public house could be converted into one or more Class A1 or Class A2 uses without the need for the Council's planning approval.
- 4.12. The retail function of the retail unit(s) delivered through the conversion of the existing building would not be restricted and, therefore, any goods (food and non-food) could be sold.
- 4.13. Furthermore, the public house provides 429m² gross floorspace. It is, therefore, the case that the conversion of the existing building could deliver unrestricted Class A1 and/or A2 floorspace of a scale in excess of that proposed.
- 4.14. The Courts have ruled that the more realistic the prospect of delivering the fall-back position, the greater the weight that should be attached to it. In this regard, the existing public house building offers clear potential to be converted to deliver one or more retail units up to a total of 429m² gross floorspace. Indeed, in response to Permitted Development Rights, there are many examples of retail operators converting public houses to Class A1, A2 and/or A3 uses.
- 4.15. In conclusion, the fall-back position is a significant material consideration to which substantial weight must be attached.

Conclusion

- 4.16. The proposed development has been assessed against the retail tests set out in the NPPF. It has been demonstrated that there are no defined town centre located within an appropriate area of search and, therefore, there can be no sequentially preferable sites. It has also been demonstrated that the proposal falls below the threshold for impact assessment. The proposal is, therefore, fully compliant with the NPPF in retail terms.
- 4.17. Of potentially greater significance to the determination of the proposed development is the fall-back position established by the existing use of the site. As a matter of fact, the existing public house could be converted to a Class A1 and/or A2 use without the need for planning permission under Permitted Development Rights. The Applicant could, therefore, deliver the proposed development by converting the existing building and these units could be used for any purpose within Use Class A1 or Class A2. This is a significant material consideration to which weight must be attached in the decision-taking process.
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5. Conclusions

- 5.1. The proposed development is a mixed use scheme comprising local retail units and eight dwellings on the site of the former Kendray Public House on Birk Avenue in Barnsley.
 - 5.2. The retail proposals comprise a single building of 372m² gross that will be sub-divided to provide a Class A1 retail store of 237m² gross (Unit 1), a Class A2 unit of 93m² gross (Unit 2) and a non-sales storage area of 42m² (Storage Unit). The proposals will be served by 12 customer parking spaces located to the front and side of the building, with 2 dedicated staff parking spaces located within an enclosed service yard.
 - 5.3. The provision of local retail units has been assessed against the relevant Core Strategy policies. It has been demonstrated that the proposals fully accord with Policies CSP31 and CSP32, providing new local shopping facilities that will diversify the range and choice of day-to-day goods and services for residents in the local area. Indeed, it should be expected that the proposed retail unit will appeal to operators that will extend and diversify the local retail offer and not to retailers that will duplicate the local offer.
 - 5.4. It has also been demonstrated that all aspects of the proposal are fully compliant with the sequential and retail impact tests set out in the NPPF.
 - 5.5. The proposals compliance with planning policies at all levels must be considered alongside a further significant material consideration that is established by the existing public house. The existing building could be converted from a public house to a Class A1 or A2 use under Permitted Development Rights without the need for planning permission. Accordingly, regardless of the proposals policy compliance, the proposed development can be delivered on this site.
 - 5.6. Furthermore, the conversion of the public house to retail use would deliver unrestricted retail floorspace of a greater scale than that proposed and which could be put to the sale of any goods. Unrestricted Class A2 uses could also be delivered. This is a significant material consideration to which substantial weight must be attached by the decision-taking process.
 - 5.7. The application site represents a sustainable brownfield location that is accessible by a choice of means of travel.
 - 5.8. The proposal fully accords with the requirements of planning policy at all levels. In accordance with the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act, the Local Planning Authority should adopt a positive and constructive approach towards the proposed development.
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