

CHAPTER 9 - SHOPPING

9.1. SHOPPING GENERAL

Objections

<i>Rep No</i>	<i>Name</i>
4538	John Dickinson Stationery Ltd

Key Issue

- (a) Whether the shopping policies in the Deposit Draft would stifle the achievement of a suitable mix of commercial uses. (4538)

Inspector’s Conclusion

9.1.1. The objector’s principal concern would appear to relate to the application of policies 38 to 49 rather than their specific wording. In my view the shopping policies of the Plan generally achieve a successful balance between encouraging an appropriate mix of uses in town and local centres and safeguarding the vitality and viability of such centres. In line with the advice in PPG6 they rightly seek to discourage out of centre retail development. While some policies, notably Policy 40, could be strengthened so as to reinforce the sequential test laid out in PPG6, I am satisfied that overall the shopping policies of the Plan should not unnecessarily stifle the achievement of an appropriate mix of commercial uses. I therefore recommend that no modification should be made to the Plan in response to objection 4538.

Recommendation

9.1.2. **I recommend that no modification should be made to the Plan in the light of objection 4538.**

9.2. POLICY 38: USES IN TOWN CENTRES AND LOCAL CENTRES

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
375	Tesco Stores Ltd	4327	Mrs A J Nobbs
1567	Tring Town Council	5090	Tring Environmental Forum
3125	C B Hillier Parker Ltd		

Supports

380	Tesco Stores Ltd	1314	CPRE - The Hertfordshire Society
428	East of England Tourist Board	1908	Hemel Hempstead Team Parish PCC
504	Save & Prosper Pensions/Insurance	4252	Glaxo Wellcome plc

Key Issues

- (a) Should the Tesco store at London Road, Tring be defined as a local centre. (375)
- (b) Ought the Plan to identify a local centre at Silk Mill, Tring. (1567)
- (c) Does the policy need to be amended to avoid any contradiction between encouraging shopping and business use and encouraging a mix of other uses. (3125)

- (d) Should Policy 38 actively encourage residential development in town centres. (4327, 5090)

Inspector’s Conclusions

(a) Tesco Store, London Road, Tring

- 9.2.1. Although the Tesco store in Tring makes an important contribution in meeting the needs of local residents for convenience goods, I am not satisfied that the range of goods and services supplied are of sufficient breadth to justify it being defined as a local centre. More importantly, it would appear to serve the whole town and a substantial part of the surrounding rural area and not merely the immediate surrounding area.
- 9.2.2. I appreciate the objector’s concern regarding the lack of any specific recognition within the Plan for the store’s role within the retail hierarchy. However, free-standing out-of-centre stores like this often serve a role that falls outside that covered by the main retail hierarchy. While I accept that the site’s definition as a GEA is inappropriate (*see section 8.5*), I am not satisfied that this is sufficient reason to conclude that there is a need for it to be identified within the context of the retail hierarchy set out in Policy 38.
- 9.2.3. I note that the Plan does identify two out of centre foodstores as local centres. However, the store at Woodhall Farm forms part of a larger shopping parade. The definition of the superstore at Jarman Fields as a local centre is in my view more questionable in view of the limited range of other retail facilities that are present. However, in the light of its location within a large residential area and the lack of other retail facilities in the immediate vicinity, I accept that it could be argued that it serves an important local function in addition to its wider role for convenience shopping. In my view the location and nature of the Tring store is very different in this regard. Moreover, I share the Council’s view that the designation of the objection site as a local centre could harm the vitality and viability of the adjoining town centre. I am not satisfied, therefore, that its designation as a local centre would be justified. Accordingly, I recommend that no modification should be made to the Plan in answer to objection 375.

(b) Silk Mill, Tring

- 9.2.4. Tring Town Council contends that 2 shops on Silk Mill Way, Tring should be added to the list of local centres. While I have no doubt that these 2 units, together with the adjoining community centre, provide a useful service to the local residents, only one (Alldays Stores Ltd) serves a retail function, the other being a fast food takeaway. Other local centres listed in Policy 38 would appear generally to provide a wider range of services. In my view, the units on Silk Mill Way, while convenient for local people, are too restricted in size and function to justify being identified as a local centre.
- 9.2.5. I consider that the contribution the convenience store makes to the neighbourhood would be adequately protected by the provisions of Policy 46, which seeks to ensure that scattered local shops are not lost. I am not satisfied, therefore, that it is either appropriate or necessary for the units at Silk Mill Way to be identified as a local centre under Policy 38. I therefore recommend that no modification should be made to the Plan in response to objection 3125.

(c) Shopping, business and other uses

- 9.2.6. The objector argues that although the general thrust of the policy is in line with PPG6 the reference to shopping and business development not being permitted to prevent other appropriate uses is potentially contradictory. The Council argues that it is necessary to control the growth of shopping and business development to avoid excessive employment growth and related problems and to protect the contribution of other complementary activities.
- 9.2.7. PPG6 makes clear that town and local centres are intended to provide a wide range of shops, employment, services and facilities to which people have easy access. It also seeks to encourage diversification of uses in town centres. The provision of a wide range of uses is important not only because they are likely to be easier to access in a central location but also because it enables people to access a number of services during one visit.
- 9.2.8. In the circumstances, I would agree with the Council that the policy should not be directed merely at securing shopping and business development but that it should instead be aiming to achieve an appropriate balance of uses. In my view the reference to the provision of other appropriate uses will assist in achieving this goal. I do not consider it is contradictory. I am not satisfied therefore that the policy needs to be changed in this respect.
- 9.2.9. However, I do have other concerns about the wording of the policy. In particular I consider that the reference to “encouraging” a broad range of uses is unduly vague since the policy does not indicate how this will be achieved. In my view it would be better to refer to the uses being permitted. I also believe that the policy would be improved if it made clear that the uses should be compatible. Finally I consider that the grammar of the last sentence of the first paragraph and the use of the word “normally” introduces an unacceptable degree of uncertainty. In my view it would be better if the sentence was expanded to make clear that the policy is aiming to avoid a loss of diversity within existing centres. I would recommend, therefore, that some minor amendments are made to the wording of the first paragraph in order to improve its clarity.

(d) Residential development in Town Centres

- 9.2.10. These objectors argue that the policy should give greater encouragement to the provision of housing in town centres in view of the sustainability of the location. The Council accepts that town centres can be a highly suitable location for housing and can help to increase the vitality of the centre, particularly during the evening by providing a greater presence. However, it argues that there is no need to give priority to residential uses since it is important that centres retain an appropriate mix of uses in order to protect their function.
- 9.2.11. There is no doubt that town centres can be highly sustainable locations for housing since it enables residents to have easy access to a wide range of goods and services. However, I agree with the Council that the continuing health of town and local centres depends on ensuring that they retain an appropriate range of facilities and services. Policy 38 already seeks to ensure that new shopping and business developments would not prevent the provision of appropriate residential use. Policy 20 also allows for the

conversion of existing buildings within town and local centres to flats and houses subject to an appropriate mix of uses being retained. I am satisfied therefore that the Plan gives adequate encouragement to the provision of housing within existing town and local centres. In my view amending Policy 38 in order to give greater priority to residential development could be harmful since it could give undue weight to one use over others and lead to a loss of diversity in existing centres. Consequently, I recommend that no modification should be made to the Plan in answer to objections 4327 and 5090.

(e) Other matters

9.2.12. I would point out that although Jarman Fields is listed as a local centre under Policy 38 it is not identified as such on the Proposals Map. I would recommend, therefore, that the Proposals Map be modified to show the appropriate area of Jarman Fields as a defined local centre.

Recommendation

9.2.13. **The Plan be modified by:-**

(a) altering the first paragraph of Policy 38 to read:-

“Town centres and local centres are locations where the development of a broad range of compatible uses will be permitted. Shopping will be a prime component in each centre. Business development will also be acceptable in the context of the overall supply of business floorspace under Policy 30. However, shopping and business development will not be permitted where it would prevent the provision of other appropriate uses or result in an unacceptable loss of diversity within the centre.

Other appropriate uses will include:-”;

(b) amending Sheet 4 of the Proposals Map to show the appropriate area of Jarman Fields as a local centre.

9.2.14. **No other modification be made to the Plan in the light of these objections.**

9.3. POLICY 39: THE SCALE OF DEVELOPMENT IN TOWN CENTRES AND LOCAL CENTRES

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
505	Save & Prosper Pensions/Insurance	5027L	Safeway Stores plc
3126	C B Hillier Parker Ltd		

Supports

1315	CPRE - The Hertfordshire Society	1756	Berkhamsted Town Council
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Key Issues

- (a) Is the reference to the size of units in a local centre appropriate.(505)
- (b) Does the term “general spread” in criterion (i) lack sufficient clarity and should it be amended. (3126)
- (c) Should the policy recognise other material considerations. (5027L)

Inspector’s Conclusions

(a) *Size of units in a local centre*

- 9.3.1. Save & Prosper contend that the reference to a maximum size of unit is unnecessary. The Council maintains that it is intended to be a broad guide only. The level has been set taking into account the character of the local centres and the average size of units, which are generally smaller than the guideline figure.
- 9.3.2. I have some difficulty in understanding why the Council feels it is necessary to set a baseline figure for local centres when the other criteria already allow them to exercise control over developments that would be incompatible in scale with the function and character of the centre. My concern is reinforced by the fact that the guideline figure does not appear to have been based on a detailed assessment of existing local centres.
- 9.3.3. I appreciate that the guideline would allow a degree of flexibility but it is hard to see why a threshold figure that is more than twice the maximum size of unit currently found within the neighbourhood centres is considered to be appropriate. It seems to me that the figure may have been influenced more by the permitted developed rights for business uses rather than by its impact on retail function and character of local centres. I consider therefore that the Council should review whether the figure is appropriate in the light of the actual circumstances in local centres. If they consider that a guideline figure is appropriate I recommend that it should be included in the background text rather than in the policy.

(b) *General spread of the use*

- 9.3.4. The objector argues that the term ‘general spread’ is not clear and it is difficult to see how it would be applied in practice. In response the Council contends that the spread of uses and activities may or may not be linked to actual buildings and could include such matters as servicing arrangements, parking and storage. These could occupy a significant area that could be incompatible with the character of the centre. It therefore considers that it is appropriate to include reference to matters beyond merely the impact of buildings when considering the question of the compatible scale of development in centres.
- 9.3.5. I accept that the scale of parking and other ancillary uses could have a harmful impact on the function of a centre or its character. However, I agree with the objector that the reference to the “general spread of the use and activity” is lacking in clarity. In the first place it is not clear whether or not the use and activity are intended to refer to the same thing or to different matters. It is also not entirely apparent what is meant by general spread. It seems to me that what the Council are primarily concerned about are the area occupied by the use, which would include ancillary uses such as parking,

and the level of activity it generates. I consider, therefore that criterion (i) would be clearer if it referred to these factors directly and I recommend that the policy should be modified accordingly.

(c) Other material considerations

9.3.6. Safeway Stores suggests that the wording of the policy should recognise that the various issues raised have to be weighed against other material considerations such as need or the benefits of a proposal. The Council accepts that the issues raised by the policy would have to be weighed against other factors but sees no need for specific reference to be made to them since the other considerations referred to by the objector are covered by other policies in the section.

9.3.7. In my view the policy has to be read in the context of the Plan as a whole. Issues of need are addressed by Policy 41, whilst the contribution a proposal may make to the shopping hierarchy or improving diversity in a centre are addressed by Policies 40 and 42 respectively. Even if they had not been covered in the Plan Section 54A of the Act allows other material considerations to be taken into account when a proposal is being considered. I am not satisfied, therefore, that the wording of the policy would prevent due regard being paid to other relevant factors. Inserting further qualifications into Policy 39 would, in my opinion, merely add to its length without guaranteeing any improvement in the decision making process. Consequently, I recommend that no modification should be made to the policy in the light of objection 5027L.

Recommendation

9.3.8. **The Plan be modified by amending Policy 39 as follows:-**

- (a) alter criterion (i) by deleting the words “or general spread of the use and activity significantly exceeds” and substituting the words “, the area occupied by the use or the level of activity it generates would significantly exceed”**
- (b) delete the last sentence of the policy, which refers to the maximum size of units within local centres, and insert instead in the background text, following a review of the guideline figure.**

9.4. POLICY 40: THE MAIN SHOPPING HIERARCHY

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
376	Tesco Stores Ltd	4491	Prudential Assurance Company Ltd
506	Save & Prosper Pensions/Insurance	4508	J Sainsbury’s Developments
3755	Government Office for East of England	5091	Tring Environmental Forum

Counter Objections

To pre-inquiry change 76
5370PC J Sainsbury’s Developments

Supports

1316 CPRE - The Hertfordshire Society 1757 Berkhamsted Town Council

Supports for pre-inquiry changes

For pre-inquiry change 76

5433PC CPRE - The Hertfordshire Society 5612PC Berkhamsted Town Council

Key Issues

- (a) Whether the policy should follow Policy 38. (376)
- (b) Should the policy include a reference to all forms of retailing, including “bulky” goods. (506)
- (c) Does the policy need to refer to the sequential test. Is PIC 76 fully in accord with the advice in PPG6. Should it include reference to retail capacity and need (3755, 5091, 5370PC)
- (d) Is a General Employment Area designation appropriate in the case of established out of centre retail locations. (4508, 4491)
- (e) Should the shopping hierarchy include established out of centre retail locations. (4508)
- (f) Is there a conflict between the policy and other employment policies in the Plan. (4508)
- (g) Ought the policy to be supported by a retail capacity study. (5370PC)
- (h) Should the Apsley Mills Retail Park be recognised as a local centre. (5370PC)

Inspector’s Conclusions

(a) Positioning of Policy 40

- 9.4.1. This objection forms one of a number of related objections that seek the inclusion of the Tesco Store at London Road, Tring within the hierarchy of shopping centres. I have already dealt with that part of the objection which relates to the Tring store under Policy 38 (*see paragraphs 9.2.1 to 9.2.3*) where I have concluded that there is no need for it to be specifically identified in relation to the hierarchy of shopping centres. However, the objector also suggests that it would make more sense for Policy 40 to follow Policy 38 since both policies consider the issue of the shopping hierarchy.
- 9.4.2. The Council acknowledges that the sequence of policies could be organised differently but considers that there is a logical connection between Policies 38 and 39, as both deal with uses in town and local centres. It argues that the specific location of the policy is of little consequence and that the remaining policies flow from Policy 40 in a logical fashion.
- 9.4.3. While I agree that the positioning of the policy does not have a fundamental impact on the overall aims of the shopping policies within the Plan, I am not satisfied that the flow of policies is as logical as the Council appears to believe. To my mind it would make far more sense for the policies to start with strategic issues (i.e. the hierarchy) and carry on to more specific matters (i.e. the uses within the centre). In my view, the re-location of Policy 40 either to the beginning of the Chapter or immediately after Policy 39 would improve the flow of the Chapter. I therefore recommend the Plan be modified by relocating Policy 40 earlier in section 6 of Part 3 of the Plan.

(b) Bulky goods shopping

- 9.4.4. The objector seeks the inclusion of a reference to the contribution and value of all forms of retailing including bulky goods. The Council considers that as a general strategic policy it is inappropriate to refer to specific types of goods within it. It points out however that the background text specifically refers to the complementary role to the hierarchy played by many types of shopping including retail warehousing.
- 9.4.5. I agree with the Council that in a general policy of this type it is inappropriate to seek to refer to specific types of goods. My view is strengthened by the fact that PPG6 makes clear that all forms of retailing, including the sale of bulky goods, should preferably be located in existing centres. Retail development will normally only be acceptable outside an existing centre where there is a clear need for the products on offer and there is no suitable alternative location available within an existing centre. PPG6 states that in meeting these objectives retailers should be flexible in respect of format. I see no reason therefore why bulky goods should in principle be distinguished from other goods in relation to the policy for the shopping hierarchy. In my view the inclusion of a specific reference could be seen to give undue priority to one form of retailing over another. Consequently I recommend that no modification should be made to the Plan in response to objection 506.

(c) PPG6 and the sequential test

- 9.4.6. These objectors argue that the policy needs to make more specific reference to the sequential test in PPG6. The Council accepts this and proposes under PIC76 to insert additional wording into criterion (c), as suggested by the Government Office, to make clear that retail development should take place within defined centres unless there is no suitable alternative site available. J Sainsbury’s objects to this change arguing that the proposed wording fails to properly reflect the advice in PPG6.
- 9.4.7. I accept that in its original form the policy failed to take sufficient account of the sequential test in PPG6. Although the proposed change would go some way to addressing this defect I agree with the counter-objector that it is too simplistic and fails to sufficiently distinguish the different status of town and local centres in terms of the sequential test. While it is not essential for the wording of the policy to be identical to that in PPG6, I consider that it does need to reflect the principal aims of the sequential test. In my view, therefore that the wording of PIC76 should be amended so as to clarify the different role of town and local centres in terms of the sequential test. I recommend that Policy 40 be modified accordingly.

(d) The inclusion of large out of centre retail stores within areas designated as General Employment Areas (GEAs)

- 9.4.8. These objectors question the Council’s inclusion of out-of-centre retail stores within GEAs. I have already indicated in paragraphs 8.5.9 to 8.5.13 of my report that I consider that it is inappropriate for areas that are wholly or predominantly in retail use to be designated as GEAs. I have therefore recommended in paragraph 8.5.34 that the retail sites at London Road, Tring and Gade Valley should be deleted from the list of GEAs in Policies 31 and TWA5. I have also recommended that the boundaries of the Two Waters and Corner Hall GEAs should be modified to omit the existing retail warehouses within them. In the light of these recommendations I consider that it

would be sensible to also delete the references to retail warehousing in selected General Employment Areas from the background text to Policy 40. I recommend that the Plan should be modified accordingly.

(e) *Out of centre retail locations and the shopping hierarchy*

9.4.9. The objector maintains that large out-of-centre retail locations should be identified in the policy because of the important role they play in the shopping hierarchy and to avoid misunderstanding in the future. In response the Council argues that large-scale single use retailing locations differ significantly from traditional local centres which provide a wider range of smaller stores often grouped with complementary uses. In addition, it points out that the modern food and non-food retail outlets within the Gade Valley and Two Waters GEAs contrast strongly with the character of the nearest local centre and do not generally perform a local shopping role.

9.4.10. There is no doubt that care needs to be taken with the development and subsequent expansion of large modern out-of-centre retail developments to avoid them affecting the vitality or viability of established centres. The groupings of retail warehouses in the Gade Valley and Two Waters GEAs would appear primarily to have been allowed because there was a need for the goods sold and at the time no suitable location was available within the town centre. However, while these developments may well meet a retail need I am not satisfied that it would be appropriate to make specific reference to them within the main shopping hierarchy as defined in Policy 40, since this is predominantly supports the primary role played by town and local centres.

9.4.11. In my opinion, the existing groups of retail units within the Two Waters and Gade Valley GEAs do not serve the same role as a town centre as they provide a much narrower range of goods and none of the supporting services one would expect from such a centre. Neither in my view do they perform a similar role to a local centre as they generally serve a much wider catchment. To seek to identify another category of centre within the overall hierarchy would not only lead to confusion but could encourage expansion of such facilities at the expense of the existing centres. In my view this would be contrary to the objectives of national policy. There is no evidence that appropriate expansion of these facilities has been held back or resisted by the Council. I can see no justification therefore for amending Policy 40 to refer to the role of retail warehousing and other out-of-centre shopping. I recommend therefore that no modification should be made to the Plan in response to this element of objection 4508.

(e) *Conflict between shopping and employment policies*

9.4.12. The objector argues that there is a conflict between the shopping and employment policies of the Plan, presumably because the former discourage retail developments outside defined centres whereas the latter encourage other uses in mixed use General Employment Areas. However, Policies 31 and TWA5 specifically limit new retail warehousing developments to minor extensions within the Apsley Mills Retail Park and the eastern part of the Two Waters GEA. I am not satisfied, therefore, that there is a significant conflict between the overall thrust of the policies in the shopping and employment sections of the Plan. In any event I consider that such conflict as there is would be adequately addressed by deleting the designation of the Gade Valley as a GEA and modifying the boundary of the Two Waters and Corner Hall GEAs. I therefore recommend no modification in respect of this element of objection 4508.

(f) Need for a retail capacity study

- 9.4.13. The objector points out that PPG6 recommends that a retail capacity study should be carried out to establish the level of need within the area. It is also suggested that the revised policy should refer to retail capacity and need. The Council accepts that PPG6 indicates the need for a retail capacity study but points out that such a study has been undertaken since the Plan was placed on deposit. It states that the findings of this study will guide and inform future decisions on the amount and location of new retail development. It considers that there is no need for Policy 40 to refer to retail capacity and need since this issue is addressed by Policy 41.
- 9.4.14. Paragraph 8 of Annex B to PPG6 makes clear that retailing policies and proposals should be based on an up-to-date assessment of retail developments and trends. Although some assessment was made of retail floorspace needs in the lead up to the adoption of the Structure Plan Review 1998 (CD32) it is apparent that at the time the Local Plan was put on deposit there had been no up-to-date detailed survey of retail capacity within the Borough. This causes me some concern as it would appear to be contrary to the approach recommended in PPG6. However, the Council has since commissioned and received a retail capacity study¹ (CD77). This indicates that there would be a requirement for between 11,544 and 20,206 square metres of comparison retail floorspace in main centres in the period up to 2011. It also indicates a requirement for between 3,587 and 7,175 square metres of comparison retail warehouse floorspace. It finds no need for additional convenience floorspace.
- 9.4.15. While it would be reasonable to use this survey to underpin the implementation of the shopping policies of the Plan, I consider that their interpretation would be improved if the Plan specifically referred to the survey and its main findings. In addition, I believe the Plan ought to identify the level of floorspace that the Council considers should be provided for in the light of the survey’s findings. In my view this would probably be best addressed in the background text to Policies 41 and 42.
- 9.4.16. Furthermore, I would suggest that in view of its findings regarding the need for additional retail warehousing floorspace the Council should give further consideration as to how best to frame its policies in respect of such development. In this regard it will need to be guided by the level of commitments and the availability of suitable sites within or on the edge of existing centres, including the Plough site. In my view this would be best dealt with either by identifying specific sites or by amending Policy 45 to address the issue of suitable locations for out-of-centre retail warehouse development. However, reference to GEAs should be omitted for the reasons I have already given. I deal with this issue in more detail under Policy 45.
- 9.4.17. It is clear from the ministerial statement made on 11 February 1999 that retail development within existing centres or in accordance with an up-to-date plan strategy should not be required to demonstrate need. Since Policy 40 is primarily directed at development within existing centres I see no need for it to refer to need. In my view this matter is adequately addressed by Policy 41 which, as amended by FC179, deals specifically with the issue of development outside existing centres where new retail proposals are required to demonstrate need. Consequently, I find no reason for Policy 40 to be modified in this respect.

¹ “Donaldsons: Retail Capacity Study of Dacorum Borough Council Area – March 2000”

9.4.18. I therefore recommend that the Plan should be modified to include reference to the Donaldsons survey and its principal findings. The modifications should also identify the level of additional floorspace provision that the Council considers would be appropriate. In this regard I agree with the Council that it would be sensible to limit this to the period up until 2006 as the shorter period is likely to be more robust and will allow for greater flexibility to adapt to changing demands. Finally, I would recommend that the Plan should be modified to directly address the need for additional retail warehouse floorspace and to identify appropriate locations for such development.

(g) Apsley Mills Retail Park

9.4.19. The objector argues that the Apsley Mills Retail Park should be included within the defined centres as it meets similar needs to the smaller Jarman Fields area, which is defined as a new local centre in the Plan. I have already addressed the general issue of the identification of retail warehousing clusters within the main shopping hierarchy under issue (e) above. I turn here to consider the specific role of the Apsley Mills Retail Park. Although the Sainsbury’s superstore at Apsley Mills does serve the local area it also attracts customers from a much wider catchment, particularly as there are currently no large convenience retailing facilities on the western side of Hemel Hempstead. More importantly, other retail premises on the park do not serve a local function and there are no complementary uses present, apart from the small chemist that is included in the superstore.

9.4.20. Although the Tesco superstore at Jarman Fields has some similarities to the Sainsbury’s store at Apsley I consider there are a number of crucial differences. In the first place Jarman Fields was clearly identified as the location for a new local centre in the adopted Plan. There are no other local centres within easy walking distance and there are a number of complementary leisure uses present on the site. Overall I consider that this is sufficient reason to justify the identification of Jarman Fields as a defined centre. I am not satisfied that the Apsley Mills Retail Park merits a similar designation in view of its limited local retail function, the lack of complementary uses and its proximity to an existing local centre. Accordingly, I recommend no modification should be made to the Plan in response to this objection.

9.4.21. However, I would recommend the Council review its designation of both Jarman Fields and Woodhall Farm as local centres. In my view the range of services in neither centre sits comfortably within the definition of a local centre given in PPG6. As they both contain a food supermarket or superstore along with some non-retail services it might be more appropriate for them to be designated as district shopping centres.

Recommendation

9.4.22. **The Plan be modified as follows:-**

(a) relocate Policy 40 so that it is either at the start of section 6 or follows immediately after Policy 38;

(b) amend criterion (c) of Policy 40 in accordance with PIC76, subject to the

wording being amended to clarify the different status of town and local centres in terms of the sequential test;

(c) delete the words “in selected General Employment Areas” from paragraph 9.6 of the background text;

(d) either delete paragraph 9.10 of the background text or amend it to remove the references to General Employment Areas;

(e) insert additional text into the background to Policies 41 and/or 42 to refer to the Donaldsons Retail Capacity Study, outlining its principal conclusions and identifying the level of additional retail floorspace that the Council considers appropriate to provide for in the period up until 2006;

(f) amend Policy 45 to address the need for additional retail warehouse floorspace identified in the Retail Capacity Study;

9.4.23. The Council considers whether it would be more appropriate for the shopping areas at Jarman Fields and Woodhall Farm to be designated in Policy 38 as District Shopping Centres rather than local centres.

9.5. POLICY 41: ASSESSMENT OF NEW SHOPPING PROPOSALS

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
275	Marks & Spencer plc	4492	Prudential Assurance Company Ltd
377	Tesco Stores Ltd	4509	J Sainsbury’s Developments
2125	B & Q plc	5028L	Safeway Stores plc
3127	C B Hillier Parker Ltd	5092	Tring Environmental Forum

Supports

1317	CPRE - The Hertfordshire Society	4940L	English Nature
1758	Berkhamsted Town Council		

Key Issues

- (a) Should ‘need’ be a requirement of the policy. (275, 377, 2125, 4492, 4509)
- (b) Ought the policy to refer to the sequential approach set out in PPG6. (275, 2125, 4509)
- (c) Does the policy correctly interpret the issue of incremental or cumulative impact in accordance with the advice in PPG6, (275)
- (d) Are criteria (i) – (iii) unduly lengthy and cumbersome. (2125)
- (e) Should the word ‘necessary’ be deleted from criterion (ii). (377)
- (f) Is the requirement for development to be accessible to users of passenger transport appropriate. (377)
- (g) Does the policy deal clearly enough with the modernisation and revitalisation of existing retail warehouses or should it be replaced by a new policy. (4492, 4509)
- (h) Should the circumstances under which a trade capacity and impact study would be required be

clarified. (3127, 5028L)

- (i) Should the policy acknowledge that retail developments in town centres are acceptable (5028L)
- (j) Are more detailed guidelines required to assess the issues of vitality and viability. (5092)

Inspector’s Conclusions

(a) *The issue of ‘need’*

- 9.5.1. Although PPG6 does not specifically refer to the issue of need in the context of assessing applications for new retail proposals it has now been established by ministerial statement that it is a relevant consideration in relation to assessing new proposals for retail development outside existing centres. I consider, therefore, that the thrust of Policy 41 is generally appropriate in-so-far as it relates to new retail proposals in out-of-centre locations.
- 9.5.2. However, as originally worded the policy could have been taken to apply equally to retail development within existing centres, despite the fact that this is also addressed by Policy 42. The ministerial statement makes clear that there should be no need for retail development within existing centres to demonstrate need. I consider, therefore, that the policy does need to be modified to reflect current government guidance.
- 9.5.3. The Council proposes to do this by amending the policy under the provisions of FC179 to make clear that it relates to shopping proposals outside town centres and that they will be required to demonstrate a need for the development. I consider that this change would be an improvement as it would not only more closely reflect national policy but it would also overcome some of the existing confusion between the roles of Policies 41 and 42. However, I am concerned that the change leaves the Council’s position on development within local centres unclear. In my view to require need to be demonstrated within local centres would not appear to accord with the thrust of the ministerial statement.
- 9.5.4. In addition, in the light of the proposed change I believe it would be more logical for this policy to come later in the section after the policies dealing with town and local centres. It would also be sensible for the title of the policy to be altered to more closely reflect the change of emphasis. In my view, it would make most sense for this policy to be modified to cover solely development outside defined centres. Policy 42 could then be modified to cover the criteria that are relevant to the assessment of development within town and local centres. Alternatively it could be split into two policies to cover the different types of centres separately as suggested in PPG6. I consider that this alternative would have considerable merit as it would not only allow the status of the centres within the retail hierarchy to be more clearly distinguished but it could also make it easier to rearrange the policies to achieve a more logical flow to this section.
- 9.5.5. I recommend therefore that the Plan should be modified by altering Policy 41 to relate solely to development outside defined centres. In addition, Policy 42 should be remodelled to include the relevant criteria for the assessment of retail development proposals in town and local centres, and the policies should be re-ordered as appropriate to achieve a more logical flow to the shopping section.

(b) *The sequential test*

9.5.6. The objectors argue that the policy does not adequately reflect the sequential test in PPG6. The Council considers that it is not essential for the policy to address the sequential test as this is already covered by Policy 40. However, to avoid confusion it proposes under FC179 to make clear that the sequential test set out in Policy 40 will apply to development considered under this policy. In my view this is an improvement and I support it in principle. However, at present Policy 40 does not accurately reflect the sequential test in PPG6. In addition, the sequential test in Policy 40, which is proposed under PIC76, refers to “defined centres”, whereas Policy 41, as proposed to be amended by FC179, refers to development outside “town centres”. I am concerned that this could lead to confusion as to how the policies apply in terms of local centres. This strengthens my view that the sequential test in Policy 40 needs to be amended to reflect more clearly the advice in PPG6 in terms of the different status of local centres. It also reinforces my conclusion that the policies in this section need to be re-framed and reorganised to achieve greater clarity.

(c) Cumulative impact

9.5.7. Marks & Spencers argues that the reference to the cumulative impact of schemes in paragraph 9.15 of the background text does not accurately reflect the advice in paragraphs 4.13 and 4.15 of PPG6. The Council contends that the reference to schemes is appropriate shorthand for recently completed developments and outstanding permissions. I share this view and am satisfied that the wording of paragraph 9.15 of the Plan provides a suitable context for considering the cumulative impact of retail development, particularly as it makes direct reference to the guidance in PPG6 and indicates that the Council will have regard to it. I recommend that no modification should be made to the Plan in response to this element of objection 275.

(d) Criteria (i) – (iii)

9.5.8. B & Q contend that these criteria are unduly wordy and cumbersome and should be replaced with simpler criteria. The Council sees no overriding justification to warrant further change.

9.5.9. I agree that criteria (i) and (ii) are rather wordy and that they could be better expressed. In my view this would be easy to achieve as effectively all that is effectively is for the various elements to be sorted out into separate criteria. I would recommend therefore that in the interests of clarity the criteria should be simplified. At the same time I consider that it would be sensible to add certain additional criteria covering some of the other aims of national policy such as reducing the need to travel. Other aspects mentioned by the objector, such as parking and access arrangements, would, in my opinion, be adequately covered by other policies.

9.5.10. In the light of the proposed change (FC179), however, I have some concerns regarding the retention of the reference in criterion (ii) to enabling existing town centre facilities to be modernised. In my view a requirement that development outside town centres must enable facilities within the centre to be modernised is unduly onerous and goes beyond the guidance in PPG6. I can find no local justification for such a requirement. PPG6 does refer to the impact on future investment in existing centres. I consider, therefore, the criteria could reasonably be amended to require out-of-centre developments not to prejudice future investment in existing centres.

(e) A “necessary” extension of the range and diversity of outlets

- 9.5.11. Although I note the concern raised about the use of the word “necessary” in criterion (ii) I am satisfied this is an appropriate reflection of the fact that such proposals would have to demonstrate a need. I, therefore, recommend no modification to the Plan in this respect.
- 9.5.12. However, I am rather concerned about the Council’s response to this objection, as it suggests that the Council sees this criterion as a way of controlling competition. While safeguarding the role and character of existing centres is a valid aim of planning policy, the protection of existing businesses from competition is not. I would therefore caution the Council to take care that it applies the policy correctly.

(f) Accessibility to the users of passenger transport

- 9.5.13. Tesco Stores rightly point out that paragraph 4.8 of PPG6 seeks to ensure that new retail development is accessible by a choice of means of transport and not merely passenger transport. I note that the Council concedes this and proposes under FC179 to amend criterion (iii) to reflect this. I am satisfied that this change would meet the objection and I endorse it.

(g) Modernisation of existing retail warehouses

- 9.5.14. These objectors express concern that the policy does not cover the extension or modernisation of existing out-of-centre stores. The Council acknowledges this and states that the policy is concerned with the assessment and impact of all forms of retail development, be they within or outside defined centres. It argues that the Plan is sufficiently flexible to address changes in existing retail warehousing locations without the need for amendment.
- 9.5.15. In my view the Council’s response reflects a lack of clarity as to the purpose of this policy. While they say it will cover all shopping development both within and outside defined centres it is clear that if FC179 is adopted the policy would no longer cover development within town centres. This reinforces my opinion that the Council needs to give further consideration to the policies in this section of the Plan in order to ensure greater clarity as regards the approach to retail development within and outside existing centres and to take greater account of the advice in PPG6.
- 9.5.16. Similarly, I consider that it would be appropriate for the section to include clearer guidance on how the Council proposes to address applications for the extension of existing out-of-centre developments. I appreciate that the Council has in the past taken a permissive approach to such applications but I consider that the lack of a clear policy fails to give adequate guidance to potential developers. I am also concerned that without appropriate policy control of such developments there is greater chance that decisions could be made which are contrary to the aims of PPG6. In my view if there is a proven need for further retail development in out-of-centre locations it would be better for this to be addressed through site specific allocations in the Plan rather than by giving general encouragement for limited additional provision in certain locations as Policy 45 currently does.

(h) Need for a trade capacity and impact study

- 9.5.17. Hillier Parker argues that it is not clear whether the requirement for a trade capacity and impact study relates to all development or just to out-of-centre developments. Safeway Stores suggests that it should make clear that it would only be required as a matter of course for out-of-centre developments. The Council indicates that in its view that all major shopping proposals may require such studies. The statement in the policy that such studies “may” be required would in its view provide sufficient flexibility in dealing with subsequent applications.
- 9.5.18. Once again the Council appears unclear as to what development this policy would cover. While originally it could reasonably have been held to cover all retail developments the changes proposed under FC179 would remove developments within existing town centres. I agree with the objectors therefore that there appears to be a lack of clarity in the policy. I do not accept however that the requirement for a trade capacity or impact study should be limited to out-of-centre developments. Paragraph 4.13 of PPG6 makes clear that all retail development in excess of 2,500 square metres should be supported by evidence covering both economic and environmental impacts. It also indicates that such assessments may be necessary for some smaller developments. In the circumstances, I do not consider that this element of the policy is either unreasonable or inappropriate. However, in the light of the change of emphasis in the policy this requirement would also need to be incorporated into the policies covering retail development in town and local centres.

(i) Retail development in town centres

- 9.5.19. Safeway Stores argues that criterion (i) of the policy should be amended to make clear that retail development in town centres is acceptable per se. In the light of the change proposed under FC179 this objection is strictly no longer relevant. However, while there is no requirement for a development in a town centre to show need this is not intended to imply that no account should be taken of the retail impact of any additional provision in town centres. Clearly if development in one town centre was likely to seriously jeopardise the role or vitality of another town centre this would be a material consideration in determining whether it should be permitted. In the circumstances, I do not consider that this requirement would have been unreasonable even if it was still intended to apply to all retail development.

(j) Vitality and viability guidelines

- 9.5.20. The objector suggests that the policy should include more detailed guidelines to enable the impact on vitality and viability to be assessed. The Council sees no need for this.
- 9.5.21. Paragraph 4 of Annex B to PPG6 indicates that local plans should not only include criteria-based policies to provide certainty to developers but they should also make clear how the local planning authority will assess the impact of proposals on the vitality and viability of existing town centres. Policy 41 gives no indication as to how the Council would assess the impact on vitality and viability. Paragraph 9.15 does address the issue briefly but in my view it fails to give clear guidance as to the factors that would be taken into account. Instead it merely indicates that any judgement will have regard to PPG6. I appreciate that paragraphs 4.3 to 4.5 of PPG6 outline most of the relevant issues. However, I do not consider that a general reference back to

national guidance is sufficient to comply with the requirements of paragraph 4 of Annex B to PPG6. In particular, the general factors listed in the guidance note take no account of local circumstances. If mere reference back to national policy had been considered sufficient there would, in my view, have been no need for the inclusion of the advice in paragraph 4 of Annex B.

- 9.5.22. My view is strengthened in this case by the fact that the same background text was included in adopted Plan. It is obvious therefore that it was drawn up before the issue of the revised PPG6 in June 1996 and has not been updated since. This would suggest that the Council has not taken any account of the advice in Annex B of the current version of PPG6 in drawing up Policy 41 of the Shopping section of the Plan. Indeed, the Council effectively conceded at the Inquiry that shopping issues had not been considered in any depth prior to the Plan being placed on deposit.
- 9.5.23. While I have no wish to see an already overly long document lengthened further I consider that the Council does need to do more to meet the advice in Annex B. In my view it is essential that the Plan includes sufficient information to enable developers to know which factors the Council would take into account in assessing whether a proposal for new out-of-centre retail provision would comply with the criteria in Policy 41 and the weight it attaches to them. In my view this relates not only to matters relating to vitality and viability but also those relating to a site’s accessibility and the overall impact on travel. I do not consider that such matters need to be addressed within the policy itself as I consider that this would make it unduly lengthy, which would be likely to reduce its clarity. Instead I consider that paragraph 9.15 should be rewritten to outline the relevant factors that would be taken into account in accordance with the advice in paragraph 4 of Annex B to PPG6. I recommend that the Plan should be modified accordingly.

Recommendation

9.5.24. **The Plan be modified as follows:-**

(a) Policy 41 be renumbered and relocated after the policies on retail developments within defined centres;

(b) the title and text of the policy be amended along the following lines:-

“SHOPPING DEVELOPMENT OUTSIDE EXISTING CENTRES

Shopping proposals outside defined centres will be required to demonstrate that a sequential approach to site selection has been followed in accordance with Policy 40² and that there is a need for the development in relation to:

(a) the quantitative requirement for additional floorspace; and

(b) the qualitative need for the facility.

² Policy numbers will need to be amended as necessary in the light of any subsequent reordering of the section.

In the case of all major shopping schemes a trade capacity and impact study may be required from an applicant to assist the Council’s assessment of the proposal.

Shopping development will only be permitted outside existing centres if it meets these tests and it :

- (i) does not result in an over provision of floorspace likely to damage the main shopping hierarchy in Dacorum or adjoining Districts;**
 - (ii) would not seriously affect the vitality or viability of nearby town or local centres;**
 - (iii) would not prejudice future investment in existing centres;**
 - (iv) provides a necessary extension of the range and diversity of outlets available to shoppers;**
 - (v) is easily and safely accessible by a choice of means of transport, including passenger transport, as well as by cyclists, pedestrians and people with disabilities;**
 - (vi) would help reduce the need to travel.”;**
- (c) rewrite paragraph 9.15 of the background text to make clear how the Council will assess proposals for retail development outside existing centres in respect of the following matters:-**
- (i) the impact on the vitality and viability of existing town centres;**
 - (ii) their accessibility by a choice of means of transport;**
 - (iii) the overall impact on existing travel patterns;**
- (d) amend Policy 42, as required, to include the necessary criteria for assessing retail development in town and local centres;**

9.6. POLICY 42: NEW SHOPPING DEVELOPMENT IN TOWN CENTRES AND LOCAL CENTRES

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
4493	Prudential Assurance Company Ltd	4510	J Sainsbury’s Developments

Supports

1318	CPRE - The Hertfordshire Society	1759	Berkhamsted Town Council
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Key Issues

- (a) Should the policy refer to opportunities for retail development in the Two Waters and Apsley area. (4493)**
- (b) Would it be appropriate to extend the Apsley Local Centre to cover other retail locations in the Two Waters and Apsley area. (4510)**

Inspector’s Conclusions

(a) *Opportunities for retail development in Two Waters and Apsley*

- 9.6.1. Both these objectors seek the inclusion of sites that are identified for further retail development on TWA Diagrams 5 and 6 within the Schedule of Shopping Proposal Sites. The Council argues that this would be inappropriate since both sites are indicated in the Plan as being suitable for a variety of uses.
- 9.6.2. Diagram TWA5 indicates that the only additional area within the Two Waters GEA that would be considered acceptable for retail warehousing is the existing transport depot on the eastern fringe of the GEA. However, the diagram shows that the same area as also being suitable for housing or offices and this is reflected in Policy TWA5. Similarly TWA Diagram 6 indicates that the front of Proposal site TWA9 would be appropriate for either offices or non-food retail warehousing. It is apparent, therefore, that neither site is considered to be suitable solely for retail use.
- 9.6.3. In the light of my detailed consideration of the objections to Proposal TWA9 (*see section 17.25*) I have serious doubts that redevelopment of that site is likely to occur during the Plan period. It is also unclear whether the land at Two Waters GEA would be developed for retail use during the Plan period, as there is little evidence that it would meet the tests in PPG6. In the circumstances, I am not satisfied that there is sufficient justification for me to recommend that either site should be definitely identified in the Plan as a specific shopping proposal.

(b) *Extension of the Apsley Local Centre*

- 9.6.4. Turning to the issue of extending the Apsley Local Centre to cover these sites I would question the appropriateness of such an approach in the light of my findings regarding the likelihood of these sites being developed for retail use. More importantly, there is no indication that there is any need to expand the retail provision provided by the local centre or that development on the objection sites would cater primarily for local needs. I am not satisfied therefore that it would be appropriate for these areas to be included in the Apsley Local Centre. I, therefore, recommend that no modification should be made to the Plan in response to these objections.

(c) *Other matters*

- 9.6.5. In the light of my conclusions in respect of Policies 40 and 41 I consider that it will also be necessary to modify Policy 42. I would recommend that the Council should either modify Policy 42, so that it includes the necessary criteria for assessing development in town and local centres, or split it into 2 policies to address development in the different types of centre separately.

Recommendation

- 9.6.6. **The Plan be modified by remodelling Policy 42 to include the necessary criteria for assessing retail developments in town and local centres.**

9.7. POLICY 43: SHOPPING AREAS IN TOWN CENTRES

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
274	Mr J Hall	1925	Mrs M Pearson
1017	Berkhamsted Citizens’ Association	3121	Tring Liberal Democrats
1179	Mr C H Gray	4290	Mrs B Lea
1568	Tring Town Council	4696	Mrs B J Brown
1738	Mrs M Wilson	4852L	Halifax plc
1760	Berkhamsted Town Council	4926L	Mrs A Evans

Counter Objection

To Pre-Inquiry Change 77
5287PC Tring Town Council

Support

1319 CPRE - The Hertfordshire Society

Supports for pre-inquiry changes

For Pre-Inquiry Change 77			
5434PC	CPRE - The Hertfordshire Society	5600	Mrs B Lea
For Pre-Inquiry Change 78			
5435PC	CPRE - The Hertfordshire Society		

Key Issues

- (a) Does the policy encourage diversity in the primary shopping area. (4852L)
- (b) Is the definition of the shopping area realistic. (4852L)
- (c) Would it be appropriate to provide housing within the shopping areas identified under Policy 43. (4926L)
- (d) Should the background include a reference to establishing links between the new Waitrose store in Berkhamsted and the rest of the town centre. (1017)
- (e) Ought the policy to encourage opportunities for town centre regeneration in Berkhamsted. (1760)
- (f) Are the type and extent of protected frontages identified under Policy 43 for Tring town centre appropriate. (1568, 1925, 1738, 3121, 4290, 4696, 5287PC)
- (g) Should the Tesco foodstore be identified as the main shopping focus for Tring. (274, 1179, 1568, 1925, 1738, 4290, 4696)

Inspector’s Conclusions

(a) *Diversity in the primary shopping area*

9.7.1. The objector argues that the total blanket restriction on non-retail uses within main shopping frontages is contrary to the spirit of PPG6, which seeks to encourage greater diversity within town centres. The Council maintains that overall the policy does encourage diversity in town centres but that it also recognises and supports the shopping function of the primary shopping areas in line with the advice in paragraph 2.12 of PPG6.

9.7.2. There is no doubt that PPG6 places considerable stress on the need to encourage diversity within town centres in the light of the contribution this makes to their vitality and viability. However, it also recognises the need to support the shopping function of the principal shopping area. While it supports changes of use it accepts that these can sometimes create concentrations of single uses which can cause local problems. It

recognises therefore that it may be appropriate in local plans to distinguish between primary and secondary frontages. In particular it accepts that primary frontages may be restricted to a high proportion of retail uses. I do not consider therefore that the policy’s aim of resisting further non-shopping uses within main shopping frontages would be contrary to national guidance.

- 9.7.3. I accept that some non-retail uses such as building societies and banks can create a high level of footfall. However, I am not satisfied that by itself this would warrant a further proliferation of such uses being permitted in the main shopping area since this could erode the retail character and function of the centre. In any case it is difficult to see how the policy could be satisfactorily worded to allow such uses whilst resisting other A2 uses which generated lower levels of footfall. In my view the objector’s suggested policy would be too vague to be an effective form of control. More importantly the proposed amendment to the policy would fail to provide any real distinction in approach between the main and mixed-use frontages. On balance therefore, I find the policy’s approach to non-shopping uses in main shopping areas to be neither unreasonable nor inappropriate. I, therefore, see no reason for any modification to be made in respect of the policy’s approach to controlling non-shopping uses within the main shopping areas.

(b) Definition of the shopping area

- 9.7.4. In addition to questioning the thrust of the policy the objector also argues that the main shopping areas are too extensive and do not appear to have been determined on the basis of the relevant criteria referred to in PPG6. The Council argues that it has taken into account other relevant factors in determining the main shopping areas and points out that these have been reduced in extent from those in the adopted Local Plan.
- 9.7.5. The main shopping area in Hemel Hempstead consists principally of the shops flanking either side of the pedestrianised section of Marlowes and the units in the Marlowes centre. It excludes, however, the units that are located between the two entrances to the shopping centre. This area is the same as that included in the adopted Plan. However, the extent of the mixed frontages has been reduced as properties in Market Square, Bank Court, Bridge Street and Waterhouse Street have been omitted.
- 9.7.6. There is no evidence that the extent of the shopping area or the boundary between the main and mixed frontages has been reassessed using such factors as commercial rental values, as recommended in PPG6. However, based on the level of footfall and the limited amount of vacancies present along the pedestrianised area of the Marlowes I consider that it is reasonable to conclude that it reflects a reasonable approximation of the main shopping area. In my view, the identification of the units between the two entrances to the Marlowes as mixed frontages and the reduction in the extent of mixed frontages within the centre would allow sufficient flexibility for non-shopping uses to be accommodated within the town centre without undermining its retail function.
- 9.7.7. In Berkhamsted the primary shopping area has been reduced from that shown in the adopted Plan by the deleting the frontages along Lower Kings Road. In my view the omission of these frontages is sensible, as the level of footfall would appear to be lower along this road than along the High Street. The area on the High Street is not extensive and would appear to have a relatively high footfall at present. In the circumstances, I consider that its definition as a main shopping frontage is reasonable.

The area of mixed frontages has also been reduced by the deletion of 137-233 High Street. As these lie on the southern side of the street and contain very few retail units I consider the omission of these frontages is realistic.

- 9.7.8. The Plan no longer includes any main shopping frontage in Tring and only a very limited area of mixed frontages within Dolphin Square. However, the Council now proposed under PIC77 to extend these slightly. With the exception of Tring, which I deal with under issue (f) below, I consider that the shopping areas within the town centres have been appropriately defined and are not too large in extent. I recommend that no modification should be made to the Plan in response to objection 4852L.

(c) *Housing in shopping areas*

- 9.7.9. I have already addressed a similar objection in Chapter 7 (*see paragraphs 7.58.8 to 7.58.10*). I accept that it is important to encourage diversity within town centres and acknowledge that the development of housing in central locations can benefit the vitality and viability of centres as is recognised in paragraph 2.13 of PPG6. However, the benefits of this have to be balanced against the need to support the primary shopping function of the town. In my view the introduction of housing at street level in either the main or mixed frontages could undermine the ability of the centre to meet local needs which could result in more people travelling to adjoining centres. The policy would not prevent the introduction of housing above street level in the central area. In my view this presents a reasonable balance between supporting the primary shopping function of the centre and encouraging diversity.

- 9.7.10. I note the objector’s arguments about the high level of vacancies in Hemel Hempstead town centre. However, this is not borne out by the monitoring figures supplied by the Council. Indeed, judging by what I saw of the centre on my numerous visits during the course of the Inquiry it appears to be relatively buoyant with very few vacancies within the core area. Moreover, it would appear from the Retail Capacity Study (CD77) that there is potential for the further growth of comparison shopping within the Borough during the Plan period. If the limited amount of vacant land/premises in the centre were used for housing it would leave little scope for the retail area to be expanded to meet this need. This could result in further trade diversion to other nearby centres like Watford. I am not satisfied therefore that it would be appropriate for any of the shopping areas defined in Policy 43 to be earmarked for housing as the objector suggests. Accordingly, I recommend that no modification should be made to the Plan in the light of objection 4926L.

(d) *Links between the Waitrose store and the town centre, Berkhamsted*

- 9.7.11. Since Policy 43 is primarily directed at the protection of shopping frontages it would not be an appropriate location, in my view, to include a reference to securing better links to the new Waitrose store. This issue is already covered by Proposal S1 in this section and by Policy BTC1 in Part 4 of the Plan. I see no need therefore for any further reference. Indeed, in the light of the substantive progress made towards this objective by the Berkhamsted Urban Design Study project I consider that it would be reasonable at this stage to delete Proposal S1 and Policy BTC1. I recommend that the Plan should be modified accordingly.

(e) Regeneration of Berkhamsted Town Centre

- 9.7.12. This objection is similar to that in respect of Shopping Proposal S2, which I address in section 9.15 of this Chapter. It seeks the creation of a town square in the area currently occupied by the old Waitrose building in order to regenerate the natural town centre which the objector argues is the area between the Town Hall and Civic Centre. The Council accepts that this area does mark the natural town centre but points out that the policy is aimed at protecting existing retail frontages.
- 9.7.13. I accept that the regeneration of the old Waitrose building and adjoining area is likely to be of considerable importance to the future vitality of Berkhamsted town centre. However Policy 43 is aimed at safeguarding an appropriate level of retail units within existing shopping frontages. In my view the wider objective of regenerating the town centre is better addressed either under specific proposals, like S2, or within the town centre strategy in Part 4 of the Plan. I am not satisfied therefore that it would be appropriate for changes to be made to Policy 43 or its background text in the light of this objection. Accordingly, I recommend no modification should be made to the Plan.

(f) Extent of protected frontages in Tring

- 9.7.14. The Deposit Draft of the Plan proposes significant changes to the core shopping area in Tring with the deletion of all of the main shopping frontages and most of the mixed frontages included in the adopted Local Plan. The only area that is shown as being retained is Dolphin Square, which is downgraded from a main to a mixed frontage.
- 9.7.15. A number of objectors express concerns about the reduction in the extent of protected shopping areas in Tring. Some like Tring Town Council (1568) argue that the High Street should be identified as mixed shopping frontage. Others suggest that some areas of the centre should be identified as main shopping frontages. Tring Liberal Democrats (3121) for instance recommend that the area between Akeman Street and the Church should be a main shopping frontage, whereas Mrs Lea (4290) considers the whole of High Street to be the appropriate area.
- 9.7.16. In response to the development of the Tesco store on London Road the Borough Council decided that it would be appropriate to allow a much greater degree of flexibility in respect of retailing in Tring town centre in order to maintain its vitality and viability. In view of this it considers that it would no longer be appropriate for a main shopping area to be defined in the Plan. While it originally believed it would also be sensible to remove the mixed frontage designation from the majority of the centre, it accepts in hindsight that the deletion of virtually all the mixed frontages was too radical a change. It therefore proposes under PIC77 to identify the units on the north side of the High Street, between the library and The Old Forge, and on the south side, between the Baptist Church and Akeman Street, as mixed frontages.
- 9.7.17. Tring Town Council (5287PC) welcomes this change but considers that the area should be extended on the north side of High Street westwards to Christchurch Road and eastwards to Brook Street. On the south side it recommends that it should be extended eastwards to No. 8 High Street. The Borough Council does not consider this is warranted.

- 9.7.18. PPG6 makes clear that in defining primary and secondary shopping frontages it is important to take a realistic approach. It is clear that in seeking to define the relevant areas within Tring the Council were heavily influenced by the expected impact of the new Tesco supermarket. In this respect it had particular regard to the findings of the “Tring Shopping and Town Centre Study” and the “Tring Town Centre – Health Check, Strategy and Action Plan” (CD101). However, at the time the last of these was drawn up the Tesco store had only been in operation for some 6 months. In my view, it was too early at that stage to be sure as to what the longer-term impact would be.
- 9.7.19. Although no detailed figures were available at the time of the Inquiry, the evidence suggested that the impact of the store had been much less than originally feared. Indeed, the Council conceded this. It appears therefore that the town centre has retained a greater degree of buoyancy than had been expected. In the circumstances, while I understand the Council’s initial desire to adopt a more flexible approach towards alternative uses I believe that the extent of the change proposed in the Deposit Draft was more radical than was actually justified. In my view there is a serious danger that in the desire to encourage greater diversity the vitality and viability of the centre could actually be further undermined. I consider therefore that it would be appropriate for a greater degree of control to be maintained than was originally proposed in the Deposit Draft. Consequently, I have gone on to determine firstly whether there should be any main frontages defined in the Plan and if so what their extent should be; and secondly to examine the extent of the mixed frontage area that is proposed under the provisions of PIC77.

Main shopping frontages

- 9.7.20. There is no doubt that the role of the town centre in meeting the convenience shopping needs of the local population has diminished significantly since the opening of the Tesco store. The figures for 1999 show that Budgens and other shops in the town were responsible for less than 20% of the total convenience turnover. There are no comparable figures for comparison turnover but the Retail Capacity Study (CD77) shows that the town retains just under 4,000 square metres of comparison floorspace. This is under half the figure for Berkhamsted and less than a sixth of the floorspace in Hemel Hempstead. Clearly, therefore, Tring plays a less important role in respect of comparison shopping than other towns within the Borough do.
- 9.7.21. The question therefore is whether any of the existing shopping areas play such a crucial role in maintaining the vitality and viability of the town that they deserve to be protected from the further loss of shops under Policy 43. Although the town centre no longer plays a major role in convenience shopping I consider that it still provides a shopping focus of some importance for local people. While I appreciate the Council’s reasons for deciding not to designate any main shopping frontage in the town I feel that this approach is misguided. Not only does it mean that the centre no longer has a clear shopping focus but, in my view, it also makes it more difficult to judge the relevant proportion of non-retail uses that should be allowed in the mixed frontages.
- 9.7.22. Judging from the wording of the policy this assessment would be based primarily on the role the mixed frontages play in linking the main shopping area to significant shopping related uses. If there were no main shopping area it would imply that much higher levels of non-shopping uses would have to be accepted in the mixed frontages. In my view this could have serious implications for the long-term vitality and viability

of the town centre as it would be more likely to lead to a loss of diversity rather than an increase, which is the aim of the Plan’s strategy for Tring town centre.

- 9.7.23. Overall, therefore, I consider that it would be sensible for a main shopping area to be identified for Tring. In my view the most logical area would be Dolphin Square since not only is it in a central location but it appears to retain the highest percentage of retail units and is the main focus for expenditure on environmental improvements. I appreciate that the Budgen foodstore, which forms the anchor to this area, is small and in need of some renovation. Nonetheless, I consider that the designation of this area as a main shopping area would help to provide an appropriate focus to efforts to support and regenerate the vitality and viability of the town centre. I recommend that the Plan be modified accordingly.
- 9.7.24. I have noted the suggestion of some of the objectors that the main shopping frontage should extend for some distance along the High Street. However, I am not satisfied it would be realistic to identify a larger main shopping area in view of the small size of the town centre, the more limited footfall and the significant number of non-retail units that already exist along the High Street.

Mixed frontages

- 9.7.25. In respect of the mixed frontages I consider that the Council’s decision to extend these is appropriate in the light of the continuing health of the town centre. I, therefore, endorse PIC77. I am satisfied that this would still allow a sufficient degree of flexibility to meet changing demands.
- 9.7.26. I have considered whether the area should be extended, however of the additional areas that have been suggested I note that the units to the east of the library are remote from the centre and very few remain in retail use. The area between The Old Forge and Brook Street is of even less importance in shopping terms although I accept that it is close to the main car park for Tring. The Rose and Crown, 2 banks, a Post Office, as well as various other non-retail uses are the principal occupants of the area between Akeman Street and No. 8 High Street. I am not satisfied therefore that this area is critical to the retail function of the centre. I see no need therefore for retail uses in this area to be protected. For similar reasons I see no justification for extending the mixed frontages along Akeman Street or Frogmore Street. I, therefore recommend that in respect of the definition of mixed frontages the Plan should be modified solely in accordance with PIC77. However, I consider that paragraph 9.21 of the background text should also be amended to reflect this change.
- 9.7.27. In reaching this conclusion I have taken into account the extent of the shopping area shown in the Tring Town Centre Guide but I am not satisfied that it would be appropriate to protect all the frontages within this area for the reasons I have already identified. I have also had regard to the comments of Mrs Brown (4696) regarding the need for the upgrading and renovation of Budgens. However, while this is clearly an important issue this is not a matter that in my view it is appropriate to address in the Local Plan as it is primarily a management issue for the retailer.

(g) Role of the Tesco foodstore in Tring

- 9.7.28. There have been numerous objections to the phrase in the background text which states that the Tesco food supermarket will be the main focus for shopping in Tring as it is taken to imply that the Plan is seeking to downgrade the role of the town centre. It is also suggested that the statement conflicts with the aim of the later part of the paragraph which seeks to protect the core shopping area around Dolphin Square. The Council denies this and contends that the statement about the Tesco store merely recognises the reality of the situation and is not intended to undermine the need to protect the remaining retail role of the town centre.
- 9.7.29. I can understand the reasons why the Council chose to describe the Tesco store as the main focus for shopping. However, it is not identified as the main shopping area under Policy 43 as some objectors seem to think. While I acknowledge that the store plays a major role in terms of convenience shopping within the town I consider that the description of it as the main focus for shopping possibly overstates the case. Moreover it suggests that the Council no longer considers the retail role of the town centre to be important, despite the recognition of the need to protect the core shopping function around Dolphin Square. In my opinion, a slight change in emphasis in the wording would help to reinforce the Council’s obvious intentions to continue to support the vitality and viability of the town centre while recognising the reality of the role that is played by the Tesco foodstore on London Road. I would therefore recommend that the Council should modify paragraph 9.21 of the Plan to clarify the aims of Policy 43 in relation to Tring.

Recommendation

9.7.30. **The Plan be modified as follows:-**

- (a) delete Shopping Proposal Site S1;**
- (b) delete Policy BTC1 from Part 4;**
- (c) alter the table in Policy 43 and the Proposals Map to show Dolphin Square in Tring as a main shopping frontage;**
- (d) amend the table in Policy 43 and the Proposals Map in accordance with PIC77;**
- (e) revise paragraph 9.21 to read as follows:-**

“The Tesco supermarket on London Road now provides the principal focus for convenience shopping in Tring. This means that the shopping role of the town centre has changed. Its role needs to be strengthened by encouraging a greater mix of appropriate uses. However, there is still a need to protect the core area of shopping opportunities around Dolphin Square, which will provide customers with modern facilities in a central location. Control over adjoining sections of the High Street will also be needed in order to maintain the diversity of the centre.

9.8. POLICY 44: SHOPPING AREAS IN LOCAL CENTRES

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1320	CPRE - The Hertfordshire Society	4853L	Halifax plc
5810	Save & Prosper Pensions Ltd		

Key Issues

- (a) Does the table to Policy 44 need to be amended to clarify the location of the Miswell Lane/Western Road local centre. (1320)
- (b) Is the policy too restrictive towards non-shop uses in local centres. (4853L)
- (c) Should the shopping area at Apsley Local Centre be extended. (5810)

Inspector’s Conclusions

(a) Miswell Lane/Western Road local centre

9.8.1. The objector argues that the table should be amended to make clear that the Miswell Lane/Western Road Local Centre is in Tring. The Council considers such clarification to be unnecessary and points out that the format of the table has been carried over from the adopted Plan.

9.8.2. I have some sympathy with the objector’s view as all the other local centres outside Hemel Hempstead would appear to be referred to by the name of the settlement within which they are located. Although the local centres are also marked on the Proposals Map they are not numbered so unless one is familiar with the area it would not be clear to someone reading the Plan that the Miswell Lane/Western Road local centre was in Tring. In the circumstances, I consider that it would be appropriate to make a minor amendment to the policy to clarify the situation. I recommend, therefore, that the Plan should be modified by inserting the word “Tring” after the words Miswell Lane/Western Road in Policy 44.

(b) Restrictions on non-shop uses in local centres

9.8.3. Halifax plc argues that the total restriction on the further development of non-retail uses in smaller centres with less than 8 shops is contrary to Government guidance. It points out that the presence of leading banks and building societies can contribute to the vitality and viability of shopping centres. It suggests, therefore, that the policy should be revised to encourage greater diversity in local centres. The Council contends that the policy gives appropriate protection to the smaller more vulnerable centres but allows reasonable flexibility within larger local centres.

9.8.4. While I share the objector’s view that financial service retailing can make a positive contribution to the vitality of local centres, I also accept the Council’s view that the vitality of smaller centres is more likely to be vulnerable to the intrusion of non-shop uses. I appreciate that financial retailing services can result in a high level of footfall in certain locations but there is a danger in my view that their introduction into the smaller centres could lead to a reduction in the centre’s ability to continue to meet day to day needs. The importance of such centres in meeting such needs is recognised in PPG6 and I am satisfied, therefore, they deserve to be protected. In the absence of

any evidence to the contrary I consider that a threshold of less than 8 shops constitutes a reasonable cut-off point for distinguishing the smaller vulnerable centres from those that could accommodate some change without harming their vitality and viability.

9.8.5. The policy allows for a much greater degree of flexibility in larger centres where non-shopping uses are less likely to undermine the role of the centre. In my view this would achieve a reasonable balance between shopping and non-shopping uses in local centres. I consider that the criteria for controlling the level of non-shopping uses are both reasonable and appropriate. There is certainly no evidence to suggest that the identical policy in the adopted Plan has proved unduly restrictive or that it has in any way harmed the diversity or viability of local centres. In the circumstances, I am not satisfied that the policy is contrary to the objectives of PPG6 in its present form. I therefore recommend that no modification should be made to the Plan in response to this objection.

(c) *The Apsley Local Centre*

9.8.6. I have already addressed the issue of extensions to the Apsley Local Centre earlier in this Chapter. In the light of my conclusions I see no justification for it being extended to cover adjoining areas of land. The properties identified in Policy 44 form a virtually continuous parade of small shops and non-retail units. Although there are other units outside this area, notably on the southern side of London Road, these are generally more sporadic being interspersed with areas of housing. In the circumstances, I am satisfied that the policy correctly identifies the main shopping area within the Apsley Local Centre. I therefore recommend that no modification should be made to the Plan in the light of objection 5810.

(d) *Other matters*

9.8.7. I note that the Proposals Map shows the Old Town area of Hemel Hempstead as a shopping area in a local centre but this area is no longer listed in the table of properties in local centres covered by the policy. It would appear that the notation on the Proposals Map was an error, which the Council proposes to amend under PIC78. Since this change is necessary to ensure consistency and has not been objected to I support it.

Recommendation

9.8.8. **The Plan be modified by :-**

(a) inserting the word ‘, Tring’ after the words “Miswell Lane/Western Road” within the table in Policy 44.

(b) amending Sheet 4 of the Proposals Map in accordance with PIC78.

9.8.9. **No other modification be made to the Plan in answer to these objections.**

9.9. POLICY 45: SHOPPING DEVELOPMENT IN SELECTED GENERAL EMPLOYMENT AREAS

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
507	Save & Prosper Pensions/Insurance	4511	J Sainsbury’s Developments
4494	Prudential Assurance Company Ltd		

Support

1321	CPRE - The Hertfordshire Society
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Key Issues

- (a) Does the policy need to be amended to specifically identify opportunities at the Apsley Mills Retail Park. (507)
- (b) Ought the policy to limit the continued provision of non-food retail warehousing.(4494, 4511)
- (c) Is it appropriate for the policy to differentiate between opportunities for retail warehousing. (4494, 4511)
- (d) Should Policy 45 be deleted.(4494, 4511)

Inspector’s Conclusions

(a) *Opportunities at Apsley Mills Retail Park*

- 9.9.1. The objector contends that as the Plan recognises that further retail development could take place at Apsley Mill Retail Park it should be identified as a site-specific allocation. The Council considers that it is appropriate to merely highlight the broad locations where non-food retailing is acceptable since it will direct investment opportunities to appropriate locations.
- 9.9.2. PPG6 makes clear that in drawing up development plans local planning authorities should, after considering the need for new development, adopt a sequential approach to selecting sites for new retail development. In selecting sites local planning authorities should be able to demonstrate that all potential town centre options have been thoroughly assessed before less central sites are considered for development for key town centre uses. There is no evidence that the Council undertook this exercise in determining to identify the Gade Valley and Two Waters GEAs as general locations for the limited provision of non-food retail warehousing under Policies 45 and TWA5. Indeed at the time the Deposit Draft was drawn up by the Council there does not appear to have been any up-to-date information on retail need available.
- 9.9.3. Since the Plan was placed on deposit the Council has commissioned and received a Retail Capacity Study (CD77). This indicates a requirement for between 3,587 and 7,175 square metres of additional retail warehouse facilities in the period up to 2011. I accept therefore there is now some evidence that there is a need for additional retail warehousing provision in the Borough. The Council has indicated in the Shopping Technical Report (CD60) that it considers the lower limit to be more realistic and I find no reason to question this. It suggests however that it would be more reliable to use a shorter time horizon given the general weakening of assumptions over time and the dynamics of the retail industry. I consider this to be a sensible approach as it recognises that retail demands can change significantly over time.

- 9.9.4. Based on these assumptions the Technical Report (CD60) concludes that there is a total floorspace requirement for comparison goods of approximately 8,500 square metres in the period up until 2006. This figure is not broken down in CD60 into town centre and local centre comparison floorspace and retail warehouse floorspace. However, it is clear from table 11 of the Retail Capacity Study (CD77), on which the figure in CD60 is based, that just under 2,000 square metres of the total requirement relates to additional retail warehousing floorspace. What is not clear is how much of this would be met by existing commitments.
- 9.9.5. More importantly there is no evidence that the Council has undertaken a thorough sequential search to satisfy itself that there are no other suitable sites within the town centre or on its edge which could accommodate the additional provision within the period up until 2006. It has suggested that the Plough site would not be suitable owing to the need for it to accommodate other uses. However permission has been granted previously for retail warehousing on this site and at the time of the Inquiry the details of the redevelopment scheme had yet to be finalised. I am not satisfied therefore that it has been clearly established that this site would not be available to accommodate the additional floorspace, albeit this may involve a more flexible approach to format.
- 9.9.6. If the scheme has now progressed to the point where it is clear that the site could not accommodate the additional retail warehouse floorspace then the Council will need to consider whether there are any other sites within or on the edge of the town centre that could. If it is satisfied that there are no other suitable locations then I consider that it would be appropriate to include a specific allocation within the Plan to accommodate the required floorspace rather than merely including a general indication of possible locations. In my view such an approach would be more consistent with the guidance in PPG6.
- 9.9.7. If it is determined that the allocation of additional out-of-centre sites is warranted then I accept that the sites at the Gade Valley and Two Waters GEAs are likely to be the most suitable locations. In this respect I am guided by the advice in paragraph 1.17 of PPG6. This indicates that where there is a clearly defined need for major travel-generating uses which cannot be accommodated in or on the edge of existing centres it may be appropriate to combine them with existing out-of centre developments. The sites at Gade Valley and Two Waters GEAs would appear to fall into this category. If the Council decide to include specific allocations for out-of-centre retail warehousing within the Schedule of Shopping Proposal Sites then I consider that Policy 45 could reasonably be deleted.
- 9.9.8. If the Council concludes that there is insufficient need for additional out-of-centre retail warehousing to warrant a specific allocation then I consider the retention of general references encouraging out-of-centre provision, such as those in Policies 45 and TWA5, would be out of place and should be deleted. Policy 45 could then be remodelled to indicate that any development permitted under the revised Policy 41 would be expected to be located on or adjoining existing out-of-centre retail developments. In addition, in the light of my recommendations in Chapter 8 regarding the deletion of the Gade Valley GEA and modifications to the Two Waters and Corner Hall GEAs, I consider that the amendments to Policy 45 should include removing the reference to GEAs.

9.9.9. In conclusion, I recommend that the Council should review its position on out-of-centre retailing in the light of the Retail Capacity Study (CD77). If it is satisfied that there is a need for additional provision, which can not be met in or on the edge of existing centres, it should modify the Plan to include specific proposal sites and delete Policy 45. If it is not satisfied that there is a sufficiently clear need for such provision at this stage then it should merely vary Policy 45 to identify the most appropriate locations for any development that may be permitted under Policy 41.

(b) *Limiting the provision of non-food retail warehousing*

9.9.10. These objections are related to those made to Policies 40 and 42 (*see paragraphs 9.4.19 to 9.4.21 and 9.6.4*). In the light of the advice in PPG6 in respect of retail developments outside existing centres I consider that it is entirely appropriate to limit the expansion of existing out-of-centre retailing. Indeed, I consider that the policy as currently worded is too open-ended. In my view, it fails to take due account of the requirement to demonstrate need in respect of the expansion of out-of-centre retail warehousing. I appreciate that there may be circumstances that would justify extensions to existing out-of-centre units but it is clear from national guidance that these should be judged on the same basis as other retail developments outside existing centres. To allow the expansion of such premises without having to demonstrate need could have a serious impact on the vitality and viability of Hemel Hempstead town centre and lead to increased car usage contrary to the objectives of national and strategic policies.

9.9.11. The Council would not be prevented from permitting such extensions where need had not been demonstrated if there were other material considerations that warranted their being allowed. In this respect I note that the Council has previously given permission for extensions both to the Sainsbury’s superstore and to Homebase. I am not persuaded, therefore, that the Council would adopt an unreasonably restrictive approach to the subsequent expansion of existing out-of-centre stores. I therefore recommend that no modification should be made to the Plan in response to this element of these objections.

(c) *Differentiation between different locations*

9.9.12. I note the suggestion that it is unreasonable to seek to differentiate between different locations in respect of out-of-centre development. However paragraphs 1.16 and 1.17 of PPG6 indicate that sites which are accessible by a choice of means of transport or are capable of being so are likely to be preferable in sustainability terms. Locations adjoining existing out-of-centre developments are also considered to be beneficial as this could increase the ability for single trips to serve several purposes. In these circumstances, I consider that directing out-of-centre development in Hemel Hempstead towards the existing clusters of retail warehousing at Two Waters and Apsley Mills Retail Park would not conflict with the aims of national policy.

9.9.13. I note the objectors’ concern about the future of the Homebase unit to the east of the Apsley local centre. However, there is no indication that Policy 45 or any of the other policies within the shopping section of the Plan would require current retailing activities on this site to cease. Even under Proposal TWA9, which I have recommended should be deleted, it would still be possible for retailing to be retained on part of the site. As the site lies adjacent to both the local centre and the Apsley

Mills Retail Park I see no reason why it should not be considered as a suitable location for out-of-centre retail development under the provisions of Policy 45. This would be subject of course to it being established that there is a demonstrable need for the additional floorspace and that there are no other suitable sites within or on the edge of the town centre. I see no need therefore for any further modification to Policy 45 in the light of these objections.

(d) Deletion of policy

9.9.14. I have already addressed this matter under issue (a) above. In my view the deletion of Policy 45 would only be appropriate if it is established that there is a demonstrable need for additional comparison floorspace that cannot be met within or on the edge of existing centres. In that case I accept that it would be appropriate to delete Policy 45 and instead include specific proposal sites in the Plan.

Recommendation

9.9.15. **The Council reviews the need for additional comparison floorspace to be located in out-of-centre locations. Subject to the outcome of that review the Plan should be modified by:-**

either

(a) including appropriate sites within the Gade Valley and Two Waters GEAs in the Schedule of Shopping Proposal Sites and on the Proposals Map to accommodate the additional out-of-centre comparison floorspace that is determined to be necessary in the period up until 2006; and

(b) deleting policy 45;

or

(a) deleting references to potential retail development at Gade Valley and Two Waters GEAs; and

(see also the recommendation in paragraph 17.17.23)

(b) amending Policy 45 to read as follows:-

“POLICY 45³ APPROPRIATE LOCATIONS FOR RETAIL DEVELOPMENT OUTSIDE EXISTING CENTRES

Where a need for further retail development outside existing centres has been demonstrated under the provisions of Policy 41³ it should be located adjacent to the existing retail warehousing at Apsley Mills Retail Park or Two Waters unless it can be clearly shown that another location would be more sustainable.”

³ These numbers will need to be amended as necessary to take account of the reordering of the policies in this section

9.10. POLICY 46: SCATTERED LOCAL SHOPS

Supports

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1322	CPRE - The Hertfordshire Society	4941L	English Nature
1762	Berkhamsted Town Council		

9.11. POLICY 47: GARDEN CENTRES

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
3756	Government Office for the East of England		

Supports

1323	CPRE - The Hertfordshire Society	5436PC	CPRE - The Hertfordshire Society
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Key Issue

- (a) Should criterion (g) of Policy 47 be adjusted to refer to “require” rather than “requirement”. (3756)

Inspector’s Conclusion

- 9.11.1. The objector suggests that there is a typographical error in criterion (g) of the policy. The Council accepts this and proposes to make the necessary amendment under PIC79. Since this change would meet the objection and improve the clarity of the policy I support it. Accordingly I recommend that Policy 47 should be modified in accordance with PIC79.

Recommendation

- 9.11.2. **The Plan be modified by amending Policy 47 in accordance with PIC79.**

9.12. POLICY 48 : AMUSEMENT CENTRES

Support

<i>Rep No</i>	<i>Name</i>
1324	CPRE - The Hertfordshire Society

9.13. POLICY 49 : WINDOW DISPLAYS

Support

<i>Rep No</i>	<i>Name</i>
1325	CPRE - The Hertfordshire Society

9.14. SHOPPING: SUGGESTED NEW POLICY

Objection

<i>Rep No</i>	<i>Name</i>
5093	Tring Environmental Forum

Key Issue

- (a) Should a new policy be created in the Plan to encourage ‘farmers’ markets’. (5093)

Inspector’s Conclusion

9.14.1. Although I have no doubt that farmers’ markets can make a useful contribution to the vitality of existing centres I can see little need for a specific policy to address this issue. I agree with the Council that it is primarily a management matter. Moreover, a general policy that merely sought to encourage such an activity without any clear guidance as to how it would be implemented would fail to meet the guidance in PPG12. I note that even without a specific policy farmers’ markets have been successfully set up in Hemel Hempstead and Tring. Although the former would appear to have ceased the latter is still operating. I find no justification therefore for the inclusion of a policy on farmers’ markets. Consequently, I recommend that no modification should be made to the Plan in answer to objection 5093.

Recommendation

9.14.2. No modification be made to the Plan in response to objection 5093.

9.15. SHOPPING PROPOSAL SITE S2 LAND OFF HIGH STREET/WATER LANE

Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
244	Mrs E J Porter	4071	HCC Environment Department
1761	Berkhamsted Town Council		

Support for pre-inquiry change

For pre-inquiry change 80
5437PC CPRE - The Hertfordshire Society

Key Issues

- (a) Should the old Waitrose and other buildings be redeveloped to create a town square as part of Proposal S2. (244, 1761)
- (b) Would it be appropriate to require an archaeological survey and mitigation measures as part of the Proposal. (4071)

Inspector’s Conclusions

(a) *The creation of a town square*

- 9.15.1. The objectors argue that consideration should be given to the creation of a town square as part of this proposal as it would help to regenerate the area. The Town Council suggests that it should be primarily residential with some boutiques set around a well-landscaped park. It further recommends that the existing parking at Water Lane be relocated to the land behind the Rex Cinema.
- 9.15.2. The Council acknowledges that the development of a town square would be acceptable in principle but express concerns over the practicality, deliverability and viability of achieving such a scheme. It is also concerned about the loss of parking and its relocation to rear of the Rex Cinema in view of the distance of this site from the core shopping area and the possible problems with the additional traffic movement.
- 9.15.3. While I can understand the objectors’ desire to create a new focal point within the town centre I would question whether a town square is an appropriate solution for a settlement like Berkhamsted that is historically linear in form. More importantly, it appears that there are a number of issues that may not have been fully thought through. The practicality and deliverability of such a scheme therefore seems questionable, particularly as there is no indication as to where the funding for such a scheme would be likely to come from. In the absence of more detailed evidence, I feel compelled to conclude that there is little realistic prospect of such a scheme being realised within the life of the Plan.
- 9.15.4. I am also concerned that the creation of a predominantly residential square in a core location within the main shopping area could reinforce the current break in the shopping frontage that has resulted from the closure of the Waitrose store. Moving the parking area to a relatively remote location some 800 metres outside the core shopping area could also discourage people from using the centre. There is a danger therefore that such a scheme could further erode the viability of the town centre rather than enhancing it as the objectors clearly wish. This strengthens my view that it would be inappropriate to insert a reference to the creation of a town square within Proposal S2.
- 9.15.5. Having said this I accept that this site sits in a key location within the shopping area. Its redevelopment is therefore likely to be fundamental to the long term vitality and viability of the town centre. In the circumstances, I believe the Council needs to take a more proactive approach to the redevelopment of this site if a suitable scheme is going to be realised within the Plan period.
- 9.15.6. The inclusion of the existing Tesco store within the boundary of the site, as proposed under FC188, is, in my view, an appropriate first step. However, I believe consideration should also be given to including the adjacent car park. In addition, in the light of the advice in paragraph 1.13 of PPG6 I believe the requirements should be revised to give greater guidance as to the form of development that the Council considers would be most appropriate and how existing constraints could be resolved.
- 9.15.7. In the light of the evidence I heard at the Inquiry in relation to objection 378 I would suggest that it should consider including requirements for provision of a small modern foodstore of around 1000-1500 square metres net and appropriate remodelling of the

Water Lane car park. The latter could possibly include an indication that a split or multi-level layout would be acceptable in principle. It might also be appropriate to indicate that improvements to the adjoining highway network could be required, especially in respect of the Greenfield Road/Lower Kings Road junction. I would recommend, therefore, that the boundary of Proposal S2 should be modified in accordance with FC188, and should also be extended to include the adjoining car park. In addition, I recommend that the site area and planning requirements should be revised to give clearer guidance on the form of development and how current constraints might reasonably be resolved.

(b) The need for an archaeological survey

9.15.8. The County Archaeologist recommends that as the site falls within an Area of Archaeological Significance a programme of archaeological evaluation and appropriate mitigation measures should be required. The Borough Council accepts this and proposes to add such a requirement under PIC80.

9.15.9. As Policy 114 already requires appropriate evaluation and retention/recording of relevant remains in Areas of Archaeological Significance I would question the need to reiterate these requirements within Proposal S2. However, I note that the Council has added similar requirements in respect of a number of the housing proposal sites, which I have generally endorsed. I consider, therefore, that in the interests of consistency it would be appropriate to include a similar requirement in Proposal S2. I recommend that the Plan be modified in accordance with PIC80.

Recommendation

9.15.10. **The Plan be modified by amending Proposal S2 as follows:-**

- (a) amend the site boundary to include the Tesco foodstore, in accordance with FC188, and the adjoining car park;**
- (b) alter the site area accordingly;**
- (c) revise the planning requirements to:-**
 - (i) give clearer guidance on the appropriate form of development;**
 - (ii) indicate how any existing constraints might be resolved;**
 - (iii) include reference to an archaeological evaluation and appropriate mitigation measures in accordance with PIC80.**

**9.16. SHOPPING PROPOSAL SITE S3
LAKESIDE, ADJOINING JUNCTION OF ST ALBANS ROAD AND LEIGHTON
BUZZARD ROAD, HEMEL HEMPSTEAD**

Objection

<i>Rep No</i>	<i>Name</i>
5164	Mr Tony McWalter MP

Support for pre-inquiry change

For Pre-Inquiry Change 81
5438PC CPRE - The Hertfordshire Society

Key Issues

- (a) Should the proposal seek a larger element of housing as part of the mix of acceptable uses for the site. (5164)
- (b) Would it be reasonable to require the site to provide social and community facilities. (5164)

Inspector’s Conclusions

(a) *Housing provision*

- 9.16.1. I acknowledge that PPG3 gives significant encouragement to the reuse of brownfield sites for housing, particularly in locations that are close to existing facilities. However, Government policy also encourages mixed developments particularly in town centres. As this is the only large vacant site adjoining the existing shopping area its redevelopment will clearly be of considerable importance to the future vitality and viability of the centre, particularly in view of the impact of competition from other nearby town centres like Watford and St.Albans.
- 9.16.2. While the introduction of housing in a central location could benefit the liveliness of the centre, especially in the evenings, it is important in my view that the opportunity to extend the range of goods obtainable in the centre is not lost. My view is strengthened by the findings of the Retail Capacity Study (CD77) which indicates that there remains a significant potential for further growth in comparison shopping floorspace within the Borough. Failure to allocate the necessary land to provide for this growth could result in Hemel Hempstead losing out to surrounding centres.
- 9.16.3. I also consider that the provision of employment opportunities in this central location would be sustainable and accord with the objectives of PPG6. On balance, therefore, I believe the Council’s decision to seek a mixed-use development on this site is appropriate. However, while the Council clearly accepts that the inclusion of a residential element in the mix would be appropriate I note that PIC81 only refers specifically to shopping and offices. In my view the importance of including a residential element in the scheme should also be reflected in the amended requirements. I recommend therefore that the Plan should be modified accordingly. Whether or not the residential element should be in the form of affordable housing is a matter that in my view would be best left in this case until the final form of the scheme has been established and the viability of such provision can be assessed.

(b) Social and community facilities

9.16.4. I note the suggestion that the development should include social and community facilities and that this would appear to be supported by the Council in principle. However, no evidence has been presented to indicate that there is an overriding need for new or replacement community facilities within the town centre. I see no reason therefore for the Proposal to be modified to include a specific requirement for such facilities to be provided.

Recommendation

9.16.5. **The Plan be modified by amending Proposal S3 in accordance with PIC81, subject to the following additional sentence being inserted after the words ‘a major component’ :-**

“The scheme should also include a residential element.”

**9.17. SHOPPING PROPOSAL SITE S4
TOWN SQUARE, MARLOWES, HEMEL HEMPSTEAD**

Counter Objection

To Pre-Inquiry Change 82

Rep No	Name
5439PC	CPRE - The Hertfordshire Society

Key Issue

(a) Are either on site provision and/or commuted payments appropriate in relation to Proposal S4. (5439)

Inspector’s Conclusion

9.17.1. The CPRE object to the possible provision for commuted payments for parking as these can lead to abuse. Since the development has now been completed the Council acknowledges that the proposed change (PIC82) serves no useful purpose. Moreover it accepts that it no longer accords with current national policy on commuted payments. It, therefore, proposes under FC170 to delete the proposed change.

9.17.2. In the light of the change in current guidance I accept that reference to commuted payments is no longer appropriate. FC170, which deletes this reference, would therefore meet the objection and ensure that the Proposal complied with current advice. However, as this proposal has now been completed I consider it would make more sense for it to be deleted from the Plan.

Recommendation

9.17.3. **The Plan be modified by the deletion of Proposal S4.**

9.18. SHOPPING PROPOSAL SITE S5 DOLPHIN SQUARE, HIGH STREET/FROGMORE STREET, TRING

Support

<i>Rep No</i>	<i>Name</i>
1569	Tring Town Council

9.19. SHOPPING: SUGGESTED NEW PROPOSAL SITE

Objection

<i>Rep No</i>	<i>Name</i>
378	Tesco Stores Ltd

Key Issues

- (a) Should land at Gossoms End/Stag Lane be allocated for the development of a large food superstore and housing.

Inspector’s Conclusions

Introduction

- 9.19.1. The objector seeks the allocation of some 3.22 hectares of land at Gossoms End/Stag Lane, which is currently designated in the Plan for housing under Proposal H4, for a mixed-use development comprising a food superstore and housing. The illustrative proposals submitted at the Inquiry showed a development involving a food store of around 3,280 square metres and 298 car parking spaces at the front of the site and 96 residential units, consisting of three storey flats and houses, to the rear. In addition, the objector proposes a consequential change to the Plan to allocate the site of the existing Tesco food store on the High Street for redevelopment for a mixed use of retail at ground floor level with 25 flats above.

Character and history of objection site

- 9.19.2. The site lies on the northern side of the A4251 some 90 metres to the west of the edge of the town centre. The Grand Union Canal marks its northern boundary. To the east of Stag Lane lies two and three-storey modern housing. On the western side a residential area also flanks it.
- 9.19.3. The front part of the objection site, which lies below the level of Gossoms End, is currently vacant. To the rear adjacent to the canal embankment are a row of modern purpose built industrial buildings, which house various uses including drinks distribution, exhibition equipment manufacture/storage and electrical components manufacture. Other buildings, which previously accommodated timber processing and storage activities, were vacant at the time of the Inquiry.
- 9.19.4. Permission was given back in the late 1980’s for the development of the site for retail warehousing and residential. As the latter part of the development was implemented this permission is still extant. The site was designated in the adopted Local Plan for employment purposes and non-food retail warehousing in line with the recommendation of the previous Local Plan Inspector who rejected the suggestion that the land also be allocated for convenience retailing. In 1992 Tesco Stores made 2

applications for development of the site for a food superstore. One of these schemes, which proposed a store of 3,994 square metres, was subsequently dismissed on appeal in 1993. At the time of the previous appeal there was no modern food store in the town centre. However, in 1996 a new Waitrose store of some 2,300 square metres net was opened on land to the rear of the High Street.

Issues

9.19.5. In the light of national guidance, as set out in PPG6 and subsequent ministerial statements, and Policies 16 and 17 of the adopted Structure Plan Review I consider the principal issues in relation to this objection are:-

- a) whether there is a demonstrable need for further convenience floorspace provision in Berkhamsted within the life of the Plan;
- b) if so whether this need could be met on existing sites in or on the edge of the town centre within a reasonable period of time in accordance with the sequential test in PPG6;
- c) the impact on the vitality and viability of the town centre;
- d) the accessibility of the site by a choice of means of transport;
- e) its effect on the overall travel patterns and car use;
- f) the likely harm to the development plan strategy;
- g) whether there are any benefits that would outweigh any harm arising from the development.

a) Need

9.19.6. Turning first to the question of need the objector argues that there is a qualitative need for the additional provision in the light of the current outflow of existing expenditure. It is contended that this is due to the poor standard of the firm’s existing premises in the town centre and the problems with the new Waitrose store. In addition it maintains that there will also be a quantitative need for additional provision within the study area by 2003 and within the core catchment area by 2010. Finally, it suggests that there is also a planning need as the proposal would ensure the redevelopment of the existing store, which would help regenerate the town centre.

9.19.7. In response the Council considers that there is no qualitative need. The level of trade loss is not so significant as to warrant additional provision. Although there are some minor problems with the Waitrose store these are being addressed and do not present the degree of problem claimed by the objector. Although the existing Tesco store is not up to modern standards it could be refurbished. It also believes that there is no quantitative need as in its view the objector’s figures overestimate the retail capacity and is unrealistic in respect of the level of clawback.

9.19.8. In weighing up these arguments I have considered the appropriateness of the areas identified by the objector as being relevant for the purpose of the assessing need. The study area is based on a 15-minute isochrone. It reaches from the edges of Aylesbury and Wendover in the west, up towards Dunstable in the north, across to cover most of Hemel Hempstead and Kings Langley in the east and down to include Chesham and Amersham in the south. In comparison the Donaldsons Retail Capacity Study (CD77) excluded Chesham and Amersham and did not extend as far west or north. Although the latter was looking at a general overview of retail capacity for the Borough rather

than specifically at Berkhamsted it seems to me that the objector’s study area is overly large. In my view the existing provision within or adjacent to the western and southern edges of the area is likely to mean that these areas will make virtually no contribution to the inflow of trade.

- 9.19.9. In my view it is more relevant in assessing need in respect of a particular proposal to look at a smaller core catchment area. The objector identifies this as being Zone 1 (western Berkhamsted), Zone 2 (eastern Berkhamsted), Zone 5 (rural area from Ringshall in the north to Potten End in the south east) and Zone 6 eastern Tring and rural area around Aldbury and to the south of Wigginton). The Council accepts that Zones 1, 2 and 5 form part of the core catchment area but question the appropriateness of including Zone 6.
- 9.19.10. I have no doubt that it is appropriate in defining the core catchment area to include Zones 1 and 2 as these cover the urban area of Berkhamsted and the immediately adjoining countryside. It is also appropriate for Zone 5 to be included in view of the road network and the lack of alternative provision within easy travelling distance. However, I am less convinced that all of Zone 6 rightly falls within the core catchment area as this zone covers a large part of the urban area of Tring which already has access to a modern out-of centre Tesco food store. Consequently, while I have not discounted it from my assessment I consider that any contribution from this Zone is likely to be relatively small.

Qualitative need

- 9.19.11. Berkhamsted is a small historic centre that the policies of the Structure Plan and Local Plan seek to maintain and enhance. The opening of the Waitrose store in 1996 was intended to play an important role in this strategy. The objector points out however that the store is under-trading by some 12.1% when considered against the benchmark turnover for a Waitrose store of this size. It is argued that this is due to its lack of visibility, poor connections to the town centre, restricted parking, poor access, traffic congestion and price of goods.
- 9.19.12. Since the store is sited to the rear of the High Street I accept that it is not prominent within the street scene. However, as this is a relatively small centre where the store will be predominantly catering for local trade it seems to me that most local residents would be fully aware of its existence. I am not satisfied therefore that its lack of prominence will have had a significant impact on its turnover. I note the concern about the site’s linkage with the town centre. However, the Council has spent a considerable sum on upgrading existing links and there are now at least 2 attractively surfaced footpaths leading from the store and adjoining car park, which I noted on my visits are reasonably well used. I consider therefore that the site now has acceptable links to the rest of the town centre.
- 9.19.13. With regard to the size of the car park and the constraints imposed by the barrier control there is no substantive evidence that the site experiences significant problems in this regard. Clearly queuing at the barrier can cause some minor congestion and irritation but I doubt that it would significantly discourage customers from using the store. As access to the store from the east is via Lower Kings Road it is clear that customers travelling to the store eastwards along High Street may experience some congestion at times, bearing in mind the findings of the Berkhamsted Town Centre

Health Check, Strategy and Action Plan (CD118). This may persuade some customers who tend to shop at peak times to go elsewhere. However, overall I consider this drawback is likely to have a marginal impact. A more important issue may well be that of price as I note that local surveys would suggest that residents consider that the price of goods in the store is high. I do not consider, however, that any of these defects are in themselves sufficient to amount to a qualitative need for further convenience shopping provision within the town.

- 9.19.14. The existing Tesco store in the town centre was built in 1971. The store area is on two levels with an escalator connection to the first floor, which is used primarily for the sale of comparison goods. There is a small car park and loading area at basement level. However, the only connection to the car park is a narrow concrete staircase. The store is therefore not suitable for bulk shopping.
- 9.19.15. It is clear that the format of this store is rather dated and that it no longer meets modern retailing needs. This appears to be reflected in the fact that it was under-trading by some 41.88% in 2000. The objector argues that owing to the age and layout of the store refurbishment is not a viable option. It therefore contends that the store is likely to close before the end of the Plan period.
- 9.19.16. Although the store is under-trading at present there is no evidence that it is unprofitable. While I note the suggestion that the store is likely to close within the Plan period it appears that no decision has yet been made. I, therefore, attach limited weight to this suggestion, particularly as a similar argument was raised at the time of the 1993 appeal and yet the store is still open almost 10 years later. I accept that if the objector’s estimated refurbishment cost of just under £1.9 million is accurate then the longer-term viability of the store would be extremely doubtful. However, the Council’s evidence suggests that the figure could be as low as £1.2 million.
- 9.19.17. Since the relevant experts who undertook the assessments did not appear at the Inquiry these estimates were not tested under cross-examination. It is therefore difficult to determine what the actual cost of the necessary refurbishment would be. However, comparing the figures and the reasons given for the differences I consider that some elements of the costs put forward by the objector would appear to be either unnecessary or excessive. I consider, therefore, that the longer-term future of the store is not as clear-cut as would appear to be the case from the objector’s figures. Whether or not it would make sense to close the store in the absence of a new one opening would be a commercial decision for the objector based on the economic circumstances at the time and the effect on its market share. I am not satisfied from the evidence that I have heard and read that it is a certainty at this point in time.
- 9.19.18. I appreciate that the store does not fit within any of Tesco’s current formats. I also accept that it is unlikely to be suitable for conversion to a Tesco Metro format in view of the nature and size of the centre. I appreciate that the Luton store, which was of a similar size and age, was refurbished as a Tesco Metro, but I am not satisfied the circumstances are comparable as Luton is a much larger centre with a higher element of lunchtime and passing trade. Nevertheless, I am not satisfied that the lack of fit within the objector’s present format concepts is sufficient reason, in itself to conclude that it would definitely close. Neither am I fully convinced that it would be totally unsuitable for occupation by another convenience retailer if the store was to close. I appreciate that no interest was shown in the Old Waitrose store in this respect despite

the fact it was vacant for at least four years. However, with two main convenience retailers already represented in the town I do not find this surprising. On balance, therefore, I am not satisfied that the problems with either of the existing town centre stores are sufficient in themselves to amount to a qualitative need for further convenience floorspace provision in Berkhamsted.

- 9.19.19. Turning to the current level of trade leakage, I note that the objector’s 1992 household survey showed that some 72% of households in Zone 1, 85% in Zone 2, 59% in Zone 5 and 22% in Zone 6 used the existing convenience stores in Berkhamsted for their main shopping. A similar survey in 1998 revealed that despite the opening of the new Waitrose store in 1996 market penetration had dropped to 66% for Zones 1 and 2 and 16% for Zone 6. Only in Zone 5 had levels stayed the same. Consequently, in 1998 there was a leakage of trade from Berkhamsted of some 34% in the primary zones (Zones 1 and 2), which amounts to a reduction of some 15% in the main food market share. Projecting the figures forward the objector argues that the loss of trade by 2000 would have been £3.3 million or about 22% compared to the 1992 position.
- 9.19.20. In the light of these figures it is clear that the opening of the Waitrose store has not achieved the increase in the local share of the convenience food market that was originally hoped for by the Council. Indeed, the level of leakage has actually increased. However, this has to be seen in the context of the number of other modern stores that have opened in surrounding centres in the intervening period. These include the Sainsbury and Tesco superstores in Hemel Hempstead and the Tesco in Tring. Moreover, since 1998 the Sainsbury superstore in Chesham has been extended. Within this context I consider the level of outflow of trade from Berkhamsted would not appear to be unduly large, bearing in mind the size of the centre, especially when one also takes into account the high level of out-commuting that occurs in the town.
- 9.19.21. The objector suggests that the construction of a new out-of-centre Tesco store would enable some £4.5 million in trade⁴ to be clawed back within the core catchment from surrounding centres. This could potentially reduce leakage to around 20-25%. However, while it was agreed that the effect of the further improvements at Waitrose would not be substantial the objector accepted that they might uplift trade share by some 5-6%. If they did, this would reduce outflow levels to around 28%, in which case the reduction in leakage that would be achieved through the provision of the new store could be as little as 3-8%. In my view this is insufficient to warrant the conclusion that there is a clear need for additional convenience floorspace provision within Berkhamsted. In conclusion, therefore, I find insufficient evidence of an overriding qualitative need to warrant a modification being made to the Plan to accommodate the provision of further convenience floorspace in Berkhamsted.

Quantitative need

- 9.19.22. The Donaldsons Retail Capacity Study for the Borough (CD77) which was published in March 2000 concluded that there was no need for additional convenience floorspace capacity in the Borough over the Plan period. However, this conclusion was based on a borough wide assessment and did not look at quantitative needs in the individual

⁴ Based on figures for 2003 with and without the proposed store as set out in Tables 6 & 7 of Appendix 11 (updated) in document O/378/1A

towns. I accept therefore that it is of limited assistance in determining whether there is a quantitative need within Berkhamsted for additional convenience provision.

- 9.19.23. The objector argues that based on a more rigorous survey approach it is clear that there would be a surplus of expenditure over benchmark turnover of around £11.3 million in 2003 within the study area. This together with the closure of the Tesco would release some £22.87 million of expenditure to support additional floorspace by 2003. However, as I have already indicated I have reservations about the use of the defined study area in determining need within Dacorum, let alone within Berkhamsted.
- 9.19.24. Looking at the core catchment area although the figures show a very modest deficit of spending in 2003 the additional capacity is clearly not large enough to justify the level of provision proposed. Indeed it is not until 2010 before the objector’s figures indicate sufficient capacity to warrant an additional store of the size proposed. However, this assessment is based on a number of assumptions that are challenged by the Council. In the first place the figures do not take account of VAT. Secondly, no account has been taken of possible efficiency increases in the intervening period since 1998. Thirdly they include a significant level of clawback from stores in surrounding centres and from beyond the study area and finally the figures overestimate the level of expenditure that would be available to support the new store if the existing Tesco store in the town centre closed. I have therefore considered each of these points in turn in determining whether the objector’s assessment of a quantitative need is sufficiently accurate to justify further provision being made for convenience floorspace in Berkhamsted during the current Plan period.
- 9.19.25. The store turnover figures that are derived from “Retail Rankings”⁵ do not include VAT. In order to reconcile these figures with consumer expenditure it is necessary to add VAT. The Council argues that average company turnovers should therefore be increased by 7.0%. However, the objector argues that a large percentage of this figure is represented by petrol sales. Deduction of these sales would significantly outweigh any allowance that should be made for VAT. On balance I consider that the inclusion of an element for VAT sales on food would make little overall impact to the figures.
- 9.19.26. Turning to the issue of efficiency increases I appreciate that some companies like J Sainsbury make no assumptions in this respect. I also acknowledge that at a time of low inflation and downward pressure on sales densities it is likely to play a less important role. However, I do not accept that the inclusion of this factor is totally unrealistic, as the objector suggests, particularly when considering matters over the time scale of the Plan. It is quite possible that over the longer time span that economic circumstances could change and inflationary pressures increase. I note the objector’s contention that it serves to protect existing retailers from further competition but in my view it is reasonable in assessing capacity in this case to consider how much could be taken up by existing stores, particularly those within existing centres. My view is strengthened by the fact that the development of this land will reduce the amount of brownfield land available for housing for which there is a pressing need.
- 9.19.27. I accept that in applying such a factor it would not be appropriate to impose a flat rate increase across the board. For instance it would be unreasonable in my view to include an efficiency increase in respect of the Tesco store in Tring as this is already

⁵ A report produced by Retail Intelligence listing data on retail companies.

over-trading. However, I consider that it would be appropriate to include an efficiency increase of 1.5% for the existing Waitrose store and 1% for the Tesco store, bearing in mind the degree both are currently under-trading. Similarly in the light of the proposed improvements in respect of Dolphin Square I believe an increase of 1% for Budgens would not be unreasonable. I am less convinced that increases are justified in respect other town centre convenience retailers in Tring and Berkhamsted but this would have very little overall impact on the outcome.

- 9.19.28. If these efficiency increases are added into the figures it would appear that the small surplus capacity in 2010 would become a deficit, even if one only takes into account the increases that would occur up until 2003. If increases over the whole period are taken into account the Council argues that the deficit could be as large as £5.63 million. While I consider that this figure is rather high it indicates in my view the significant difference that can result in the overall figures over such a long period through a relatively minor change in the assumptions.
- 9.19.29. I also have serious doubts about the level of clawback that is estimated by the objector. In my view the assessment fails to take due account of the reasons why Berkhamsted residents shop in alternative centres. The household survey undertaken in relation to the Berkhamsted Town Centre Health Check (CD118) indicated that 41.5% of those who shopped at alternative centres did so because it was convenient to their home, 22.9% said it was because they liked the store, while 16% stated that the range of shops at the alternative destination attracted them.
- 9.19.30. In this context I consider that the clawback from some of the larger superstore facilities such as the Sainsburys at Hemel Hempstead and at Chesham may well be significantly less than estimated. Similarly I cannot see any reason why people who currently shop at stores within Hemel Hempstead town centre would be likely to change to use an out-of-centre store in Berkhamsted. I also have serious doubts that the new store would attract as much as 25% of the existing trade of the Tring store from Zone 6, bearing in mind the limited population within that part of the zone which would have easier access to Berkhamsted. I am also concerned about the inclusion of a significant element in respect of trade that currently takes place outside the study area. I appreciate that Tesco's Clubcard information currently shows an inflow percentage of 5% but I do not consider that this means that current outflow levels in respect of stores outside the study area would change significantly. Overall I am not satisfied that the level of clawback would be as high as the objector predicts
- 9.19.31. As for the contribution from existing town centre stores I accept that it is theoretically possible that the new retail unit proposed on the site of the existing store might attract a convenience retailer. However, I think this is unlikely with two other food stores in the town. In any case I expect that Tesco would be likely to retain some form of control over the building to prevent direct competition. As far as taking account of actual turnover rather than benchmark turnover in relation to the existing store I accept that in theory this would be a more realistic approach. However, as the methodology is based on a comparison of benchmark turnovers I consider that the objector’s approach to the existing store was consistent.
- 9.19.32. In conclusion, I am not satisfied that it has been clearly established that there would be sufficient quantitative need before 2011 to warrant provision in the Plan for the extent of additional convenience floorspace that is sought by the objector. My view is

strengthened in this case by the substantial length of time involved. In my view it is likely to substantially increase the chances of the figures being susceptible to a wide margin of error.

- 9.19.33. I note the objector’s contention that the Plan should be seeking to address retail needs for the whole of the Plan period rather than merely up until 2006 as the Council proposes in the Shopping Technical Report (CD60). However, bearing in mind the greater possibility of fluctuations in the retail market over the longer period I consider that it would be appropriate in terms of making actual site allocations for retail uses to look to the shorter period, particularly when there are other pressing needs for the land. In my view such an approach would also be more consistent with the plan, monitor and manage approach envisaged in PPG3.

Other evidence of need

- 9.19.34. The objector argues that the regeneration of the existing store for other uses amounts to a need within the terms of PPG6. However, while there may be cases where the contribution a particular development might make to national and/or local land regeneration strategies would be sufficiently strong to amount to a genuine need I am not satisfied that this is the case in this instance. In my view the opportunity to redevelop the existing store and other factors such as employment increases are more appropriately considered as other material considerations.

- 9.19.35. Overall, therefore, I find insufficient evidence of need, either in qualitative or quantitative terms, to justify the allocation of the site at Gossoms End/Stag Lane, Berkhamsted for a mixed retail/residential use. Strictly speaking therefore there is no need for me to go on to consider the sequential test and the availability of other sites. However, for the sake of completeness, I have done so briefly.

b) The sequential test and the availability of alternative sites

- 9.19.36. The objector accepts that the proposed store would be an out-of-centre development. As the entrance to the store would be around 570 metres from the edge of main shopping frontage I consider this assessment is correct. My view is strengthened by the fact that although the intervening land is relatively flat, the walk to the centre would be along a busy road past significant stretches of housing and retail units which are generally of a specialist nature.

- 9.19.37. The question therefore is whether a thorough assessment has been undertaken of all potential town centre sites that would be suitable, viable for the proposed use and likely to become available within a reasonable period of time. The objector’s assessment indicated that 5 potential sites had been considered. No other sites were suggested by the Council and in the absence of any evidence to the contrary I find no reason to suggest that there are any other suitable sites within the town centre that have been overlooked.

- 9.19.38. Of the five sites mentioned the AgroEvo site actually lies outside the centre and has already been developed for housing. The Rex Cinema site does lie within the centre but contains a grade II listed building. At the time of the Inquiry the Council had indicated that they were minded to grant permission for a redevelopment of that site

which included the refurbishment of the cinema. In the circumstances I find neither of these sites to be suitable.

- 9.19.39. The other three sites are effectively alternative options relating to adjoining or overlapping sites on the High Street. The first involves the redevelopment of the existing Tesco store. I accept that this is unlikely to be a viable option bearing in mind the costs of demolition and the layout of the site in relation to the adjacent parking area. The second option is the reuse of the adjoining Waitrose store. This would clearly not be sufficient to accommodate a store on the scale proposed by the objector. I consider that it could have potential to meet the lower level of need that would arise during the Plan period if the existing Tesco store were to close. However, it may not be suitable for a convenience retailer bearing in mind its age and layout.
- 9.19.40. The third option is for the redevelopment of both these sites plus the adjoining car park and the land to the west, which is currently occupied by W H Smiths, Boots and a number of other smaller stores with self contained offices above. It would also include the Royal British Legion building to the rear. This would provide a site of sufficient size to accommodate a store of similar scale to that proposed by the objector at Stag Lane. However, even if such a scheme were viable which seems unlikely I consider that the loss of other retail units would have a damaging impact on the vitality of the centre. In addition, a building of this scale in this location would be likely to detract from the historic character of the town. However, I am not satisfied that the objector has looked sufficiently closely at all the options for a smaller scale of development which might meet the actual level of need that would arise during the Plan period.
- 9.19.41. One alternative possibility that was put forward at the Inquiry was the redevelopment of the Waitrose and Tesco stores together with the adjoining car park for a mixed use scheme involving housing/retail and offices including a convenience food store of between 1000 and 1500 square metres net. While I note the objector’s comments about the difficulty of providing appropriate surface level parking it seems to me that this could be overcome by providing dedicated parking within a new multi-storey car park on the same level as the store. An operator may not consider such an arrangement ideal but it has worked elsewhere. In my view such an approach would accord with the aims of PPG6, which encourages retailers to be more flexible in respect of format.
- 9.19.42. I appreciate that there are also potential difficulties in respect of providing safe access. However, with a smaller development these would be easier to overcome. In particular, the scale of highway improvement put forward by the objector in relation to the Greenfield Road/ Lower Kings Road junction would, in my view, be unnecessary. Indeed, even for a larger store I judge this improvement would have greatly exceeded what was essential to provide an acceptably safe access.
- 9.19.43. Although some concern was expressed about the viability of a smaller scheme in the absence of any detailed assessment there is no evidence to conclude that a viable mix of uses could not be found for the site. I appreciate that the area is subject to different ownerships and some of the buildings are currently occupied. However, the Council could use its compulsory purchase powers if this were necessary to assemble the site. Since the Plan still has some 9 years to run I am not satisfied that there is no reasonable prospect that an acceptable scheme could be brought to fruition within this time span if it were subsequently established that there was a clear need for further

convenience provision in Berkhamsted. In the circumstances, I am not satisfied that the objector has either fully assessed all possible options or established to my satisfaction that there would be no other suitable and viable site available within the town centre within a reasonable period. I conclude therefore that the objector’s proposal fails to comply with the sequential test.

c) *Impact on vitality and viability of town centre*

- 9.19.44. Turning to the impact on vitality and viability of the existing town centre, I note that the centre was relatively buoyant at the time of the Inquiry with a low level of vacancies. The Council’s retail expert witness conceded that while the store would have an impact on the centre for the first four to five years after opening it was unlikely to lead to a serious spiral of decline. He also accepted that although trade levels for the existing Waitrose would probably be lower than the objector predicted the reduction would not be sufficient to lead to its closure.
- 9.19.45. However, the figures supplied by the objector⁶ indicate that the opening of the proposed store could lead to a reduction in convenience turnover within the town centre of around £9 million in relation to the core catchment area alone. This effectively represents almost 37% of the convenience turnover that would be generated in the town centre from the core catchment area if the existing town centre store remained. Since around 48% of those visiting the town centre currently do so in order to do their main shopping I consider that this level of diversion could have a significant impact.
- 9.19.46. More importantly, I am concerned that there could be a significant reduction in linked trips. Although the objector argues that the new store would still generate linked trips, especially if the existing pavements were improved, I consider that this is unlikely. In view of the distance involved and the limited number and specialised nature of the shops which are closest to the Stag Lane site I judge that very few people would be willing to walk to the town centre and back from the site. I am not satisfied that the provision of a new bus service, even if it were viable, would significantly increase the amount of linked trips.
- 9.19.47. I note the suggestion that the provision of the out-of-centre store would be unlikely to lead to fewer trips to the town centre overall since people would continue to do most of their other shopping and associated activities in the town centre. However, I do not share this view. I consider that people would only be likely to make a separate trip to the town centre for essential items. Impulse buys or less essential items could well be left for the occasional visit to a higher order centre. I consider therefore that there would be a consequential loss of trade for other retailers in the centre.
- 9.19.48. Overall therefore I find that the significant loss of convenience trade and the reduction in linked trips would be likely to have a serious effect on the vitality and viability of the town centre. While the centre may be sufficiently robust to recover over time I am concerned that it would be seriously weakened in the short term and would be less able to resist other subsequent changes in retail provision in surrounding centres. This adds to my concerns about the objector’s proposal.

⁶ Tables 6 & 7 of Appendix 11 in O/378/1A – Zones 1, 2, 5 & 6

9.19.49. In my view the loss of vitality and viability, even if it were only in the short term, would also make it more difficult for the Council to realise the proposal for the redevelopment of the High Street/Water Lane site (S2). In my view, this scheme is likely to be of considerable importance to the longer-term health of the centre. This strengthens my view that the objector’s proposal would have an unacceptable impact on the character and role of the town centre.

d) Accessibility

9.19.50. Although the site would be within 1000 metres of the railway station I consider this distance is likely to be too far for most people to consider walking with shopping. The site would however be close to the main bus route through Berkhamsted, which has regular half-hourly services, with the store entrance being only some 115 metres from the nearest bus stop. I find, therefore, that the site would be accessible by public transport. However, public transport to the surrounding residential areas is more limited. The provision of the proposed new bus route could help to overcome this, but I have doubts about its long-term viability given that a similar service has previously been withdrawn due to lack of interest.

9.19.51. Since the site lies within 800 metres of over 1,000 dwellings it would appear reasonably accessible to pedestrians. However, the barrier formed by the canal and railway to the north and the busy A4251 to the south combined with the topography of the valley could discourage people from walking to the store. The store would be reasonably accessible by bicycle. On balance, I accept that the site would be accessible by a choice of means of transport.

e) Impact on travel patterns and car usage

9.19.52. The objector predicts that the construction of the new store would lead to an average annual travel saving of some 700,000 miles for the area within 15 minutes of the store which equates to a 14% saving of total journey distance currently made to existing food stores. Within the core catchment this is considered to be even higher at 48%. The Council considers that this conclusion is based on certain coarse assumptions that tend to distort the conclusion. It also points out that the calculation fails to take account of other factors that the DETR report “The Impact of Large Foodstores on Market Towns and District Centres” indicates are important considerations.

9.19.53. While I find no reason to challenge the objector’s basic methodology, I am concerned about the reliability of some of the information on which it relies. In particular, as I have already indicated, I have serious doubts about the extent of clawback predicted by the objector. This clearly plays a significant role in terms of the calculation of travel savings. The objector’s calculation would also appear not to take any account of the change in propensity to link trips or the change in mode of travel and frequency of food shop. Since the new store would probably be easier to access by car than the town centre and have better parking these factors are likely to be important.

9.19.54. Overall therefore I am not convinced that the objector’s calculation is an accurate reflection of travel savings. In my view the changes to travel patterns are more likely to achieve at best a relatively modest reduction in car usage and at worst be neutral. My view is strengthened by the findings of the DETR report which concluded that changes are likely to be relatively small in the context of the overall distance travelled

for food shopping. I find therefore that the impact on travel patterns does not weigh heavily in favour of the objector’s proposal.

f) Effect on development plan strategy

9.19.55. PPG6 makes clear that an important consideration in relation to the provision of new out-of-centre retail provision is its impact on the development plan strategy. In my view there are three areas of the Plan’s current strategy that are of particular relevance. These are enhancing the role of primary shopping centres, supporting and enhancing the role and character of Berkhamsted town centre and the regeneration of previously developed land for housing.

Shopping strategy

9.19.56. Policies 16 and 17 of the adopted Structure Plan Review and Policies 38, 40 and 42 of the Deposit Draft seek to support the existing shopping hierarchy and to sustain and enhance the vitality and viability of existing town and local centres and improve the shopping environment. In the light of my conclusions in respect of the impact of the proposal on the vitality and viability of Berkhamsted town centre I consider that it would be contrary to the retail strategy of the Development Plan.

Town centre strategy

9.19.57. The Berkhamsted Town Centre Strategy in Part 4 of the Plan has a number of objectives. In the first place it seeks to sustain and revitalise the economic base of the town centre. It also aims to exploit the benefits of reduced traffic arising from the A41 bypass in such a way as to balance improvement in vehicular access to, parking in, and the environment of, the town centre. Finally it aspires to conserve and enhance the town centre environment with particular reference to retention of its appearance and character and atmosphere as a small country town centre.

9.19.58. In my view the diversion of trade from the town centre to an out of centre location would be likely to undermine attempts to sustain and revitalise the economic base of the town centre. While it would have little impact in relation to the second objective I consider that the overall decrease in activity within the town centre would do little to conserve or enhance the character or appearance of the town centre. In my view therefore the proposal would also fly in the face of the principal aims of the town centre strategy.

Housing need and suitability/availability of site for housing

9.19.59. Lastly and most importantly, I am concerned about the impact on the Plan’s housing strategy. This is based on a regeneration approach that seeks to maximise the use of previously developed land and reduce the need for greenfield land. It is clear that in order to meet the Government’s 60% target for the recycling of land it is vital that wherever possible previously developed land within urban areas is used for housing, particularly where such land is situated in a sustainable location. Since this site is within 1,000 m of station, is on a main bus route and is within 800 metres of the town centre it is clearly highly sustainable. In my view its use for housing is likely to contribute far more than a retail store would to reducing reliance on the car. I am satisfied therefore that the need for housing land far outweighs the need for additional retail provision for Berkhamsted.

- 9.19.60. I note the objector’s argument that the site is unlikely to be available for housing. However, I am not satisfied that this is the case for the reasons I have already given in paragraphs 7.19.10 to 7.19.14 of my report. Moreover, it would always be open to the Council to consider using its compulsory purchase powers to achieve the site’s redevelopment. In the light of the advice in PPG3 I consider it highly likely that such an approach would be supported.
- 9.19.61. Overall, therefore, I conclude that the proposed modification would seriously conflict with the principal objectives of the development plan strategy. As such I do not support it.

g) Benefits of the proposed allocation

- 9.19.62. The objector argues that the proposed amendment to the Plan would have the benefit of ensuring the redevelopment of the existing store in the town centre, which would not be financially viable otherwise. It would also provide 25 residential units in a sustainable location, which together with the 96 units on the Stag Lane would achieve the same number of dwellings overall as envisaged under Housing Proposal H4 of the Deposit Draft. Additionally it would help to provide a focus at the western end of the town centre which could increase the draw along the High Street. Tesco Stores also indicates that around 100 additional people would be employed at the new store.
- 9.19.63. I have no doubt that the redevelopment of the existing store would be beneficial to the vitality of the centre and that it would make a sustainable location for housing. However, I do not consider the scheme proposed would be a significant enhancement to the Conservation Area based on the illustrative drawings. I accept that redevelopment of the store for retail and housing is currently unviable, although this may change with the current escalation in house prices. However, I am not satisfied that it would be unviable if it formed part of a larger redevelopment scheme.
- 9.19.64. While the proposals would achieve a similar amount of housing to that originally proposed in the Plan I consider a far larger amount of housing could be achieved on H4 than was originally envisaged. I am not persuaded therefore that the objector’s proposals would be an improvement on the Plan’s original proposal to allocate the whole of the Stag Lane site for housing. In my view would be unlikely to lead to a significant increase in footfall along the High Street or draw trade out from its current focus around the Lower Kings Road junction owing to the distance between the store and the centre. Although the new store may increase employment this is not an area of significant unemployment. It could perhaps reduce the current extent of out-commuting but in my view the benefit would be marginal. I am not satisfied, therefore, that the benefits of the objector’s proposals are sufficient to outweigh the significant harm I consider would be caused by the development of an out-of-centre food store in Berkhamsted during the Plan period.

Residential amenity and other matters

- 9.19.65. In my view there is sufficient space on the site to design the layout of the store and its associated parking and servicing areas so as to avoid any undue impact on the amenity of adjoining residents. I note the Council’s concerns about the lack of amenity space for future occupiers of the proposed dwellings but I consider that this could probably

be addressed by minor amendments to the scheme. I see no reason why satisfactory access could not be obtained and I do not consider that the additional traffic generated by the store would add seriously to congestion on the A4251. I am also satisfied that the proposal would make a positive contribution to the canalside environment. I have considered the suggestion that the site could be used for retail warehousing in view of the extant permission. However, I am not satisfied, that there is a realistic prospect of this occurring as there is no evidence of a demand for such premises. In any event it is questionable whether a building which was granted permission almost 15 years ago would be suitable. I find none of these matters to be of sufficient weight to override my earlier findings.

Conclusions

- 9.19.66. In conclusion I am not satisfied that there is either a sufficiently clear qualitative or quantitative need for further convenience shopping provision in Berkhamsted during the Plan period on the scale envisaged by the objector. I consider that the possibility of a smaller scale of provision within the town centre has not been adequately explored. In my view redevelopment of the High Street/Water Lane site (S2) might enable this to be achieved within the Plan period. As such I am not satisfied that allocating land at Stag Lane would meet the sequential test.
- 9.19.67. I find that the diversion of trade and reduction in linked trips would have a significant impact on the vitality and viability of Berkhamsted town centre and would weaken its ability to resist other changes in retail provision in surrounding centres. Although the site would be accessible by a choice of means of transport I am not convinced that the development of an out-of-centre store on this site would lead to a substantial saving in travel. I deem the proposal to be in direct conflict with the Development Plan’s shopping, town centre and housing strategies. I do not consider any of the benefits of the scheme would be sufficient to override the harm. Consequently, I recommend that no modification should be made to the Plan in response to objection 378.

Recommendation

- 9.19.68. **No modification be made to the Plan in response to objection 378.**

END OF CHAPTER 9