

Land at Bartons Road, Havant

RETAIL SEQUENTIAL ASSESSMENT

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Version: 1

Version control	Name	Date
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1. Introduction

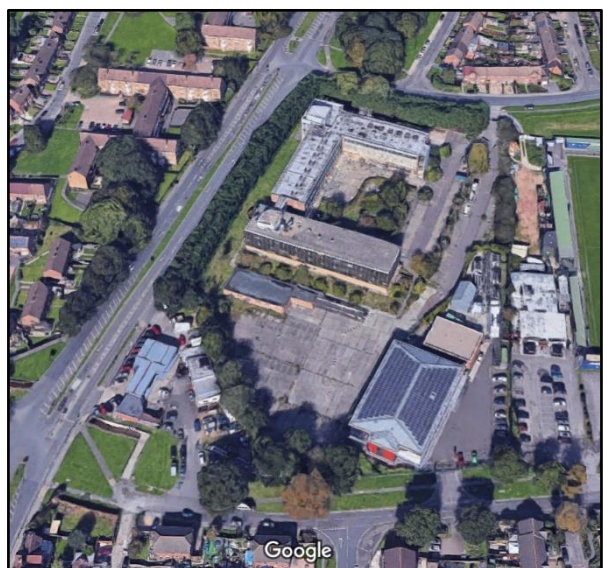
- 1.1 The application site forms the southeastern quadrant of the junction of Petersfield Road and Bartons Road. It was formerly occupied by Scottish and Southern Electricity (SSE) and prior to that by Travis Perkins. The site has been vacant for some time and has been cleared for redevelopment. It is allocated in the adopted Site Allocations Plan (2014) under ref. L145, which describes it as:

'A brownfield site located in a prominent location on the corner of Petersfield Road and Bartons Road. It is currently occupied by a three-storey office building and associated car parking. The former occupiers of the offices have relocated elsewhere in Havant retaining part of the site for operational reasons in the short term'.

- 1.2 The Core Strategy goes on to draw attention to the highly sustainable nature of the location, making specific reference to the *'bus routes within walking distance of the site'*, which are *'available to large centres with further shops and services'* and the fact that it is *'within walking distance of [Leigh Park] district centre with shops and services'*.

- 1.3 In addition to Leigh Park, the site is also extremely well placed to take advantage of other numerous facilities and services nearby, including Havant and Waterloo Football Club; Downley Business Park; the Front Lawn Community Hub; a skate park; pubs; a nursery; primary school; and places of worship. The sustainability of the location is well noted on page 72 of the adopted Havant Allocations Plan (2014), which notes how it is *'within walking distance of district centre with shops and services... Bus routes available to large centres with further shops and services'* and *'bus routes within walking distance of the site'*.

- 1.4 The site sits in the heart of the urban area, but it nevertheless forms its own discrete land parcel with a closer visual relationship with the surrounding businesses than the dwellings to the north and south. These businesses include large office buildings, as well as the Westleigh public house. Prior to being cleared for redevelopment, the application site was occupied by a substantial, three-storey office building and associated car parking. The building was dilapidated and clearly at the end of its useful life, with the use as offices no longer required. SSE has now relocated to the south of the application site, with the new depot abutting the southern edge.



- 1.5 A well-established vehicular access to the site is from the north via Bartons Road. This provides a wide, bell-mouth opening onto the highway, with a dedicated cycle/footpath. A further access is to the south.

- 1.6 This retail sequential assessment supports a planning application for a *'mixed-use development comprising 191 apartments and two drive-through restaurants (sui generis), together with associated access, parking and landscaping'*. The two drive-throughs would measure 166.5sqm and 536.2sqm gross internal floor area respectively. As they would be considered as town centre uses in the glossary of the National Planning Policy Framework (NPPF), a retail sequential test is required to accompany the planning application.

2. Relevant planning policy

National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)

- 2.1 At the national level, the government's approach to planning for retail development is set out in the NPPF. Paragraph 7 makes clear that the purpose of the planning system is to facilitate sustainable development, confirming that *'decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area'*. Pursuing sustainable development includes making it easier for jobs to be created in cities, towns and villages, and improving the conditions in which people live, work, travel and take leisure.
- 2.2 At the heart of the NPPF is a presumption in favour of sustainable development. 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 planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 2.3 The NPPF covers several topic areas. Those that are of relevance to the proposed development include: building a strong, competitive economy; ensuring the vitality of town centres; promoting healthy and safe communities; and making effective use of land.
- 2.4 Paragraph 80 of the NPPF demonstrates the government's commitment to securing economic growth through the planning system in order to create jobs and prosperity, stating that:
'Decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development'.
- 2.5 Paragraph 81 recognises the need for flexibility when it comes to seizing opportunities for economic growth, requiring councils to *'be flexible enough to accommodate needs not anticipated in the plan... and enable a rapid response to changes in economic circumstances'*.
- 2.6 Paragraphs 85 – 90 of the NPPF seek to ensure the vitality of town centres, with paragraph 86 requiring a sequential approach to locating town centre uses:
'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date

plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered'.

- 2.7 Paragraph 87 goes on to confirm that when considering edge or out-of-centre proposals, preference should be given to accessible sites that are well connected to the town centre. Both applicants and councils should demonstrate flexibility on issues such as format and scale, in order that opportunities for using suitable town centre and edge-of-centre sites are fully explored.
- 2.8 Ref. ID 2b-011-20190722 sets out how it is for the applicant to demonstrate compliance with the sequential test, but the local planning authority is expected to support the applicant, including sharing any relevant information. The test needs to be proportionate and appropriate for the given proposal, with the PPG confirming how there should be consideration of whether or not flexibility to the format and/or scale of the proposal would be appropriate. In other words, *'it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal'*. This section of the PPD ends by clarifying how out-of-centre sites should only be considered when suitable sites in town or edge-of-centre locations are not available *'or expected to become available within a reasonable period'*. A reasonable period will depend on the scale and complexity of both the proposed scheme and potential sites.
- 2.9 The PPG makes particular note of 'locational requirements' in ref. ID 2b-012-20190722. Here, it requires recognition that some main town centre uses have particular market and locational requirements that mean they may only be accommodated in specific locations.

Development Plan

- 2.10 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this instance, the Development Plan comprises:
- Havant Borough Core Strategy (2011); and
 - Havant Borough Local Plan (Allocations) (2014).

Havant Borough Core Strategy

- 2.11 The plan begins with a description of five distinct areas of the borough, one of which is Leigh Park. This sets out how the area was constructed as a post-war development to accommodate overspill from Portsmouth. It comments in relation to the economy that *'there remains a significant skills gap between the skills of the local population and the jobs available'*. Leigh Park has some of the most deprived wards in England, so it is no wonder that the key opportunity identified in the plan is to deliver regeneration. The plans says that this needs to

be particularly focused on social and economic issues and that addressing the skills gap is a key challenge.

- 2.12 Policy CS2 (Employment) predominantly refers to employment provision, but does say at criterion 2 that town centres should be favoured for '*town centre uses*'. This policy is therefore relevant inasmuch that the drive-through element of the proposed scheme is a main town centre use, as defined in the glossary of the NPPF.
- 2.13 Policy CS3 (Skills and Employability) seeks to raise skill levels and increase employability in the borough. This ties in well with national economic goals and the locally-identified need to tackle the skills shortage in Leigh Park.
- 2.14 Policy CS6 (Regeneration of the Borough) sets out a particular focus for the social, economic and/or physical regeneration of Leigh Park, with the following aspects highlighted:
- A balanced housing market;
 - Supporting healthy lifestyles;
 - Community safety;
 - Connectivity with the rest of the borough; and
 - Training and employment opportunities.
- 2.15 Policy CS17 (Concentration and Distribution of Development within the Urban Areas) reiterates the desire to concentrate development within urban areas, including Leigh Park. The priority is previously developed land, including redundant, derelict or underused land in the urban area.

Havant Borough Local Plan (Allocations)

- 2.16 Policy AL1 (Presumption in Favour of Sustainable Development) echoes the NPPF's presumption in favour. It confirms how the Council will take a positive approach to development proposals by working proactively to find solutions to approve proposals wherever possible and secure development that improves the economic, social and environmental conditions in the area.

3. Relevant examples of sequential tests

- 3.1 Appeal ref. APP/R4408/W/19/3228051 relating to a proposed drive-through restaurant in Barnsley shows how the inspector concluded, despite even the submission of a sequential test by the appellant, that the nature of the use would not compete with the town centre. The inspector took into account the accessibility of the site from the town centre, concluding that the appeal site:

'is likely to be mainly accessed by people driving in private motor vehicles, and is unlikely to draw large numbers of pedestrians from the town centre. The proposal would, however, appeal to those already intent on visiting the retail park or other edge-of-centre or out-of-

centre locations by private motor vehicle, which offers some basis for the inclusion of a drive thru facility. Therefore, whilst some evidence of linked trips between the [appeal site] and town centre was put to me, my observations lead me to consider that the [appeal site] is sufficiently distant from the town centre and its offer is not a direct threat to its vitality and viability'.

- 3.2 In appeal ref. APP/U2370/W/19/3226028 relating to a drive-through McDonald's restaurant in Cleveleys, the inspector noted that the Council had suggested an alternative, available and suitable site known as the Jubilee Park Harvester site. However, as with the appeal site, this alternative was also out-of-centre. The inspector found no reason why it would be sequentially preferable to develop one out-of-centre site over another. Furthermore, they found that:

'the predicted sales would be below the level required to support a McDonald's drive thru and there is less passing traffic. Therefore, based upon the operational requirements of McDonalds to operate a restaurant with drive thru, it is clear to me that the Jubilee Park Harvester site would not be pursued as a viable alternative option by McDonalds'.

4. Parameters of the sequential assessment

- 4.1 Paragraph 86 of the National Planning Policy Framework (NPPF) states that:

'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date Local Plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered'.

- 4.2 Main town centre uses are defined in the glossary of the NPPF as including retail development. The sequential test aims to direct such development to the optimum location, focusing growth within town and city centres where possible. Where no such sites are available, the next sequentially preferred location for retail development will be at the edge of the centre, which is defined by the glossary of the NPPF as *'well connected to, and up to 300m from, the primary shopping area'*. An out-of-centre location is defined by the NPPF as a location that is not in or on the edge of a centre, but not necessarily outside the urban area.
- 4.3 For the purposes of this assessment, the application site is considered to occupy an out-of-centre location.
- 4.4 In order to carry out a retail sequential assessment, the site needs to be looked at in the context of the NPPF's tests, with the first stage being to assess sites within the centre boundary. Thereafter, the test requires an assessment of sites within 300m of the primary shopping area (i.e. the edge of centre).

Defining the centre

- 4.5 The closest centre to the application site is at Leigh Park. This is denoted by a black line on the Leigh Park policies map contained in appendices 4 and 5 of the adopted Allocations Plan. An excerpt of the map in appendix 4 is provided in figure 1 below.

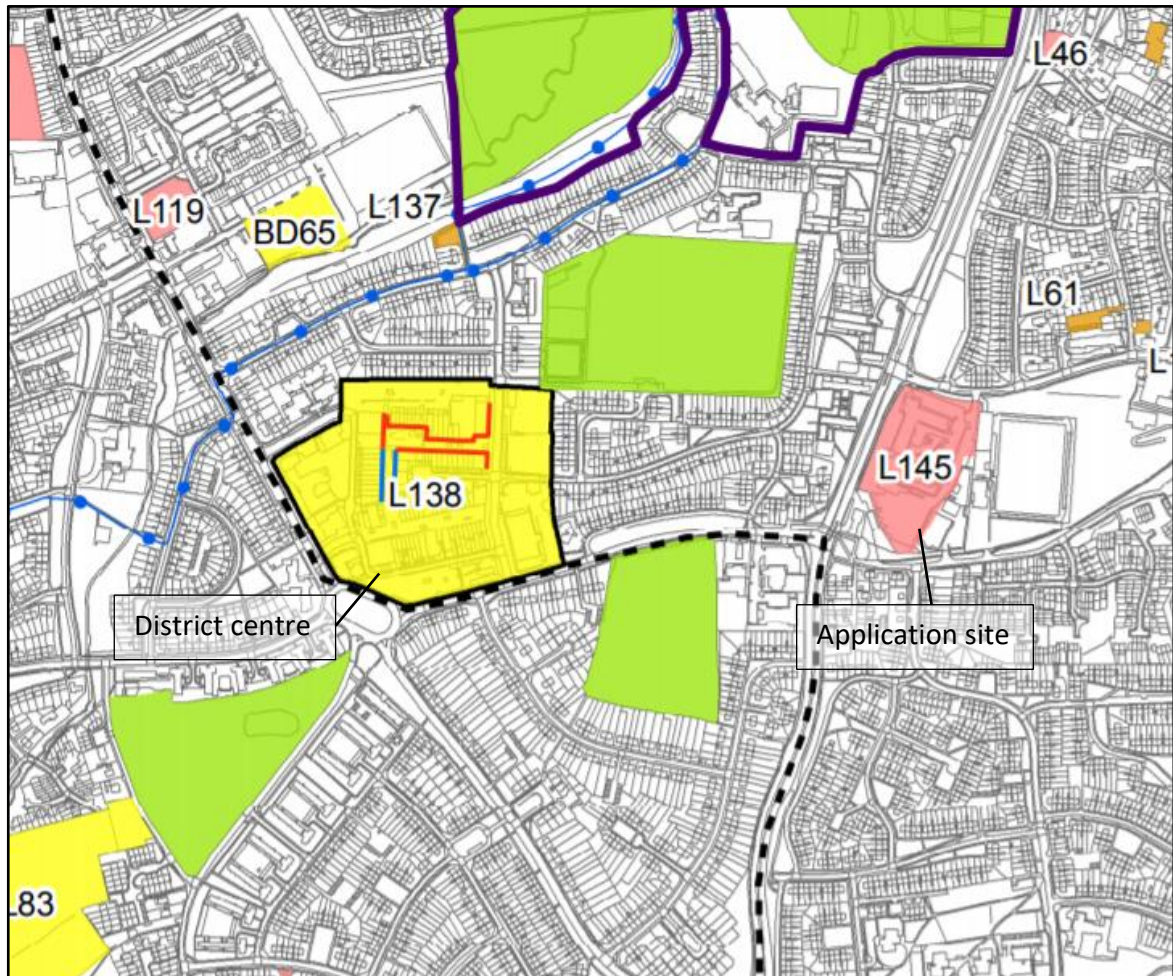


Figure 1: excerpt from Leigh Park policies map

Defining the primary shopping area

- 4.6 Leigh Park's primary shopping area is shown as a red line on figure 1 above.

Edge-of-centre: 300m from the primary shopping area

- 4.7 Figure 2 below sets out a 300m boundary around Leigh Park's primary shopping area in brown.

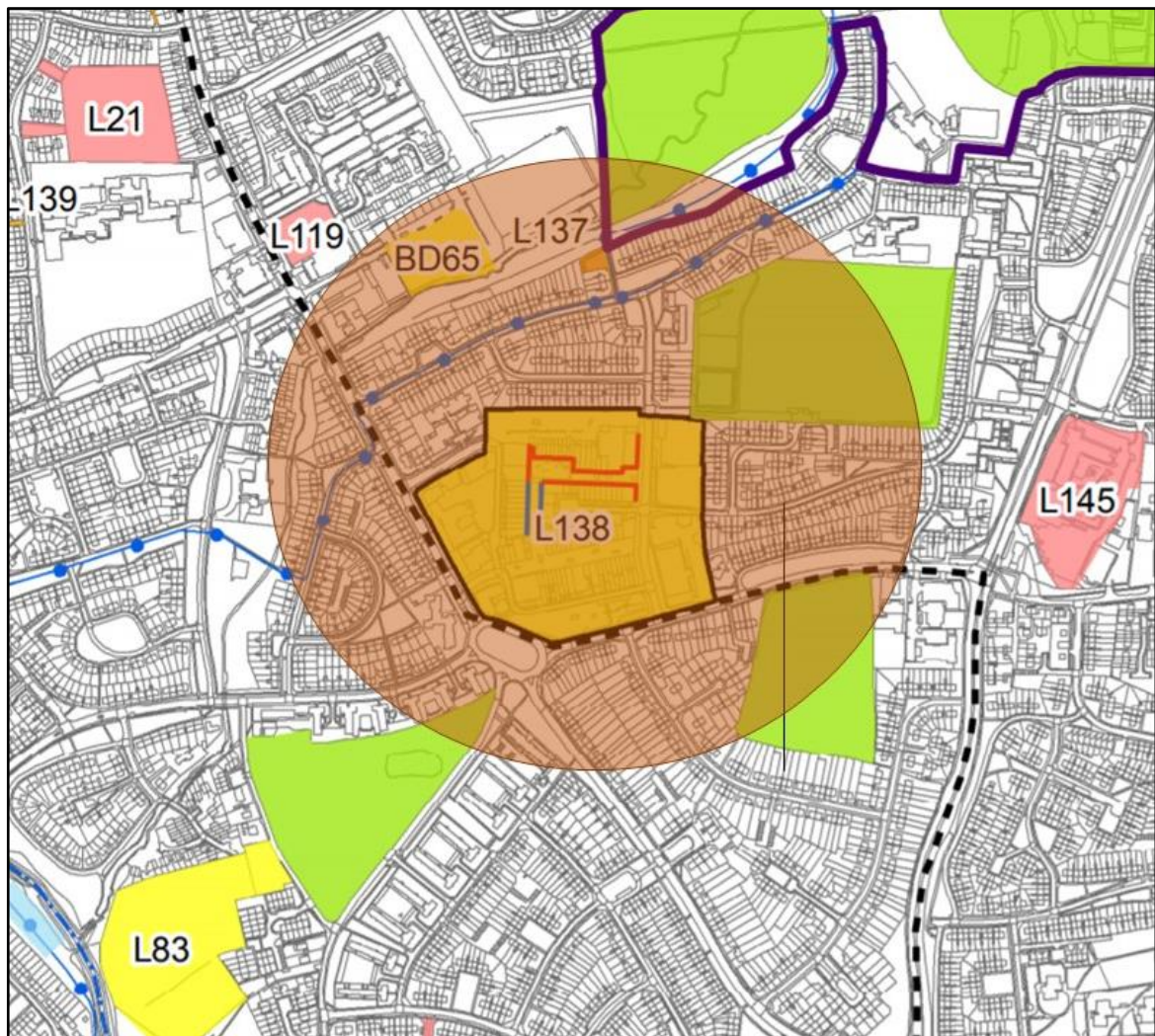


Figure 2: Leigh Park's primary shopping area + 300m radius

5. Method

- 5.1 As stated above, the PPG and paragraph 87 of the NPPF confirm that both applicants and LPAs should demonstrate flexibility on issues such as format and scale. Flexibility may include, for example, providing the development over two or more levels. It does not, however, require the applicant to disaggregate separate parts of the business model. This position has been confirmed through the Tesco Stores Limited v. Dundee City Council Supreme Court Judgement (21st March 2012), which found that the key consideration 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 29).
- 5.2 The relevant question is therefore not whether there is a site '*suitable for meeting identified deficiencies in retail provision in the area*', but whether there is a site '*suitable for the development proposed by the applicant*'. This is supported by the appeal decision for Land at Vulcan Road, Sheffield (appeal ref: APP/J4423/A/13/2189893) dated 3rd July 2013, which

confirms that the business model of the operator can be the key factor in the consideration of whether a site is suitable.

5.3 In order to carry out the sequential assessment, it is necessary to identify the minimum site requirements for the proposed development as this assists the identification of reasonable alternatives. In this case the minimum site requirements are:

- 0.49ha in size (commensurate with the area of the site proposed to accommodate the drive-throughs).
- Level site with good access.
- Mains services within close proximity to the site for economies of development.
- Comfortable relationship with neighbouring users.
- Passing trade of a level and frequency to support drive-throughs.
- Reasonable mixed demographics within a 1km catchment.
- Bus route for staff accessibility.

5.4 Due regard has been given to the following publications and data sources:

- Desktop survey;
- Survey of vacant premises and sites being actively marketed through commercial agents;
- The Council's Brownfield Register;
- The Council's Strategic Housing Land Availability Assessment; and
- Allocations in the Development Plan.

5.5 Site suitability and availability have been given due consideration. With respect to suitability, this takes account of physical (such as size, topography); environmental (such as flood risk); and planning constraints. Availability relates to ownership (and degree of fragmentation); the presence of a willing and able vendor (or otherwise); terms; and market viability.

5.6 Having regard to the assessment of out-of-centre sites, this assessment looks at sites located a comparable distance from the edge of the relevant centre, and in line with paragraph 87 of the NPPF, giving preference to accessible sites that are well connected to the town centre. The application site sits approximately 470m to the east of Leigh Park district centre.

6. Assessment

Leigh Park district centre

6.1 The district centre is a small area, which is dominated by the Greywell shopping centre. It is shown as a brownfield site in the Council's brownfield register and is allocated under Policy L138 of the Allocations Plan. It cannot be considered, however, that the whole of the allocation is available. Indeed, the policy requires a mixture of uses, including housing and main town centre uses and it says there is an '*opportunity to regenerate and improve district centre*'. It therefore cannot be assumed that a land parcel, or cumulative adjacent parcels,

are currently available that could accommodate the proposed drive-throughs. Notwithstanding that, the drive-through business model relies on passing vehicular trade, but the district centre is a destination where people drive to and utilise retail and community uses on foot. The businesses would therefore not be as successful if they were located within the centre, plus it is likely that they would lead to congestion.

6.2 The district centre is therefore not considered to be a reasonable alternative.

Leigh Park edge of centre

6.3 A review of sites that appear to be of the correct size shows that they are either safeguarded as green space or allocated for employment development (as is the case for site allocation BD65). This makes them unsuitable. A review of commercial property for sale shows nothing available within the search area. There are suitable SHLAA sites or sites recorded on the brownfield register.

Summary

6.4 The review to find available and suitable sites within the district centre or edge-of-centre. In line with appeal ref. APP/U2370/W/19/3226028, it has not been necessary to consider any out-of-centre locations.

7. Conclusion

7.1 This sequential test has examined Leigh Park district centre and the edge-of-centre to look for suitable and available sites that could accommodate a proposed pair of drive-throughs. This assessment has set out the minimum site requirements, namely:

- 0.49ha in size (commensurate with the area of the site proposed to accommodate the drive-throughs).
- Level site with good access.
- Mains services within close proximity to the site for economies of development.
- Comfortable relationship with neighbouring users.
- Passing trade of a level and frequency to support drive-throughs.
- Reasonable mixed demographics within a 1km catchment.
- Bus route for staff accessibility.

7.2 The sequential assessment was informed by a number of publications and data sources, including:

- Desktop survey;
- Survey of vacant premises and sites being actively marketed through commercial agents;
- The Council's Brownfield Register;
- The Council's Strategic Housing Land Availability Assessment; and
- Allocations in the Development Plan.

- 7.3 The result of the search is that no suitable, available or viable sites could be found within district centre or edge-of-centre or out-of-centre locations. This is perhaps unsurprising, given the tight urban grain and competing land uses on display, as well as the constraining nature of planning designations.
- 7.4 As made clear in case law, a retail sequential assessment must look at whether a potentially alternative site would be *'suitable for the development proposed by the applicant, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site'*. The nature of the proposal and its need to be located off a road network in itself limits the suitability of sites in and around the district centre. Indeed, it could be argued that the proposal would be unsuited to a district centre location, even if a site were to become available. If, however, during the determination period of the application the LPA becomes aware of any available sites in either the district centre or the edge-of-centre locations, the applicant will of course consider their merits accordingly.
- 7.5 It can therefore be concluded that there are demonstrably no sequentially preferable alternative sites that are available, suitable and viable at the present time. Consequently, the application site should be considered an appropriate location for the proposed development. In accordance with paragraph 86 of the NPPF, it is clear that planning permission should not be withheld on sequential grounds.