



Mr M Briginshaw
Principal Planning Officer
Planning, Regeneration and Environment
Hillingdon Council
Civic Centre
High Street
Uxbridge
UB8 1UW

By email only

Dear Mr Briginshaw,

**Former B&M Unit, 217 High Street, Yiewsley, West Drayton UB7 7GN
Planning Application Reference 68663/APP/2023/1933**

We write on behalf of our client, TJ Morris Limited ('the Applicant'), in respect of the above pending application to regenerate the former B&M site at 217 High Street, Yiewsley. Specifically, we provide a response to the additional comments raised by Hillingdon Council's retail planning advisors, Route One Planning ('ROP'), in their letter dated 16th October 2023 (received by Quod on the 25th October 2023).

These additional comments follow our initial response (letter dated 3rd October 2023) to the initial review provided by ROP. We believe this response, alongside the submitted Planning and Retail Assessment ('PRA'), fully addressed all the retail policy issues raised. However, it is understood that further clarification / justification is requested by ROP in respect of the following three matters:

- Suitability of the Wilko store as a sequential alternative;
- Potential impact on planned investment; and
- Quantitative evidence on trade draw.

We provide comments on each point in turn below.

1 Suitability of the Wilko store as a sequential alternative

The availability, suitability, and viability of the former Wilko store on Fairfield Street for the proposed development was fully assessed in our letter dated 3rd October. This concluded that the former Wilko is not suitable, viable and available to accommodate the proposed development or a flexible interpretation of it. This conclusion is accepted by ROP in acknowledging that the Wilko unit "*would not accommodate the full HB requirement*".



However, further clarification has been requested as to whether the proposed food and drink floorspace could be disaggregated and provided within the former Wilko unit.

As outlined in the submitted PRA¹, it is not commercially viable to disaggregate product ranges from the overall business model of Home Bargains. Every product range is essential to provide a commercially viable store. The prospective retailer will not proceed with the proposals if it did not deliver a viable store.

Linked to this, recent case law has established that when considering flexibility of format and scale, the local planning authority must operate in the 'real world'. Indeed, the *Dundee* Supreme Court Judgement established that if a site is not suitable for the commercial requirements of the development in question, then it is not suitable for the purposes of the sequential approach; and that in terms of considering alternative sites, the question 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 fit an alternative site." (our emphasis)

The interpretation of 'suitability' has subsequently been clarified in the Secretary of State decision at Rushden Lakes – also referred to in the PRA. In particular, the Inspector identified that the *Dundee* Judgment to be of 'seminal importance'. To this end, when commenting on suitability, the Inspector² noted that:

"...if a site is not suitable for the commercial requirements of the developer in question then it is not suitable for the purposes of the sequential approach."

This case law, which was outlined in the submitted PRA³, has not been recognised by ROP in suggesting that the food and drink element (a key requirement for the prospective operator) can be disaggregated. An approach that seeks to disaggregate elements of HB's product range (as suggested by ROP) is clearly at odds with best practice and established case law. There is no requirement or justification to consider alternative sites that could potentially accommodate disaggregated elements of the proposed development, as is being suggested by ROP.

Against this background, we maintain that compliance with the sequential approach to site selection has been demonstrated. Operating in the 'real world' as advocated by established case law, there is no requirement to disaggregate elements of the scheme and it is accepted by all parties that the former Wilko is too small to accommodate the proposed Home Bargains store.

¹ At paragraphs 2.32 and 4.22

² para. 2.64, Inspector's Report

³ Paragraphs 4.10 to 4.15



2 Potential Impact on Planned Investment

It is understood that the only issue relates to the likely impact of the proposal on the planned new Morrisons store.

The potential impact on this investment was assessed in the PRA and in Quod's response of the 3rd October 2023. However, ROP highlights that a comparison of the range of products sold by Home Bargains and Morrisons has not been provided so it is difficult to make a qualitative or quantitative judgment on what the level of impact could be. We do not accept this position. Our previous response outlined the goods typically sold by Home Bargains; this included a link to the retailer's website.

The food and drink offer of Home Bargains is predominantly for the sale and display of non-perishable goods. This differs from Morrisons, which is a foodstore operator that sells a much wider range of food and drink products than proposed to be sold by Home Bargains. This includes a wide range of fresh meat, fish, vegetables, fruit and other perishable goods commonly found in supermarkets. Customers visiting Home Bargains will not be able to undertake a full food shop and will therefore still have to use traditional foodstores/supermarkets, as is currently the case. The core retail offer of the two retailers therefore fundamentally differs, with HB's food and drink range being around 10% perishable items (i.e. one tenth of the food and drink offer).

Furthermore, although again not acknowledged by ROP, as outlined in the PRA and our previous correspondence, the Applicant is agreeable to a condition limiting the quantum of floorspace that can be used for the sale of perishable goods to no more than 90 square metres. Such a condition will further limit the goods overlap between the new Morrisons and the proposed Home Bargains.

For these reasons, allowing Home Bargains to trade from an existing retail unit that can already sell an element of food and drink products, is unlikely to lead to a significant adverse impact (the policy test) on the planned investment by Morrisons for a new replacement store in the town centre. In short, the two offers are distinctly different.

3 Quantitative evidence on trade draw

In assessing where the proposal will divert its trade, ROP suggest that "*more substantive evidence should be provided from existing sources where possible*".

Significantly, no other existing sources, beyond those utilised as part of the impact assessment, are referred to by ROP. All relevant sources have been utilised in assessing retail impact. This has included: drawing on the findings of the Council's retail evidence base (as advocated by ROP); site visits undertaken by Quod; a review of relevant planning applications; and utilising published data. This approach is entirely consistent with that advocated by the PPG, which advocates a proportionate and appropriate assessment to be undertaken for the nature of development proposed – in this case the re-use of an existing retail unit. The assessment undertaken provides a robust basis to understanding the likely trading effects of the application proposals.



Within this context it has been demonstrated that the proposals will have a negligible impact and will not undermine the long-term vitality and viability of Yiewsley – West Drayton town centre.

The limited retail impact identified also needs to be considered in the context that the existing retail unit can already be occupied by a range of retailers with no restriction on the non-food goods permitted to be sold, nor is there any restriction on sub-division. This represents an important fallback position.

Overall, we maintain that the assessment undertaken is robust and there is no justification or requirement for further analysis is required to understand the likely trading effects of the proposals.

4 Conclusions

For all the reasons outlined, compliance with both the sequential approach to site selection and the impact test have been robustly demonstrated and both tests have been fully satisfied.

In terms of the sequential test, it is agreed by all parties that no sequential alternative site exists that can accommodate the proposed Home Bargains unit, having regard to flexibility of format and scale. Whilst it is now being suggested that further consideration be given to whether the proposed food and drink could be disaggregated, such an approach is entirely at odds with best practice, including well established legal precedents. Separating the food and drink element of the proposed retail offer would not deliver a viable store in the “real world” and would not therefore be pursued by the intended operator. The approach now being suggested by ROP is not justified; the sequential test has been met.

With regard to impact, a robust assessment has been provided drawing all relevant sources of information that is proportionate and appropriate for the proposed development. This demonstrates that the proposals will not lead to a significant adverse impact on planned investment (including the new Morrisons) or on the vitality and viability of Yiewsley – West Drayton town centre. No further assessment is required for the local planning authority to determine the planning application.

Sufficient evidence has been provided in support of the application proposals that demonstrate that the application proposals conform with relevant retail planning policy. We trust that this additional information and clarification provided is of assistance in Officer's assessment of the application.

Yours sincerely

Tim Rainbird
Senior Director

cc. TJ Morris Limited