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By email: rmorton@winchester.gov.uk

Our Ref: 20120045
Your Ref: 30063

Date: 28 July 2012

Dear Ms Morton

WINCHESTER DISTRICT LOCAL PLAN PART 1 – JOINT CORE STRATEGY SUBMISSION MODIFICATIONS REPRESENTATIONS ON BEHALF OF LONDON AND HENLEY (WINCHESTER) LIMITED

We are instructed to submit representations in respect of these proposed modifications to the draft Joint Core Strategy (JCS), specifically the matter of retail need and the approach to the Silver Hill proposal in central Winchester.

The relevant references within the proposed modifications to which these representations relate are as follows:

- **Modification number 20** – new text reflecting very recent publication of the Retail and Town Centre Uses Study 2012;
- **Modification number 38** – the quantum of retail capacity (need) identified during the plan period; and
- **Modification number 43** – the element of retail capacity (need) that it is appropriate to deliver within the Silver Hill area of central Winchester.

Related to these representations is the requirement within the National Planning Policy Framework (NPPF) that *"it is important that needs for retail... are met in full"* (paragraph 23).

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The Basis for the Representations

We consider that the Council (and their external consultant Nathaniel Lichfield and Partners - NLP) has underestimated the requirement (need) for new retail floor space within Winchester, and the City Centre, during the plan period.

The need is set out in the NLP 2012 retail study. We consider the study is deficient, and likely significantly underestimates need, particularly comparison (non-food) need.

The 2012 report updates a relatively recent study from 2010. The 2012 report benefits from a (partial) update of the household telephone survey from 2007. The table below shows the different quantitative outcomes from the 2010 and 2012 studies. Note both assessments are inclusive of commitments including Silver Hill:

	2016	2021	2026	2031
Convenience goods				
2010 study	1,900	2,455	2,783	No projection
2012 study	Negative capacity	Negative capacity	260	1,125
Comparison goods				
2010 study	3,065	11,208	19,703	No projection
2012 study	Negative capacity	3,338	2,924	7,821

Notes:

1. All figures sq.m. (net);
2. Assumes 'low growth' scenario;

There is clearly a substantial difference between the two sets of results. Looking at comparison floor space only, NLP attribute this to a decrease in expenditure per capita, and lower expenditure growth rates (4.45% in the 2012 study, and 4.7% in 2010). In reality there are some obvious deficiencies to the 2012 study. These are as follows:

- The assessment that comparison floor space in Winchester performs at company average level is highly unlikely. Table 3C of the 2012 study (based on survey evidence, and an assumption for inflow) suggests a turnover for City Centre comparison floor space of £168.86m. However, Table 3A (assuming company average performance) puts the figure at £143.91m. The difference (£24.95m) must represent base-line capacity (over-trading);
- The capacity assessment assumes no increase in the City Centre's market share as a result of the Silver Hill commitment. This reflects badly on the likely performance of the Silver Hill scheme, not least because NLP has adjusted market shares on some zones to account for redevelopment elsewhere in the District at Whiteley town centre; and
- No significant new comparison floor space has been constructed in the City Centre since the Brooks Centre (circa 1990). During the same period substantial new schemes have opened in competing centres (Basingstoke, Newbury and Southampton). These schemes will have constrained Winchester's performance, such that latent need (capacity) has effectively been ignored. The 'need' for Silver Hill was established via the Council's

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2003 retail study and assumed as open and trading by 2011; a need that was not met.

Appropriate allowance for these factors would significantly increase the comparison goods capacity within the 2012 study. The Council's consultant has already been alerted to these concerns via evidence very recently presented to the Silver Hill CPO Public Inquiry. Their response prompts additional representations on behalf of our client as follows:

- The £24.95m expenditure surplus¹ is confirmed by NLP as legitimate capacity (need) for additional comparison floor space (via over-trading). This would be over and above any capacity thus far identified in the NLP report, and the City Council's evidence to the public inquiry;
- At £6,000/sq.m.² it would equate to an additional 4,158sq.m. net comparison sales area. This compares to the Silver Hill Scheme at 4,614sq.m.³;
- This need is specific to the City Centre, and is current at 2012;
- There is no evidence to suggest local shops in the City are under-performing, as NLP suggest. Indeed, utilising data in the NLP report one can see they are over-trading at £6,457/sq.m.⁴ i.e. by about 60%⁵;
- Out of centre floor space has no policy protection. A counter-balancing adjustment / calculation of the type implied by NLP would have the effect of protecting out of centre store performance, contrary to adopted policy;
- It is common practice to increase market share of centres to account for development of new floor space. This would be consistent with the CBRE work undertaken on behalf of Henderson⁶. Not to do so would make NLP inconsistent with CBRE;
- Not to increase market shares would also reflect badly on the proposed scheme, and / or demonstrate inconsistency with NLPs own approach to Whiteley (Whiteley being a replacement centre, not a new centre as NLP suggest);
- We do not agree that any significant element of Silver Hill's comparison turnover would be diverted from out of centre stores in Winchester; they are of a different profile relative to those likely to occupy the Scheme; and
- Up to the design (opening) year of the Silver Hill scheme adopted by NLP (2018) we are not aware of any other planned openings of significant new comparison floor space in competing centres (other than Whiteley).

Notes:

1. £168.86m (NLP 2012, Table 3C) - £143.91m (NLP 2012, Table 3A);
2. NLP 2012, Table 6A;
3. NLP 2012, Table 6A net of floor space lost;
4. £4.52m (NLP 2012, Table 3C) / 700sq.m. (NLP 2012, Table 3A);
5. The result of 4 (£6,457/sq.m.) compared with £4,000/sq.m. (NLP 2012, Table 3A);
6. Appendix 4 to Mr Perry's Proof of Evidence.

We consider that the NLP study, the City Council's evidence to the Silver Hill CPO public inquiry, and the proposed modifications to the draft JCS significantly

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understates comparison retail need. As a consequence, the draft plan would significantly under-shoot objectively assessed needs.

We therefore request that this element of the plan is either amended accordingly, or is found 'unsound' by the Local Plan Inspector. Amending the plan accordingly will have significant implications for certain parts of the adopted Winchester District Local Plan Review (2006), in particular Policy W2.

Wider Ramifications of the NPPF

The requirement of the NPPF that "*it is important that needs for retail... are met in full*" (paragraph 23) is significant for the draft JCS, the adopted Local Plan Review, and Winchester City Centre.

The City Council's approach as set out in the proposed modifications falls short of this requirement. For example:

- Modification number 26 – it is explained that the plan would meet the "bulk" of objectively assessed development needs (not "full");
- Modification number 38 – "*short to medium term development needs can be accommodated through existing commitments... Whilst this Local Plan does not allocate the land to deliver additional development, it establishes the strategy for any future site allocations which may be needed through Part 2 of the Local Plan*"; and
- Modification number 43 – "*Provision of additional retail floor space through existing planned developments at Silver Hill in the short to medium term and (our underlining) future additional provision (projected to be about 9,000sq.m. to 2031 with this figure being updated prior to any site allocations) to support Winchester's role as a sub-regional shopping centre for existing and new communities...*"

In short, at the very least the draft JCS seeks to abdicate its role as required by the NPPF. The reality is that the draft Plan fails to allocate sites sufficient to accommodate about 9,000sq.m. (net) retail floor space, about double existing commitments. The NPPF does not describe a process whereby policy allocations for objectively assessed needs are deferred; on the contrary, the NPPF describes a single local plan meeting all objectively assessed needs from the outset. Explicitly, the draft JCS does not even seek to achieve that, let alone actually do so.

Moreover, as set out above we consider the Council's evidence base for retail need under-estimates the required level of new floor space. This will only compound the issue.

At the recent Silver Hill CPO Public Inquiry witnesses on behalf of the City Council confirmed in evidence that the Silver Hill area of the City Centre represents the best, probably only, site suitable for meeting retail need within the City Centre over the plan period. The ramification of this is clear; the Silver Hill area of Winchester City Centre should ideally accommodate more retail floor space than presently planned for. In turn, this will require a fundamental rethink of the

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strategy for the area (presently addressed at Policy W2 of the Local Plan Review 2006), and adjoining land.

At the recent Silver Hill CPO Public Inquiry, we (on behalf of London and Henley) and other objectors to the CPO e.g. Sainsbury's, set out credible (and in significant aspects unchallenged) suggestions as to how such could be achieved. One obvious solution would be for the proposed new bus station to be relocated from the Silver Hill area to the Middle Brook Street public car park (owned by the City Council) on the west side of Friarsgate, thus freeing-up significant space within Silver Hill for more appropriate forms of development.

Another would be to review the proposed (substantial) level of car parking within the approved Silver Hill scheme. That scheme is based on ancient concepts and thinking based on studies from the late 1990's, and moreover driven by a flawed and highly questionable set of commercial arrangements between the City Council and their (then) development partner Thornfield Properties.

In addition, it is our view that the approved scheme for Silver Hill fails to meet the NPPF's requirement for "high quality" design. Numerous objectors (including the Council's own conservation officer) expressed serious reservations and concern about the scheme, both at the application stage and more recently during the CPO Public Inquiry.

In short, the NPPF requires that the City Council should now take the opportunity to reconsider the policy approach for the Silver Hill and adjoining areas of the City Centre. As part of this, the Council should include in the area for consideration the Brooks Shopping Centre (the freehold owned by the City Council, and the head-lease owned by London and Henley). Logic dictates, given the Council's approach to Silver Hill to-date, that it would be willing to permit a mixed-use redevelopment of the Brooks Centre up to seven stories in height (consistent with 'Block A' of the approved Silver Hill scheme).

We request the right to present more detailed evidence on these matters to the Local Plan Public Examination, and reserve our client's position to add to, alter or amend these representations in due course.

Should you require any further information please contact Bruce Hartley-Raven of this office in the first instance.

Yours faithfully,

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