

other town centres throughout the country, has suffered in the recent serious recession. However, the 2008 DRS states⁶⁰ that "the town centre continues to perform well and has good vitality and viability." It is highly significant that the DRS 2010 says nothing to contradict that. From the evidence that is before me and from my site visit, the town centre continues to be strong.

59. The Council refers to the evidence about vacancies. It appears from the latest LDC report appended to Mr Tonks' supplementary proof that the current vacancy rate in the town centre is slightly above the national average. However, I note that the Darlington vacancy rate is lower than the average for the Northern and Midland regions⁶¹. Additionally, the vacancy rate in Darlington is lower than the North East average for medium sized town centres, of which Darlington is one.⁶²
60. It seems to me from the Council's own monitoring that the vacancy situation is improving now, in terms of the A1 units, which would be most likely to be directly affected by the appeal proposals and also ground floor units. In relation to A1 units the vacancy level was 8.2% in June 2010, but an improved 7.5% in September 2010, the latest date of monitoring. The same picture is shown for ground floor units.⁶³
61. With regard to retailer representation, the Council indicates that there has been a significant loss of comparison retailing since 1999 in the town centre⁶⁴. However, there is no evidence to show that any such loss is the result of edge of centre comparison retailing. I note that the big drop was between 1999 and 2001, and the level of comparison floorspace is now very close to what it was in 2005. Accordingly, this matter gives rise to no concern about the vitality and viability of the town centre.
62. Finally, in relation to vitality and viability, the Council referred to rents.⁶⁵ I accept that rents have fallen as they have done in other town centres. However, it is also true that rents have now stabilised in Darlington, unlike in some other centres, such as Newcastle⁶⁶. Furthermore, as the Department for Business points out, lower rents are not necessarily a sign of decline in a town centre⁶⁷. Overall, Darlington as a town centre continues to be strong, and the fact that it has suffered, like other town centres, in the recent economic troubles is not a reason for refusing the appeal proposals.
63. In terms of Policy EC16.1c, it is agreed by the parties that there would be no impact on allocated sites outside town centres being developed in accordance with the development plan.
64. As for Policy EC16.1.d and the impact of the proposal on in-centre trade /turnover and trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to 5 years from the time the application is made, that does not reconstruct the needs test. The Council considers that it is overwhelmingly likely that the vast majority (77%) of the extended store's comparison goods trade would be diverted from the

⁶⁰ CDB/6 paragraph 3.125, page 34

⁶¹ LDC report page 9, average for Northern and Midland regions is 16.5% compared with Darlington at 15.6%

⁶² LDC report page 9 and compare Darlington's 15.6% with the graph showing the rate for North East medium sized centres, which is close to 20%.

⁶³ Mr Boyle's proof Table G page 37 and Table F page 36

⁶⁴ Mr Boyle's proof paragraph 10.13 page 38 onwards

⁶⁵ Mr Boyle's proof paragraph 10.16, page 39 onwards

⁶⁶ Mr Boyle's Appendices 31 and 34

⁶⁷ SSL/GW7, paragraph 1.20 and Appendix S3

town centre, in particular in respect of town centre type goods such as clothing (80%)⁶⁸. The Appellant predicts that the trade draw from the town centre would be 48%.⁶⁹

65. I have a number of concerns about the Council's impact assessment. Firstly, Mr Tonks' 77% is based on his analysis from the household survey of Darlington town centre's market share of the comparison expenditure arising within the Greater Darlington area i.e. 62.4%⁷⁰. Throughout his table spending patterns are taken only from Greater Darlington i.e. mainly Darlington Borough. I cannot agree with this approach because if an exercise of this kind is to be carried out, it should be done looking at the spending patterns from the whole of the study area used by the DRS. If that were done, Darlington town centre would be shown only to take 44.6% of the comparison spending arising in the area.
66. It is clear to me from the DRS that it is the study area which should be taken. The study area of the DRS includes two large areas beyond Greater Darlington, namely the Dales area to the west and Newton Aycliffe to the north. They are Zones 6 and 7 on the plan immediately after page 82 of the 2008 DRS, whereas Greater Darlington is Zones 1 to 5. The DRS itself states that for comparison floorspace it is the whole of the study area that is relevant.⁷¹ It is noteworthy that the DRS shows that the town centre draws comparison spending from the whole of the study area and not just Greater Darlington⁷². Furthermore, in relation to the Sainsbury's store itself, the household survey evidence shows that the Sainsbury's store draws substantial spending from beyond the Greater Darlington area.⁷³
67. Secondly, Mr Tonks considers that the impact of the overall comparison element of the proposals on the overall comparison spending in the town centre would be at least 4.4%, but up to 6.2% "depending on the uplift of the currently under-trading Sainsbury store". He accepts that 4.4% was not a significant adverse impact. He argues that the policy test is concerned with trade not just turnover and that there would be a particular impact on independent traders.⁷⁴ However, there is no evidence to demonstrate that independent traders would be particularly affected and it is impossible to correlate sales density with profit on a store by store basis. The Appellant estimates an impact on comparison turnover of about £5.8 million of comparison goods trade draw from the town centre in 2016. This equates to about 2% of the town centre's turnover based on Scenario 4⁷⁵.
68. The Council sought to increase the overall comparison impact to 6.2% on the premise that the Sainsbury store is currently under-trading, and that although the impact assessments produced for Sainsbury assumed that the extension would trade at company averages, so also would the existing floorspace. However, as was accepted at Kidlington and also at Chesterfield, I consider it unlikely that the extension would trade at 100% company average.⁷⁶ In addition, in order to reach a 6.2% impact, Mr Tonks had to assume that all of

⁶⁸ Mr Tonks' proof Appendix 1 Table 3

⁶⁹ GW1, paragraph 5.139, page 54.

⁷⁰ Mr Tonks' proof Appendix 1 Table 1

⁷¹ CDB/6 for example, paragraphs 5.5, page 50 and 7.3 page 61 and CDB/7 paragraph 4.6, page 16

⁷² Ibid, see references in footnote 66

⁷³ GW2 Appendix 5 Household Survey question 1, showing that 32% of those within postcode area DL11.7, within the Dales area, carry out their main food shopping at Sainsbury's.

⁷⁴ Mr Tonks' proof paragraphs 5.4 and 5.14

⁷⁵ GW2 Appendix 16

⁷⁶ GW1 paragraph 5.100

the comparison floorspace within the store as extended would be new. I am aware that this is not correct. The existing store contains about 645 sq m of comparison floorspace. In my view, even if one were to assume that all of that existing floorspace would after the extension be in place trade at company average, it would be reasonable to add to the turnover of the extension a figure representing the *increase* in turnover of the pre-existing floorspace. It follows therefore that the Council could not demonstrate that any such increase would make any material difference to the 4.4% impact which Mr Tonks estimated as arising from the extension. In those circumstances, I consider that there is no significant adverse impact from the proposals on the overall comparison floorspace of the town centre.

69. Thirdly, Mr Tonks suggested there would be an adverse impact on the clothing sector in the town centre of about 8.1% or 9.3%. The 9.3% impact is unrealistic for reasons already given. With regard to the alleged 8.1% impact this depends critically on Mr Tonks' assumption about the sales density of the clothing floorspace within the Sainsbury's store. He assumes that the clothing floorspace would trade at £8,103 per sq m, which is based on Verdict's published figure for Sainsbury's comparison floorspace overall. However, this assumption is unrealistic given the evidence from Mintel Rankings which indicates that the sales density for clothes floorspace is much lower than that.
70. The Appellant submitted evidence of much lower sales densities for such retailers as Marks and Spencer; TK Maxx and New Look based on Mintel Rankings data.⁷⁷ I was also provided with the Mintel data itself⁷⁸ and a paper by Mr Tonks⁷⁹ in which he had calculated the sales density of various clothing retailers. However, all of these sales densities, save one, River Island, were far below the level used by Mr Tonks. It is clear that the turnover in the Sainsbury's store would be materially less than the clothing offer in, for example, Marks and Spencer, Next or Primark, because those companies all trade very densely from their sales floors.
71. Bearing in mind all of the above I consider the Appellant's estimate of £3,500 per sq m is to be preferred. I note that Mr Tonks' own figure for the Commercial Street floorspace sales density was £3,578 per sq m and I consider that it would be unrealistic to assume that the Sainsbury's clothing floorspace would trade any better than the Commercial Street scheme. In this context, I have had regard to the *Padiham* decision⁸⁰ which shows that even the levels of impact predicted by Mr Tonks should not necessarily lead to refusal. I conclude that there would not be any significant adverse impact arising from the appeal proposals on the town centre.
72. With regard to Policy EC16.1e I consider that the level of provision proposed by the appeal scheme is entirely appropriate in scale. The Sainsbury store is the only main food store in Darlington which has good pedestrian links to Darlington town centre, which is the sub regional centre. The level of provision proposed by the appeal scheme is entirely appropriate for a centre of Darlington's size and position in the hierarchy. The scale is also appropriate given the retail need case, the absence of any design objection and the transport infrastructure capacity. With regard to Policy EC16.1f the Council

⁷⁷ SSL/GW1 Footnote, page 3

⁷⁸ DB 308

⁷⁹ DB 309

⁸⁰ SSL/GW1, Appendix S4, in particular, paragraph 25 where the Inspector considered an 11% impact was entirely acceptable

has not identified any locally important impacts. I conclude that there would be no significant adverse impacts on the tests set out in Policy EC16.1.

73. In the circumstances of this case where the sequential test is satisfied and there would be no significant adverse impact on the tests set out in Policy EC16.1, I now go on to consider the remaining PPS4 tests pursuant to Policy EC17.1. This requires me to assess the appeal proposal against the impact considerations set out in Policy EC10.2 of PPS4. These apply to all applications for economic development and form part of the overall impact assessment for the consideration of proposals for main town centre uses on sites not in a centre contained within Policy EC17 of PPS4.
74. From the evidence that is before me it is clear that the appeal proposal accords with the five broad criteria contained in Policy EC10.2 a – e. Firstly, in relation to carbon dioxide emissions and climate change, the scheme, through extending an existing store, would clearly maximise the efficient use of previously developed land and thereby mitigate pressure on other less suitable sites, including undeveloped land. Furthermore, the DAS⁸¹ sets out the Appellant's goal to reduce carbon dioxide emissions. This would be achieved through sourcing energy responsibly, minimising energy demand and promoting efficient consumption. The extension would involve low environmental impact construction techniques through intelligent design, sustainable sourcing of materials and site waste reduction programmes.
75. Secondly, the store is in a highly accessible, edge of centre location within 300m of the town centre boundary. In terms of overall accessibility, there is no issue between the Council and the Appellant that the site is sufficiently accessible to make it an appropriate location for major retail development. That is clear from the fact that the Council granted planning permission for the original store in 1993. It is also clear from the fact that the Council granted planning permission for an extension to the store in 2004 and, in evidence to the Inquiry, confirmed that it would still be appropriate to grant permission for that extension.
76. In terms of the overall accessibility of the proposal by a choice of means of transport, the Council sought to criticise the site's accessibility by non car modes. Indeed the second reason for refusal refers to the requirement in EC10.2 of PPS4 to assess the impact of edge-of-centre proposals in terms of accessibility by non-car users. I accept that the store lies on the outside of the A167 Victoria Road which forms part of the Darlington Inner Ring Road and is set behind car parking. I also accept that the store is about 380/450m from the primary shopping frontage at Binns and about 720m from the centre of gravity of the primary shopping area at Boots on Northgate.
77. The Council argues that if the store goes ahead, the linkages between the store and the town centre would be reduced, that there would be more "one stop" shopping trips to the Sainsbury's store and that Sainsbury's would now charge those who use its car park but do not shop at the store. However, none of these points would lead to there being fewer linked trips in the future. As I have already noted, it is agreed that the site is in an edge of centre location. It is also a fact that many people carry out linked trips, combining a visit to the store and to the town centre. The high degree of linkage between the store and the town centre is shown by the results of the household survey

⁸¹ CDC/2 Design and Access Statement

produced by the Appellant⁸². In particular, the responses to question 8 show that 52.6% of the people who shop at the Sainsbury's store combine a visit to the town centre with a visit to the store.

78. In addition, there are trips made to the town centre by people who park in the car park but who do not shop at the store. If they cease to use the Sainsbury's car park because of the levying of charges, in my view, they would simply use other town centre car parks. The number of customers to the Sainsbury's store would be increased as a result of the proposals, in that trips by car to the store are predicted to increase by 16.5%.⁸³ This is because of the increased attraction of the store by reason of its better offer and better organised car parking facilities. Overall, I consider there is good linkage between the store and the town centre.
79. Moreover, from the evidence of Mr Dyson, I note that a substantial residential community of over 3,000 people live within 1 km walking distance of the store. Of course not all people would either wish to or be able to walk 1 km to the store but it can be seen from the plan that he produced⁸⁴ that a very substantial residential community lives within walking distance of the store.
80. Furthermore, the store lies within cycling distance of most of the urban area of Darlington, as illustrated by the plan produced by Mr Dyson of the area within 5 kms of the store.⁸⁵
81. In terms of accessibility of the site by bus, I note that the site is within 400 metres walk of bus stops on Grange Road which satisfies the IHT standard⁸⁶. Those bus stops give access to about 10% of the population of the town. Furthermore, there are further bus stops on Houndgate and Feethams within or just over 400 metres walk from the store, which give access to other parts of the urban area of Darlington, which satisfies the BREEAM standard⁸⁷.
82. More importantly, the store is within 650 metres, or around 6 minutes walk or just a little more, from the complex of bus stops at Tubwell Row, which represents the focus of all bus services for Darlington. The 6 minutes walk time which Darlington Council uses as a measure of accessibility from people's home to a single bus stop⁸⁸ is complied with not only by all of the Grange Road bus stops, the Houndgate bus stop and the Feethams bus stops, but also, or very nearly so, by the Tubwell Row bus stops. Overall, I consider the accessibility of the site by bus to be excellent.
83. The appeal proposals would also bring improvements in its accessibility. For pedestrians, the internal footway linking the steps at the north-west corner of the site with Grange Road with the store entrance would be improved. An internal footway already exists but it requires pedestrians to walk across three vehicle crossing points. The improved new route requires pedestrians to cross only one such crossing point. In addition, there would be provided a new segregated footway to the steps and new ramp access at the southwest corner of the site, making it much easier for persons such as the disabled or parents with children in buggies to access the store.

⁸² GW2 Appendix 5

⁸³ ND1 paragraph 5.23, page 25

⁸⁴ ND1 Figure 4.1, page 7

⁸⁵ ND1 Figure 4.3, page 12

⁸⁶ ND1 paragraph 4.29

⁸⁷ ND1 paragraph 4.30

⁸⁸ ND1 paragraph 4.37

84. There would also be improvements specifically for the disabled. The number of disabled car parking spaces would increase from 11 to 27. I note that 23 of those would have direct access to the store, with no need to cross the internal carriageway, whereas access to the store from the existing disabled parking spaces is currently possible only by crossing an internal carriageway. There would also be access strips along the sides and front of the disabled parking bays, whereas now there are such strips only to the sides of the bays.
85. For cyclists, the number of stands would be increased from 4 to 15, and a cycle route would be provided through the site, connecting to the designated offsite local Sustrans cycle route which has been provided recently along Grange Road and Polam Lane. Overall, I consider that the site is highly accessible by sustainable means of transport and would be all the more so as a result of the proposals.
86. Thirdly, the proposal would secure a high quality and inclusive design which would improve the character and quality of the area. I note that the store would be constructed to a high-quality architectural standard. The design would improve the external appearance of the building through improved glazed shop floor elevations and is aimed at meeting customer needs.
87. Fourthly, I consider the proposal would have a positive impact on economic and physical regeneration in the area. It is widely recognised that the retail sector has a positive impact on regeneration and creating economic opportunities.⁸⁹ The proposal represents sustainable development, maximising the efficient use of an already developed site, in an appropriate manner for which there are no design reasons for refusal.
88. Fifthly, in employment terms, the store would deliver an additional 120 full and part-time jobs to service the store and new petrol filling station. The range of jobs would be broad, and include managerial, supervisory, clerical/administration as well as shop floor positions. It would also provide a number of construction jobs.
89. I conclude that the appeal proposal accords with the provisions of Policy EC10.2 a-e and that there would be no significant adverse impacts in terms of the criteria contained therein. Indeed, in overall terms, there would be clear benefits arising from the scheme. The scheme should also be treated favourably according to Policy EC10.1.
90. In coming to this view I have taken into account Mr Tonks' evidence in relation to two research papers: (i) the research published by DETR in the late 1990s, and the research carried out by Roger Tym for the Federation of Small Businesses (Scotland). However, neither of these documents supports his case about the impact of the proposals. Mr Tonks accepted that there is nothing in the DETR Report⁹⁰ to suggest that edge of centre stores have unacceptable impacts on comparison shopping. By way of contrast, I found that the University of Southampton research submitted by the Appellant does suggest that edge of centre stores have a beneficial impact on town centres, and generate a high level of linked trips⁹¹.
91. With regard to the fallback position, the Appellant made clear that in the event the appeal fails, it would look to refurbish the store, which would allow

⁸⁹ Underserved Markets: Retail Regeneration, DCLG October 2007 and PPS4

⁹⁰ Mr Tonks' proof Appendix 3 DB 303

⁹¹ GW2 Appendix 17 Executive summary page 4