

WYG Advice Note March 2016 in response to further Comments and Retail Representations



Further to the submission of responses to the latest Main Modification post the Hearings session in relation to the latest Policy ED2, WYG seek to respond to the further evidence but also a number of queries made by the Inspector.

First we note that:

No further representatives have been made on behalf of the Crosby Steering Group and therefore WYG assume that they are content with the amendments that have been made.

Emerson Group have confirmed that they are content with the main modifications, with the caveat that the Council will identify the retail park on the proposal plan and we trust that the Council are actioning this.

There no further representations made on behalf of Asda to the main modifications.

The Council have been provided with the comments received by Burnett Planning (BP) on behalf of Arriva Investors in respect of the landholding at Central 12 and Savills have provided further commentary on behalf of Elland in respect of the main modifications and there land interests at the Strand in Bootle.

Response Burnett Planning (on behalf of Aviva)

In summary, Burnett Planning representation of 29th February 2016 confirm that they support the inclusion of C12 in the Southport town centre boundary. In the same representation they suggests that the exclusion of the C12 Retail Park from the proposed primary shopping area is 'unsound' as it would not be effective in protecting the vitality and viability of Southport town centre.

We disagree with this proposition for the following reasons.

Firstly, our approach in defining Southport's primary shopping area is wholly in accordance with the very clear requirements of the second bullet point of paragraph 23 of the NPPF, which indicates that local planning authorities should **'...define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres...'**

Paragraph 23 identifies that primary and secondary frontages should be used to determine the extent of the primary shopping area. In our view, it is very clear in this instance that such frontages are focused around Southport's principal shopping streets of Chapel Street and Lord Street. Indeed, C12 Retail Park presents no 'frontage' to the remainder of the town centre as it is a self-contained destination which is located some distance away from the central retail offer at Chapel Street and Lord Street.

Secondly, whilst the NPPF Annex 2 definition of a primary shopping area indicates that it will 'generally' comprise primary shopping frontages and those secondary frontages which are adjoining and closely related to the primary shopping frontage, no other means by which to define the primary shopping area is established. In our view, the Annex 2 definition does not support (and was not intended to support) a scenario whereby part of the primary shopping area is divorced from the principal primary shopping area by a distance of around 420 metres. We are unaware of the Annex 2 definition acting to support any such scenario elsewhere. Notwithstanding our acknowledgement of the linked trips between C12 and the wider town centre, C12 is not considered to be 'adjoining' or 'closely related' to the primary shopping frontage that has been defined focused on Chapel Street and Lord Street as there is a clear physical separation between the two areas (see previous commentary on London Road).

Indeed, we note that the Annex 2 definition for Primary Shopping Area refers to a defined area where retail development is concentrated. There is no requirement for that area to include all retail facilities within a

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town centre. Indeed, given that nature of larger town centres, it is inevitable that some retail facilities will lie outside the primary shopping area.

Thirdly, in respect of the requirement of paragraph 16 of the NPPF to 'plan positively', a focused primary shopping area has clear benefits both in ensuring that 'town centre first' principles are applied in practice and in helping safeguard the future vitality and viability of the town centre. In this regard, the identification of a primary shopping area which is focused around Chapel Street and Lord Street ensures that particular consideration will have to be given to this area in applying both the sequential and impact tests. We are aware that units are currently vacant on both Chapel Street and Lord Street and that sites have been identified in the Development Strategy, and we consider it to be wholly in accordance with the direction to 'plan positively' to consider whether such units and sites could accommodate a development proposal or whether there would be any significant adverse impacts arising in these central shopping streets as a consequence of development in a less central location. In our view, the dispersal of a primary shopping area over a wide area is likely to have significant implications, particularly for the application of the sequential test. Moreover, it is also our view that this is particularly problematic in a centre such as Southport where there are a number of centrally located regeneration opportunities, some of which are located within the proposed primary shopping area. The inclusion of C12 Retail Park within the primary shopping area may mean that such central opportunities could be overlooked and prejudice the ability to secure more central investment which would be contrary to planning positively and paragraph 23 of the NPPF.

Accordingly, for the above reasons, we remain of the view that the primary shopping area as currently drafted is positively prepared and remains the most appropriate strategy for the town centre. Importantly, it is entirely consistent with, and has been derived from, national planning policy as articulated by the *NPPF*.

Response to Savills (in behalf of Ellandi)

In summary, Savills first confirm that they are comfortable with the proposed modifications to the policy maps for Bootle town centre including the extension of the town centre, the extension of the PSA and the identification of primary and secondary frontages, and confirm that these are compliant with the NPPF.

In relation to the modifications to Policy ED2.2, Savills confirm that they welcome the majority of the amendments that have been made to the policy to align it with the guidance in the NPPF. However, Savills still maintain their objection in relation to recognition of the retail parks in the consideration of the sequential test where out of centre development is proposed, but only where these retail parks are more readily accessible and well connected to an allocated centre.

As discussed at the sessions, the intention of the policy is to seek to give preference to existing retail parks when compared to new out-of-centre locations. It has become clear that the iterations to the modified policy have unintentionally given equal preference to accessible sites well connected to the town centre and to retail parks which was not intended approach. The policy should imply that existing retail parks should only be sequentially preferred to new out of centre sites which do not satisfy the 'accessible sites well connected to the town centre' test.

WYG accept that even giving limited status to existing retail parks is not strictly compliant with the NPPF, we believe that this is a justifiable local variation given the mixed retail landscape and floorspace in Sefton and to reflect the role and function that retail parks can provide to meeting the wider community needs. In order to address Savills concern, WYG therefore suggest the following amendment to the ED2.2



When considering new proposals in out of centre locations, preference will be given to accessible sites that are well connected to a defined centre in accordance with Part 1 of the policy. Where they are considered not to be accessible out of centre sites well connected to a defined centre preference will be given to existing retail parks¹ (as shown on the Policy Map).

In relation to the proposed modifications to Policy ED2.3 Savills confirm that the policy provides greater clarity as to the application of the impact test but suggested a minor amendment. The Inspector and Sefton have also identified that there may be a subtle changes required to make the policy sound. WYG agree on second review and have made a couple of changes to align the policy further and provide greater clarity to ensure usability; the amendments are shown below (highlighted in red).

3. For retail, leisure and office use proposals, impact assessments will be required to accompany planning applications at the locations identified below based on the floorspace thresholds set out:

- **Outside of the Primary Shopping Areas (for retail) or the Town, District and Local Centres (for leisure and office uses) of ~~Beetle and Southport~~, an impact assessments will be required for development which proposes more than 500m² gross floorspace or more**
- **within 800 metres of the boundaries of the district centres, an impact assessment will be required for development which proposes more than 300m² gross floorspace, and**
- **within 800 metres of the boundaries of the local centres, an impact assessment will be required for development which proposes more than 200m² gross floorspace.**

With respect to the impact thresholds specified, Savills have re-asserted their view that the 500 sq.m threshold for proposals outside of the primary shopping areas is too high and that this should be reduced to 300 sq.m. WYG consider the threshold limits set out in the policy to be appropriate, with the threshold limits appropriately considered and based on sound research as provided within by WYG's Threshold Policy for Main Town Centre Uses Impact Test report of October 2015.

Policy ED2.4

Savills have raised an objection to the latter section of Policy ED2.4 which relates to proposals for non-retail uses within primary retail frontages. This part of the policy seeks to provide a suitable mechanism to protect against the undesirable loss of A1 uses within the primary shopping frontages, specifically where such proposals would result in more than 30% of units being in non-retail use.

This policy has been drafted with consideration to NPPF policy guidance at paragraph 23 bullet point three which identifies that local planning authorities should, **'...set policies that make clear which uses will be permitted in such locations'**, in reference to town centre, primary shopping areas and primary and secondary frontages. Furthermore, consideration has been given to the Annex 2 definition for primary and secondary frontages which identifies primary frontages as **'likely to include a high proportion of retail uses'**.

WYG would highlight that the vacancy test introduced in the policy, in applying only to primary retail frontages (and not secondary frontages) would not apply in large parts of the town and district centres, where greater flexibility would be provided to accommodate a wide range of uses.

WYG have undertaken analysis of the extent of A1 uses within the proposed primary retail frontages, based on WYG's land use surveys completed in April and July 2015. It is on this informed basis that the 30%

¹ Aintree Racecourse Retail Park and Grand National Retail Park in Aintree, Switch Island Leisure Park, Netherton and Meols Cop, Ocean Plaza and Kew Retail Parks in Southport

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threshold for non A1 uses has been set as it reflects the local circumstances. Table 1 at Appendix 1 identifies that should the existing vacant units within the primary retail frontages of the town centres be brought back into retail use, then the 30% non A1 threshold limit would not be exceeded and the vacancy test would not be required. The analysis provided at Appendix 1 similarly indicates that across units within the primary retail frontages of the town and district centres as a whole, after consideration of vacant units being brought back into A1 use, then the benchmark 70% figure identified in the draft policy is expected to be achieved in most cases.

WYG have sought to take a consistent approach to provide a suitable level of protection to retail uses within the defined primary retail frontages, based on the evidence available and the important role that such frontages play in providing a retail focus within defined centres.

With consideration given to the representation provided by Savills' and the issues raised, WYG have provided further consideration to the draft policy in this regard. On a practical level, relaxations of permitted development rights which allow for a change of use from A1 to A2/A3/D2 uses (subject to certain criteria being met) would impact on the effectiveness of the policy to protect A1 uses as fully intended.

WYG can also accept that the policy as drafted, in requiring applicants to demonstrate that a unit is a long term vacancy (normally for a minimum of one continuous year), should the prescribed threshold for non-A1 uses within the primary retail frontages be reached, could provide uncertainty to applicants as to a proposal's compliance with planning policy as well as providing a challenge to the local planning authority to enforce with consistency in a sound manner. Furthermore, WYG are mindful of the NPPF's requirement to plan positively and encourage economic activity in planning for town centres.

Savills identify that the first part of ED2.4 (i – iii) already provides a level of protection against the over-provision of non A1 uses within the primary shopping areas. Furthermore, the proceeding sentence of the policy (which Savills do not object to) provides a useful benchmark figure for 70% of units to be within A1 use within the primary retail frontages. The sentence reads as follows,

'Within the primary retail frontages identified in the Policies Map, it is expected that 70% of units should fall within the A1 (retail) Use Class.'

In combination, ED2.4 parts i – iii and the proceeding sentence (above) are considered to provide suitable protection within the policy to ensure against an undesirable proliferation of non A1 uses within the primary shopping areas.

On reflection of the identified issues above, WYG are willing to accept the appropriateness of deleting the following wording from ED2.4 in the interest of planning positively for development within town centres and in order to provide a sound policy which can be appropriately considered by all prospective parties.

~~Where planning applications for non-retail use are proposed within primary retail frontages which would result in more than 30% of units being in non-retail uses, applicants will be required to demonstrate that the unit is a long term vacancy (normally a minimum of 1 continuous year) and that reasonable attempts have been made to sell or let the premises for A1 use.~~

Policy Explanatory Text

Savills have welcomed the modifications to the explanatory text. However, with specific regard to south Sefton, their latest representation goes on to identify that the reassertion of the Borough's town centre first approach, for new retail floorspace development should be re-emphasised in the text.

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WYG consider this appropriate and would recommend the inclusion of the following text at the end of paragraph 7.21

Similarly in south Sefton, notwithstanding the availability of capacity in the south of the Borough, any proposed new floorspace should be focused towards the Borough's allocated centres in accordance the sequential approach and the retail strategy.

Appendix 1

WYG Analysis of Proposed Primary Retail Frontage

Table 1

	Proposed Primary Retail Frontage*				
	Total Units	Units in A1 Use	Vacant Units	% Units in A1 use	Potential % of A1 Units with Full Occupancy
Southport	278	178	41	64.0%	78.8%
Bootle	159	80	42	50.3%	76.7%
Maghull	55	35	7	63.6%	76.4%
Formby	80	52	2	65.0%	67.5%
Crosby	67	34	11	50.7%	67.2%
Waterloo	91	47	7	51.6%	59.3%

**Data derived from WYG town centre surveys of April 2015 and district centre surveys of July 2015*

**Primary Retail Frontage as shown on Proposed Modifications (Post Hearind 3rd Set) town and districity centre Proposals Maps (15 February 2016)*

Table 2

	Proposed Primary Retail Frontage*				
	Total Floorspace sq.m	Floorspace in A1 Use sq.m	Vacant Floorspace sq.m	% A1 Floorspace	Potential % of A1 Floorspace with Full Occupancy
Southport	70,134	43,049	12,049	61%	78.6%
Bootle	33,914	20,635	7,137	61%	81.9%
Maghull	8,655	6,588	555	82%	82.5%
Formby	10,770	7,108	199	66%	67.8%
Crosby	12,203	7,555	1,218	62%	71.9%
Waterloo	10,836	5,937	703	55%	61.3%

**Data derived from WYG town centre surveys of April 2015 and district centre surveys of July 2015*

**Primary Retail Frontage as shown on Proposed Modifications (Post Hearind 3rd Set) town and districity centre Proposals Maps (15 February 2016)*

Proposed modifications to Policy ED2 and explanatory text 14-03-16

Mod Type	Main Mod Reference	Local Plan Reference	Proposed Change	Reason
MM		7.18	Replace 'Primary Retail Areas' with 'Primary Shopping Areas'	To reflect current Government guidance
MM		Policy ED2	<p>In part 1 after 'town centre uses' insert a footnote "(as defined in NPPF Annex 2)"</p> <p>Above part 2 insert the heading 'Sequential Test'</p> <p>Replace part 2 of the policy with:</p> <p>'2. Proposals for all retail, leisure and other town centre uses will be subject to a sequential approach to development. This will require applications for town centre uses to be located firstly in:</p> <ul style="list-style-type: none"> • Primary Shopping Areas (retail uses only), then • Town centres, district and local centres (in accordance with the hierarchy in part 1), then • edge of centre locations, and • only if suitable sites are not available should out of centre sites be considered.' <p>Replace the 2nd paragraph in part 2 with:</p> <p>When considering new proposals in out of centre locations, preference will be given to accessible sites that are well connected to a defined centre in accordance with part 1 of the policy. If there are no accessible out of centre sites that are well connected to a defined centre, preference will be given to the existing retail parks2 (as shown on the Policy Map).</p> <p>Above part 3 insert the heading 'Impact Test' and amend the wording as follows:</p> <p>'3. For retail, leisure and office use proposals , impact assessments will be required to accompany planning applications at the locations identified below based on the floorspace thresholds set out:</p> <ul style="list-style-type: none"> • outside of the Primary Shopping Areas (for retail) or the town, district 	<p>To take account of the requirements for out of centre provision as suggested in 2015 Retail Strategy (EM.13) and subsequent discussion and changes proposed by WYG and the Council during the hearings sessions. Ensure that the requirements for an impact test are set out clearly and as intended, in accordance with the thresholds detailed within the policy.</p>

Mod Type	Main Mod Reference	Local Plan Reference	Proposed Change	Reason
			<p>and local centres (for leisure and office uses) impact assessments will be required for development which proposes more than 500m² gross floorspace or more.....</p> <p>Replace: ‘Where more than one impact threshold applies, the lower impact threshold will take precedence. Where appropriate, impacts on the vitality and viability of designated retail centres in neighbouring local authorities will also be required to be assessed.’ with:</p> <p>‘Where more than one impact threshold applies, the lower impact threshold will take precedence. All proposed retail, leisure and offices uses which exceed the above local impact threshold test (part 3) should demonstrate:</p> <ul style="list-style-type: none"> • that they would not have a significant adverse impact on the delivery of existing, committed, and planned public and private investment within any existing defined centres, and • that no significant adverse impact on the vitality and viability of any existing centres will arise from the proposed development, including to local consumer choice and trade in defined centres and the wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from when the application is made.’ <p>Amend the final sentence of part 3 as follows: ‘Subject to the above, impact assessments may also be required in other circumstances, including where a change of use, or variation of conditions from one form of retail development to another is proposed and could materially affect local shopping patterns.’</p> <p>Amend the reference to Figure 7.2 in part 4 of the policy to refer to the Policy Map (which is to be deleted), and add ‘the’ before ‘Centre’ in part 4(i).</p> <p>Delete the final sentence of part 4 of the policy and replace it with following sentences:</p>	

Mod Type	Main Mod Reference	Local Plan Reference	Proposed Change	Reason
			<p>'Within the primary retail frontages identified in the Policy Map, it is expected that 70% of units should fall within the A1 (retail) Use Class.</p> <p>Applications within primary and secondary frontages at the town and district centres which would result in the loss of an active ground floor use will not be supported.'</p> <p>Insert 'and other non-town centre uses' after 'residential development' and 'if it does not compromise the vitality and viability of the centre or parade,' before 'in' in Part 5 of the policy. The latter phrase is relocated from after the 3 bullet points that follow.</p>	
MM		7.20	Replace the paragraph with the following: 'The 2015 Retail Strategy Review (RSR) identifies no immediate capacity for additional convenience shopping floorspace for North Sefton, with a limited capacity arising in the longer term up to 2030. For South Sefton, the RSR forecasts a more significant capacity for additional convenience shopping floorspace in both the short and medium term, providing potential investment opportunities to support future development in Bootle, Crosby and Maghull.'	To update the plan and reflect discussion during hearings sessions
MM		7.21	Replace the paragraph with the following 'The RSR identifies no significant overall need for new comparison floorspace within the Borough in the period up to 2020, with additional capacity for comparison goods floorspace predicted to arise in the latter half of the plan period. The reuse of existing vacant floorspace is expected to absorb some of this identified capacity. The RSR forecasts the majority of the arising comparison floorspace need will be in North Sefton. To reflect this, additional floorspace for comparison shopping would be supported in principle in Southport Town Centre, particularly where it would improve Southport's market share or reuse existing floorspace. Similarly in south Sefton, notwithstanding the availability of capacity in the south of the Borough, any proposed new floorspace should be focused towards the Borough's allocated centres in accordance the sequential approach and the Retail Strategy'	To update the plan and reflect discussion during hearings sessions
MM		7.22	Replace the paragraph with the following: 'The RSR's forecasts will be reviewed	To update the plan and reflect discussion

Mod Type	Main Mod Reference	Local Plan Reference	Proposed Change	Reason
			regularly to help provide an up to date assessment of the retail needs and capacity within the Borough, and help the address any uncertainties in predicting how the retail sector will perform over time given its fluidity in recent years.'	during hearings sessions
MM		7.22A	Insert a new paragraph: 'The sequential test and impact assessment should be undertaken in a proportionate and locally appropriate way, and ideally agreed at pre-application stages, drawing on and sharing existing information where possible. The applicants and the Council should seek to agree the scope, key impacts for assessment, potentially alternative sites and the level of detail required in advance of applications being submitted.'	To update the plan and reflect discussion during hearings sessions
MM		Figure 7.2	Delete Figure 7.2.	The Primary Retail Frontages have been replaced by geographically defined Primary Shopping Areas which are shown on Policy Map.