
Committee Date:	26/06/2014	Application Number:	2013/09229/PA
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Target Date:	11/09/2014		
Ward:	Longbridge		

Longbridge Town Centre Phase 2, South of Longbridge Lane, East of A38 and Lickey Road, Longbridge, Birmingham

Retail and service development (A1, A3 and A5) comprising 14,832sqm (GEA) anchor store, retail units of 4,383sqm (GEA), restaurant/takeaway pavilion building of 589sqm (GEA), erection of multi storey car park of 1216 spaces and surface level car park of 500 spaces, access, landscaping and associated works

Applicant: St Modwen Developments Ltd and Marks and Spencer PLC
c/o Agent
Agent: Planning Prospects Ltd
4 Mill Pool, Nash Lane, Belbroughton, Worcestershire, DY9 9AF

Recommendation
Refer To The Dclg

1. Proposal

1.1. The joint applicants (St Modwen Developments Ltd and Marks and Spencer Plc) propose an extension to the existing and consented Longbridge Town Centre to provide:

- A two-storey, 14,832sq.m Marks and Spencer store (14,008sq.m Gross Internal Area (GIA)); of which 10,842sq.m would be for retail sales including a food hall (1,208sq.m) and a further 372sq.m would be for a café;
- nine, two-storey retail units totalling 4,383sq.m floor space (4,192sq.m GIA);
- a six-deck multi-storey car park (1,216 spaces);
- a 500 space surface car park including 22 spaces for people with mobility difficulties and 10 parent and child spaces, and;
- a two-storey restaurant/pavilion building of 589sq.m (522sq.m GIA).

1.2. The main town centre application was approved under application reference 2011/00773/PA on the 9th September 2011 and has subsequently been completed and primarily occupied. The exception are the four retail units of 4,383sq.m (GEA) floor space approved under the 2011 consent, which have not been built. Instead, the applicants propose their relocation from the approved site, which is covered by the now-proposed M&S store.

Overall layout:

- 1.3. The existing town centre development has a Sainsbury's supermarket backing on to the railway line to the east, with its front facing west across to Bournville College, the 'island' block, and the new park. This application proposes a Marks and Spencer store to extend the form of development backing onto the railway, by siting it to the immediate south of the Sainsbury's car park and the retail 'High Street'. The store would also face west, across the proposed 500 space surface car park. The multi-storey car park would join to the immediate south of Marks and Spencer. The development would then turn through 90 degrees to the west, to frame the southern edge of the proposed surface car park. The nine retail units would be sited within this 'arm' of development. The western edge of the surface car park would be framed by a future development plot, now excluded from the red edge of the current application site following the submission of amended plans. The restaurant/pavilion building would be sited between the northern edge of the surface car park and the park.

Site-wide Access:

- 1.4. Visitors' vehicular access would extend from the existing access road through the town centre site. The two car parks would be accessed from the north and west. First, via the town centre's internal road just south of the Sainsbury's car park entrance. Secondly, from other site roads leading from Lickey Road to the south-west.
- 1.5. Sainsbury's delivery access currently runs north-south alongside the railway line. This is proposed to change with this development and would share the delivery access route with the Marks and Spencer store, from Lickey Road along the back of the proposed retail units, past the entrance to the multi-storey car park and would re-join the road running parallel to the railway line. All of the new retail development would share this route along with private vehicles utilising the proposed multi-storey car park.
- 1.6. Pedestrian access would, principally, be from three different points along the northern edge of the surface car park. The first two would be either side of the car park following the frontages of the forthcoming plot and proposed retail buildings. The third would be along a dedicated, tree-lined footpath leading north-to-south through the centre of the car park, from the site of the proposed restaurant/pavilion building. The surface would have a different treatment to give pedestrian safety with respect to shoppers' vehicles. This footpath would lead to a series of steps and a covered, external lift, provided in a 10m gap in the row of nine retail units, due to retaining access to water services. This pedestrian link would lead up a 5m rise in ground level to the Phase 4 Housing site approved late last year, and other future development plots. A second pedestrian route would cross the car park, from west to east, linking the Marks and Spencer entrance to the future development plot on the site's western side.

Detailed design:

Marks and Spencer store

- 1.7. The building would provide a 118m long front façade, and measure 56m-70m deep. The front elevation would measure 16m tall, with a slightly higher element (19.5m) adjacent to Sainsbury's, framed in granite-coloured Kingspan cladding, with a pressed-metal frame to large glazing areas serving the first-floor café. The central element of the elevation would consist of vertical aluminium fins, providing both solar

shading and architectural interest, above the main customer entrance. The southern end of this main façade would feature a large, square 'green wall', with profiled aluminium cladding to either side. A significant proportion of the ground floor would be glazed, and this would extend to a sizeable area either side of, and above, the main doors, to provide good intervisibility into and out of the store. Large 'M&S' signs are shown at either end of the building, which will require a future advertisement consent.

- 1.8. The rear elevation would be clad in silver-coloured metal cladding. The roof slopes down from front to back, in part to allow a rooftop plant area at the rear next to the railway line, which would be screened by a 4m tall timber acoustic barrier atop the cladding.

Nine retail units

- 1.9. The row of nine, two-storey units would be split into two buildings, of five and four units respectively. They would be for non-food (comparison goods) retail sales. The buildings would be 76 and 56m long, and both 32m deep and 14m tall to their front parapet wall, hiding the single-pitch roof behind. The majority of each unit's front façade would be curtain wall glazing, framed within natural stone rain screen cladding, framed itself by brickwork. A fascia signage zone is between the ground and first floors. The return elevations facing the external steps and lift connection to the south would have a mixture of glazing (close to the front corner), brickwork, metal and polycarbonate cladding. 4.4m tall brick walls would line this pedestrian route, to enclose the delivery bays sited at the rear (south) of the retail units. Due to the higher ground level at the south of the site, the delivery bays would be at first floor level internally.

Multi-storey car park

- 1.10. Excluding the vehicle access ramp, the building would measure 76m wide by 80m deep. It would be 18m tall (six levels), with slightly taller elements (2m extra) in each corner. Level 0 would be cut-in to the ground, which rises up to the south. 24m of the front façade would present to the new retail 'square'/surface car park, with the first block of other retail units butting up to its western elevation. The principal stair and lift core would sit in the front corner, adjacent to the Marks and Spencer store. This core would be clad in composite panels, with fenestration on each level. Aside from the cores, the decked elevations would be clad in a metal mesh. The vehicle ramp would be clad in silver anodized vertical aluminium fins. Levels 0 and 2 would link directly into the Marks and Spencer store. The car park would provide 1,216 spaces with approximately 200 per storey.

Surface car park

- 1.11. The main body of the car park would be set out with five double-rows of parking bays, sub-divided by two pedestrian, landscaped routes, as described above and would total 500 spaces. Other structural landscaping would be provided around the car park's periphery, parallel to the future development plot's frontage. A further, substantial, triangular area of landscaping would be provided on the car park's northern edge.

Restaurant/pavilion building

- 1.12. This would have an irregular-shaped triangle footprint, with its over-hanging apex pointing west, and back-of-house functions grouped at the eastern end of the building, partly housed in a flat-roofed single-storey element. Its longest façade would face north over the park, measuring 46m long. Both the long facades would be predominantly glazed towards the building apex, within aluminium framing. Concertinaed doors would open out to a terrace at the park edge on the north

elevation overlooking the park. Sailing over the glazing, and at the rear of the building, the primary material would be a profiled metal cladding, colour Silver RAL 9006 Metallic. Other façade materials would be brick and aluminium louvres. The front door would face east, across to the island block, with Sainsbury's and Marks and Spencer beyond. The roof would rise in a single pitch, from 6m tall at the building's eastern end, to 8.6m at the western apex.

- 1.13. This building would also house a refuse store and sub-station. These have been designed into the pavilion building so that it is read as one structure.
- 1.14. A Design and Access Statement, Retail and Centres Statement including a supplementary sequential test and impact report addendum, Drainage Strategy and Flood Risk Assessment, Geo-Environmental Summary Report, Transport Statement, Planning Statement, Delivery and Viability Report have been submitted in support of the application. The application is also supported by a full Environmental Statement that was scoped with the LPA and Statutory Consultees prior to submission and covers socio-economic effects, landscape and visual effects, noise and vibration, air quality, transport movement and access along with residual and cumulative effects. The Environmental Statement does not include a section on Ecology as the site has been cleared, remediated and levelled for development and has no ecological habitats. All ecology issues have been previously dealt with under relevant applications for remediation and site levels.
- 1.15. No restrictions on opening or delivery hours are proposed or suggested at this point.
- 1.16. The proposal would generate approximately 61 Full Time Equivalent (FTE) construction jobs and approximately 550 FTE operational jobs.
- 1.17. Site Area: 5.85Ha

[Proposed Site Layout Plan](#)

[Proposed Elevations of Marks and Spencer Store](#)

[Colour Artist Impression of M and S Store](#)

[Proposed Non-Food Retail Units Elevations](#)

[Proposed Pavilion Elevations](#)

2. Site & Surroundings

- 2.1. The site is located in Longbridge, immediately south of the town centre – 'High Street' and Sainsbury's supermarket. The site forms part of the Longbridge North redevelopment area.
- 2.2. The site is bounded by the existing town centre to the north, Bournville College and new park to the north west, future development plots to the south and south west including Phase 4 housing. To the east, the site is bordered by the Cross City railway line and existing residential development.

[Site Location Map](#)

[Streetview](#)

3. Planning History

- 3.1. 3 February 2014. 2013/06476/PA. Planning permission granted for Residential development comprising 18no 2, 3 and 4 bedroom houses and 64no 1 and 2 bedroom apartments, access, parking and landscaping.
- 3.2. 3 February 2014. 2013/06311/PA. Outline planning permission granted for residential development (up to 215 dwellings) access, parking and landscaping. All matters reserved.
- 3.3. 22 November 2013. 2013/06430/PA. Planning permission granted for Re-profiling and remodelling of site levels, remediation works and creation of two vehicular access points.
- 3.4. 15 November 2013. 2013/06431/PA. Planning permission granted for Construction of highway access road & footway, associated drainage infrastructure, lighting & landscaping.
- 3.5. 7 February 2013. 2012/07693/PA. Planning permission granted for Highway link road, street lighting and landscaping.
- 3.6. 10 January 2013. 2012/07066/PA. Planning permission granted for the erection of 19 dwellings with associated access, parking and landscaping.
- 3.7. 3 January 2014, 2012/05330/PA. Application for retail development (Use Class A1), car parking, access and landscaping comprising - (1) - Outline application for retail unit (Use Class A1), multi-level car park (up to two levels), hard and soft landscaping, access and associated infrastructure (all matters reserved except access), and (2) - Full details (matters not reserved) for terrace of retail units (Use Class A1), service space, surface level car parking, hard and soft landscaping, access, roads, footpaths and associated infrastructure. Application Withdrawn by the Applicant.
- 3.8. 21 June 2012. 2012/02283/PA. Planning permission granted for Recreational park including alterations to river alignment, new bridge, pedestrian cycle bridge, footpaths, hard & soft landscaping and associated river & drainage infrastructure works.
- 3.9. 9 September 2011. 2011/00773/PA. Planning permission granted for Mixed use development comprising new superstore, shops (A1), Financial and Professional (A2), Restaurants/Cafes (A3), Public Houses (A4) and Hot Food Takeaways (A5), Offices (B1a), 40 residential apartments, hotel, new public park, associated parking and service infrastructure and new highway access from Longbridge Lane and Lickey Road.
- 3.10. 5 August 2011. 2011/03652/PA. Temporary planning permission granted until 4 August 2016 for the change of use to 500 space car park in connection with Bournville College at West Works and erection of 1.8m high fencing and 8m high lighting columns.
- 3.11. 30 July 2010. 2009/06423/PA. Planning permission granted for Erection of 115 dwellings, new accesses, parking and landscaping.

- 3.12. 13 May 2010. 2010/00125/PA. Temporary planning permission granted until 13 May 2015 for the change of use to car park at West Works in connection with Bournville College and erection of 1.8m high fencing and 8m high lighting columns.
- 3.13. 26 May 2009. 2009/00967/PA. Planning permission granted for Site remodelling, remediation and works to, and re-alignment of River Rea.
- 3.14. 17 April 2009. 2008/06456/PA. Planning permission granted for Development of a college facility (Class D1), with associated landscaping, parking and access arrangements.
- 3.15. 15 September 2008. 2008/01814/PA. Planning permission granted for Site remodelling, reprofiling, alterations to River Rea and culverts, creation of site access and widening of part of Longbridge Lane.

4. Consultation/PP Responses

- 4.1. Local residents, Ward Councillors for both Longbridge and Northfield wards, MP and Resident Associations notified. Site and Press notices posted advertising the application as a major development that would be a departure from the development plan and that the application is accompanied by an Environmental Statement. Also consulted were Ward Councillors for the adjacent neighbouring Bromsgrove Wards along with the relevant MP and the following neighbouring authorities – Bromsgrove District Council, Redditch Borough Council, Dudley MBC, Solihull MBC, Worcester City Council, Worcester County Council, Sandwell MBC and Wyre Forest District Council. A first round of consultation was undertaken between 23 December 2013 and 30 January 2014 with an additional consultation to relevant parties relating to retail and transportation matters being undertaken between 15 April and 23 May 2014 following the receipt of additional information.
- 4.2. 5 letters of comment have been received from local residents/occupiers in the vicinity. These are summarised as:
- the height of the multi-storey car park means that it will be very visible from the adjacent residential areas;
 - the level of parking provision given existing parking problems;
 - vehicle impact on the highway network;
 - design of the store, as the college already degrades the area
 - support for Marks and Spencer at Longbridge.
- 4.3. Given the significant objections and counter-arguments, including interpretation of retail and other policy, comments made on behalf of the Bullring Alliance and the Harvest Partnership are replicated primarily in full below.

Objections on behalf of the Bullring Alliance (original application submission)

- 4.4. The Bullring Alliance supports the comprehensive regeneration of this important strategic site and the policy objectives intended to deliver this, set out in the Longbridge Area Action Plan (AAP). It is recognised that the success of the development is dependent on achieving a highly sustainable mix of uses to create the community hub of activity that is desired. Whilst we recognise that the overall scale of development is significant, this latest application seeks to increase the scale of the retail element to a level which has not been fully justified.

- 4.5. Longbridge Town Centre benefits from planning permission which was granted in 2011 (ref: 2011/00773/PA) for development comprising a mix of uses including a superstore, smaller retail units along Longbridge Lane, High Street East and Island, and larger A1 retail units at South Square. The current application covers the area which has planning permission for solely A1 retail units (South Square) through consent granted in 2011. It follows an application submitted in 2012, which proposed reconfiguration of the originally permitted terrace of larger retail units to create a more uniform size, as well as the introduction of an additional single large retail unit, and which has been subsequently withdrawn.
- 4.6. Bullring Alliance submitted comments to the 2012 application in response to the addition of the single large retail unit. Our comments to this application also relate to this significant addition to the proposed development, and concerns with the scale of development now proposed.
- 4.7. The Longbridge AAP (2009) promotes major transformational redevelopment and identifies size parameters within which new retail developments should follow in Longbridge Town Centre. Policy LC1 in the AAP proposes the maximum floor space for the superstore should be 7,500sq.m and unit retail 6,000sq.m. Whilst the quantum of floor space currently consented for Longbridge Town Centre Phases 1 and 2 through the original application (2011/00773/PA) is in excess of the AAP parameters, the quantum of retail floor space proposed through this latest application exceeds these parameters further still, and is also over and above that proposed in the 2012 application.
- 4.8. The Pre-submission Birmingham Development Plan (BDP) (2014) states that *"the AAP has planned for 13,500sq.m of gross comparison retail floor space"*, which is at odds with AAP Policy LC1 which clearly sets out 7,500sq.m for a superstore, and 6,000sq.m for other A1 retail. Nevertheless, the overall quantum identified in the BDP is consistent with that in the AAP.
- 4.9. Longbridge is defined as a 'Neighbourhood' Centre in the adopted Shopping and Local Centres SPD (2012) and emerging BDP. The additional retail floor space proposed appears to be largely outside the Centre boundary and is entirely outside of the defined Primary Shopping Area. Neighbourhood Centres are described as suitable for a range of small shops and smaller supermarkets of a local nature. NPPF Annex 2 makes it clear that neighbourhood centres reflects their purely neighbourhood significance in terms of scale. Nevertheless, the development already permitted at Longbridge slightly exceeds the level of retail proposed within the AAP, and therefore also exceeds by some way, the level of retail envisaged in the SPD. As with the previous application, the applicants deal with this inconsistency and the additional retail proposed by implying that the term 'neighbourhood centres' as defined in the SPD is interchangeable with the general term 'local centre' and that this is in turn interchangeable with 'town centre' as defined in the National Planning Policy Framework, where larger scale retail development is appropriate.
- 4.10. The retail floor space proposed through this application is far in excess of the parameters set in Longbridge AAP Policy LC1, as well as the quantum of retail floor space permitted by the existing consent for part of the site. The quantum of retail floor space proposed is also greater than the 2012 application which was subsequently withdrawn. Similarly, the proposed number of car parking spaces is significantly greater than the policy requires, and provision has increased substantially through the various iterations of the proposals. The level of car

parking now proposed is over 1,700 spaces, which is more than double that permitted under the existing consent for this part of the site, and far in excess of the level envisaged through the AAP (1 space per 30sq.m in line with the Council's adopted parking standards).

- 4.11. This latest proposal is now something more akin to a modest sized retail park, and given the level of parking proposed would seemingly be targeting a large number of car borne customers. This is at odds with the AAP, which set out the concept for Longbridge as a centre anchored by a food store, complemented by a range of other smaller units fulfilling a neighbourhood need. Notwithstanding its 'centre' status, the present application raises significant tension with this concept, through the introduction of significant additional non-food retail floorspace outside of the centre boundary.
- 4.12. The quantum of retail floor space proposed is incongruous with the form and characteristics of the centre as anticipated in the Longbridge AAP, the emerging BDP and the Birmingham Centres SPD.
- 4.13. In principle we support the regeneration of Longbridge but feel that due regard has not been given to the policy considerations regarding scale of retail development at this location. On this basis, we object to the application on the grounds of conflict with local and national retail policy.

Objections on behalf of the Harvest Partnership (original application submission)

- 4.14. While the current application does not substantially differ from that previously submitted, the identification of Marks & Spencer as the occupier of the large store reinforces the concerns we expressed about the previous application. For ease of reference our principal concerns are summarised as follows:-
 - The nature and scale of the proposed development is not appropriate and contrary to an up-to-date development plan;
 - The proposal will have a significant, adverse impact on investment at Selly Oak district centre and will undermine the Council's long-standing strategy to regenerate the area; and
 - Insufficient evidence has been provided to justify the proposed development.
- 4.15. The application seeks planning permission for additional retail floor space (Class A1) together with the provision of multi-storey and surface level parking totalling 1,700 spaces. In 2011 permission was granted for a mixed use scheme to form a new local centre at Longbridge (ref: 2011/00773/PA). This provided for an overall level of A1 retail floor space consistent with that envisaged in the Longbridge AAP (up to 13,500sq.m gross) and was conditioned accordingly to ensure compliance with the AAP.
- 4.16. The 2011 permission has been implemented and is now largely built out with the exception of the terrace of four larger shop units (comprising 4,383sq.m GEA). The current application seeks to relocate and reconfigure this permitted floor space in addition to the creation of a new anchor unit comprising 13,935sq.m gross. This is intended to accommodate a full line M&S store, including a food hall. On the basis that the 4,383sq.m is already approved (albeit in a different location and configuration) the applicant's assessment focusses solely on the implications of the additional 13,935sq.m gross floor space proposed in the anchor unit. However, the applicant acknowledges that there is likely to be some

difference in the market positioning of the tenants, as a direct result of the presence of M&S.

- 4.17. It is relevant to note that the applicant does not suggest that the 4,383sq.m retail floor space, as currently approved by the 2011 consent, is not deliverable or commercially unattractive to operators. Furthermore, the applicant acknowledges that the local centre, as envisaged by the APP, is largely built out. The current application therefore provides no substantial, additional benefit to the delivery of the local centre. The applicant places significant emphasis on additional benefits arising as a direct result of the presence of M&S at Longbridge. We agree that M&S is a desirable retailer and its presence is likely to attract other desirable retail operators, the implications of which are discussed in more detail later. However, we believe its role in securing investment and regeneration of the wider Longbridge area is substantially overstated, particularly when weighed against the impact such a scheme will have on other priority regeneration areas elsewhere in the City.
- 4.18. Planning law requires that applications for planning permission must be determined in accordance with the development plan and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The requisite plan making process ensures that adopted development plans are, amongst other things, informed by proportionate evidence, and represent the most appropriate strategy when considered against reasonable alternatives. It is relevant to note that, as part of the plan making process, national policy requires LPA's to use the evidence base to assess, *inter alia*, the role and function of town centres and the relationship between them, and the capacity for centres to accommodate new development.
- 4.19. The Council's adopted development plan policies are informed by proportionate evidence which has given thorough consideration to the existing and future network of centres and the relationship between them. One output of this has been to define the planned new centre at Longbridge as a 'local centre' to meet 'local needs'. This is not a decision which has been reached in isolation, but has had regard to the wider network of centres and the need to maintain a sustainable and balanced network. Similarly, the scale of retail considered to be appropriate at Longbridge follows detailed analysis and consideration of impacts on the wider network of centres. It has not been reached lightly. This is clearly demonstrated in the adopted AAP which *'recognises the need to ensure that the scale and nature of uses must complement and not threaten the viability of other local centres (e.g. Northfield, Rubery and Frankley) as well as neighbourhood shopping parades'*.
- 4.20. The applicant's suggestion that *'these narrow issues, including the indicated floor space limits, should not be regarded as determinative'* would be to disregard the entire, rigorous process which has been undertaken in reaching such decisions. Furthermore, the applicant has failed to provide any substantive, up-to-date analysis of 'local needs' (except that which relates to M&S' specific needs) to demonstrate that the AAP adopted strategy (and found sound by an Inspector) is no longer appropriate. In our view the applicant's submission, which is clearly commercially led, is far from sufficient to support or justify such a radical change in the policy approach to the area.
- 4.21. The proposal will increase the scale of retail at Longbridge to a level which is substantially above that judged to be acceptable, having regard to a wider range of issues and strategic objectives, by the adopted development plan. To put this into context, the scale of the proposed M&S alone (13,935sq.m) exceeds the upper limit set by AAP Policy LC1 (13,500sq.m) for the entire new local centre. The introduction of a major retailer such as

M&S will also have the effect of substantially altering the nature of retailing in this location and increase its attraction to a wider than local catchment. Indeed, we seriously question the extent to which M&S will significantly contribute to meeting the 'local needs' of the immediate area. The applicant has neglected to provide any detailed analysis of the local demographics or indeed defined the catchment which the proposals are intended to serve.

- 4.22. Instead there is a real concern that the presence of M&S, alongside other desirable retailers which we would expect to be attracted to the scheme, will create more of a 'destination shopping' centre than one which is intended to serve a localised catchment. Based on our experience elsewhere, it is evident that such schemes draw from an extensive catchment and will attract predominantly car borne visits. This expectation is clearly reflected by the substantial level of parking provision now proposed (1,700 spaces) compared to that approved in 2011 (513 spaces). This is clearly at odds with the core principles of sustainable development advocated by the NPPF. In terms of the nature and scale of retail proposed, the application is clearly contrary to an up-to-date development plan. In addition, such a scheme will (as it is intended to) appeal to a wider than local, and predominantly car-borne catchment. As such the proposals cannot be regarded as sustainable economic development.
- 4.23. The applicant has not undertaken a detailed quantitative impact assessment of the proposals. Instead they have provided a relatively basic commentary which seeks to refute the detailed (and cumulative) assessment undertaken by Hollis Vincent (report dated May 2013). We disagree with the applicant's assertion that, on the basis the proposal is 'in-centre' that such an assessment is not a policy requirement. As set out above, the proposal is in direct conflict with the adopted UDP and Longbridge AAP in terms of the scale and role envisaged for the new local centre at Longbridge. The applicant has provided no substantive evidence to justify such a radical change in the scale and nature of retail planned in this location and it is therefore fundamental for the Council to understand the implications of such proposals on the wider network of centres. Such evidence was required by the Council in order to determine the recent application at Selly Oak and the same approach should be taken in respect of the current proposals at Longbridge. The onus is on the applicant to demonstrate compliance with paragraph 26 of the NPPF, this has clearly not been adhered to in this instance and the Council should require further detailed analysis to be provided to substantiate the applicant's assertions.
- 4.24. It is also considered imperative for the applicant to assess the impact of the proposal as a whole, rather than simply focusing on the additional floor space proposed to accommodate M&S. As recognised by the applicant, the consequence of M&S' presence on the scheme will affect the market positioning of other retail units. This will influence the likely turnover assumptions and those previously applied may no longer be appropriate. Given the change in circumstances, it is therefore only prudent for the applicant to reconsider the retail impact of the scheme as a whole. The applicant refers to our client's proposals for the redevelopment of Battery Park, Selly Oak (and a priority regeneration area in the south of the City) which were recently approved (ref: 2013/02178/PA). The proposals at Selly Oak therefore represent committed development in a centre in the catchment area of the proposal. The NPPF is clear that where an application is likely to have a significant adverse impact on such investment, it should be refused.
- 4.25. The applicant acknowledges that plans to bring forward the redevelopment of the Battery Park site are longstanding and have been plagued by issues of viability due to costly remediation requirements associated with the site. However, it is in this context that the future, long term investment required to regenerate Selly Oak is even more vulnerable to the impact of the current proposal at Longbridge. Given

their relatively close proximity, there will be an inevitable overlap of catchments, both in terms of consumers and target retailers. Despite the applicant's assertion that there is 'room for both' no commercial evidence is submitted to substantiate this. It is important to appreciate in this context that the retail and mixed used development at Battery Park will pay for the highway works required to develop the site as a whole. This means that the development of the Life Sciences Campus at Selly Oak can only proceed if the retail and mixed used development goes ahead.

- 4.26 Clearly therefore, whilst the objectives of regenerating Longbridge (which it should be noted are already well on the way to being realised) may be further benefitted by the current proposals, this will be to the detriment of other priority regeneration objectives at Selly Oak. This should be regarded as a significant, adverse impact in the context of the NPPF, and the application should therefore be refused.
- 4.26. In summary, we respectfully request that the application be refused on the following grounds:
- The proposals are of a scale and nature which is fundamentally inappropriate to the role and function of a local centre and directly conflicts with the adopted development plan.
 - The proposal will create 'destination shopping' which will draw from an extensive and predominantly car borne catchment, contrary to the objectives of sustainable development;
 - The proposal will significantly impact on the committed, planned investment in Selly Oak; and
 - The alluded benefits of the proposal are not fully substantiated and are, in our view, overstated and do not significantly outweigh the significant adverse impact associated with the proposal

Further Objections on behalf of the Harvest Partnership (original application submission)

- 4.27. Our client is concerned that the proposals for Longbridge are out of scale and nature with its role and function as a local centre, especially as the type and scale of proposed retail floor space will create 'destination shopping', drawing from an extensive and predominantly car borne catchment. This will have a significant impact on the committed investment at Selly Oak and other centres within the catchment. We note that the Council has requested that the applicant for Longbridge undertake assessments in respect of impact and the sequential test and look forward to reviewing this information as and when it becomes available. In the meantime, we wish to expand upon our previous representations to make the following particularly important points which we trust will be of assistance in your consideration of the application.
- 4.28. It has been our understanding that a new local centre for Longbridge would provide a mixture of uses, including residential, a learning quarter, leisure, offices, mixed use retail, open space and car parking. In terms of retail development, and as set out in the adopted Longbridge Area Action Plan (AAP), the local centre will comprise retail (Class A1) of up to 13,500sq.m gross, comprising a superstore of up to 7,500sq.m (up to 5,000sq.m convenience and up to 2,500sq.m comparison) and a further 6,000sq.m gross of additional comparison floor space, to be provided in a mix of unit sizes including a minimum of 1,500sq.m gross of smaller retail units (up to 200sq.m).
- 4.29. Clearly the current proposals equate to 18,318sq.m gross and when added to the already permitted and now trading Sainsbury's superstore (Ref: 2011/00773/PA), the proposed level of floor space significantly exceeds the 13,500sq.m gross cap set by

the AAP. It is therefore very clear that this level of retail development runs contrary to that set out in the AAP and paves the way for Longbridge to act as a higher order centre. This in turn will allow more incremental retail development to come forward in future at odds with the requirement to provide local shops for local people. Furthermore, areas currently reserved for future development at Longbridge could conceivably come forward for additional retail floor space at the expense of residential and employment uses thus further diluting the vision for the area. The creation of such a centre with prominence along the A38 will draw from a much larger regional catchment thus impacting on higher and lower order centres across Birmingham.

- 4.30. Any grant of planning permission for these proposals will therefore be at odds with the approach taken by the Council in respect of other large scale retail developments in Birmingham, most notably the recently withdrawn outline planning application at Selly Oak (Ref: 2012/01565/PA). In that instance the Council raised a series of concerns regarding the impact that a scheme at Selly Oak (a District Centre) would have on other centres. As a consequence a smaller scale mixed use scheme, incorporating a Life Sciences Campus was secured in line with adopted and emerging policy in Birmingham. We therefore urge the Council to apply a consistent approach to the consideration of other applications, including Longbridge, involving large scale retail development. Moreover, there needs to be consideration of the impacts that such a scheme will have on the delivery of already committed schemes in Birmingham, especially on the viability and deliverability of the Life Sciences and mixed use scheme at Selly Oak. Any permission at the level currently proposed at Longbridge, for the reasons given above, will draw target retailers away from Selly Oak. Indeed we understand that this may already be the case which is having an impact on the viability of delivering the proposals at Selly Oak, including the road enhancements and other measures secured by your Council in November 2013.

Revised Submissions from Harvest Partnership following re-consultation

- 4.31. Despite providing additional information, it is our view that the application proposal should not be supported by the Council. This reflects the recommendations of Hollis Vincent (HV) on behalf of the Council ('Further Retail Development at Longbridge — Retail Policy Advice', May 2013). It remains that the scale and nature of the proposal is inappropriate, it is contrary to national and local planning policy, fails the sequential approach and will lead to a significant adverse impact on future investment and the long term vitality and viability of nearby centres. Against this background, we strongly believe that the Council should refuse the current application. This objection should be considered alongside our earlier correspondence in relation to this application.
- 4.32. HV concluded in their initial assessment that the application fails the sequential test. The principal factor in reaching this position is that HV considers the Birmingham Battery Site provides a sequentially preferable location. In response to this, the applicant has sought to undertake further consideration of alternative sites as part of the sequential approach, including the Birmingham Battery Site. In reviewing the applicant's assessment of the Birmingham Battery Site, we do not accept their position.
- 4.33. First, it cannot be accepted that the Birmingham Battery Site is not sequentially preferable to the application site as suggested by the applicant. Unlike the current proposal at Longbridge, further retail development of the scale proposed is supported by adopted and local planning policy in Selly Oak. Such development accords with an up-to-date development plan. Likewise, unlike Longbridge, the quantum of retail floor space is also in accordance with local planning policy. Second, we can confirm that a viable scheme can be delivered on the Birmingham Battery Site. However, this is dependent upon securing anchor retailers.

- 4.34. The Birmingham Battery Site provides an available, suitable and viable location for additional retail floor space in a sequentially preferable location to Longbridge. Whilst the parameters of the extant permission cannot accommodate the current M&S proposal, the site does provide an opportunity to provide a larger retail unit (as reflected by the withdrawn application) that could accommodate M&S. It is also significant that the additional information provided by the applicant (Appendix 1, HOW Planning Justification for Sequential Search Area), confirms that sites within Selly Oak (along with a number of other centres) *"...would have the potential to be viable locations for a new M&S store."* Other centres have been dismissed in applying the sequential approach as such locations would be too close to existing M&S stores. By definition therefore, by not excluding Selly Oak from these centres due to proximity to existing M&S stores (as previously advocated), HOW Planning on behalf of M&S believe that Selly Oak provides a viable location. Such an approach represents a realistic assessment and reflects the limited distance (approximate drive time of six minutes) between Longbridge and Selly Oak. The close proximity means that both locations will serve largely the same catchment.
- 4.35. The applicant has put forward a number of examples where M&S have several large stores trading in regional markets both in town and out of centre. In considering these stores, it is evident that the concern that locating the M&S at Selly Oak would be unviable as it would be too close to their existing city centre store is unfounded. The comparative distances between some of the stores highlighted are summarised below:
- | | |
|--|------------------------|
| Warrington town centre and Warrington Gemini - | 3.7 miles / 8 minutes |
| St Albans and London Colney | 4.2 miles / 10 minutes |
| Bournemouth town centre and Castlepoint - | 5.2 miles / 12 minutes |
| Brighton city centre and Shoreham - | 5.6 miles / 13 minutes |
- The analysis above shows that it is not unusual for M&S stores to operate two stores with close proximity of each other. This includes locations that are comparable in distance to that potentially between a new M&S store in Selly Oak and the existing store in Birmingham city centre (4.1 miles / 14 minutes). There are also cases where M&S operate two stores in closer proximity than would be the case in Selly Oak (such as the example put forward in Warrington). Likewise, although not specifically put forward as an example by the applicant, it is notable that M&S is to open a new store at Wolstanton Retail Park in Staffordshire (comparable in size to the Longbridge proposal) just seven minutes from their existing store in the city centre
- 4.36. Against this background, the evidence presented by the applicant demonstrates that Selly Oak does provide a viable location for M&S. Given this, as the Birmingham Battery Site is available and suitable for the type of development proposed (and is supported by planning policy), this site provides a sequentially preferable location.
- 4.37. In assessing the potential impact of the proposal it is important to take into account the position of HV, when advising the Council on the now withdrawn application at Selly Oak (LPA Ref: 2012/01565/PA) and the current application at Longbridge, both of which were completed in May 2013. There has been no change in circumstances since this advice was provided that should alter these conclusions. As such they provide useful background in assessing the likely effects of the current application. It is essential that Birmingham City Council, as decision maker, adopts a consistent approach when assessing retail applications.
- 4.38. The applicant has assessed the impact (both solus and cumulative) of the current proposal on the key neighbouring centres, which are identified to comprise Northfield, Selly Oak, Birmingham City Centre and Bromsgrove. In undertaking this assessment, the applicant concludes that the impact on centres across the study area (both solus and cumulative) is acceptable, and is not significantly adverse for any centre. In reviewing this assessment we do not agree with the conclusions reached. In particular we have

significant concerns with regard to the implications the current proposal at Longbridge will have on the future delivery of the Birmingham Battery Site in Selly Oak. The recently published Planning Practice Guidance (paragraph 016) sets out the key considerations that should be taken into account when assessing the impact of a proposal. We have therefore assessed the current proposal at Longbridge against these considerations, which is set out below.

The policy status of the investment

- 4.39. The principle for a major mixed use scheme at Selly Oak has long been established through a number of planning permissions and local planning policy (both the Birmingham UDP and emerging Birmingham Local Plan). Selly Oak is identified as 'District Centre Growth Point', sitting below the City Centre within the retail hierarchy and where significant new retail floor space is expected in the future. The same policy support cannot be attached to the current Longbridge application. As previously recognised by HV, the scale of retail floor space proposed is significantly in excess of the need identified for Longbridge in the AAP and in the Draft Birmingham development Plan and not in accord with its function as a Neighbourhood Centre. Unlike the current permission at Selly Oak, planning policy is not supportive of the scale and quantum of retail floor space currently proposed at Longbridge.

The progress made towards securing the investment

- 4.40. Planning permission has been secured for the redevelopment of the Birmingham Battery site, which includes the delivery of Life Sciences Park (a key objective of the Council). Preparation for the remediation of the site is currently in progress and discussions are taking place with potential retailers. The delivery of the Birmingham Battery Site has been plagued by issues of viability due to costly remediation requirements associated with the site. However, following positive discussions with the Council over a long period, a deliverable and viable scheme has now been identified, which will lead to significant benefits. Such a scheme is in line with both adopted and emerging planning policy. The delivery of this scheme is at a crucial stage as our client is currently seeking to secure retailers to Selly Oak including a critical anchor tenant. This process will be significantly undermined by the Longbridge proposal. We do not accept the applicant's assertion that the Longbridge proposal is not competing for the same market opportunity'. As previously acknowledged by HV in advising the Council, there is no evidence of a quantitative or qualitative need for the additional retail floor space proposed. No additional analysis has been provided by the applicant to dispute this lack of need. The retail offer of M&S significantly overlaps with the type of retailers our client is currently trying to attract to Selly Oak. On-going discussions between our client and potential occupiers for the Selly Oak scheme have highlighted concern about the effect a new 'flagship' M&S store at Longbridge, which is not supported by planning policy, would have on the future trading performance of new retailers at Selly Oak. This has significant implications in the ability of our client attracting an anchor tenant.
- 4.41. This particular issue was highlighted by HV in initially appraising the Longbridge scheme in stating (6.17) that:
...we consider that the Longbridge Phase II proposal poses a significant risk to the successful delivery of a suitable and viable investment at the Battery Site in Selly Oak and that this would represent a significant adverse impact on the investment planned in Selly Oak as a district centre."
There is no reason why this position should now change in determining the application.
- 4.42. There is a clear danger that, if permitted, the M&S development, which is acknowledged by the applicant to draw custom from a wide area (as reflected by the scale of car parking proposed), will become attractive for other retailers and provide an alternative destination for the retailers currently being targeted at Selly Oak. The close proximity of

Longbridge and Selly Oak means that both locations will largely serve the same catchment and retailers will not wish to be represented in both locations. Whilst it is acknowledged that planning permission already exists for additional unit shops at Longbridge, the potential attraction of these units will be significantly different if they were to be located adjacent to a flagship M&S store with a sub-regional role. The development of an M&S will fundamentally change the role and function of Longbridge in that it would not serve a local catchment as envisaged by the AAP.

- 4.43. Although not forming part of the application, the current proposal already identifies land reserved for future development. Due to the prominence of Longbridge on the A38 and the attraction of an anchor M&S store, this location will be attractive to a range of retailers. Discussions taking place with retailers / agents in the market place have highlighted this land as potential being available for retailers who are client is looking to attract to Selly Oak. This uncertainty in the market place is having adverse consequences on the future delivery of the important Selly Oak. By granting consent for significantly more retail floor space at Longbridge than set out in the AAP (which has been through examination) this will set a precedent for even more retail floor space coming forward. This would be to the detriment of investment elsewhere.

The extent to which an application is likely to undermine planned developments or investments based on the effects on current / forecast turnovers, operator demand and investor confidence

- 4.44. The development of a flagship M&S store at Longbridge is not only contrary to the objectives of the Longbridge AAP but will also undermine future investment elsewhere, including at Selly Oak. Whilst the applicant argues that M&S has considered and dismissed the Birmingham Battery Site (which we do not accept), this does not mean that the proposal will not undermine the potential to attract retailers to Selly Oak. As outlined above, the development of a flagship M&S has implications in the delivery of the Birmingham Battery Site.
- 4.45. Fundamentally, the Longbridge scheme provides a direct competitor to Selly Oak and the current proposal at Longbridge will lead to a significant adverse impact on the delivery of this scheme. The Longbridge proposal will undermine the viability and deliverability of Life Sciences and mixed use scheme at Selly Oak. This includes the road enhancements and other measures secured by your Council in November 2013. Likewise, we also believe that the impact on other nearby centres will be significantly adverse. In considering the effects of the proposal at Longbridge it is important that the Council is consistent when assessing the effect of the proposal on other nearby centres. For example, in assessing the likely impact on Northfield District Centre it is important to refer to the conclusions reached by HV when advising the Council in respect of the now withdrawn application scheme at Selly Oak. The HV assessment concluded that there is likely to be a significant adverse cumulative impact on the level of trading in Northfield District Centre. Indeed, the HV report (paragraph 6.22) stated that:
- "...given Northfield's geographical location between the major ongoing investment in Longbridge and the proposed major investment in the Battery site, we consider it likely that investment proposed in Northfield would be harmed by the effects of the cumulative impact, if permission is granted to the Selly Oak scheme in addition to the ongoing investment in Longbridge."*
- In addition to concerns on potential investment in Northfield, HV also highlighted (paragraph 6.80) that:
- "...given the evidence of recent decline and the existence of the weaknesses that we have identified, we consider that there is likely to be a 'significant adverse' cumulative impact on the overall vitality and viability of Northfield District Centre (even without allowing for the Phase 2 proposal at Longbridge)."*
- (Our emphasis)

4.46. In light of HV's recommendations, together with other discussions with the Council, the proposal at the Birmingham Battery Site was revised. These revisions included reducing the total retail sales area by approximately 10,000sq.m in order to reflect adopted and emerging policy and to reduce impact on neighbouring centres. Critically, this reduction in floor space is less than the current proposed as part of Phase 2 at Longbridge (10,842sq.m net). Consequently, the concern about the potential cumulative impact on Northfield District Centre previously identified by HV and the Council is still applicable when assessing this application. There is no reason that this conclusion should change by the 10,000sq.m being provided at Longbridge rather than at Selly Oak.

4.47. Likewise, in terms of the potential impact on Birmingham City Centre, in reviewing the withdrawn scheme at the Birmingham Battery site HV obtained commercial advice from DTZ. This highlighted a number of concerns, including, *inter alia*:

- The retail market is difficult and faces numerous challenges as a result of structural changes on the high street;
- Rental growth is negative and reaching agreement with retailers for new leases is difficult; and
- Developers and investors are finding it increasingly difficult to bring forward development and will want to know that their long term commitment to the city centre would be matched by corresponding commitment from the Council.

Again, the Selly Oak scheme was revised in light of these concerns and we believe that these factors are equally applicable when considering the Longbridge proposal. Consistent with the HV's assessment of the withdrawn application at Selly Oak and their initial appraisal of the Longbridge application, there is clear evidence to demonstrate that the proposal will lead to a significant adverse impact on existing centres, and the application should therefore be refused.

4.48. Despite the additional information being submitted in support of the application, we maintain the position that the application should be refused. In particular:

- The scale and type of development being proposed is inappropriate to the role and function of a neighbourhood centre and directly conflicts with the adopted development plan.
- The proposal will significantly impact on the committed, planned investment in Selly Oak and other nearby centres; and
- The suggested benefits associated with the proposal are, in our view, overstated and do not outweigh the significant adverse impact associated with the proposal.

4.49. In reviewing this additional information, we maintain that our client's principal concerns have not been satisfactorily addressed and we urge the Council to refuse the current application. Such an approach reflects the advice of HV to Birmingham City Council in May 2013. There has been no change in circumstances, including the submission of additional information by the applicant that should alter this conclusion.

Consultation Responses (original application submission)

4.50. Natural England – No objection.

4.51. Regulatory Services – No objection subject to conditions relating to contaminated land, noise and vibration and extraction and odour control.

4.52. Transportation – Further Transportation Work is required to be undertaken based on the following:

- The TA refers to additional traffic counts in 2012. This information needs to be provided as no information on location, time of year or time of count are included. Also other developments have come on-line since including:
 - Town centre phase 1; observations appear to show less traffic movements than assumed in the earlier Travel Demand Model
 - Park and ride site on Devon Way now operational
 - Devon Way Innovation Centre appears to be now fully occupied
 - BCC LIT funded Longbridge Lane scheme is due to be completed at the start of March; reduced number of lanes and altered pedestrian crossing facility.
 - Large proportions of Lickey Road area residential development now occupied
- The local area traffic model is reviewed, extended and provided to confirm a current “base” model, i.e. including current developments, recent traffic flows and consented developments. The proposed Town centre phase 2 traffic can then be added to this model to better understand junction capacity issues.
- Car parking is provided in a surface car park and multi storey facility with 500 and 1200 spaces respectively. 200 spaces of these are previously consented as part of the town centre phase 1 scheme, and using the LAAP maximum parking provision for retail developments this would permit up to around 660 extra spaces needed for this proposal. As such there are around 840 (TA states 916) extra spaces in the MSCP that are for future uses. A review of current parking use across the site is required to establish how this is currently operating, and parking management is affecting this.

4.53. Environment Agency – No objection subject to safeguarding conditions relating to the flood risk assessment and surface water drainage.

4.54. Highways Agency – No objection. The site is covered by the Longbridge Area Action Plan (LAAP). The Highways Agency has been heavily involved in discussions regarding the impact of development in this area as a statutory consultee on both the LAAP and on planning applications which have come forward since the LAAP was adopted. In the course of these discussions it was agreed that the Highways Agency will direct conditions to be attached to each planning application as appropriate. The wording of the conditions has also been agreed with the developers. This approach has been agreed in order to ensure that the cumulative effects of development at Longbridge do not have an adverse impact on the M5 and M42 Motorways, without restricting the ability of the site to be developed and occupied.

4.55. Dudley MBC – The retail impact assessment needs to demonstrate that the quantum of floor space will not have an adverse impact on adjoining Borough Council Centres, in particular Halesowen. The study area should be extended to include Halesowen and Brierley Hill in the primary catchment area and the impact analysis should be modelled to include Halesowen and Brierley Hill and take account of the allocated Opportunity Sites for comparison retail in the Halesowen AAP. The assessment needs to acknowledge a large number of existing centres serve overlapping catchments.

Given the proposed floor space is above the level identified in the adopted AAP we would be pleased to see the evidence to justify that the comparison retail will meet a quantified local need? The emerging Birmingham Development Plan refers to the Longbridge AAP figure and states that within local centres comparison retail will be

acceptable in line with the size of centre and provided the proposal is aimed at catering for the local catchment population.

Under the Duty to Co-operate we would need to be comfortable with the demonstration that this major application would not have an adverse impact on the strategic planning and development in the Black Country (in particular Dudley Borough).

- 4.56. West Midlands Police – No objection.
- 4.57. Network Rail – Network Rail would comment that the developer is in talks with Network Rail in regards to a new access right of way at the rear of the Sainsbury's store, which might be impacted by this development. Network Rail requires access to its land around the clock (24/7, 365) and unblocked, for maintenance, as well as for emergency vehicles. The developer is to ensure that Network Rail still has unblocked access to our land around the clock and that the access is subject to Network Rail approval.
- 4.58. Northfield Ward Committee – Concern was expressed regarding the traffic issues that such an application would bring to an already congested area and the Chairman requested that the Ward Committee's reservations be conveyed to the Planning Committee.
- 4.59. West Midlands Fire Service – No objection.
- 4.60. Severn Trent Water – No objection subject to a safeguarding condition relating to drainage.
- 4.61. Northfield Business Improvement District – Northfield Business Improvement District (BID) objects to this planning application on the grounds that, due to its proximity, this development will have a detrimental impact on Northfield and threaten its future as a viable centre servicing the local area. In Birmingham City Council's Shopping and Local Centres Supplementary Planning Document, Northfield is identified as a key District Centre - and therefore very important for the southwest of the city - and this proposed development is just two miles away along the A38 corridor. The current level of retailing already provided at Longbridge is not helpful to retailers in Northfield as they provide similar goods and services. This proposed further development, as part of phase two of Longbridge town centre, would further shift the 'centre of gravity' away from the Northfield District Centre thus further weakening the existing centre. Northfield BID would call on the Planning Committee to take this into consideration and to help protect the future of the area's District Centre, Northfield.
- 4.62. Access Committee for Birmingham – The Access Committee for Birmingham has had the opportunity to examine this application online. Serious concerns arise in a number of access matters arising from the documents examined.
 - There is a considerable flight of steps linking the town centre with the future development areas to the south. There appears to be no alternative access to it despite its description as a unique Heritage/arts location.
 - The promenade is a 'shared surface' area - access to a 500 space car park and a high volume pedestrian area - seems a reckless proposal with no account for the needs of people with sight impairment. Street furniture and seating show no regard for elderly and disabled people and their needs.

- The surface level car park has no clear demarcation of spaces and no proposals for loss of disabled driver spaces when used for events. The Disabled driver spaces are not identified and no management plan referenced. Is access to multi storey suitable for a disabled driver vehicle with top boxes/increased height?
- Reference is made to nearest bus stops being 400m away. No proposal for new public transport stop routing into new town centre site and no suggestion of courtesy mobility provision for stores. No provision for drop off point for Community vehicles/Ring & Ride. In view of leisure/events/Dining opportunities suggest that present accessibility proposals reconsidered.
- An accessible toilet/'Changing Places' facility should be incorporated into the provision. The M&S store should also offer toilet facilities.

4.63. Centro – This development will have considerable implications for the current and future transportation infrastructure serving this proposed development and wider area. Centro would like to re-iterate that in order to ensure that the objectives of the Longbridge Area Action Plan (LAAP) are delivered; we consider that all planning applications that come forward within the Longbridge area should be consistent with the policies and proposals outlined in the LAAP. In support of this, Centro has been involved in the development of the LAAP, and specifically the supporting public transport strategies, with associated public transport infrastructure requirements. Centro is keen that the new Longbridge is an exemplar development, fully accessible by sustainable means of transport.

The site is surrounded by frequent bus services and Longbridge Rail Station is approximately a 400m walk from the Town Centre. There are frequent rail services alighting at the station. The developer should ensure that pedestrian links from the surrounding public transport network are of a high quality and relevant information is provided to in from public transport users of routes to the Town Centre.

The proposed development also presents excellent opportunities to provide Real Time Information (RTI) displays for public transport serving the locality. If the development is approved, the adopted Travel Plan will require travel information that is readily available for staff and visitors within the development. Previously, paper information (e.g. leaflets and timetables) has been made available in new developments however; we are now requesting that applicants engage with Centro at the earliest opportunity to explore opportunities to install electronic RTI displays within new developments, to improve the quality of public transport information available. RTI presents a modern and sophisticated approach to presenting public transport information in an easy to understand way that can improve the attraction of the use of public transport. Information screens could feasibly be located in the main entrance/foyer of the proposed buildings providing up to date information on local bus departures as well as rail information so that staff and visitors can plan integrated public transport journeys from the development. The options for the installation of RTI are relatively inexpensive in the context of the proposed development.

Centro note that it is proposed that this development will operate under the adopted Travel Plan formulated for Phase 1 of the Town Centre. The adopted travel plan includes cycle storage that assists in promoting this mode of sustainable travel. Centro recommends that all cycle storage to be implemented be covered by a shelter to protect against inclement weather, and be located in an area of good natural surveillance, preferably with CCTV coverage for Crime Reduction purposes.

Centro considers it crucial for clear and concise signage to be installed for assistance with navigation. Where signage forms part of a public transport journey, Network West Midlands branding should be considered to assist in the public being able to identify a nearby public transport interchange. Tactile paving and dropped kerbs should also be considered where appropriate.

- 4.64. Solihull MBC – Policy circumstances have changed since adoption of the Longbridge Area Action Plan in 2009 and since this Council’s original comments. The emerging Regional Spatial Strategy was seeking to locate large comparison retail proposals of 10,000+ sq. m in the network of main centres in the Region but was abolished in May last year. The National Planning Policy Framework (NPPF-2012) is focussed on using the planning system to promote growth, including economic growth. It is for Birmingham to decide whether or not the proposals, in terms of scale and format are appropriate within the Longbridge Area Action Plan local centre having regard to the context of the adopted Birmingham Unitary Development Plan (November 2005), national policy, the findings of its commissioned report on the previous (2012) proposals and the supporting information with the current application. In the absence of evidence of significant adverse impacts on Solihull’s Town Centres there are no grounds for objection from this Council.
- 4.65. Bromsgrove District Council - Bromsgrove District Council formally objects to the planning application. BDC supports the inclusion of the Longbridge site as an important development location, and remains committed to bring it forward over the coming years in line with the policies in the adopted Area Action Plan (AAP).

BDC would like to stress that Development at Longbridge needs to remain in accordance with the proposals in the AAP unless material considerations indicate otherwise. As BCC are aware the plan went through significant stages in its production to ensure that the mix of development on site would not only regenerate the local area, but also complement other surrounding locations ensuring their continued viability and vitality, particularly those close by in Rubery and Bromsgrove. Should development move away from that which is planned, and particularly if retail uses become more prominent then there is a serious risk that development at Longbridge could undermine the success or regeneration of other areas both in and outside the City. BDC is aware and understand though its continued engagement with BCC over Longbridge that flexibility is required in the context of some of the AAP policies, as has been demonstrated by a number of the schemes which have been granted permission, and in some case completed at Longbridge. Of particular concern is what appears to be the current aspirations of the developers to move away from an employment and housing led regeneration scheme, to more of a housing and retail led scheme.

New retail proposals over and above agreed levels should be refused. They do not present a more traditional and sustainable town centre with a mix of outlets providing a range of goods and prices. This type of centre was envisaged as part of the regenerating a new sustainable community for Longbridge. The scale and type of comparison retail floor space currently being proposed are significantly in excess of the policies in the AAP, with little or no real justification as to their suitability, and certainly not as the developers claim in conformity with the AAP.

If this scale and type of retail floor space is deemed acceptable particularly in the form of the current proposals it would represent a vast over provision of retail, doing little to create a new centre in either built form or as a vibrant and viable town centre. These proposals create an out of town/destinational shopping centre which does very

little to support the local economy and harms surrounding centres by drawing excessive trade from them. BDC would request that BCC commit the policies of the AAP and ensure that the focus for Longbridge remains on creating a sustainable mixed use location where 10,000 jobs are created and not one that is dominated by large floor space comparison retailers. As a bare minimum more detail should be provided in the form of a full retail impact assessment and sequential test to at least attempt to justify the scheme.

Consultation responses (revised submission)

- 4.66. Dudley MBC - As previously stated, the proposed floor space is above the level identified in the adopted Longbridge AAP and we would like to see further explanation/evidence to justify that the comparison retail will meet a quantified local need for Longbridge Local Centre given the levels of retail proposed. It is noted that the emerging Birmingham Development Plan refers to the Longbridge AAP figures and states that 'within local centres comparison retail will be acceptable in line with the size of centre and provided the proposal is aimed at catering for the local catchment population.'

In terms of the Survey Study Area we were expecting Halesowen Town Centre to be identified in an amended Zone 3 and the Household survey to identify key shopping and service usage patterns for the town as shown in the Planning Statement Table A4.1? It is noted that that under Longbridge Town Centre Phase 2: 'Sequential Site Assessment Matrix' that the applicant has reviewed Stourbridge Town Centre (which is not within the study area) but we could not see a similar exercise undertaken for Halesowen? Given the quantum of retail floor space is above the adopted AAP allocation we would expect Retail Impact Analysis to be undertaken as per Paragraph 26 of the NPPF.

Under the Duty to Cooperate we are concerned that we cannot make an informed judgment on whether the proposed scheme would have an 'acceptable', 'adverse' or 'significant adverse' impact on the planned investment or town centre vitality and viability of centres in Dudley Borough based on the current retail assessment provided as part of the application.

- 4.67. Transportation – No objections subject to conditions relating to Parking management, travel plan, cycle storage provision and construction management.
- 4.68. Northfield Ward Committee – Concern was expressed by a number of residents regarding the effect of additional retail units and shoppers on traffic congestion in the area given that the roads were unable to cope with the current amount of traffic, especially where Longbridge Lane narrowed to a single lane. Some residents welcomed the prospect of shops on the site that were not supermarkets. Councillor Corns referred to the traffic congestion on Longbridge Lane and the number of heavy goods vehicles delivering to Sainsbury that used that road despite its unsuitability and there was concern that delivery lorries for Marks and Spencer would also use Longbridge Lane creating further congestion. It was suggested that this was something that highways should be taking into consideration as numerous complaints were received from local residents. Concern was also expressed regarding the effect on Great Stone Road as there had been a considerable increase in traffic as a result of the development as existing roads could not cope and therefore the detrimental effect of further development on local roads should be taken into account.

- 4.69. Northfield Business Improvement District - The Directors of the Northfield Town Centre Business Improvement District (BID) welcome the opportunity to provide further comments on the above planning application which proposes substantial additional retail development in Longbridge. By way of background, the BID was established in January 2012 following a successful ballot of over 200 town centre businesses and organisations. The company, Northfield BID, is led and funded by these and employs a full time BID Manager to deliver environmental improvements and management, events and promotional activities and support to BID levy payers as set out in the approved BID Proposal. Uniquely in Birmingham, the BID is co-located with its 'sister' company, Northfield Town Centre Partnership, which pursues a complementary community based programme of activities. These include the Visit Northfield 'shop', which provides a visible high street outlet for a range of services and facilities to support both town centre businesses and the wider community.

Having sought the further views of our member companies, we would wish to make the following more specific comments:

* Northfield Draft Regeneration Framework - July 2013

This has been in preparation for over two years and the BID submitted formal comments on the draft in October 2013. It identifies Northfield Town Centre as one of the "key local centres in Birmingham" and "development opportunities to increase the diversity of the 'convenience and comparison' shopping offer and attract new services, offices and other town centre uses." Our members are very concerned and frustrated about the lack of progress in bringing this Framework forward for adoption by the City Council and interpret this as a lack of proactive and tangible commitment by the City Council to the most significant and established town centre in the south west of the City. Nearby, recent developments are already having a detrimental impact on trade in Northfield, particularly Sainsbury's at Longbridge and Asda at Barnes Hill. Further proposed retail developments at Longbridge and Selly Oak can only serve to exacerbate this trend.

Why has the Regeneration Framework for Northfield Town Centre not been progressed?

* Longbridge Area Action Plan - April 2009

Since this Plan was formally adopted, it does not appear to have been reviewed. Therefore one must ask what changes in Government or City Council policies have been adopted which require changes to the original retail assessment, give support to additional development clearly in breach of the agreed retail provision and create further negative pressures on nearby established centres. The retail development already approved fulfils the plan's objectives at an acceptable level and impact to serve local needs. BID Member companies understand that the proposal to develop a substantial new 'anchor store' will clearly have a catchment area and appeal beyond that of the local shopping needs of Longbridge as provided for by its new local centre. BID members also understand that there are limited site options sufficiently attractive for a single user store of such a scale. However, BID Members are concerned that being described as an 'anchor store' begs the question, to anchor what? If the local centre's retail provision has been met, what guarantees can be given that no further retail development will be permitted. Also, what is the opportunity cost as once developed for retail, other more significant 'added value' employment opportunities will not be secured.

* Phase 3 Leisure

Recent comment and speculation regarding the future of Northfield Leisure Centre and Northfield Library is of major concern to BID Members. Considerable investment has been made in the past by the City Council to secure the Centre's future. The Library along with the Adult Education Centre complements this important community provision. All are well supported by the local community and provide a major driver of activity for the whole town centre. The draft Regeneration Framework recognises that the Town Centre offers a range of community facilities which strengthen and support the wider shopping and business activities. This is very much in accord with current national thinking on the future viability of local centres, particularly as patterns of retailing change. Whilst Longbridge Phase 3 currently provides for leisure uses up to 5,000m², closure of Northfield's facilities and the development of alternative 'leisure led' facilities at Longbridge would seriously damage the mix of uses and viability of the town centre as would the granting of further retail development on this site.

5.0. Policy Context

- 5.1. Birmingham UDP (2005), NPPF, NPPG, Longbridge Area Action Plan (2009), Draft Birmingham Development Plan (DBDP), Shopping and Local Centres SPD, Places for All SPD, Car Parking Guidelines SPD

6.0. Planning Considerations

- 6.1. I consider the principal issues raised by this application include Retail matters, Regeneration matters, Loss of Employment Land, Design, Transportation, Section 106, and Other Matters such as Environmental Impact, Drainage and Land Contamination.

THE APPLICANTS' CASE

- 6.2. The applicants consider that the existing retail and local centre provision within the Longbridge area is limited, with a limited centre serving Longbridge itself. In this context, the applicants consider that a positive rationale for a new centre is established by the needs and profile of the existing population and the requirement to deliver a mixed and sustainable community with an overarching need for regeneration. The current proposal represents the next phase in delivering an optimal centre for Longbridge. The overall scheme, including previously permitted and now implemented development and that now proposed, along with a potential third phase including leisure uses; anticipates a centre that would compete effectively in terms of its food shopping provision, and accommodate a wider range of retail, service and leisure facilities to perform a rounded centre function.

Investment and Regeneration

- 6.3. The applicants identify that the current proposal, both in its own right and alongside the previously permitted centre elements, would have a significant positive impact on Longbridge in investment and regeneration terms that would enable Longbridge to become a prime location for investment up to the international scale. They highlight that there is a clear expectation in relation to the wider role of the new centre in the overall regeneration programme and in generating benefits for the area, over and above its basic retail and service function. Key considerations include:
- Job Creation – 550 FTE operational jobs (of which up to 350 would be within Marks and Spencer) in addition to those associated with its construction and subsequent servicing and supply. It is anticipated that many of the new jobs

created would be recruited locally, and that multiplier effects would also benefit the local economy.

- Market Confidence- development of the scale and type already underway at the new centre plus that now proposed demonstrates the confidence and willingness to invest from the applicant. This in turn can be expected to act as a catalyst for further investment in Longbridge and the wider area.
- Local Profile – the overall perception of the place is an important element in seeking to attract investment. The current proposal would make a major contribution in this regard, through raising the profile of the area and earmarking it as an attractive place to invest.
- Attracting Employers to Longbridge – the facilities in the new centre are important to demonstrate to employers that this will be an appealing place for their staff to work, and attractive to new recruits. The current proposal would provide a considerable benefit in this regard. The current proposal would play an important role in meeting the policy objective in the AAP to become “*a prime location for investment attractive to international, national and regional investors as well as a place that provides for the needs of local people, businesses and visitors.*”
- Attracting Residents to Longbridge – the overall Longbridge housing proposals are ambitious, but they need to be brought forward if a mixed, balanced and sustainable community is to be created. Potential residents will look to the scale and quality of local facilities in making decisions about where to invest, the proposal would make an important contribution to drawing people to the area.

- 6.4. The applicants also identify that they are committed to securing this investment. Marks and Spencer are not considering alternative locations in this part of Birmingham (or indeed elsewhere in the City) for this type of investment. There is Board Approval for the proposal and Marks and Spencer are satisfied that they can trade successfully alongside their main City centre store and other smaller outlets in the area. Longbridge is one of a handful of locations across the country where stores of this type are being promoted. If it does not go to Longbridge, the applicants advise that the investment will be lost to the area completely.

POLICY

- 6.5. The planning application seeks consent for a significant increase in A1 retail floor space, over and above that proposed within the Longbridge AAP. The Applicants' basic position with respect to retail policy is that their proposals are essentially in-centre, so they did not need to assess the application against the Sequential and Impact retail tests. However, the LPA is clear that the site is part-within, part-outside the local centre (full details set out below in Paragraph 6.31), so has to be treated as 'edge-of-centre' for retail policy purposes, and so requires testing on Sequential and Impact grounds. The Applicants therefore agreed to undertake the necessary retail work to address the Sequential and Impact issues.
- 6.6. Following submission of the application, legal advice was sought from Counsel in relation to whether the application should be assessed as open A1 retail or whether it was appropriate to assess the application on the basis that Marks and Spencer were to be the named occupier of the 14,832sq.m (GEA) retail unit. On the basis that the applicants have provided a redacted copy of their lease agreement, to prove that there is a legal obligation for Marks and Spencer to occupy the unit in question; that the lease is for 45 years; and that the applicants are prepared to agree to a clause within a legal agreement securing Marks and Spencer as first occupant, Counsel

advised that the LPA could assess the application on a Marks and Spencer basis alone. This is fundamentally important, as a store of this proposed size for Marks and Spencer has a differing requirement to open A1, including catchment area for impact assessment and sequential site search requirements, along with a business need relating to their existing stores and their subsequent catchment areas.

- 6.7. Subsequently, the applicants have produced further retail work including a sequential site search assessment and a retail impact assessment. To assist in the assessment of the retail submission, the LPA has appointed independent retail consultants Holliss Vincent. Holliss Vincent has worked closely with BCC and the applicant's retail consultants, has reviewed all supporting material along with representations made by all parties and agreed with the applicant's retail consultants, the methodology and basic data inputs for the assessment of cumulative trade impact.

NPPF - General

- 6.8. The National Planning Policy Framework (NPPF) was published on 27th March 2012. Paragraphs 2, 11, 12, 13 and 196 emphasise that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. They confirm, also, that the NPPF is a material consideration in planning decisions.
- 6.9. Paragraphs 7 and 8 of the NPPF explain that there are three dimensions to sustainable development – economic, social and environmental – and that these are mutually dependant, so that gains in each should be sought jointly and simultaneously. Under the heading of *'the presumption in favour of sustainable development'*, Paragraph 12 confirms that the NPPF *'...does not change the statutory status of the development plan as the starting point for decision making'*. Thus, Paragraph 12 states that: *'...development that accords with an up-to-date local plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise'*.
- 6.10. Paragraph 14 of the NPPF then sets out the presumption in favour of sustainable development in more detail and says that it *'...should be seen as a golden thread running through both plan-making and decision-taking'*. For decision-taking this means:
- *'approving development proposals that accord with the development plan without delay; and*
 - *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.'*
- Thus, if the application accords with the development plan, the provisions of Paragraph 14 of the NPPF suggest that it should be permitted without delay, unless material considerations indicate otherwise. Conversely, it is clear that applications which do not accord with an up to date development plan should be refused, unless material considerations indicate otherwise. The second decision-taking bullet point in Paragraph 14 of the NPPF only comes into force if the development plan is *'...absent, silent or relevant policies are out-of-date'*.

Birmingham Development Plan

- 6.11. The development plan for Birmingham comprises the saved policies of the Birmingham Unitary Development plan, adopted with alterations in October 2005 (the

UDP) and the Longbridge Area Action Plan (the AAP), adopted in April 2009. Both elements of the development plan contain policies relevant to this application, so that the development plan is not 'absent' or 'silent'. The remaining issue, therefore, is whether the development plan is 'up to date'. Most of the relevant retail policies in the UDP remain broadly consistent with the NPPF, however there are clearly some aspects of the relevant policies that are not fully consistent – for example, the scale and needs tests incorporated in Paragraphs 7.23 and 7.27 of the UDP. As a consequence, the retail policies in the UDP are unlikely to be accepted as being fully 'up-to-date'.

- 6.12. In contrast, however, the Longbridge AAP component of the development plan is up-to-date. Indeed, Paragraph 1.1 of the AAP confirms that it was prepared with strong support and involvement from key stakeholders and the local community. Thus, Birmingham City Council and Bromsgrove District Council jointly prepared the AAP with other partners, including Worcestershire County Council, Advantage West Midlands and St Modwen, as the principal landowner. Moreover, the AAP's provisions in relation to the development of the new Local Centre at Longbridge were subject to detailed sensitivity testing and consultation. As a consequence, it is considered that the AAP is up to date, and that the second decision-taking bullet point in Paragraph 14 of the NPPF does not apply.

NPPF - Retail

- 6.13. Paragraphs 23 to 27 of the NPPF deal with the need to promote the vitality of town centres and are particularly relevant to this proposal. Paragraph 23 states that planning policies should promote competitive town centre environments. Paragraph 24 then sets out the sequential test that applies to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. Paragraph 24 states that '*...applications for main town centres uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered.*' In considering edge and out-of-centre proposals, Paragraph 24 states that '*...preference should be given to accessible sites that are well-connected to the town centre.*'
- 6.14. In applying the sequential approach, Paragraph 24 requires that applicants and Local Authorities should demonstrate flexibility on issues such as format and scale. However, in assessing the suitability of sites, there is no specific reference in Paragraph 24 to the issue of viability. Nevertheless, viability is an important aspect of the suitability component of the sequential test and I note that Paragraph 23 of the NPPF, which deals with local plan preparation, does include a viability requirement in stating that local planning authorities should '*allocate appropriate edge of centre sites...where suitable and viable town centre sites are not available*' (my underlining).
- 6.15. Paragraph 26 of the NPPF then sets out the impact tests for applications for retail, leisure and office development that is located outside town centres and which is not in accordance with an up-to-date Local Plan. Paragraph 26 requires applications for such development, which are over 2,500sq.m (or a locally set threshold), to include an assessment of:
- *'the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
 - *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full*

impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.'

- 6.16. Paragraph 26 of the NPPF does not seek to incorporate a separate test in relation to scale. This is important in that Policy EC16.1e of the former PPS4 incorporated a separate test which required an assessment of whether proposals within or on the edge of town centres were of an appropriate scale in relation to the size of the centre and its role in the hierarchy of centres. Thus, the absence of a separate scale test in Paragraph 26 of the NPPF would seem to be reflective of the Secretary of State's decision of 22nd November 2010, in respect of the Tithebarn call-in Inquiry in Preston (ref: APP/N2345/V/09/2113472), in which he agreed with his Inspector '*...that if the proposal would not cause unacceptable harm to neighbouring centres it could not be considered out of scale or unduly dominant*' (paragraph 18 of the decision letter). It would seem, therefore, that national policy considers that the issue of scale is subsumed within the wider impact tests set out in Paragraph 26 of the NPPF. Paragraph 27 then confirms that '*Where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors [in paragraph 26], it should be refused*'. However, it is clear from recent Court Judgments that Paragraph 27 of the NPPF is not necessarily determinative if there are weighty material considerations which displace its presumption for refusal in the event of a failure of the sequential and/or impact tests. I go on to consider these matters in detail in due course.

Longbridge Area Action Plan

- 6.17. The application site sits within the Longbridge Area Action Plan (AAP) framework, which forms part of the Development Plan for the purposes of determining planning applications. The AAP contains a shared vision for Longbridge:

"Longbridge will undergo major transformational change redeveloping the former car plant and surrounding area into an exemplar sustainable, employment led mixed use development for the benefit of the local community, Birmingham, Bromsgrove, the region and beyond. It will deliver new jobs, houses, community, leisure and educational facilities as well as providing an identifiable and accessible new heart for the area. All development will embody the principles of sustainability, sustainable communities and inclusiveness. At the heart of the vision is a commitment to high quality design that can create a real sense of place with a strong identity and distinctive character. All of this will make it a place where people will want to live, work, visit and invest and which provides a secure and positive future for local people."

- 6.18. Policy LC1 covers the proposals for the Local Centre as a whole and identifies that it will comprise "*Retail (Class A1) of up to 13,500sq.m gross comprising: a superstore of up to 7,500sq.m gross floor space (comprising up to 5,000sq.m convenience and up to 2,500sq.m comparison) and additional comparison retail floor space of up to 6,000sq.m gross*", alongside other retail uses (A2, A3, A4 and A5), D2 leisure uses, offices and residential.
- 6.19. Policy LC4 identifies the area for a mixed use quarter to comprise the following uses within the floor space limits set in Policy LC1: Office uses (B1a), Financial and Professional Services (A2), Dwellings, a limited number of A3, A4 and A5 uses, a mixed use community building along with other appropriate uses including hotels, health centre/care, crèche, religious and cultural uses and residential institutions.

6.20. The AAP's Proposals Map notes that the various designated areas are "*Block structures and road layouts for illustrative purposes only*". This is important to consider whilst further details and figures are set out below.

- The site lies primarily within the AAP's Policy LC4 area: Mixed Use Quarter, i.e. within the boundary of the Local Centre. In more detail, approximately half of the proposed M&S store would lie within the Primary Shopping Area (LC3), including its customer entrance. The whole of the M&S store, approximately a quarter of the floor space of the nine units, all the surface parking, and half of the multi-storey car park would lie within the Local Centre boundary.
- The other approximate three-quarters of the nine retail units, and a quarter of the multi-storey car park would lie on land left 'white' on the AAP Proposals Map – for possible internal site access roads.
- Most of the area for the nine units' delivery yards, and approximately a quarter of the multi-storey car park, would be on the Employment Zone EZ1. This amounts to some 15% of the total site area.
- The remainder of the site's red-edged land is for general and wider site access purposes

6.21. Proposal EZ1 states that "*the employment quarter will comprise the following uses:*

- *General and light industrial and warehousing uses (Class B1b and B1c, B2 and B8) including space for small businesses.*
- *Live/work units based on a 50/50 floor space split to host start up and micro businesses on the northern boundary of the quarter.*
- *Biomass plant or other sustainable energy facility.*
- *Recycling facility.*"

UDP- Retail

6.22. The UDP advises at paragraph 7.23 that proposals for additional retail development/redevelopment in existing centres will normally be encouraged provided:

- the scale of the new development is appropriate to the size and function of the centre;
- it is well integrated;
- it has no significant adverse effect on the continued vitality/viability of an existing shopping centre as a whole, and;
- it maintains a range of shops to meet the needs of local communities.

6.23. With regards to edge and out of centre shopping, the UDP refers to previous policy guidance in the guise of PPG6 (subsequently PPS4 and now the NPPF and NPPG). However, the main thrust of the policy in the UDP remains echoed throughout policy guidance today and therefore retains the weight of the development plan in determining this application. Paragraph 7.27 of the UDP states that "*the principle is that wherever possible, proposals for new retail development, including large food stores and retail warehouses, should be accommodated in centres. The City Council may be prepared to support retail proposals which are not within a centre, provided that:*

- *a need for the proposal has been clearly demonstrated; and*
- *the principles of the sequential approach have been followed. This means that it must first be demonstrated that no suitable in-centre locations are available which could accommodate the proposed activity.*"

- 6.24. Paragraph 7.28 goes on to acknowledge that where these circumstances apply, retail development proposals should also satisfy the following conditions:
- *“there is no major impact on the vitality and viability of an existing centre as a whole;*
 - *investment in existing centres will not be deferred;*
 - *there would be no loss of industrial land;*
 - *there would be no major loss of non-retail employment as a result of the displacement of existing viable businesses; and*
 - *the site is widely accessible by public transport, including services provided through planning obligations, and is likely to facilitate multi-purpose trips, in order to reduce reliance on the car and minimise traffic generation.”*
- 6.25. In line with the AAP, the extant permission (ref: 2011/00773/PA) provides for a food superstore of up to 8,332 sq.m (GEA) and additional comparison retail floor space of up to 5,168 sq.m (GEA), since the total Class A1 retail floor space is capped at 13,500 sq.m GEA by condition and by the AAP. In contrast, the current application proposal would increase the total retail floor space at Longbridge to 28,626sq.m GEA. Thus, the current application would more than double the retail floor space envisaged under Proposal LC1 of the AAP. Holliss Vincent therefore considers that the current application would involve a fundamental breach of Proposal LC1 of the AAP. Moreover, the extent of the departure from the AAP’s retail floor space thresholds requires that detailed consideration be given to the implications of such a departure for the sequential and impact tests set out in Paragraphs 24 to 27 of the NPPF. I concur with this view.

Draft BDP

- 6.26. The Pre-Submission version of the Birmingham Development Plan was published for consultation in December 2013. The document has been subject to a number of unresolved representations, which limits the weight that can be given to the relevant policies. Notwithstanding this important caveat, Policy TP20 of the Pre-Submission version of the Birmingham Plan seeks to establish a network and hierarchy of centres. The City Centre is at the top of the hierarchy, followed by Sutton Coldfield Town Centre and then the three District Growth Centres at Perry Barr, Selly Oak and Meadway. Below these centres is a network of 70 District and Local Centres that includes Longbridge.
- 6.27. Policy GA9 is particularly relevant, and it identifies Selly Oak as a District Centre Growth Point, with capacity for up to 25,000sq.m gross of comparison retail floor space and up to 10,000sq.m of office floor space. Moreover, the southern end of the Battery site is identified as being suitable for a replacement supermarket, comparison retail, offices, leisure, other town centre uses and residential development.
- 6.28. The Draft BDP also identifies Longbridge as a Growth Point, although Policy GA10 identifies a much lower level of retail floor space in Longbridge. Indeed, Policy GA10 mirrors the AAP in identifying scope for 13,500sq.m gross of retail floor space and 10,000sq.m of office floor space. Furthermore, Policy TP20 states that ‘...*the scale of any future developments should be appropriate to the size and function of the centre*’, and that comparison retail development in Local Centres should be ‘...*aimed at catering for the local catchment population*’. As a consequence, it seems clear that the current application proposal at Longbridge is in conflict with the emerging development plan.

- 6.29. Policies GA9 and GA10 of the emerging Birmingham Development Plan are the subject of conflicting representations. Therefore, the weight to be given to them has limit.
- 6.30. The applicants consider that whilst there are aspects of the policy framework that raise questions of scale, role and function, which in turn speak to the acceptability of the proposals, these points should be understood within the wider policy context. On this basis, the applicants consider that there should be no impediment to the principle of development as it accords with the development plan. Rather, it should be encouraged and supported. These issues along with impact and the wider context are assessed later in this report.

RETAIL CONSIDERATIONS

- 6.31. As previously identified, most of the land required for the nine retail units, and half of the multi-storey car park, lie outside the Local Centre boundary, as defined by Proposal LC1. However, the M&S component of the application, is sited so that just over half of its floor space and the main store entrance would be located within the Retail Quarter defined by Proposal LC3 of the AAP (also called the Primary Shopping Area in the Council's Shopping and Local Centres SPD of March 2012). As such, Holliss Vincent considered that the application as a whole should be treated as being in an 'edge-of-centre' location in terms of the definitions set out in Annex 2 of the NPPF. This was confirmed by Counsel. As a consequence, the application proposal faces the sequential and impact tests set out in Paragraphs 23 to 27 of the NPPF.

The Sequential Test

- 6.32. Paragraph 24 of the NPPF sets out the sequential test that applies to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. Paragraph 24 states that '*...applications for main town centres uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered.*' In considering edge and out-of-centre proposals, Paragraph 24 states that '*...preference should be given to accessible sites that are well-connected to the town centre.*'
- 6.33. In applying the sequential approach, Paragraph 24 requires that applicants and Local Authorities should demonstrate flexibility on issues such as format and scale. However, in contrast to the provisions of the former PPS4, Paragraph 24 makes no specific mention of the words 'car parking' and 'disaggregation' in applying the flexibility component of the test. Nevertheless, in setting out its provisions in relation to flexibility, Paragraph 24 uses the words '*...such as format and scale*' so that disaggregation and amount of car parking may still be considered to be relevant. Indeed, although the Inspector for the Vulcan Road appeal in Sheffield (ref: APP/J4423/A/13/2189893) stated, in Paragraph 34 of his decision of 3rd July 2013, that '*...the absence of any reference to other elements of flexibility such as car parking provision and disaggregation... is both telling and intentional*', he concluded that '*Flexibility on such matters is not necessarily precluded from consideration*', although he regarded them as being '*...of lesser importance when viewed alongside other Framework aims, such as the need to ensure that main town centre uses are met in full and are not compromised by limited site availability*'.
- 6.34. The recently-published NPPG provides further advice on the sequential test and confirms that there is a requirement to demonstrate flexibility, with respect to format and scale, in assessing the suitability of more central sites. Paragraph 2b-011 states

that ‘...use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.’ This is relevant to the requirements set out for the M and S store.

- 6.35. There are also a number of High and Supreme Court decisions that provide policy in relation to the assessment of the sequential test. The first relates to Zurich Assurance who challenged North Lincolnshire Council’s decision of 26th March 2012 (the day before the NPPF was published) to grant permission for an out-of-centre Retail Park. The permission was in respect of a proposal by Simons Developments to demolish a garden centre and construct a retail park with four retail units, the largest of which was targeted at Marks & Spencer. Condition 38 of the planning permission for the Retail Park required that the first tenant of the large unit should be Marks & Spencer plc.
- 6.36. North Lincolnshire’s committee had considered the proposal against the former PPS4, which required developers and operators to demonstrate flexibility in relation to scale, format, car parking provision and the scope for disaggregating specific parts of a retail or leisure development. The Judge concluded, in Paragraph 22 ii), *that the question as to whether an applicant has demonstrated compliance with the sequential approach is ‘binary’, with only two possible answers: ‘yes’ or ‘no’* and that in Paragraph 22 iv), *if the applicant has not demonstrated compliance with the requirements of the sequential approach, or if there was clear evidence of ‘significant adverse’ impacts, the sequential test ‘...is capable of being displaced if it is outweighed by other material considerations’*. Thus, the Judge agreed that the extent of the breach of the sequential approach might be relevant in considering whether other material considerations overcome the normal requirement for refusal (as then set out in Paragraph 27 of the NPPF). The Judge also accepts that *‘developers and planning authorities must work in the real world’*.
- 6.37. The second case relates to a Supreme Court Judgment in respect of Tesco Stores Limited (the appellant) v Dundee City Council (the respondent). In this case, the Court had to decide whether the word ‘suitable’ (NPPF test) means ‘suitable for the development proposed by the applicant’, or ‘suitable for meeting identified deficiencies in retail provision in the area’. Subject to the requirement for the applicant to demonstrate flexibility, the Court endorsed the former and rejected the latter. In Paragraph 28 of the Judgment, ‘suitable’ was confirmed as meaning *‘suitable for the development proposed by the applicant’*, but the judge added the qualification that there is a need for *‘...flexibility and realism from developers and retailers as well as planning authorities’*. Paragraph 29 concluded that provided the applicant has shown flexibility and had regard to the circumstances of the particular town centre, the question that remains is *‘...whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site’*. Paragraph 38 of the Judgment confirms that *‘...the whole [sequential] exercise is directed to what the developer is proposing, not some other proposal which the planning authority might seek to substitute for it which is for something less than that sought by the developer’*. It goes on to state that *‘...developments of this kind are generated by the developer’s assessment of the market that he seeks to serve...’* and that the sequential criteria *‘...are designed for use in the real world, in which developers wish to operate, not some artificial world in which they have no interest doing so’*.
- 6.38. The third case relates to the Secretary of State’s (SoS) Call-in decision in respect of a mixed-use proposal in Rushden, East Northamptonshire. In this case, the SoS agreed with the Inspector that the sequential test relates *“entirely to the application*

proposal and whether it can be accommodated on an actual alternative site” (para 15 of SoS decision) “not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site” (Inspectors report para 8.45). The Inspector also concluded (para 8.47 and 8.51) with support from the SoS (para 16) that “there is no longer any requirement for disaggregation”. The Inspector then reviewed the issue of whether there is a hierarchical dimension to the sequential test and concluded (para 8.48) that “...there is nothing in the sequential test, as set out in NPPF (paragraph 24) that states that the concept of ‘suitable’ means sites suitable in terms of the scale of the nearest centre to the site in question and/or its place in the ‘hierarchy’ of centres. The sequential test relates entirely to the application proposal and whether it can be accommodated.”

- 6.39. In relation to this application, the Dundee Judgment and Rushden decision identify that:
- there is a requirement for developers, retailers and local authorities to demonstrate flexibility and realism in applying the sequential approach, with flexibility relating to such matters as format and scale of development, both of which must have regard to the circumstances of the particular town centre, but that;
 - in order to be deemed to be ‘suitable’, the opportunity within the sequentially preferable location must be able to provide for the retail development as proposed.
- 6.40. In undertaking an impact and sequential test assessment, the applicants have reviewed the availability, suitability and viability of sites in Northfield, Selly Oak, Harborne, Bromsgrove, Halesowen and Stourbridge. The majority of sites reviewed have been discounted as not being suitable on the basis that they are not large enough to accommodate the development that is proposed and/or because the sites are not available because they are in multiple ownerships. The sites are therefore discounted on the grounds that they are neither suitable, available nor viable for the development proposed. This assessment has primarily related to the assessment of sites to house the proposed Marks and Spencer store and car park. The LPA had requested, prior to the Rushden decision, that the nine retail units were also assessed under the requested sequential test and that they would be disaggregated from the proposal on the basis that, although the floor space had previously received planning permission, the units were now nine rather than four and they are proposed in a different location to that previously approved (mostly outside of the centre boundary). The applicants did not undertake this assessment.
- 6.41. The applicants, in relation to Selly Oak have discounted the Battery site on the grounds that the site *“is not suitable or viable for the development proposed”*, and that the latest outline planning permission cannot accommodate the Marks and Spencer store. They also argue that the non-food retail components of the Life Sciences and mixed-use commitment at Selly Oak (ref: 2013/02178/PA) all lie outside the Primary Shopping Area shown on Plan 47 of the Shopping and Local Centres SPD. As a consequence, they argue that the Battery site in Selly Oak does not represent a sequentially preferable location to the application site at Longbridge, and indeed that the Longbridge application has an advantage in that just over half of the M&S store is located within the Primary Shopping Area.
- 6.42. Under the terms of the former PPS4, this failure to disaggregate would have constituted a clear breach of Policy. However, as previously noted, the word ‘disaggregation’ does not appear in Paragraph 24 of the NPPF, or in the recently published NPPG and following the Rushden decision, is quite clearly no longer part of the sequential test assessment within Policy.

- 6.43. The rationale for the scale of the store proposed by M&S and its role and function in the market is set out in the letter to the City Council from HOW Planning (representing Marks and Spencer Plc), dated 3rd April 2014. The letter explains that the investment opportunities in Longbridge and in the wider Birmingham conurbation are competing against M&S's investment proposals in the rest of the UK, in Europe and throughout the world. The letter further explains that M&S is committing to a very limited number of stores of the scale and type proposed at Longbridge because resources are either being focussed into Simply Food stores, or abroad, and that Longbridge is one of only a handful of opportunities for flagship stores that have been approved nationally. The letter then explains that the south-west Birmingham catchment area experiences expenditure leakage to other centres such as Merry Hill, Solihull and southwards along the M5 corridor. HOW Planning argues that in order to reduce this leakage, M&S requires the ability to showcase its entire range in one location, and that south-west Birmingham is an obvious location for a new flagship store. Thus, the new store at Longbridge needs to be of a size which is capable of providing for the full M&S catalogue offer, with display areas for clothing and food, but also an extensive homeware section that will stock bulkier items, such as furniture, which are not generally available in M&S's town centre stores. Moreover, the growth of 'click and collect' puts a premium on large stores in accessible locations such as Longbridge, with ample car parking, because of the need to collect bulky home products. HOW's letter goes on to explain that disaggregation of product ranges into more than one store has proved to be sub-optimal, resulting in a highly constrained trading format. Thus, HOW Planning is adamant that disaggregation is not a viable prospect for the delivery of new M&S stores, which I consider is in accordance with the judgements.
- 6.44. As a result of all these factors, M&S has decided that it needs a store of approximately 14,000sq.m (GEA) to serve the south-west Birmingham area and, having considered alternatives, has decided that Longbridge is the only suitable location. HOW Planning's letter of 27th May 2014 confirms that M&S has rejected the opportunity at the Battery site in Selly Oak because of its proximity to the M&S stores in the City Centre and at Merry Hill, and because it is more distant from the residents of Bromsgrove, which has no M&S store, and Redditch, where the M&S store has only a limited offer.
- 6.45. Holliss Vincent consider however that M&S has to demonstrate some degree of flexibility in relation to the scale of the store proposed, and the assessment of opportunities in sequentially preferable locations has focussed on their availability, suitability and viability for a store of around 10,000sq.m (GEA). However, even on the basis of this degree of flexibility, there appears to be no sequentially preferable opportunity which is available, suitable and viable for accommodation of such a store. If commercial considerations are set aside, Holliss Vincent considers that the site with the best potential for a large store of around 10,000sq.m (GEA) is the Battery site at Selly Oak. Indeed, significant weight should be given to the identification of the Battery site as being part of an opportunity for major mixed-used development, including retail, under the UDP.
- 6.46. However, as previously stated, it must be observed that the City Council's Shopping and Local Centres SPD shows that the non-food retail components of the recent Selly Oak Outline permission (ref: 2013/02178/PA) lie, indicatively, half outside the Local Centre boundary. This leads the applicant to argue that the Battery site is not sequentially preferable to the Longbridge application site. I broadly concur. Of more fundamental importance, however, is the fact that the conditions and parameter plans attached to the Selly Oak permission mean that the size of the store proposed at

Longbridge along with the nine retail units cannot be accommodated. Thus, it is accepted that the Selly Oak permission would need to be substantially altered if a physical opportunity for the proposal was to be created. Therefore, when assessed against case law, Selly Oak can be viewed as not being suitable on the grounds that it would not be able to provide for a retail development that would serve a similar function and achieve similar objectives to the applicants proposals.

- 6.47. Furthermore, even if a physical opportunity could be created at the Battery site, the effects of the Dundee Judgment mean that it may be difficult to refute M&S's insistence that Selly Oak is not a suitable location to serve the functions and objectives of its proposed investment at Longbridge, given the relative proximity of Selly Oak to the City Centre.
- 6.48. I note that Turley's representations on behalf of Harvest Partnership cites various examples of pairs of M&S stores that are of a similar distance apart compared to Selly Oak and the City Centre, with the most relevant example probably being the travel-time distance of just seven minutes between the M&S stores at Wolstanton Retail Park and at Hanley. I also consider that HOW Planning's letter of 27th May 2014 does not fully address the point being made by Turley Associates. Nevertheless, I accept that the Longbridge location is better placed than Selly Oak to meet the customer demand arising from the southern and south-western parts of the sub-region.

CONCLUSIONS ON SEQUENTIAL TEST

- 6.49. Taking all the evidence into account, and having given substantial weight to the Dundee and Zurich Court Judgments and the Rushden SoS decision, Holliss Vincent has reached a conclusion that the Battery Site at Selly Oak is not suitable or viable for the proposed development, and I concur with this assessment. In these circumstances, the sequential requirements of Paragraph 27 of the NPPF have been met.

Impact

- 6.50. Paragraph 26 of the NPPF sets out the impact tests for applications for retail, leisure and office development that is located outside town centres and which is not in accordance with an up-to-date Local Plan. For applications of over 2,500sq.m gross, or over a locally set threshold, these tests require an assessment of:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.'*

Paragraph 27 of the NPPF then confirms that *'Where an application fails to satisfy the sequential test, or is likely to have a significant adverse impact on one or more of the above factors, it should be refused'*.

- 6.51. Paragraph 2b-016 of the NPPG sets out the key considerations in assessing the likely impact on proposed investment; these are:
- the policy status of the investment;
 - the progress made towards securing the investment; and

- the extent to which an application is likely to undermine planned investments based on the effect on forecast turnover, operator demand, and investor confidence.

Paragraph 2b-017 then sets out the key considerations in assessing the likely impact on trading levels and on town centre vitality and viability. The advice states that *'...a judgment as to whether the likely adverse impacts are significant can only be reached in light of local circumstances'* and that *'...in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact'*. In instances where the evidence suggests that there would be no significant impact on the town centre, the Local Planning Authority *'...must then consider all material considerations in determining the application, as it would for any other development'*.

Impact on Investment

6.52. The vast majority of the new retail development proposed in this application is in the comparison goods sector. Indeed, the annual turnover associated with the convenience goods (i.e. food) element of the M&S store, which is drawn from the primary catchment area (PCA – the southern half of the administrative area of Birmingham, together with Solihull, Bromsgrove, Halesowen, Oldbury and Smethwick) is estimated to be just £9.7m. As a consequence, Holliss Vincent consider that there is no real risk of a 'significant adverse' impact on the planned and ongoing convenience investments at Stirchley District Centre (Tesco), or at the proposed new Local Centre at Redditch Road, which is designed to serve the neighbourhoods of Hawkesley, Primrose and Pool Farm, and which is intended to be anchored by a large supermarket. The existing, committed and planned investments that Holliss Vincent have subsequently focussed on are:

- the investment proposed by the Harvest Partnership at Selly Oak, and particularly the extant consent for the Mixed-Use and Life Sciences Campus project (ref: 2013/02178/PA), which incorporates a food superstore of up to 15,866sq.m gross, comparison retail development of up to 15,116sq.m (GIA), further retail and service uses in Use Classes A2, A3, A4 and A5 of up to 3,124sq.m (GIA), up to 1,164sq.m (GIA) of D2 use, a Life Sciences Campus of 38,756sq.m (GIA), and up to 15,000sq.m (GIA) of student accommodation;
- the ongoing investment in the City Centre, particularly at New Street, and the future investment required to secure the enhancement of existing schemes such as the Mailbox, the redevelopment of the Wholesale Markets (which may involve an extension of the Bullring Shopping Centre) and major mixed use development at Eastside; and
- the potential investments identified in the Draft Regeneration Framework for Northfield, for which no firm proposals are apparent at present.

Selly Oak

6.53. In the Holliss Vincent assessment, the proposed investment which is potentially most at risk as a result of this application is the investment proposed by the Harvest Partnership at the Battery site in Selly Oak. Indeed, Turley Associates has submitted three representations on the Longbridge application, dated 31st January 2014, 20th March 2014 and 12th May 2014. In the first letter, Turley Associates refers to *'... an inevitable overlap of catchments, both in terms of consumers and target retailers...'* and it states that *'...the retail and mixed use development at Battery Park will pay for the highway works required to develop the scheme as a whole. This means that the development of the Life Sciences Campus at Selly Oak can only proceed if the retail and mixed use development goes ahead'*. The LPA does not consider this to be an entirely correct statement but has queried the last sentence in the quotation cited above with Turley Associates and a response is awaited. I consider the delivery of

the Life Sciences Campus is not reliant on the delivery of the mixed-use scheme, nor upon completion of the Phase 1B works for the Selly Oak New Road.

- 6.54. Indeed, the City Council has entered into a contract with Harvest Partnership to purchase that part of the Battery site which is to be developed for the Life Sciences Campus, and that the purchase contract triggers a requirement on Harvest Partnership to reclaim the whole of the Battery site. The Life Sciences component – which would be delivered by the City Council with a development partner – can proceed without the Phase 1B road improvements proposed for the wider scheme. Indeed, the requirement for the road improvements is triggered by the Sainsbury's component of the application and the Sainsbury's store will not be able to open for trade until the road improvements are in place.
- 6.55. With this background in mind, Holliss Vincent consider it unlikely that the investment in the Sainsbury's store component of the Selly Oak scheme would be jeopardised, directly, by the Longbridge application, but do accept that the nine shops incorporated in this application could cause Harvest's target comparison goods retailer(s) to be drawn away from Selly Oak, with a consequential adverse impact on the investment returns likely to be achieved at Selly Oak. It is noted that the applicant has questioned the viability of the Life Sciences and Mixed-Use consent at Selly Oak, given an anticipated profit on cost of just 9.57 per cent and an internal rate of return of 11.52 per cent, which are well below the normal 15 per cent return for projects with risk.
- 6.56. In its second letter, Turley Associates reiterates that any permission with the level of retail floor space currently proposed at Longbridge '*...will draw target retailers away from Selly Oak*'. Indeed, Turley Associates suggest that this application may already be having '*...an impact on the viability of delivering the proposals at Selly Oak, including the road enhancements and other measures secured by your Council in November 2013.*' However, the road enhancements are tied to the delivery of the Sainsbury's superstore, which is unlikely to suffer a direct adverse impact as a result of this application, although there could be an indirect impact if the comparison traders are drawn away from Selly Oak (in the shorter term).
- 6.57. In its most recent representation, Turley Associates emphasises that it does not accept the position being taken by the applicant in relation to the sequential status of the Battery site. Turley argues that the latter is sequentially preferable to Longbridge given its longstanding identification as part of a major mixed-use development in the adopted development plan and given the quantum of floor space identified as being appropriate at Selly Oak in the emerging Birmingham Plan. They argue that a deliverable and viable scheme has been identified which will lead to significant benefits, but that '*...the delivery of this scheme is at a crucial stage as our client is currently seeking to secure retailers to Selly Oak, including a critical anchor tenant*'. They go on to argue that '*...the retail offer of M&S significantly overlaps with the type of retailers our client is currently trying to attract to Selly Oak*' and that '*...ongoing discussions between our client and potential occupiers for the Selly Oak scheme have highlighted concern about the effect a new flagship M&S store at Longbridge... would have on the future trading performance of new retailers at Selly Oak. This has significant implications in the ability of our client attracting an anchor tenant*'.
- 6.58. Holliss Vincent agrees with Turley Associates that there would be some overlap in the catchment areas of Longbridge and Selly Oak, and that some comparison retailers would not wish to be represented in both locations. They also agree that the presence of a flagship M&S store would increase the attraction of the terrace of retail units included in this application, so that these would attract higher quality

comparison traders. Moreover, Turley Associates' concern is noted regarding the land reserved for future development at Longbridge, which is not part of the current application following the receipt of amended plans, but is said to be causing uncertainty in the marketplace, with a fear that further retail development could occur on the 'reserve land'. To be clear, this future plot has now been deleted from the application's red-edge, to remove any possible doubt. What is not clear, however, is the basis of the assertion by Turley Associates that this proposal will undermine the viability and deliverability of the Life Sciences component of the Selly Oak commitment and the road enhancements that have been agreed by way of the Section 106 Agreement.

- 6.59. In the absence of further clarification from Harvest Partnership, Holliss Vincent has concluded in relation to the investment proposed at Selly Oak that:
- there is a contractual obligation on the Harvest Partnership to reclaim the whole of the Battery site, so that there is nothing to prevent the City Council from delivering the Life Sciences component, even without the road improvements;
 - the substantial investment already incurred by Sainsbury's at Selly Oak in seeking to bring forward the Battery site and the limited direct impact on the food store from the Longbridge application suggest that the Sainsbury's component of the scheme is likely to proceed, thereby ensuring the delivery of the road improvements;
 - some form of comparison goods development is likely to occur on the balance of the site at Selly Oak, given the improvements that will have been made to the accessibility of the site; but that
 - this comparison goods component is likely to suffer delays in lettings, and would be unlikely to secure the quality of comparison traders that it might otherwise attract in the absence of the Longbridge scheme.
- 6.60. On the basis of the above, I consider that there is insufficient evidence currently before the Council to demonstrate a 'significant adverse' impact on the overall investment proposed at the Battery site. I appreciate that the remediation costs borne by the Harvest Partnership are high, but they have always been known/anticipated, and the City Council's proportional contribution to remediation has enabled a viable scheme to be formulated. I accept that there will be some competition for comparison retailer tenants between the Selly Oak and Longbridge schemes, and that, in turn, this may cause some delay in securing full lettings in the comparison goods component of the Selly Oak scheme. There may also be a change in the character of the retailers secured at Selly Oak, but Harvest Partnership has not demonstrated that the delivery of its overall mixed-use scheme would be fatally undermined.

The City Centre

- 6.61. Holliss Vincent's subsequent assessment of cumulative impact suggests that much of the projected cumulative trade diversion from the City Centre will be offset by the ongoing development at New Street. Indeed, the City Centre's comparison goods turnover is expected to grow, from £906m in 2014, to approximately £1,061m in 2019, assuming implementation of all commitments, together with the Longbridge proposal and the ongoing investment at New Street. This is only £36m below the projected turnover under a no development scenario, and would allow for a healthy comparison sector turnover growth rate of 3.21 per cent, per annum.
- 6.62. This comparison sector turnover growth should enable a satisfactory level of rental growth from 2014 onwards, following a period of negative rental growth during the recession. In the context of a reasonably healthy centre, therefore, the level of

cumulative trade impact that Holliss Vincent has identified would not normally be regarded as likely to cause a '*significant adverse*' impact on investment prospects.

- 6.63. Holliss Vincent accept, however, that investor and retailer confidence is currently low and that investment decisions are more likely to reflect perceptions of the City Council's policy stance towards the City Centre as the primary location for comparison goods retail development, as opposed to modelled estimates of trade diversions, or expenditure growth.
- 6.64. The scope of the representation from Bullring Birmingham focuses on the obvious conflict with Proposal LC1 of the Longbridge AAP that is caused by the scale of the application proposal. However, the representation does not assert that there will be a '*significant adverse*' impact on investment in the City Centre, and it does not provide any specific examples of proposed investments that are considered to be likely to be substantially undermined. Thus, given the limited nature of the Bullring Birmingham's objection and the absence of objections from other City Centre investors, I consider that there is no clear evidence of a '*significant adverse*' impact on existing, committed and planned investment in the City Centre.

Northfield

- 6.65. Northfield is one of Birmingham's largest District Centres, providing a good range of local services and shops. The City Council has recently prepared a Draft Regeneration Framework for Northfield which seeks to assist the District Centre in retaining its position in the hierarchy, remaining competitive and attracting new investment.
- 6.66. However, given Northfield's geographical location between the Longbridge application site and the Battery site in Selly Oak, Holliss Vincent consider it likely that there would be strong competition for retail occupiers in the event that the Council was to succeed in bringing forward the development opportunities outlined in the Draft Regeneration Framework. Nevertheless, they are not aware of any committed investments in Northfield and no objections to this application have been received from potential investors in Northfield. Moreover, some of the opportunities identified in the Draft Regeneration Framework have only medium and long-term potential, such as Prices Square and land to the north of Lockwood Road.
- 6.67. Therefore, although the nine unit shops included in this application are likely to pose competition to secure lettings for any vacant units in the Northfield Shopping Centre, and may encourage some retailers to seek to leave Northfield, no clear evidence that this competition for tenants is likely to cause a '*significant adverse*' impact on future investment in the Northfield Shopping Centre, or on investment in the District Centre as a whole is found. Whilst I accept that there may be some adverse impact on planned investment in Northfield, because of the competition for tenants, this is unlikely to be '*significantly adverse*' given that the opportunity to develop the Longbridge scheme is almost immediate, whereas most of the opportunities in Northfield are likely to be in the medium to long term.

Impact on Vitality and Viability

- 6.68. The applicant's assessment of cumulative impact utilises much of the base information on shopping patterns and expenditure potential as set out in the Birmingham Retail Needs Assessment Update (2013). Holliss Vincent have, nevertheless, undertaken some sensitivity testing in relation to the likely pattern of trade draw of the application proposal and other commitments, and in relation to the weighting factors used in the cumulative impact model. The only other main difference is that Holliss Vincent has included the ongoing development at New

Street as part of the assessment of cumulative impact, whereas this has been excluded by the applicants.

- 6.69. Thus, apart from the New Street scheme, the respective assessments of cumulative impact have been undertaken on the basis of an agreed set of commitments. The comparison sector commitments have a projected aggregate turnover in 2019 (the first impact design year), that is drawn from the primary catchment area, of £268.5m. The convenience sector commitments have an aggregate projected turnover from the catchment area in 2019 of £240.5m. Given the wide ranging agreement on many of the technical inputs, it is perhaps not surprising that the respective assessments of absolute cumulative trade diversions are very similar, for the 2019 design year. However, in all cases except the City Centre, Holliss Vincent have slightly higher projected cumulative diversions, largely because of the weighting system used by the applicant which has the effect of taking more trade from the City Centre and Merry Hill. In the case of the City Centre, Holliss Vincent has a lower overall cumulative diversion than the applicant, because they have included the positive effects of New Street. The highest level of absolute cumulative impact, other than the City Centre, falls on Northfield District Centre in both assessments. In Selly Oak and Stirchley District Centres, the overall impact is positive because the commitments are judged to form an integrated part of expanded centres.
- 6.70. The percentage impacts associated with the Holliss Vincent assessment of cumulative impact in the 2019 design year show that the incremental percentage impacts of this application are low, with the highest incremental impact being on Northfield District Centre, at 1.8 per cent. Northfield is also the centre which is forecast to suffer the highest level of overall cumulative impact in percentage terms, at 15.7 per cent of its overall turnover in the 2019 design year, rising to 22.2 per cent in the convenience sector. However, by the 2023 design year, the impact on Northfield's overall turnover is projected to fall to 14.3 per cent, again largely as a result of the commitments which already exist.
- 6.71. The percentage impact on Northfield District Centre's overall turnover, as a result of the current application, is 15.7 per cent at 2019. This is slightly lower than the 18.1 per cent impact put forward in the Holliss Vincent report of May 2013 in respect of previous, broadly similar Longbridge retail scheme (2012/05330/PA, withdrawn), for an earlier design year of 2017. This lower impact figure for Northfield in the current report reflects the wider pattern of trade draw associated with the M&S component of the application, compared to the pattern of draw assumed in May 2013, which was on the basis of open A1 non-food occupiers of the large unit. Indeed, they assess that M&S will derive approximately 34 per cent of its comparison goods trade from the residents of Zones 28 and 33 (Zone 28- Northfield and Longbridge to the east of Bristol Road South and Zone 33 – Bromsgrove and its immediate hinterland) where - as the open A1 scheme was projected to draw 71 per cent of its comparison goods trade from residents of these two Zones. So, whilst the impact on Northfield associated with the commitments remains similar to the May 2013 report, the incremental impact on Northfield's overall turnover has fallen from 3.0 per cent in May 2013 to 1.8 per cent in the current assessment.
- 6.72. Moreover, of the aggregate annual diversion from Northfield District Centre, of £27.7m, approximately half is anticipated to be diverted from the Sainsbury's store which is currently over-trading to a substantial degree. It is noteworthy, however, that the incremental impact of the M&S component of the Longbridge application on the Sainsbury's store in Northfield District Centre is just 1.7 per cent, with the vast majority of the cumulative impact attributable to existing commitments (which include the Sainsbury's store at Longbridge, since this was developed after the household

survey, the Tesco store at Stirchley, the proposed new Local Centre near Kings Norton, and the Sainsbury's component of the Life Sciences commitment at Selly Oak). However, Sainsbury's is the southern anchor to Northfield District Centre and the substantial loss of trade likely to be experienced by Sainsbury's, as a result of the commitments, will have negative consequences for many other retail and service traders within the District Centre, as a result of the breakdown of linked trips. It can be anticipated, therefore, that the existing commitments may cause Sainsbury's to perform a lesser role in the future functioning of Northfield District Centre, thereby contributing to some loss of vitality and viability.

- 6.73. In the comparison goods sector, the incremental diversion from Northfield is £2.0m, rising to £10.5m under a cumulative position. Holliss Vincent consider that much of the impact in the comparison goods sector will fall upon retailers located in the Northfield Shopping Centre, which currently acts as the northern anchor to the District Centre. Indeed, the Retail and Centre Uses Statement prepared by the applicant shows that most of the clothing and footwear multiples in Northfield District Centre are located in the Northfield Shopping Centre. Holliss Vincent has identified that much of the cumulative diversion from Northfield District Centre will be from the southern and northern anchors to the centre. These cumulative diversions are likely to cause a reduction in linked trips with the central part of Northfield District Centre, thereby resulting in some loss of vitality and viability for the centre as a whole. Nevertheless, they note the reasonably healthy nature of the centre and positive characteristics of its catchment area that are portrayed in the Draft Regeneration Framework. I also note the relatively recent investment by Aldi in 2009 (new store), by JD Weatherspoon in refurbishing the historic Black Horse Public House and by LaSalle Investment who purchased Northfield Shopping centre in September 2013 while both the previous Longbridge retail application (2012/05330/PA) and the Selly Oak application (2013/02178/PA) were live.
- 6.74. Therefore, although the cumulative trade diversion from Northfield District Centre is substantial, I consider that the harm to the District Centre's overall vitality and viability will not reach the 'significant adverse' level for the purposes of the second of the impact tests set out in Paragraph 26 of the NPPF. This is especially so since about half the cumulative diversion falls on the Sainsbury's store, which currently over-trades substantially, and because the incremental impact of this application is so low.
- 6.75. It is essential, however, to record that this conclusion requires that M&S commits to the large unit at Longbridge, because the cumulative impact on the vitality and viability of Northfield District Centre associated with an open A1 non-food scenario at Longbridge would be 'significantly adverse', as demonstrated in the Holliss Vincent report of May 2013 in respect of the earlier application ref: 2012/05330/PA.

Implications for Other Centres within Birmingham

- 6.76. So far as other centres within the Birmingham administrative area are concerned, the highest level of cumulative impact is on Kings Heath District Centre at 9.2 per cent, but this is almost wholly attributable to existing commitments, with the incremental impact of this application being negligible. The next highest percentage impact is on the overall turnover of Harborne District Centre, at 8.2 per cent. However, as is the case with Kings Heath, this is almost wholly attributable to existing commitments, with the incremental impact of this application being negligible.
- 6.77. So far as the City Centre is concerned, the Holliss Vincent assessment suggests an incremental diversion of £14.8m, which would represent just 1.3 per cent of the City Centre's projected retail turnover in 2019. Moreover, the cumulative impact on the City Centre's overall retail turnover in 2019 is assessed to be just 3.1 per cent, with

much of the adverse impact arising from commitments located outside the City Centre being offset by the positive effect of the ongoing redevelopment at New Street, which is to be anchored by John Lewis. Thus, given the comparatively strong health of the City Centre and the improvements being brought about by the ongoing investment at New Street, I consider that there is no evidence of a 'significant adverse' impact on the City Centre's overall vitality and viability. Indeed, it is anticipated that the City Centre's overall retail turnover will continue to grow at a healthy rate of 3.2 per cent, per annum, in the period from 2014 up to 2019.

- 6.78. So far as Selly Oak District Centre is concerned, Holliss Vincent anticipate that implementation of the extant mixed-use and Life Sciences application will contribute to an uplift in the District Centre's overall turnover of £50.6m, a rise of 23.9 per cent. As a consequence, a substantial boost to Selly Oak's overall vitality and viability, reflecting the objective of its identification as a District Growth Point in Policy TP20 of the emerging Birmingham Development Plan is anticipated. Moreover, the incremental impact of the Longbridge application on Selly Oak District Centre is estimated to be just £4.0m, or 1.5 per cent of its turnover following implementation of the development at the Battery site. Likewise, implementation of the Tesco commitment at Stirchley is projected to lead to an increase in that District Centre's overall turnover of £40.7m, a positive impact of 189 per cent, which will allow the Stirchley District Centre to re-establish itself, through consolidation, after a long period of decline.
- 6.79. On this basis, I conclude that in relation to other centres within Birmingham, none will suffer a 'significant adverse' impact in relation to the second of the tests set out in Paragraph 26 of the NPPF.
- 6.80. With regards to other centres within the primary and secondary catchment area, the highest absolute cumulative diversions of comparison trade in 2019 from town centres outside the administrative area of Birmingham are from Solihull (£29.8m), the Sears/Solihull Retail Park (£15.6m), Brierley Hill/Merry Hill (£14.0m), Redditch Town Centre (£10.2m) and Bromsgrove Town Centre (£9.1m). The secondary catchment area comprises north Birmingham, Redditch, Droitwich, Worcester, Dudley, Kidderminster and Stourbridge. Thus, the highest absolute diversions, as expected, are from the higher order centres at Solihull and Brierley Hill/Merry Hill. However, the comparison goods diversions from these higher order centres are likely to represent less than 5 per cent of their overall comparison turnovers, and will not cause a 'significant adverse' impact to their overall vitality and viability. Similarly, Holliss Vincent considers that Redditch and Bromsgrove Town Centres are strong enough to withstand the cumulative comparison goods trade diversions of the order that have been identified.
- 6.81. I note that the application also includes a pavilion building for which A3/A5 consent is sought. The building would be located within the local centre boundary but would sit outside of the primary shopping area. This report has previously identified that the boundaries located within the master plan AAP are and have been flexible and on this basis, I consider that the pavilion and its proposed use (A3/A5) would be acceptable in its proposed location and does not require an assessment on the retail tests outlined above. The proposed use as an A3/A5 would be in accordance with the AAP under policy LC4 and given the permitted development right to revert to an A1 use, I consider a condition removing this ability is required.

CONCLUSIONS ON RETAIL IMPACT CONSIDERATIONS

- 6.82. Based on the assessment undertaken by Holliss Vincent on behalf of the LPA, I conclude that:

- there is insufficient evidence currently before the Council to demonstrate a 'significant adverse' impact on the overall investment proposed at the Battery site.
- Much of the projected cumulative trade diversion from the City Centre will be offset by the ongoing development at New Street. Indeed, the City Centre's comparison goods turnover is expected to grow.
- Whilst I accept that there may be some adverse impact on planned investment in Northfield, because of the competition for tenants, this is unlikely to be 'significantly adverse' given that the opportunity to develop the Longbridge scheme is almost immediate, whereas most of the opportunities in Northfield are likely to be in the medium to long term.
- The harm to Northfield District Centre's overall vitality and viability will not reach the 'significant adverse' level for the purposes of the second of the tests set out in Paragraph 26 of the NPPF. This is especially so since about half the cumulative diversion falls on the Sainsbury's store, which currently over-trades substantially, and because the incremental impact of the Longbridge application is so low if M&S is secured legally as the occupier.
- The cumulative trade impacts on other centres within Birmingham are not at a level that gives cause for concern in relation to their overall vitality and viability. Indeed, none of the centres within Birmingham will suffer a 'significant adverse' impact in relation to the second of the tests set out in Paragraph 26 of the NPPF. Furthermore, the vitality and viability of some of the centres, such as Stirchley and Selly Oak will be substantially improved due to their commitments.
- The highest absolute trade diversions from centres located outside the administrative area of Birmingham, as expected, are from the higher order centres at Solihull and Brierley Hill/Merry Hill. However, the comparison goods diversions from these higher order centres are likely to represent less than 5 per cent of their overall comparison turnovers, and will not cause a 'significant adverse' impact to their overall vitality and viability. Similarly, we consider that Redditch and Bromsgrove Town Centres are strong enough to withstand the cumulative comparison goods trade diversions of the order that have been identified.

CONCLUSIONS ON ALL RETAIL MATTERS

- 6.83. Most of the criteria in Paragraphs 7.23, 7.27 and 7.28 of the UDP - with the exception of the criteria relating to scale and need - reflect the provisions of Paragraphs 23 to 27 of the NPPF. I therefore conclude that:
- the scale of the retail floor space proposed is significantly in excess of the need identified for Longbridge in the AAP and in Policy GA10 of the pre-submission version of the Birmingham Development Plan;
 - the application proposal complies with the sequential test set out in Paragraphs 23 and 24 of the NPPF;
 - there is likely to be some adverse impact on planned investment in Selly Oak, because of the likely competition between the sites for comparison retail tenants, although our understanding is that there is nothing to prevent the implementation of the Life Sciences component of the consent at Selly Oak, given that Harvest Partnership is contractually bound to complete the remediation of the whole site, and indeed remediation is due to commence imminently;
 - there is likely to be a substantial cumulative impact on the level of trading in Northfield District Centre, but probably below the '*significant adverse*' threshold for the purposes of the tests set out in Paragraph 26 of the NPPF, and approximately half of the impact is on the over-trading Sainsbury's store; and

- there is likely to be a positive impact on the local economy in Longbridge, because of improved income levels as a result of the net gain in employment.

6.84. On the basis of the above conclusions, I consider that the issues of impact, on both investment and vitality and viability have been assessed and concluded to be within acceptable parameters. With regards to the sequential test, the Rushden decision determines that disaggregation is no longer a factor in assessing sequential sites and the Dundee judgement and Rushden decision requires the assessment of the scheme as a whole. The Judgement and SoS decision concluded that in order for an alternative location to be suitable, the sequentially preferable location must provide for a retail development that *“relates entirely to the application proposed and whether it can be accommodated on an actual alternative site”* (SoS decision para 15). Firstly, I have already acknowledged in paragraph 6.49 that the Battery Site at Selly Oak is not necessarily sequentially preferable due to half of the site sitting outside of the local centre boundary and secondly, when assessed as a whole, none of the sites reviewed as part of the sequential assessment can accommodate both the M and S store and nine retail units. On this basis, I conclude that the proposal is acceptable with regards to the relevant retail policy tests and case law.

BCC VIEW ON APPLICANTS’ POSITION ON THE REGENERATION & EMPLOYMENT BENEFITS OF THE PROPOSALS

6.85. In paragraph 6.3 and 6.4 above, I have identified the applicants case for the regeneration and investment benefits of the proposal and I concur with the view that the proposed development anchored by Marks and Spencer would raise the profile of Longbridge and, in turn, attract further business, employment and residential investment to the area. However, I do not consider that this has been adequately evidenced to provide a compelling argument for this development against plan policy. The development proposed would continue Longbridge’s physical and economic regeneration, albeit that other development would do this also. Marks and Spencer would provide an immediate investment, but other development would be likely to come forward without significant delay, as the economy continues to improve. Whilst the proposed development would benefit Longbridge, for both investment and employment opportunities, it would correspondingly, adversely affect to a degree, other centres such as Selly Oak and Northfield. On this basis, I do not place as much weight on the regeneration arguments as a material consideration as the applicant.

6.86. However, I consider the key regeneration and investment factor to be the case that if the proposed development, anchored by Marks and Spencer is not approved at Longbridge, the investment opportunity will not just be lost to Longbridge, it will be lost to the City altogether. On this basis, I consider that significant weight should be attached to this as a material consideration in assessing the application against development plan policy.

LOSS OF EMPLOYMENT LAND

6.87. Alongside a small part of the site being located on EZ1 of the AAP (illustrative plan only), the Draft Birmingham Development Plan identifies part of the application site as sitting within a Core Employment Area. Core employment areas, under Policies TP18 and TP19, are identified and safeguarded for employment development and its ancillary uses. As the site is designated for employment purposes and retail and town centre development is proposed, the proposal should be considered against the Loss of Industrial Land to Alternative Uses SPD. Paragraph 5.9 of the SPD identifies that there will be occasions where it can be demonstrated that there are good planning grounds to depart from the general presumption against the loss of industrial land

and that this could include large-scale mixed-use regeneration proposals that are identified in other Council planning documents. The applicants rely on this exception.

- 6.88. The Longbridge AAP covers an area of 195 Ha of which approximately 140 Ha are for development. Approximately 117 Ha are owned by the applicant. Some 76 Ha have already been developed or have planning permission, and this is outlined in Table 1 below. Future development sites by the applicant are outlined in Table 2 below.

Table 1: Development Already Taken Place or has Planning Permission

MG Motors Site	24.80 Ha
Phase 1 and 2 Housing Lickey Road	2.85 Ha
Cofton Centre – industrial (Bromsgrove)	12.13 Ha
East Works Housing (Bromsgrove)	17.96 Ha
Town Centre Park	1.00 Ha
Town Centre (including College)	5.23 Ha
Technology Park Construction College	0.29 Ha
Technology Park Youth Centre	0.35 Ha
Technology Park (excluding the two above)	2.35 Ha
Phase 3 Lickey Road Housing	2.10 Ha
Flightshed Housing	3.13 Ha
Phase 4 Housing (North Works)	4.21 Ha

Table 2: Future Development Sites

Remaining North Works including employment, leisure and town centre phases 3, 4 and 5	10.04 Ha
West Works Park	3.30 Ha
West Works Regional Investment Site (RIS)	17.59 Ha
West Works Infrastructure	2.35 Ha
West Works Housing	6.78 Ha

- 6.89. The applicants have provided the following employment numbers:

Development to date:

- Construction jobs - 196 gross full time equivalent (FTE) jobs have already been delivered.
- Future Construction Jobs - 354 gross FTE jobs.
- Operational employment - between 2007 and 2012 - 1,528 gross FTE jobs.

Future operational employment:

- 1,932 FTE projected within Phases 1 and 2 of the town centre and the Cofton Centre to be delivered between 2013 and 2015. Of this figure, 550 FTE are attributable to the proposed development.
- Planned development of the remaining town centre phases 3, 4 and 5 and Longbridge West - 1,075 FTE's on Longbridge North and 2,078 FTE's on Longbridge West.
- In addition to those employed by MG Motors UK (400), this would provide a total projected operation employment figure of 7,013 FTE's.

- 6.90. The MG Rover plant closed in April 2005. Preparation of the AAP commenced in April 2006 and was adopted in April 2009. St Modwen and Advantage West Midlands assisted in developing the AAP along with Bromsgrove District Council and Worcestershire County Council. The aim of the AAP is to create an urban eco-centre *“delivering 10,000 jobs, a minimum of 1450 houses, new education facilities, retailing, leisure, community and recreation uses underpinned by quality public transport and infrastructure”*.
- 6.91. Very significant development and regeneration has already taken place, following the site remediation carried out by the applicants. A new town centre has been delivered, which to date comprises Bournville College, various retail developments including a Sainsbury’s supermarket, leisure uses, 3,240sq.m of B1a offices, and a new urban park of 0.99 ha. North of Longbridge Lane is the two-thirds completed Technology Park, the new youth centre, and the plot for the recently-consented re-located Construction College (currently under construction). 132 dwellings have been provided on Lickey Road and residential development is progressing on the former East Works site along with employment development on the Cofton Centre. Recent consents have approved residential development on Phases 3 and 4 at North Works and on the former Flightshed on Lowhill Lane.
- 6.92. Despite the challenging economic climate of the last few years, the applicants have delivered the above development, with the corresponding job creation as set out in the bullet points above.
- 6.93. Aside from the proposed retail development partially sought on allocated employment land, there would remain very significant areas available for employment use to accommodate wide-ranging inward-investment opportunities, as outlined in Table 2 above. Furthermore, not all of EZ1 would provide employment land as originally set out in the AAP (as residential development has been previously approved by your Committee on other EZ1 land). Further employment land uses would be provided elsewhere within the North Works development. This may include a high-profile, office-led employment block fronting the new park, as well as an employment block adjacent to Bournville College.
- 6.94. If the current application were to be approved, there would still remain significant areas of employment land within the AAP redevelopment area – mostly at the RIS and North Works - some of which is immediately available and is currently being marketed. The land allocations within the AAP were an assessment in 2009 of likely development coming forward and did not propose to set areas of land without the flexibility of change. Since adoption, the allocations have been used as a starting point but have been applied on a flexible and reasonable basis as projects of the size of Longbridge take a significant number of years to complete and may be undertaken through differing economic cycles. This affects the range of investment opportunities brought forward. Both the remaining employment areas and the proposed retail development continue to contribute to the overall vision of Longbridge and progress the site’s and area’s regeneration. On this basis, I consider that the relatively small loss of employment land is acceptable.

DESIGN

- 6.95. I consider the proposals show a good standard of site layout, and connection and correspondence with the existing town centre, and appropriate scale and design. Access through the site has been amended during the course of the application to

achieve the appropriate quality and ease of movement to, from and through the site. This includes accessible pedestrian routes through the large surface car park.

- 6.96. In more detail, the 'anchor' store – Marks and Spencer – would follow the building line established by Sainsbury's, and have a strong presence facing west across the surface car park, towards the park and Bristol Road South beyond. I consider its elevational composition and mix of materials produces a high quality building, which would also complement the other distinctive buildings that have come forward at Longbridge in recent years.
- 6.97. The multi-storey car park is very secondary in character, given its corner position in the new 'square', but care will be needed with the ultimate choice of materials and workmanship, especially on the more exposed rear elevations, the southern one especially. Care will also be needed for the eastern elevations of this and the Marks and Spencer building, with the railway line adjacent and housing beyond to the east. Continuing the theme of possibly large and 'blank' rear elevations, particular attention will be needed for the rear walls of the retail units' delivery yards, and nearby landscaping, as these will face the public realm.
- 6.98. The nine retail units would frame the southern edge of the car park, with a smart, modern design, of a suitable size and design standard in its own right, without challenging the dominant quality and presence of the Marks and Spencer building. The framing of the area would be completed by the interesting and unusual pavilion building adjacent to the park, and structured landscaping in and around the car park. Away from the main car park, structured tree planting is shown along the other wider-site access roads, and around the rear elevations (south and east) of the multi-storey car park.
- 6.99. Pedestrian access would be afforded around the edge of the car park – on the forecourts of the retail buildings and the future western development plot, and north-south and east-west through the car park with landscaped pedestrian routes. The break in the run of the nine retail units would provide an important link between the town centre and future development plots to the south. This area has received particular attention from the applicants and your officers, to achieve an attractive and usable route. A lift is now proposed, to enable less mobile people, wheelchair and pushchair users to get to and from the higher land to the south and the town centre to the north. The inclusion of this lift deals with a number of concerns raised by the Access Committee for Birmingham. Elevational treatment to the gable walls of the retail units, and landscaping, has been designed to provide a reasonable level of surveillance and positive character to this area.
- 6.100. I note the other objections received on design grounds from both the Access Committee and local residents. Whilst the multi-storey car park will be visible to residential properties to the rear of the application site, this is a considerable distance and the two uses are separated by a railway line. The car park would be viewed in the context of the redevelopment proposals and would not appear overly dominant compared to adjacent developments. With regards to comments made by the Access Committee, the applicant has confirmed that the multi-storey car park would have a clear height of 2.5m which would allow mobility vehicles to pass underneath and is DDA compliant. Drop off zones are to be provided at level zero and 2, which are the two floors that have direct access into the Marks and Spencer store and the store itself would provide customer toilets including an accessible toilet that would be open to the public. The applicant has also confirmed that there are no height restrictions across the site so mobility vehicles can pass through and, with regards to visually

impaired people, all signage across the site would meet DDA requirements in terms of size and colour.

DRAINAGE AND FLOOD RISK

- 6.101. A Drainage Strategy and Flood Risk Assessment have been submitted in support of the application. This identifies that surface water from the application site would primarily discharge to the River Rea. The reduction in impervious areas and the use of sustainable drainage as a result of the development would reduce and improve the water quality and quantity of runoff volumes discharged to the River Rea from the site.
- 6.102. Hydraulic modelling of the River Rea, which includes the latest River Rea proposals has been utilised to assess flood risk. Modelling results have confirmed that all flood events up to and including the 1000 year event will be contained within the channel. As such, the application site is located within Flood Zone 1. The proposed development would not increase the designed foul and surface water flow determined as part of the original drainage strategy for the site and as such, the existing system has sufficient capacity and does not require further upsizing.
- 6.103. Severn Trent Water and the Environment Agency have raised no objections to the application subject to safeguarding conditions relating to drainage, flood risk and surface water. On this basis, I concur with their advice and conclude that the proposal is acceptable in respect of drainage and flood risk.

LAND CONTAMINATION

- 6.104. The submitted Geo-Environmental report identifies that the application site is underlain by made ground, superficial deposits in the north with bedrock beneath the site identified as the Mercia Mudstone Group and Bromsgrove Sandstone Formation in the east and the Kidderminster Sandstone Formation in the west. The main watercourse within the vicinity of the site is the River Rea which is located directly north of the site. The application site is located in an area of high risk of unexploded ordnance (UXOs). No UXOs are identified within the site but the works would have been a target and therefore excavation would need to be undertaken with caution.
- 6.105. Remediation and earthworks have been undertaken within the north eastern and south western parts of the site. Remedial works are required within the remaining site area to address potential contamination issues with subsequent ground gas monitoring works across the site. Free phase product has been identified in the groundwater within the Mercia Mudstone beneath Area A of the site during recent ongoing monitoring works. Geo-technical constraints have been identified in relation to concrete in aggressive ground, buried obstructions and shallow groundwater levels.
- 6.106. Regulatory Services and the Environment Agency have raised no objections to the application subject to safeguarding conditions relating to contaminated land. On this basis, I concur with their advice and conclude that the proposal is acceptable in respect of land contamination.

TRANSPORTATION

- 6.107. Following the scoping of the Transport Assessment, review and comments made on the initial Transport Assessment and follow up discussions an additional Technical Note has been provided with more detailed traffic count data being collected and

traffic impact analysis undertaken. The traffic counts undertaken were attributable to the junctions of:

- A38 roundabout and Lickey Road
- A38 signal controlled junction and Longbridge Lane
- Longbridge Lane signal controlled junction with Devon Way and High Street
- A38 north of Longbridge Lane
- A38 on the former railway bridge
- A38 west of Lickey Road
- Lickey Road south of A38
- Longbridge Lane east of Sunbury Road
- Tessall Lane on the River Rea bridge
- High Street (exit only)
- Sainsbury's car park
- Devon Way (entrance to Centro Park and Ride)
- Longbridge Town Centre car park; and
- Longbridge West pay and display car park.

6.108. Significant road improvements have already been undertaken to support the wider AAP proposals for Longbridge which have required substantial financial commitment on behalf of the applicant. This has allowed future phases of development to be progressed without further significant road disruption.

6.109. The traffic modelling has shown the impact of the large single occupier retail store to be suitably accommodated within the existing highway infrastructure. Recent concerns from local residents and members has been made on various changes to Longbridge Lane and the impacts development has had on this area around the Sunbury Road shopping centre, Devon Way signal junction and A38 signal junction and this is noted in responses to the consultation on this application. The traffic impact analysis, subject to some minor modifications being sought, has shown to operate suitably well with more than sufficient capacity through the majority of the day with some queuing and delays as would be expected in the AM and PM peak periods. This development has limited impact in the AM peak as the retail unit would only just have opened.

6.110. Wider traffic impacts are noted, notably on Longbridge Lane junctions with Coombes Lane and Groveley Lane roundabouts but the overall level of queuing and delays from PM peak queuing is limited and again of the expected levels to be expected in a congested urban network. These impacts are also a result of combined development activity with the current town centre and consented residential developments. It is noted the AAP had several assessments on highway infrastructure. The majority of highway improvements have been carried out with the extended signalisation and widening of the A38 with Longbridge Lane (though not as extensive as initial plans to provide three linked signals with Lickey Road), signalisation of Devon Way, signal junction access on Lickey Road and other works to the south around the East works redevelopment. The works to deliver these last set of highway improvements were tied in with the phasing on the much larger redevelopment of the West works site which is planned to be employment uses with significant AM and PM traffic generation. Finally it is noted the level of development of North works site is lower than the assumed levels of development within the LAAP with far more residential units being consented when previously this was sought to be mixed employment, commercial and residential.

6.111. The applicants have carried out detailed traffic counts surveys in March over a two week period including weekends to assess a Saturday impact and this has shown

significant levels of capacity available on the local road network so no impacts are noted here. The levels of traffic generation from the development have been robustly modelled by use of national TRICS database surveys for individual single occupier retail uses, and also in combination with footsore and other retails uses as is usually the case with these types of shopping developments. Surveyed sites include developments such as M&S with Tesco, and John Lewis with Sainsbury's. It is noted the other A1 retail floor area being considered in this application of 4,180sq.m was approved within the town centre phase 1 and so is not new traffic generation to be considered in this scheme, but these flows have been assumed within the baseline traffic flows along with other consented traffic from sites like the Lickey Road residential schemes.

- 6.112. The retail development is predicted to generate an additional 234 person trips in the AM peak (multi modal trips by all modes) and 676 person trips in the PM peak. Using the Travel Demand Model which was provided for the LAAP, this results in 135 additional vehicle trips in the AM peak and 302 in the PM peak. By further refining this analysis using TRICS data the level of vehicle trips in the AM and PM peak periods is noted at 198 and 365. The traffic surveys carried out in March show the town centre as currently operational has traffic generation levels slightly below that assumed in the Travel Demand Model which is positive showing the analysis has been robust.
- 6.113. Car parking provision is provided within a surface level and multi storey car park. The level of parking is in line with the level of floor space based on the LAAP provision levels, though the BCC approved guidelines as maximums are more restrictive now than these. However the multi storey is noted to allocate 300 spaces to the town centre which means 916 spaces are unallocated and reserved for future uses. This has been mooted to provide for future employment developments and existing and proposed redevelopment of Longbridge North. The AAP conception sought a multi-storey car park on the site within the local centre to reduce the impact of large areas of surface level car parking within the overall site. Whilst this proposal entails a large surface car park as well as a multi-storey, the proposed multi-storey provides significant levels over and above that required for this particular development proposal including that currently provided for in the West Works temporary car park which expires 4 August 2016. On this basis, and in supporting the multi-storey car park provision and the level of car parking proposed, I do not consider that large areas of surface car parking within the remaining north (and/or west) works are required (apart from those required for accessible space provision).
- 6.114. Servicing is shown to take place via the new signal access provided on Lickey Road that uses the new road infrastructure network in the site. These roads have previously seen to be retained as private estate roads but need to all be fully in place prior to any uses being occupied.
- 6.115. The site layout is suitable for access by all modes with generous pedestrian links into the expanded town centre. Pedestrians have a convenient access to the local public transport infrastructure and through to adjacent residential areas, and cycle access follows the approved master plan with links away from the main parking areas and across the park and river. The car parking areas are designed to provide a suitably low speed access through the site, though the master plan in the AAP did initially favour no links between the two halves of the town centre area.
- 6.116. Transportation and the Highways Agency have raised no objections to the proposal on highway grounds subject to relevant safeguarding conditions and I concur with this view. I note the objections raised by local residents regarding the parking

provision being above the AAP requirement and extra vehicle trips on the network, however, these issues have been addressed above and have concluded that the trip generation would be lower than that assessed for the AAP and that the parking proposed includes provision for future phases of development on North Works. I consider therefore that these issues are not significant to warrant a refusal of planning permission.

ENVIRONMENTAL IMPACT ASSESSMENT ISSUES

Transportation

- 6.117. The assessment within the ES considers the potential for traffic generated by the proposed development to result in any operational phase impacts on traffic and associated highway users and on public transport. The assessment compares a Do Minimum scenario which includes traffic from all approved planning applications at Longbridge with a Do Something scenario which also includes traffic from this proposed development. Impacts identified are increased traffic on Longbridge Lane causing a long term slight adverse impact and increased driver delay on Longbridge Lane causing a long term moderate adverse impact. As previously stated, no objections have been raised on transportation grounds and the Environmental Statement identifies no significant impact to warrant a refusal.

Air Quality

- 6.118. 24 sensitive receptors have been identified for the assessment of air quality and these range from properties on Barnt Green Road to Longbridge Lane and Bristol Road to properties including Bournville College and St Columbas School. The assessment also identifies that the application site is sat within an Air Quality Management Area. The assessment has assessed a construction impact of dust and an operational impact of Nitrogen Dioxide (NO₂) and concludes that during construction, short term impacts could arise due to the generation of dust but with mitigation, the impact should be minimal. With regards to air quality, overall impacts are assessed as having negligible significance and therefore no specific mitigation measures are considered necessary. Regulatory Services have raised no objections to the proposal on air quality environmental grounds.

Noise and Vibration

- 6.119. The assessment identifies five noise-sensitive receptor locations that are considered to represent all of the likely receptors in close proximity to the application site. These five locations are:

- 78 Longbridge Lane
- 31 Thurlestone Road
- 95 Thurlestone Road
- 1480 Bristol Road South and
- 1 Rednal Mill Drive

The construction phase noise levels at these receptors are not significant at all but 31 Thurlestone Road where the construction noise level would be deemed significant and the effect is therefore classed as moderate adverse in this location. This impact however is only short term during daytime construction hours and the impact is expected to reduce once activities move further away from the receptor and structures begin to block the noise impact. In terms of construction vibration impacts, these have been classed as negligible to minor adverse.

- 6.120. Operational noise activities include road traffic and industrial type noise both fixed source and HGV's. The noise assessment undertaken indicates that the predicted change in noise levels from road traffic range from a -0.2dB LA10, 18 hour crease at Longbridge Lane/Tessall Lane and Longbridge Lane between Devon Way and Bristol Road South to a +0.4 dB LA10, 18 Hour increase at the B4120 by Cofton Church Lane. These increases are assessed as being negligible adverse to negligible beneficial respectively.
- 6.121. With regards to industrial noise from fixed source plant and deliveries, the impact would not meet the requirement of the rating levels being 5dB below the existing background noise level for dwellings in Thurlestone Road/Falfield Grove; however, this is viewed as a permanent minor adverse impact. It is of note that further reduction of noise levels may be achievable through careful design, specification, location of plant, and where necessary, screening of plant on the non-food retail units and through the employment of best practice to deliveries.
- 6.122. Regulatory Services have raised no objections in relation to noise and vibration and consequently, no significant environmental harm with regards to noise and vibration would be created by the proposal.

Landscape and Visual Effects

- 6.123. The environmental statement identifies that the application site is surrounded by established urban development and is considered as part of a wider area of townscape. The buildings that previously occupied the site were, on average 12m in height and they created a substantial utilitarian industrial frontage along Longbridge Lane with a large metal conveyor crossing Bristol Road South connecting the north works to the west works. The combined townscape value of the wider Longbridge development was assessed as contributing a moderate visual detractor in local views.
- 6.124. The existing character has been made more open with the demolition of the factory buildings however the presence of hard standing, security fencing, compounds and elements of construction represent part of a townscape character area in a degraded condition. 43 visual receptors have been assessed within the statement representing residential properties, commercial properties around the perimeter of the north works site, public open space and roads, railways and public rights of way. These visual receptors have been sensitivity graded with the residential properties being high, commercial premises being low, public open space being medium to high and the majority of the roads and railways being low sensitivity.
- 6.125. The impact of the development on the landscape is subsequently assessed with the majority of construction impacts predicted to be minor adverse with moderate adverse impacts for the nearest residential properties to the east and south. These impacts are all likely to be experienced in local distance views where the construction works will be prominent features in local views; these would be temporary in nature and seen in the context of existing construction and development.
- 6.126. Mitigation measures proposed for the construction phase of development are:
- 2.4m hoarding on the perimeter of the site to screen views of low level construction activities and painted in a uniform colour;
 - Locate contractor's compound and material stockpiles away from nearby sensitive receptors;
 - Implement landscape planting early in the development, where possible;

- Minimise length of construction time required for scaffolding; and
- Minimise the length of time required for crane activity.

6.127. Following completion, four visual receptors to the east of the application site and one to the south-west are predicted to have minor adverse impacts, due to views of new buildings above existing vegetation alongside the railway from the east or directly from the south. Fourteen visual receptors are predicted to have minor beneficial impacts following completion. This is due to the regeneration of a vacant site having a positive impact replacing vacant views of disused land opened up as a result of the demolition of the former industrial buildings.

Socio-Economic Effects

6.128. This section of the Environmental Assessment assessed the following components:

- Employment impacts quantified and assessed in terms of gross new construction and operational stage jobs;
- Regeneration strategy and policy impact assessment to reinforce the strategic contribution the scheme makes to wider regeneration;
- Mitigation measures to address any potential negative socio-economic impacts;
- Residual effect once appropriate mitigation measures have been implemented; and
- Conclusions of the socio-economic impacts of the development.

6.129. The key economic conclusions that the assessment reached are:

- Loss of almost 6000 jobs within the Longbridge area due to the crash of the local automotive cluster in 2005 and the impacts on its supplies;
- Increasing levels of unemployment resulting from local and global economic shocks, manifested through increasing claimant court rates and high levels of employment deprivation;
- Poor skills base, with below average levels of residents with higher qualifications.
- Distribution, hotels and restaurants and public administration are the key sectors of the local economy, although public administration has shown a market decline in recent years.
- The manufacturing sector in Longbridge was traditionally a key component of the local economy. However, it has declined at a faster rate in Longbridge than regionally or nationally. This trend has been expedited by economic restructuring in the area in 2005.
- Redevelopment in Longbridge must seek to provide a range of sustainable private-sector based economic opportunities to suit the skills of the existing workforce.

6.130. In terms of impact, the assessment identifies that the core impact of the development is likely to be development related employment with some 61 gross new construction jobs and between 333 and 550 new retail related jobs generated from the proposed Marks and Spencer store and the A3 restaurant. The employment generated from the non-food retail element of the scheme has not been assessed as this floor space has received planning permission previously. The significance of predicted impacts range from moderate significant to major significant but they are all of a beneficial nature.

6.131. I consider that the application site would provide valuable employment opportunities in an area that has suffered since the collapse of MG Rover and that the proposal

would in turn support the wider regeneration of Longbridge by increasing the level of business activity in the area and attracting inward investment to the area.

SECTION 106 ISSUES

6.132. In accordance with the requirements of the Area Action Plan Longbridge Infrastructure Tariff (LIT), the proposed development would require payments detailed below:

Marks and Spencer Store - £1,779,840 at £120 per sq. m

Other retail units - £525,960 at £120 per sq. m

Pavillion building - £70,680 at £120 per sq. m

Multi storey car park - £1,136,370 at £30 per sq. m

Total - £3,512,850.

6.133. The applicants have made an offer of £1,857,846 towards this requirement. This payment would comprise £1,779,840 (a full LIT payment relating to the Marks and Spencer store) and £78,000 for the nine retail units. The £78,000 payment represents the sum agreed as part of the Phase 1 Town Centre development under which these units have been previously approved (albeit as four rather than the nine now proposed).

6.134. Paragraph 4.5 of the AAP states that where viability is an issue in terms of difficult market conditions *“a flexible approach to any negotiations at planning application stage will be required to ensure viability and that the delivery of an acceptable scheme on the ground is not constrained or delayed.”* This is further explained in Paragraph 4.25 which states *“It is recognised that market conditions are subject to change, and that these can impact on the viability of development. If at the time planning applications are submitted, it can be shown through an open development appraisal, that a scheme may be unviable if the LAAP’s policies have to be applied in full, then the Local Authorities will enter into detailed negotiations with the applicants to determine what may be acceptable to enable the scheme to proceed.”*

6.135. A viability assessment has been submitted in relation to the LIT requirement and the need for a flexible approach. The appraisal identifies that a 9.95% profit on cost return taking into consideration the LIT offered. The viability assessment has been reviewed in-house and I concur with the assessment’s conclusions. On this basis, I consider that the provision of a LIT contribution of £1,857,846 to be acceptable and broadly in accordance with policy.

REFERRAL TO THE SECRETARY OF STATE

6.136. Under Circular 02/2009 – The Town and Country Planning (Consultation) (England) Direction 2009, applications for retail development will be required to be referred to the Secretary of State where the development proposed:

a) *“Is to be carried out on land which is edge-of-centre, out-of-centre or out-of-town: and*

b) *Is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and*

c) *Consists of or includes the provision of building or buildings where the floor space to be created by the development is:*

i) *5,000 square metres or more; or*

ii) *Extensions or new development of 2,500 square metres or more which, when aggregated with existing floor space, would exceed 5,000 square metres”*

6.137. In light of this Direction and the recommendation for approval, the application will need to be referred to the DCLG to allow the Secretary of State to determine whether the application should be dealt with by him rather than being determined by the LPA. The Secretary of State, 'calls in' a small number of the planning applications received by LPA's but produces criteria for which the applications are assessed for 'call in'. These are detailed below and are known as the 'Caborn principles' as they were first announced by the then planning minister at Prime Minister Question on 16 June 1999.

- a) May conflict with national policies on important matters;
- b) may have significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority;
- c) could have significant effects beyond their immediate locality;
- d) give rise to substantial cross-boundary or national controversy;
- e) raise significant architectural and urban design issues; or
- f) may involve the interests of national security or of foreign Governments.

7.0. Conclusion

- 7.1. The proposal seeks planning permission for a significant amount of A1 retail floor space over and above the limits set within the Longbridge AAP. The proposal has been assessed as being located at 'edge of centre' and has subsequently been reviewed under the sequential and impact tests of the NPPF. The application proposal therefore poses a significant degree of conflict with Policy LC1 of the Longbridge AAP which sets maximum floor space limits along with LC4 which does not seek A1 development in this location. The AAP is regarded as up to date, and on this basis the presumption to grant permission in paragraph 14 of the NPPF does not apply. Moreover, the degree of conflict is such that I consider that the application proposal conflicts with the development plan when considered as a whole and therefore should be refused in accordance with the development plan unless material considerations indicate otherwise. The key material consideration here is the NPPF.
- 7.2. So far as the sequential test retail policy of the NPPF is concerned, the proposal complies with policy as there is no site in a sequentially preferable location, which is available, suitable and viable for the proposal (including the Battery Site at Selly Oak).
- 7.3. In relation to the NPPF impact tests, there is no clear evidence of a significant adverse impact on existing, proposed or committed investment in any of the centres within or beyond the identified and agreed primary catchment area. Similarly, there is no clear evidence of a significant adverse impact on the vitality and viability (including consumer choice) of any of the centres within or beyond the identified and agreed primary or secondary catchment area.
- 7.4. As the application passes the two impact tests and the sequential test, they constitute a strong material consideration with significant weight in offsetting the conflict with the development plan.
- 7.5. Other material considerations that have been assessed and to which weight should be given include -
 - the 61 FTE temporary employment benefits through construction activity;
 - the 550 FTE direct employment impact generated through the operational development;

- the indirect employment created by multiplier effects i.e. purchasing by employees, and purchasing by M&S and the other retailers;
 - the positive impact on inward investment;
 - Potential loss of the proposed investment to the City if planning permission were refused;
 - the socio-economic benefits arising from improved income levels in the local area, thereby promoting social inclusion;
 - the positive environmental impacts; and
 - the positive design impacts.
- 7.6. Having undertaken the balancing exercise, advocated by the NPPG, and by recent court judgments such as Zurich and Dundee, I conclude that the material considerations offset the conflict with the development plan considered as a whole, and the limited failure of the sequential test. However, my conclusions in relation to impact are wholly dependent on M&S occupying the large retail unit, since open A1 non-food retailing would cause a significant adverse impact on the overall vitality and viability of Northfield District Centre, and a more harmful investment impact in nearby centres.
- 7.7. Whilst the proposal would see the loss of a small proportion of allocated employment land and is therefore contrary to the AAP, UDP and draft BDP, I consider that this is a matter which requires flexibility and the loss can be adequately addressed within the allocated West Works development which has over 17.5ha of developable land for employment development and a projected 2,078 FTE operational posts. I also consider that whilst contrary to the development plan, the benefits that the proposal would bring forward including significant major investment in the immediate term would outweigh the loss of employment land and subsequent policy issues. The proposed development would provide continued investment along with local employment.
- 7.8. The design of the proposal is considered acceptable and the scheme as a whole and cumulatively would have minimal environmental impacts. Transportation matters are considered to be acceptable.
- 7.9. Whilst I note the significant objections raised, none of the issues raise demonstrable harm in retail policy, transportation, design or environmental impact to warrant a refusal of planning permission. I note that the key principle in the NPPF is the presumption in favour of sustainable development and this is identified as having three stems of economic, social and environmental. As the proposal would provide significant economic benefits that would otherwise be lost to the City, would provide further local employment and knock-on social benefits from this and does not have an environmental impact that could be regarded as significant, I consider the proposal to be sustainable development and on this basis, should be approved.
- 8.0. Recommendation
- 8.1. That authority is given to refer application number 2013/09229/PA to the Department for Communities and Local Government for their determination and that they are advised that your Committee would be minded to approve the application, subject to the conditions outlined below.
- 8.2. That determination of Application Number 2013/09229/PA be deferred, first pending the decision of the Department for Communities and Local Government, and if that

decision is to allow the Local Planning Authority to determine the application, then pending the completion of a Section 106 Planning Obligation to secure the following:

- a) An index linked financial contribution from the date of this planning committee of £1,857,846 towards the spend priorities of the Longbridge Infrastructure Tariff identified in Table 2 of the Longbridge Area Action Plan 2009 payable as 25% on commencement of development, 25% on first occupation, 25% on 50% occupation and 25% on 95% occupation.
 - b) The first occupation of the 14,832sq.m retail unit shall be Marks and Spencer Plc.
 - c) A continued commitment to remain in a Local Training and Employment Scheme with the City Council and other agencies and employ local people during construction and operation of the development.
 - d) Payment of a monitoring and administration fee associated with the legal agreement of £10,000.
- 8.3. That the Director of Legal and Democratic Services be authorised to prepare, seal and complete the appropriate agreement.
- 8.4. That in the event of the above legal agreement not being completed to the satisfaction of the Local Planning Authority, on or before 10 September 2014, planning permission be refused for the following reasons:
- a) In the absence of any suitable planning obligation to secure a Longbridge Infrastructure Tariff financial contribution of £1,857,846, a clause to secure first occupation of the 14,832sq.m retail unit by Marks and Spencer Plc and the continued commitment to a local training and employment scheme to employ local people during construction and operation of the development; the proposed development conflicts with the Longbridge Area Action Plan 2009 and specifically Part D Delivery and Implementation and paragraphs 2.2, 2.5, 2.17, 2.20, 2.35, 3.6 and 3.34; Paragraphs 7.23, 7.27 and 7.28 of the Birmingham UDP, Paragraphs 24, 26 and 27 of the NPPF, the NPPG and Policies GA10, TP20 and TP25 of the Draft Birmingham Development Plan.
- 8.5. That in the event of the above legal agreement being completed to the satisfaction of the Local Planning Authority on or before 10 September 2014, favourable consideration would be given to application 2013/09229/PA subject to the conditions listed below.

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- 1 Requires the scheme to be in accordance with the listed approved plans
 - 2 Requires the agreed mobility access to be maintained
 - 3 Requires the prior submission of a contamination remediation scheme
 - 4 Requires the prior submission of a contaminated land verification report
 - 5 Limits the maximum gross floorspace of the units
 - 6 No subdivision or amalgamation of the nine retail units
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- 7 No subdivision of the large A1 retail unit
 - 8 Prevents the use from changing to Use Class A1
 - 9 Limits delivery time of goods to or from the site
 - 10 Prevents storage except in authorised area
 - 11 Requires the implementation of the Flood Risk Assessment
 - 12 Requires the prior submission of a sustainable drainage scheme
 - 13 Requires the prior submission of a drainage scheme
 - 14 Requires the prior submission of extraction and odour control details
 - 15 Limits the noise levels for Plant and Machinery
 - 16 Prevents the use of amplification equipment
 - 17 Requires the prior submission of a goods delivery strategy
 - 18 Requires the prior submission of hard and/or soft landscape details
 - 19 Requires the prior submission of hard surfacing materials
 - 20 Requires the prior submission of boundary treatment details
 - 21 Requires the prior submission of a lighting scheme
 - 22 Requires the prior submission of a construction method statement/management plan
 - 23 Requires the prior submission of sample materials
 - 24 Requires the submission of details of public art prior to occupation
 - 25 Requires the scheme to be in accordance with the environmental statement
 - 26 Requires the submission of a CCTV scheme prior to occupation
 - 27 Requires the prior submission of trolley bay details
 - 28 Requires the prior submission of the green wall details
 - 29 Requires the prior submission of pedestrian route details
 - 30 Trip Generation Rates
 - 31 No consent granted for shop fronts within the nine retail units
 - 32 Requires the prior approval of details to prevent mud on the highway
 - 33 Requires the prior submission of a parking management strategy
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- 34 Requires the submission of a commercial travel plan prior to occupation
 - 35 Requires the delivery and service area prior to occupation
 - 36 Requires the submission of cycle storage details prior to occupation
 - 37 Requires the prior submission of details of a delivery vehicle management scheme
 - 38 Requires the applicants to join Travelwise
 - 39 Limits the approval to 3 years (Full)
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Case Officer: Pam Brennan

Photo(s)

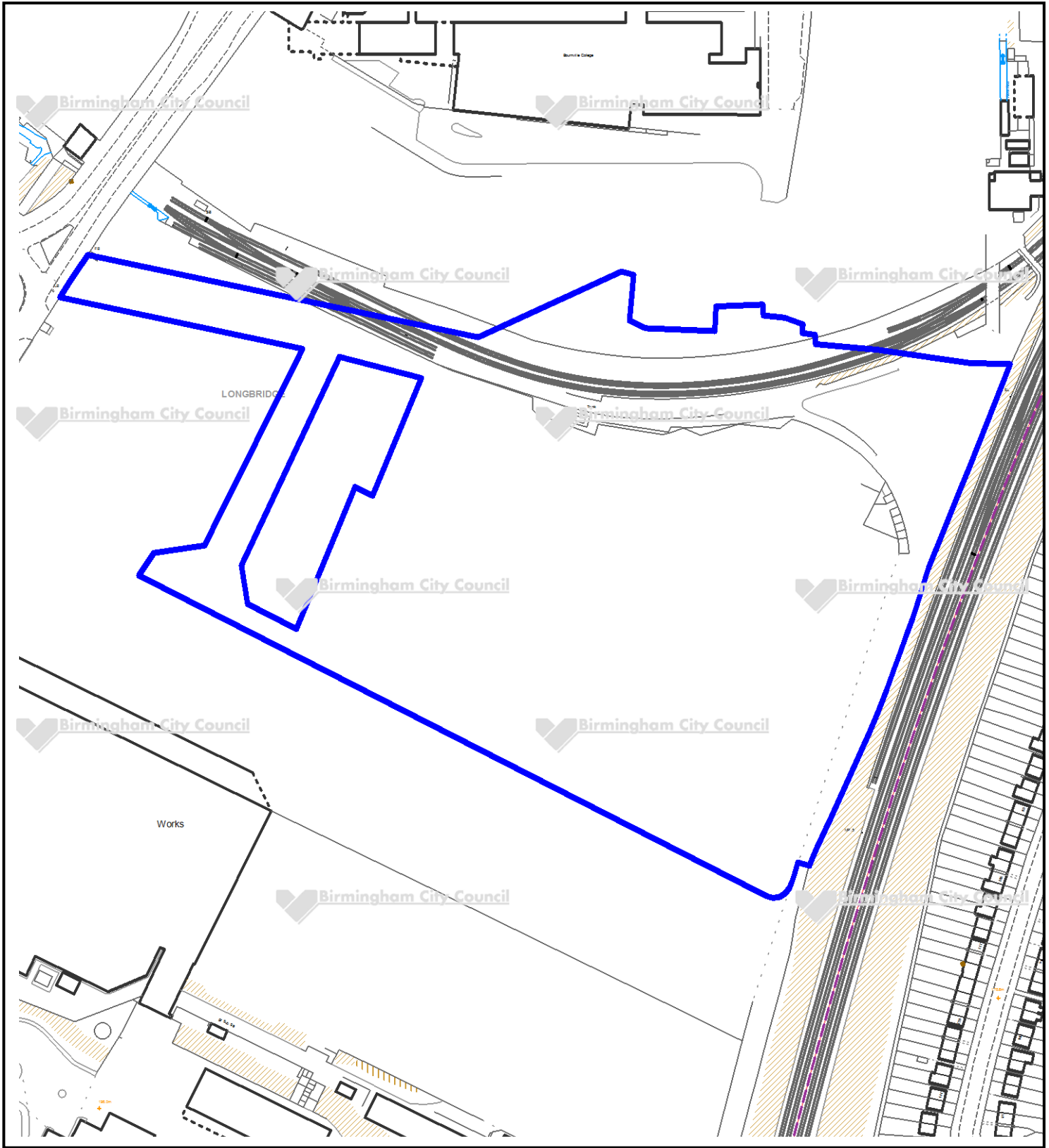


View of Marks and Spencer site and existing High Street



Non-Food Retail and Car Park site

Location Plan



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