
POLICY SH1 - CRITERIA FOR DEVELOPMENT IN KEY TOWN CENTRES
Proposals Map

OBJECTIONS: 032/5 The Heswall Society 069/2 McDonald's Restaurants Ltd
070/19, 070/106 GO-M 072/5 Frank Field MP 083/2 J Sainsbury plc
094/2 Somerfield Stores Ltd

Summary of Objections

- 16.1 Criterion (vii) of Policy SH1 is a presumption against development contrary to PPG1 *Policy and Principles*¹. It suggests that all Class A3 uses² adversely affect neighbours' amenity, and does not allow consideration on merit. The criterion should be deleted and proposals considered against Criterion (iv)(069/2). There should be criteria on primary and secondary frontages. 'Normally' should be deleted (070/19, 070/106).
- 16.2 Policy SH1 should state that developments should provide for access and infrastructure works. Reference to 'adequate' parking provision is too vague, and usually the standards in Supplementary Planning Guidance Note No 11³ should be imposed (072/5). Policy SH1 does not, unlike its predecessor in the UDP Draft for Public Consultation⁴, refer to land in *or immediately adjacent to* existing centres, nor impose an impact test. This is contrary to PPG6 *Town Centres and Retail Developments*⁵ (083/2). A new criterion should refer to the effect of a proposal on the vitality and viability of any *other* key town centre/traditional suburban centre (094/2).
- 16.3 The area shown on the proposals Map as Heswall Town Centre should be extended to include two sites on the north and south sides of Milner Road at its junction with Downham Road South, a site at the north-west corner of Mount Avenue at its junction with the Mount, outbuildings behind shops at Castle Buildings, Telegraph Road and the Mount, and land to the north-west of Castle Buildings near the Tesco Supermarket. The Proposals Map should include a larger scale inset map more accurately defining the area to which Policy SH1 relates (032/5).

¹ A general presumption in favour of development was expressed in PPG1 (1992), paragraph 5. This PPG has been replaced by PPG1 (1997) *Policy and Principles*. The express reference to the general presumption has been removed; instead, there is renewed emphasis on the presumption in favour of development which accords with the development plan, a consequence of Section 54A of the Town and Country Planning Act 1990.

² Class A3 (Food and Drink) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (SI 1987 No. 764), as amended.

³ The Objector refers to the reference to these standards in the UDP Draft for Public Consultation (CD052, page 201).

⁴ Policy SH01 (CD052, page 114).

⁵ The Objector is referring to the 1993 version of PPG6 (paragraph 35), replaced by the 1997 version of the PPG.

Assessment and Conclusions

16.4 A published change to Policy SH1⁶ deals with some of the matters of concern to the Objectors. Criterion (vii) is reworded to remove the implied 'presumption against' where Class A3 uses are adjoining or below residential accommodation, in favour of a criteria-based format. Although the Objector requested deletion of the criterion, it is in my view acceptable in its revised form.

16.5 The principle raised in Objection 094/2 is accepted by the Council, who have however varied the wording of the amendment to the Policy from that suggested in the Objection. I accept the Council's reason for omitting the reference to 'other', and in my view their proposed amendment still meets the point raised by the Objector. Whilst acknowledging that adequacy of access and infrastructure provision is an essential consideration of new retail development it seems to me that such provision may already exist or may already be in the course of implementation, especially in town centres. I therefore agree with the Council that a universal requirement to 'provide for' such facilities would be inappropriate. Where there is a need to improve access or infrastructure provision before a development is acceptable, than this can be the subject of planning conditions or obligations (as provided for by Policy URN2)⁷.

16.6 The need for retail developers to make parking provision to prescribed standards falls under similar considerations. It may not always be desirable or practicable to provide parking space to a set standard; it will often be more useful for developers to negotiate parking requirements with the local planning authority on a site-specific basis, with Criteria (ii) and (iii) of Policy SH1 and Policy TR9⁸ in mind.

16.7 The proposed change to Policy SH1 also introduces the 'impact test' element requested by Objection 083/2, in a new Criterion (i) and paragraphs 16.11a-c of the Reasoned Justification. However, the Council have not accepted that the reference to 'land immediately adjacent' to a centre should be inserted into the Policy. In my view the reinforcement of the importance of town centres as locations for retail development which is a key feature of the 1996 version of PPG6 justifies separate policy considerations for development falling within centres, and those on the edge-of-centre or out-of-centre. The Council propose to amend Policy SH9⁹ to refer to edge-of centre developments, with this balance in mind. I consider that this policy framework in the UDP will enable the 'sequential test' for retail development advocated in PPG6 to be applied. I therefore conclude that no such amendment should be made to Policy SH1 as suggested by the Objector.

⁶ ALT/SHOPPING/002 (CD056, pages 219-220).

⁷ Policy URN2 - Planning Agreements for Urban Regeneration.

⁸ Policy TR9 - Requirements for Off-Street Parking, as proposed to be amended by ALT/TRANSPORT/012 (CD056, page 206) and ALT2/TRANSPORT/001 (CD056, page 28).

⁹ Policy SH9 - Criteria for Out-of-Centre Development, as proposed to be amended by ALT/SHOPPING/010 (CD056, page 229).

16.8 The proposed amendment to Policy SH1 omits 'normally'. The Council state that so far as Objection 070/19 is concerned, the Objector has accepted the Council's view that the distinction between primary and secondary retail frontages is not appropriate to Wirral. Although I have no documentation which would confirm this explicitly, I note that the Objector has expressed satisfaction with the amended Policy¹⁰. I shall therefore not give the grounds of Objection 070/19 further consideration.

16.9 The Council have accepted most of the changes to the definition of Heswall Town Centre suggested in Objection 032/5¹¹. However, it seems to me that although the land between Milner Road and Telegraph Road is close to the core of the town centre, it may not necessarily function as an integral part of the centre. Thus whilst the designation of this land under Policy SH6¹² for retail or associated purposes may be appropriate, it would appear suitable in principle for other uses mentioned in Policy SH6 without harming the character or integrity of the town centre. In these circumstances there are no strong reasons in my view for including the land within the officially designated town centre.

16.10 On the second point in Objection 032/5 I agree that an inset map of Heswall Town Centre at a larger scale might be useful for developers, local residents and the Council alike. However, the UDP Proposals Map gives reasonable clarity and the Council have suggested a way in which a larger scale plan might be prepared outside the UDP, as part of Supplementary Planning Guidance. I see no essential need for such a plan to be included in the UDP itself.

Inspector's Recommendation

16.11 I recommend that the UDP be modified by the amendment of Policy SH1 in accordance with ALT/SHOPPING/002 and of the Proposals Map in accordance with ALT/SHOPPING/015, but that no other modification be made in response to Objections 032/5, 069/2, 070/19, 072/5, 083/2 and 094/2.

¹⁰ This confirmation is contained in a letter to the Council from the Government Office for Merseyside dated 30 November 1995.

¹¹ See ALT/SHOPPING/015 (CD056, page 234).

¹² Policy SH6 - Development within Primarily Commercial Areas.

Part II: Proposal SH1a (Second Alterations)-Land for Non-Food Retail Development

Proposal EM3 Land for General Employment Use

Proposal EM4 Expansion Land for Existing Businesses

(EM3/9) Land North of Green Lane and West of the A41, Tranmere

Land at Spectrum Adhesive Coatings, Caldbeck Road, Bromborough

(Partly EM4/1) British Telecommunications TEC site, Arrowe Park Road, Upton

POLICY SH1A (SECOND ALTERATIONS) -

LAND FOR NON-FOOD RETAIL DEVELOPMENT¹

PROPOSAL EM3 LAND FOR GENERAL EMPLOYMENT USE

PROPOSAL EM4 - EXPANSION LAND FOR EXISTING BUSINESSES

(EM3/9) Land North of Green Lane and West of the A41, Tranmere

Land at Spectrum Adhesive Coatings, Caldbeck Road, Bromborough

(Partly EM4/1) Former British Telecommunications TEC, Arrowe Park Road, Upton

OBJECTIONS: 026/1, 026/2 Spectrum Adhesive Coatings Ltd
027/1, 027/2 Akeler Developments Ltd
084/15 Merseyside Development Corporation
129/1, 129/2, British Telecommunications plc

COUNTER OBJECTIONS: 027/AA Akeler Developments Ltd 070/AA, 070/CC GO-M
129/BB British Telecommunications plc

Summary of Objections

- 16.12 Land at Caldbeck Road, Bromborough ('the Bromborough Site') should be allocated for retail use instead of being designated as part of a Primarily Industrial Area. The site would be a logical extension to the South Wirral Retail Park (SWRP). The Objector's premises suffer vandalism because of the proximity of the SWRP. The Objection site is of insufficient size to accommodate future expansion, which could be better provided for on other land in the area. Retail development of the Bromborough site would benefit employment (026/1, 026/2, 027/1, 027/2).
- 16.13 The use of the site EM3/9 at Green Lane, Tranmere ('the Green Lane Site') for employment purposes is too restrictive in excluding retail use. Appropriate forms of retail development would complement the Borough's existing provision. The Council's retail impact study demonstrates that such development would not adversely affect the vitality and viability of existing centres, and would contribute towards the regeneration of Birkenhead. The site should be allocated for retail use (084/15).
- 16.14 The Arrowebrook Telephone Engineering Centre (TEC) site ('the Upton Site') is shown on the Proposals Map for the most part as falling within a Primarily Industrial Area (PIA). However its use as a TEC is *sui generis*², and the PIA notation should therefore

¹ As proposed under ALT2/SHOPPING/002 (CD057, pages 31-32). This published change allocates land north of Green Lane and west of the A41 at Tranmere for non-food retail development.

² A dictionary definition is 'of its own kind' - in the context here, meaning a use which falls outside any Use Class in the Town and Country Planning (Use Classes) Order 1987 (SI 1987 No. 764), as amended.

Part II: Proposal SH1a (Second Alterations)-Land for Non-Food Retail Development

Proposal EM3 Land for General Employment Use

Proposal EM4 Expansion Land for Existing Businesses

(EM3/9) Land North of Green Lane and West of the A41, Tranmere

Land at Spectrum Adhesive Coatings, Caldbeck Road, Bromborough

(Partly EM4/1) British Telecommunications TEC site, Arrowe Park Road, Upton

be deleted from the site. The designation of the south-western portion of the site as land for the expansion of an existing business (Proposal EM4/1) should also be deleted. The land is not required for such purposes, and with the remainder of the site will be declared by the Objector to be surplus to requirements. The larger site is suitable for other uses, including retail development (129/1, 129/2).

- 16.15 Proposal SH1a by reference to Policies SH9 and SH10³ implicitly recognises that the Green Lane Site is out-of-centre, notwithstanding the assertion in Paragraph 16.9 of the Reasoned Justification that it most appropriately meets the 'sequential approach' to retail site selection⁴. However the relationship between that site and Birkenhead Town Centre is tenuous, given difficulties of pedestrian access and doubts about the early implementation of Phase I of a link road between Green Lane and the Borough Road Roundabout⁵. The UDP should merely note that there are several proposals for retail warehouse development, which should be tested against the criteria in Policies SH9 and SH10. Proposal SH1a should therefore be deleted and reconsidered following the Secretary of State's decision on a planning application for the retail development of the Green Lane Site (027/AA).
- 16.16 The allocation of the Green Lane Site under Proposal EM3/4 should be retained, and the site should not be allocated for retail purposes under Proposal SH1a. The Objector is not satisfied that the latter would accord with national planning guidance as set out in PPG6⁶ and PPG13 *Transport* (070/AA, 070/CC).
- 16.17 Proposal SH1a should be amended by the addition of the Upton Site. The site is vacant and available for retail use. It offers excellent accessibility by both public and private transport, is near large residential areas and immediately adjacent to an existing retail focus⁷ (129/BB).

³ Policy SH9 - Criteria for Out-of-Centre Retail Development; Policy SH10 - Design and Location of Out-of-Centre Retail development.

⁴ The Counter-objection predated the publication of the 1996 version of PPG6 *Town Centres and Retail Developments*, and so the reference to the 'sequential approach' is taken to be from paragraph 1.8 of the Consultation Draft of PPG6, dated July 1995 (CD18).

⁵ This road is known as the Mollington Link, proposed to be referred to in the UDP under ALT/TRANSPORT/020 (CD056, page 215 and map following).

⁶ Counter-objection 070/CC was submitted before the publication of the revised version of PPG6 in June 1996, and is therefore taken to refer to the 1993 version of that PPG.

⁷ The Objector is referring to the J Sainsbury food store and *Homebase* DIY store.

Assessment and Conclusions

Background and Policy Context

16.18 The UDP inquiry considered Objections and Counter-objections relating to the Bromborough and Upton sites before the publication of the revised version of PPG6 in June 1996. I regard this guidance as central to consideration of the Objectors' cases. The Council and the Objectors have been able to submit further representations about the effect of the revised PPG on the cases which they have made, and I have taken those representations into account⁸.

16.19 Following the close of the UDP inquiry I have also, with the knowledge of the Council and Objectors been made aware of the Secretary of State's decision to grant planning permission for non-food retail development at Green Lane⁹. It would in my view be unhelpful to all if I were to disregard that decision; accordingly I have taken the decision into account, but not any other material associated with the inquiry into the 'called-in' planning application¹⁰. It follows that following the grant of permission, the grounds for pursuing Counter-objections 027/AA, 070/AA and 070/CC on the basis that the Green Lane site should not be developed for retail purposes cannot be sustained.

16.20 PPG6 (1996) confirms the Government's intention that the 'sequential approach' should be applied to the consideration of retail development - that land for such development should first be sought in town centres, next in edge-of-centre locations¹¹, and only failing that, in out-of-centre locations accessible by a choice of means of transport¹². At the beginning of 1996 the Council asked Roger Tym and Partners Limited to review non-food retailing in the Borough, including undertaking 'indicative health checks' on Birkenhead and Liscard centres and an analysis of claims of expenditure growth and the need for any new floorspace, and advising

⁸ One of the Objectors also submitted evidence put to the public inquiry on 6 August 1996 into the 'called in' planning application for the Green Lane site; in the interests of natural justice I have not taken that evidence into account, as the Council have not had the opportunity of responding to me on it.

⁹ Ref. TF/MTF/737 (1 November 1996).

¹⁰ Again in the interests of natural justice I have not taken any account of the conclusions of the Inspector who conducted the inquiry into the 'called in' application; nor do I possess any of the inquiry documents, unless any are also UDP inquiry documents.

¹¹ 'Edge-of-centre' is defined in PPG6, Annex A.

¹² PPG6, paragraph 1.11.

on other matters. The resultant report ('Tym')¹³ which recommended that further consideration be given to the allocation of the Green Lane site for non-food retail development, is a key piece of evidence in the Council's case to oppose the retail proposals at Bromborough and Upton.

16.21 When the Objections were heard at the UDP inquiry reference was made to the guidance in PPG6 (1993)¹⁴ that development plans should make adequate provision for retail developments, including a *choice of sites* to enable retailers to benefit from competition between developers for sites. There is broadly comparable guidance in PPG (1996), although the express reference to a *choice of sites* has been deleted in favour of sites being identified after a process of consultation¹⁵. However, in my view each local authority area needs to be assessed in the light of its own circumstances. I do not regard the current guidance as meaning that more than one site must be allocated in every development plan. It seems to me that it would be illogical to ignore the extent to which the demand for retail development had already been satisfied, or the existence of unimplemented planning permissions¹⁶.

16.22 As planning permission has been granted at Green Lane, the Council will wish to review Proposal SH1a as it stands. The logical outcome would be deletion of the employment development proposal EM3/9 and its replacement by notation appropriate to the anticipated development of the site for retail purposes (such as a Primarily Commercial Area or, if development were under way, under Policy SH11). Since the development now becomes a commitment, its representation in Proposal SH1a no longer appears appropriate. In the light of the Tym findings and the conclusions on the Bromborough and Upton site which follow, this would suggest the Council reverting to the position they took before the publication of Proposal SH1a of not expressly allocating any site for retail purposes but relying upon the criteria of Policies SH9 and SH10 to assess any subsequent proposals.

16.23 The Objections relating to Bromborough advocate the allocation of that site instead of Green Lane, and it could be argued that the retail planning permission at Green Lane therefore undermines the case for Objectors 026 and 027. However, I do not propose to dismiss the arguments in favour of an allocation at Bromborough merely on that account; the Objections advocating allocation at Bromborough and Upton shed doubt upon the early development of the

¹³ The findings of this study were published as the Wirral Non-Food Retail Assessment - Roger Tym and Partners, 18 March 1995 (CD188).

¹⁴ PPG6 (1993), paragraph 47.

¹⁵ PPG6 (1996), paragraph 1.6. Paragraph 4 of Annex B to this PPG refers to the identification of a *range* of sites where demand for development may best be met; the paragraph also advocates criteria-based policies for out-of-centre proposals.

¹⁶ PPG6 (1996), paragraph 1.10 advises (in relation to town centres) that, if there is no need or capacity for further developments, there will be no need to identify additional sites.

Green Lane site, and I shall also examine the case for Bromborough (as well as Upton) as an additional retail site in the process of coming to a clear view about retail provision in the Borough as a whole.

Bromborough

16.24 Objectors 26/27 concede that the South Wirral Retail Park (SWRP) is not a 'town centre'¹⁷. Consequently the Objection site which adjoins the SWRP but no recognised town centre, can clearly be regarded as out-of-centre. The Objectors' proposal should therefore be considered against the criteria in UDP Policies SH9 and SH10 as proposed to be amended¹⁸. In terms of the principles of the sequential approach therefore the Bromborough site should be no more favourably regarded than the Green Lane site, irrespective of whether the latter is regarded as edge-of-centre or out-of-centre.

16.25 Doubts have been expressed about the prospects of early implementation of the retail development at Green Lane. However, any delay in development as suggested by the Objector could not be attributed to a requirement that the Mollington Link be provided before the development; the planning permission at Green Lane has no such requirement. Whilst the Mollington Link may improve traffic circulation in the Green lane area, the evidence is that the Green Lane site can be provided with an adequate access irrespective of the Mollington Link. No other specific or convincing reason has been advanced as to why development at Green Lane might be significantly delayed.

16.26 Although the Objector regards the Bromborough site as an alternative to Green Lane, they do not overtly adopt any 'fall-back' position that Bromborough should be allocated *in addition to* Green Lane. They provide no evidence to challenge the conclusions in the Tym Report that there is no need to plan pro-actively for more than around 4650 to 6500 sq m (50,000 to 70,000 sq ft) sales area (5575 to 9300 sq m (60,000 to 100,000 sq ft) gross) of retailing warehousing in the Borough, over and above existing commitments¹⁹. Although some aspects of the Tym report are questioned by the Objector at Upton, I find later in this section of this report that the evidence is insufficient to discredit the Tym conclusions referred to. In shopping terms therefore, I conclude that there is no case for the allocation of the Bromborough

¹⁷ A definition of 'town centre' may be found in PPG6 (1996), Annex A. Although reference is made in the Annex to principal shopping centres usually performing the role of town centres in London and other large cities, such a term could not in my view be ascribed to the SWRP.

¹⁸ Policy SH9 and its supporting text is proposed for amendment under ALT2/SHOPPING/004 (CD057, page 34) and ALT/SHOPPING/010 and 012 (CD056, pages 229 and 231). Policy SH10 is proposed for amendment under ALT2/SHOPPING/005 (CD057, page 35).

¹⁹ CD188, paragraph 5.8, page 36.

site for retail purposes and that its development for such purposes would conflict with Policy SH9(i), as well as being contrary to the central objectives of PPG6.

16.27 Against this conclusion I have considered other matters raised by Objectors in support of the retail allocation of the Bromborough site. I accept that the site is in an area of high quality industrial and commercial development, where the Council and others seek to attract further development of a similar nature. Even so, the loss of the Objection site from employment use would not in my view be serious in terms of the UDP's overall allocation of employment land of 189 ha, either in Borough-wide terms or in relation to allocated employment land in this area. The location of the Objection site close to a 'gateway' into the South Wirral International Business park does not change my view.

16.28 The aspirations of the company who occupy the Bromborough site for future expansion justifies their considering options for relocation to a larger site. However, whether this should critically influence an important land use decision such as to outweigh substantive planning arguments I find far from convincing. From the evidence at the inquiry and my own observations at the A41/Caldbeck Road junction late on a Friday afternoon I do not consider that the retail development of the site would cause such traffic difficulties as to preclude allocation of the site for such purposes. Even if vandalism at the company's premises could be shown as more prevalent due to the proximity of the SWRP, this is not a matter which in my view could add much weight to the case for the allocation of the Bromborough site for retail purposes.

16.29 In conclusion I regard none of the matters raised by Objectors 26/27 as sufficient to outweigh the clear objection, in terms of planning policy and the Council's strategy relating to retail provision, to the allocation of the Bromborough site for such purposes.

Upton

16.30 Whether or not the Upton site is allocated for retail purposes under Proposal SH1a, any retail development on that site would have to satisfy criteria in Policies SH9 and SH10. It does not necessarily follow that if the criteria are satisfied, the site should be allocated; however it is necessary to form a clear view as to what extent at least the key criteria are satisfied before any further consideration can be given to allocation.

16.31 Criterion (i) of Policy SH9 as proposed for amendment²⁰ requires a development to be assessed in terms of its effect upon the vitality and viability of key town or traditional shopping centres. The simple implication of this is that too much out-of-centre development could be harmful to such interests. An argument for retail allocation at Upton promoted by the Objector is that the retained shopping expenditure in the Borough as reviewed in Tym can be

²⁰ ALT2/SHOPPING/004, as above.

influenced by small changes in variables such as vacancy and turnover rates, and therefore if assessed to be higher could justify more shopping provision than is proposed in the UDP.

16.32 The Objector emphasises the extent to which Birkenhead has made an important contribution to the Borough's level of retained expenditure due to a number of factors. Not the least of these is the effect of urban regeneration initiatives, including those securing qualitative improvements to the town centre in operational and environmental terms. Tym assumes an improvement in the Borough-wide retention rate from 78% in 1991 to 84% in 2001. This could be seen as an optimistic but not unrealistic approach; it does however in my view primarily depend upon the continuing ability of Birkenhead to retain expenditure in the face of competition from elsewhere, in particular from outside the Borough in Liverpool and Chester and at the Cheshire Oaks Sub-Regional Shopping Centre at Ellesmere Port.

16.33 According to the Council, Birkenhead falls short of its deserved status because of the absence from the town centre of quality multiples such as the House of Fraser. However on the evidence before me the likelihood of such an investment is by no means assured. Nor has land been formally identified for such purposes, although reference has been made for example to the future redevelopment of the Claughton Street surface car parks which I note fall within the Birkenhead town centre area subject to Policy SH1²¹.

16.34 Even if such a boost to Birkenhead's retail offer were to occur then it is not difficult to conclude that any estimated further increase in the Borough's expenditure retention rate (such as the Objector's 'illustrative estimate' of 86% by 2001) could at least in part be accounted for by Birkenhead, as a result of increased floorspace and increased turnover in existing outlets. This would be consistent with the encouragement given in PPG6 (1996) to the *promotion*, as well as the protection, of key town centres²². I believe that a degree of caution is also appropriate without such an outcome, as the relative attractiveness of other centres, including those outside the Borough, might well increase. In these circumstances the continued improvement in the Borough's retention rate should not in my view be overestimated. Consequently I do not consider that too much reliance should be placed upon retention rate projections leading to increased Borough-wide expenditure to justify more retail development allocations such as that suggested at Upton.

16.35 I now turn to the effect of changes in vacant retail floorspace, referred to in Tym in total as about 18,400 sq m (198,000 sq ft)²³. The emphasis on reducing vacancy levels should

²¹ Policy SH1 - Criteria for Development in Key Town Centres, as proposed to be amended under ALT/SHOPPING/002 (CD056, page 219).

²² PPG6, key feature (i) (front page).

²³ CD188, paragraph 4.14 (page 29).

clearly be concentrated on the centres most vulnerable to competition such as Liscard. There is no dispute about the Council's assumption of a 25% reduction in vacant floorspace, rather about whether all of that would be for comparison retailing. I accept that some of the takeup would be from non-comparison trading, although it seems to me that the proportion for convenience trade would be small because of the extent to which convenience needs have been provided for by new development in recent years, especially in the development of large freestanding food stores with their attendant facilities. The Objector's witness conceded that it would not be unreasonable to apply a turnover rate to the 'taken-up' vacant floorspace of £350. Thus in my estimation the 'claim' on expenditure growth to 2001 would be nearer the Tym figure of £17.3 m than the £9.9 m suggested by the Objector²⁴.

16.36 Applying turnover rates to the main bulky goods/retail warehousing commitments, the Objector challenges the Tym figure of about £15 per sq m (£160 per sq ft) as being too high²⁵. Whilst this figure may be higher than that which should be applied to the B & Q proposal at Bidston, in my view it is a reasonable reflection of the spread of retailing which could occur at Green Lane and at the Upton site if permitted, especially given the presence already of a DIY outlet (*Homebase*) adjoining the Upton site, which may act to deter the establishment of a further 'low' turnover outlet. The Tym figure is also significantly below the overall average turnover in the 1995 retail Rankings of about £21 per sq m (£232 per sq ft)²⁶, and in these and the foregoing circumstances I see no good reason to reject it.

16.37 The Council have not challenged the Objector's view that the retail development of the Upton site would cause only 'modest' trade diversion from Birkenhead and Liscard, of 3% in both cases. Whilst the Green Lane development might at the least not harm the Birkenhead town centre, there is no evidence as to the effect of that proposal on Liscard. Whatever that effect, the impact of both Green Lane and Upton on Liscard would be a cumulative one. Although I draw no strong conclusions from the predicted trade diversion effects of the Upton retail proposals, to my mind they would not act in favour of the established centres, and to that extent might be seen as contrary to the objective of national guidance to *promote* the vitality and viability of traditional centres. Whilst any planning application for the retail development of the Upton site should be considered on its merits having regard to Policies SH9 and SH10, such an evident lack of accord with national policy does not in my view support the Objector's case that the Upton site should be allocated for such purposes in the UDP.

²⁴ See footnote (2) to Table 1 in the Objector's Appendix 17 (Document 129/P/2).

²⁵ CD188, paragraph 4.12 (page 29).

²⁶ See Annex to Council proof WMBC/P/44A. The planning permission at Green Lane could result in the establishment of a DIY outlet, but the permission also includes other non-food categories such as gas and electrical appliances, furniture and office equipment, furniture and accessories, trading categories with generally a higher turnover. There is no evidence to show that if planning permission were granted for retail development at Upton, the range of goods which it would be possible to sell from the site would be any more restricted.

16.38 I have considered other matters raised in support of the retail allocation of the Upton site. I accept that in employment terms the UDP does not give the strategic status to the Upton area conferred by the Merseyside Structure Plan²⁷. The loss of the 2.98 hectare site would of itself only make a small difference to the Borough-wide total of employment land allocated under policy EMP1²⁸. The small part of the site which is the subject of Proposal EM4/1 is said to be no longer required for the expansion of an adjoining business, although the supporting text to Proposal EM4 makes it clear that the Proposal allows for general employment use under such circumstances²⁹. I return to this matter in paragraph 16.45 below.

16.39 Over 104 hectares of land is allocated for employment purposes at Cammel Laird and at the Wirral International Business Park. It is right that this reflects the urban regeneration emphasis given to the east side of the Borough, assisted by Objective 1, City Challenge and Single Regeneration Budget finance. The Council see the development of the Upton site for employment purposes as a consolidation of the significant employment base already in the area. Additional employment land here could reduce journeys to work to East Wirral and assist what the Council states is a relative shortage of employment opportunities in the west of the Borough; I note that unemployment in Upton is only marginally below the Borough average of 13%. Other land allocated for employment purposes at Moreton is either nearly fully developed or has not been made available for development by the owners at the present time.

16.40 No marketing of the Upton site appears to have been undertaken for employment purposes. Although the Council's evidence regarding alternative uses is not substantial, there is no market evidence to support the Objector's view that there is no special need to allocate the site for employment use. If the Upton site were developed for retail purposes, land owned by the Champion Spark Plug Company could be made available and accessible for employment purposes, with only a small net loss of employment. However as I do not consider that there is a good case for a retail allocation I do not find this point very telling.

16.41 I accept that the Upton site is accessible by a choice of means of transport (although not conveniently by rail). I note that a large built up area falls within the 10 minute drive time isochrone, maximising the extent to which any new retail development would be convenient for local people. It would be possible to design a development which in its layout and character

²⁷ Structure plan Policy 7.52 identified Upton as a prestige 'out-of-centre location for office/research and development facilities to meet the needs of employers with special requirements' (CD049, page 32).

²⁸ Policy EMP1 - Provision of Employment Land. This policy allocates a total of 189.2 ha of land for employment uses.

²⁹ Written Statement, paragraph 5.20 (page 38).

attained an acceptable quality in relation to the area surrounding the site, having regard to the recently updated national guidance on this matter³⁰.

16.42 I remain unconvinced however, that the retail development of the Upton site would make any significant contribution towards the cause of urban regeneration in Wirral Borough, even though it would enable a site and its buildings which on my inspection lay unused to be cleared and demolished and replaced by a newer, purpose designed layout of buildings with an intensive commercial use. In reaching this view I am particularly mindful of the emphasis given in RPG13 *Regional Planning Guidance for the North West* to the regeneration of the region's nineteenth century urban legacy of development around an industrial base³¹. This may be found in the Wirral particularly in the urban heartlands of Seacombe, Birkenhead, Tranmere and Bromborough, but cannot in my view be identified so clear a way as to apply to the Upton site.

16.43 Consumers in Upton deserve as good a shopping choice as those elsewhere in the Borough. The Upton site's retail units might increase the choice for consumers in Upton, and perhaps also for residents in other western parts of the Borough. The Council acknowledge that development at Upton might result in reduced car journeys for people in the western part of Wirral. However in circumstances where the Council seeks to protect and promote the Birkenhead Town Centre it is not unreasonable in my view for them to wish to encourage the development of the Green Lane site for retail purposes before other sites not in established centres, because of the relationship of the Green Lane site to the town centre and even if it means more journeys to Birkenhead and some trips outside the Borough. None of the 'advantages' of the Upton site in my view carries sufficient weight to justify its allocation for retail purposes in the face of this general conclusion.

Overall Conclusions on Allocations for Retail Development

16.44 Even if I were to have come to the view that the conclusions in Tym about the extent to which provision should be made by allocation for retail development were to an underestimation of requirements up to the end of the UDP Plan period, I consider that a cautious approach to out-of-centre retail allocations should continue to be adopted by the Council, in view of the grant of planning permission at Green Lane, and notwithstanding the general encouragement given to local planning authorities to seek to identify a range of sites where the market demands for retail development justifies such a course of action³². This would allow the effects of urban regeneration initiatives in and around Birkenhead, including the Twelve Quays development, the Hamilton Quarter Initiative, progress on the redevelopment of the

³⁰ See PPG1 (1997) *General Policy and Practice*, paragraphs 13-20.

³¹ RPG13, paragraphs 2.8 and 3.2.

³² PPG6 (1996), Annex B, paragraphs 4 and 5.

Cammel Laird site and the construction of the Mollington Link to be monitored in the period leading up to 2001. The question of allocation could be further addressed in any review of the UDP. I therefore conclude that neither the Bromborough nor the Upton site should be allocated for retail purposes in the current Plan.

Other Matters

16.45 Even if the use of the Upton site as a TEC is *sui generis*, it seems to me that the characteristics of the use of the site as a TEC were appropriate to a PIA, and the layout and appearance of the buildings and other fixtures remains so. I therefore consider that the PIA notation should remain. Returning to the appropriateness of Proposal EM4/1 following the vacation of the Upton site, it would appear logical to reallocate that part of the Upton site which is the subject of proposal EM4 under proposal EM3, which provides a similar provision to EM4 in terms of future development. However, it may be difficult to develop the land on its own because of access difficulties, and in these circumstances a more appropriate course of action would be to add that part of the Upton site to the PIA notation.

Inspector's Recommendation

16.46 I recommend that the UDP be modified:

(a) by the deletion of Proposal EM3/9 and by the amendment of the Proposals Map to provide the land at Green Lane, Tranmere with a notation appropriate to the committed use of that land for non-food retail purposes and

(b) by the deletion of the land identified in Objection 129/2 as being subject to Proposal EM4/1 from that Proposal, and by the amendment of the Proposals Map by the inclusion of that land within the adjoining PIA notation;

but that no other modification be made in response to Objections 026/1, 026/2, 027/1, 027/2, 129/1, 129/2 and Counter-objections 027/AA, 070/AA, 070/CC and 129/BB.

**POLICY SH2 -
CRITERIA FOR DEVELOPMENT IN TRADITIONAL SUBURBAN CENTRES
Irby Village Centre**

OBJECTIONS: 069/3 McDonald's Restaurants Ltd 070/107 GO-M
072/14 Frank Field MP 083/3 J Sainsbury plc
090/9 Mr D I Maurice Jones 094/3 Somerfield Stores Ltd
098/1 St Quintin

Summary of Objections

- 16.47 Criterion (vi) of Policy SH2 is unnecessary; it creates a presumption against development contrary to PPG1 *Policy and Principles*¹. It suggests that all Class A3 uses² will adversely affect neighbours' amenity, and does not allow each proposal to be considered on merit. The criterion should be deleted and individual proposals considered against Criterion (iv) (069/3). 'Normally' should be deleted (070/107).
- 16.48 Policy SH2 should make it clear that new developments should provide for access and infrastructure works. The reference to 'adequate' provision for car parking is too vague, and in most cases the standards laid down in Supplementary planning Guidance Note No 11³ (072/14). Larger retail proposals should be assessed against a single set of criteria, irrespective of their location relative to existing shopping centres (083/83).
- 16.49 A further criterion should be added, referring to the effect of a proposal on the vitality and viability of any *other* centre (094/3). The Policy should be amended to refer to criteria for development in *or adjacent to* traditional suburban centres (098/1).
- 16.50 Irby Village centre should be added as a traditional suburban shopping centres under Policy SH2, as it has the facilities for qualification under that policy (090/9).

Assessment and Conclusions

16.51 I discuss elsewhere⁴ representations under Objection 083/2 in connection with Policy SH1. Having concluded that the Council are justified in having separate policies to deal with development in key town centres (Policy SH1) and with retail development elsewhere (Policy

¹ A general presumption in favour of development was expressed in PPG1 (1992), paragraph 5. This PPG has been replaced by PPG1 (1997) *Policy and Principles*. The express reference to the general presumption has been removed; instead, there is renewed emphasis on the presumption in favour of development which accords with the development plan, arising from Section 54A of the Town and Country Planning Act 1990.

² Class A3 (Food and Drink) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (SI 1987 No 764), as amended.

³ The Objector refers to the standards in the UDP Draft for Public Consultation (CD052, page 201).

⁴ See pages 309-311 of this report.

SH9⁵), I do not see the views of the Objector as affecting the justification for having a further policy, containing criteria dealing with a variety of circumstances, for development in traditional suburban centres.

16.52 A published change to Policy SH2 and to its Reasoned Justification⁶ deals with some of the other matters raised by the Objectors. The last sentence of Criterion (vi) with its 'presumption against' has been deleted. The remainder of the criterion remains (as Criterion (viii)), but is similar in nature to Criterion (iv) of the deposit version of the Policy mentioned by the Objector, and in my view is satisfactory. 'Normally' is proposed to be deleted.

16.53 Whilst acknowledging that adequacy of access and infrastructure provision is an essential consideration of new retail development it seems to me that such provision may already exist or already be in the course of implementation. I therefore agree with the Council that a universal requirement to 'provide for' such facilities would be inappropriate. Where there is a need to improve access or infrastructure provision before a development is acceptable, than this can be the subject of planning conditions or obligations (as provided for by Policy URN2)⁷.

16.54 There may be a need for retail developers to provide parking space, but it may not always be desirable or practicable within traditional shopping centres to do this to rigid standards. It will often be more appropriate for the developer to negotiate parking requirements with the local planning authority on a site-specific basis, with Criteria (ii) and (iii) of Policy SH2 and Policy TR9⁸ in mind. Whilst general standards in the context of Supplementary Planning Guidance may continue to be useful, I see no strong case for incorporating them into the UDP itself. The vague term 'adequate' is deleted from Criterion (iii) of the proposed amended Policy SH2.

16.55 The proposed amendment to Policy SH2 also in my view meets the point raised in Objection 094/3, even though the word 'other' is only used in relation to shopping centres outside the Borough. The Council have not however accepted that the reference to 'land immediately adjacent' to a centre should be inserted into the Policy. In my view the reinforcement of the importance of town and other centres as locations for retail development which is a key feature of the 1996 version of PPG6 justifies separate policy considerations for development falling within centres, and those on the edge-of-centre or out-of-centre. The Council propose to amend Policy SH9⁹ to refer to edge-of centre developments, with this balance in mind. I consider that this policy framework in the UDP will enable the 'sequential

⁵ Policy SH9 - Criteria for Out-of-Centre Development.

⁶ ALT/SHOPPING/003 (CD056, page 221).

⁷ Policy URN2 - Planning Agreements for Urban Regeneration.

⁸ Policy TR9 - requirements for Off-Street Parking, as proposed to be amended by ALT/TRANSPORT/012 (CD056, page 206) and ALT2/TRANSPORT/001 (CD056, page 28).

⁹ Policy SH9 - Criteria for Out-of-Centre Development, as proposed to be amended by ALT/SHOPPING/010 (CD056, page 229).

test' for retail development advocated in PPG6 to be applied. I therefore conclude that no amendment should be made to Policy SH2 as suggested in Objection 098/1.

16.56 It is arguable whether Irby Village Shopping Centre could accurately be described as a traditional suburban shopping centre. However, the fact that it is the centre of a village should not in itself preclude the centre from being listed under Policy SH2 - Wallasey and Upton 'village centres' are included. I saw that Irby is a lively focus for village life and satisfies the minimum requirements listed in Paragraph 16.23 of the Reasoned Justification for listing under Policy SH2, in terms of the size of the centre, the presence of key shops, a doctor's surgery and public library and convenient bus services. The Council concede that the case they promote for *excluding* the Irby Centre from Policy SH2 is a marginal one; they present it as mainly recognition of traditional village character as distinct from suburban character. Whilst the centre of Irby tends in my view to be of village character the housing which forms the bulk of this large village appears suburban in character. This is not therefore in my view so clear a determining factor as to be decisive.

16.57 The 1996 version of PPG6 *Town Centres and Retail Developments* supports district and local shopping facilities, including those in villages, as a means of sustaining local communities and reducing the need to travel¹⁰. There is no doubt that the Irby Village centre is important to the local community and that the UDP policies should seek to sustain the viability, vitality and character of the centre. The issue is therefore whether this should be done by listing Irby under Policy SH2 or alternatively whether the interests of the Irby Centre are adequately provided for under Policy SH4¹¹. Although the land available for expansion or consolidation of the centre appears limited I consider that on balance the interests of sustaining the Irby Centre would be better served by the recognition and definition of the centre by its listing under Policy SH2. I therefore recommend accordingly.

Inspector's Recommendation

16.58 I recommend that the UDP be modified:

(a) by the amendment of Policy SH2 and its Reasoned Justification in accordance with ALT/SHOPPING/003, subject to the addition of Irby to the centres listed; and

(b) by the amendment of the Proposals Map accordingly¹².

¹⁰ PPG6 (1996), paragraphs 3.18 to 3.20.

¹¹ Policy SH4 - Small Shopping Centres and Parades.

¹² This recommendation is without prejudice to the other proposed amendments to the Proposals Map under ALT/SHOPPING/019 to 027 (CD056, pages 238 to 246).

**POLICY SH3 - GROUND FLOOR RESIDENTIAL USES IN TOWN AND
TRADITIONAL SUBURBAN SHOPPING CENTRES
POLICY SH4 - SMALL SHOPPING CENTRES AND PARADES**

OBJECTIONS: 069/4 McDonald's Restaurants Ltd 070/108, 070/109 GO-M
090/3 Mr D I Maurice Jones 093/10 The Leverhulme Estate

Summary of Objections

- 16.59 The word 'normally' should be deleted from Policies SH3 and SH4 (070/108, 070/109). The final sentence of Criterion (ii) of Policy SH4 should be deleted, as it represents a presumption against development contrary to PPG1 *Principles and Practice*¹. Individual proposals should be considered against Criterion (i) of Policy SH4 (069/4).
- 16.60 Support should be given in Policy SH4 to single small local shops in areas such as villages. This would reduce reliance on the car for day-to-day shopping trips, in accord with guidance in PPG13 *Transport*² (093/10).
- 16.61 Policy SH4 does not list small shopping centres in the manner represented in Policy S2 of the first Deposit Draft of the UDP. These centres should be listed and marked in light blue on the Proposals Map (090/3).

Assessment and Conclusions

16.62 A published change to Policy SH3 omits 'normally', with some minor restructuring of the Policy³. However, in a published change to Policy SH4⁴ 'normally' has been retained, although this does not appear to have been the Council's intention. I recommend that this word be deleted. The proposed amendment to Policy SH4 involves some restructuring of the Policy and the expansion of the criteria to enable the 'presumption against' sentence to be deleted.

16.63 The Council maintain that the composition of the villages in the Borough is such that there are very few freestanding settlements which have only a single shop. The UDP contains

¹ A general presumption in favour of development was expressed in PPG1 (1992), paragraph 5. This PPG has been replaced by PPG1 (1997) *Policy and Principles*. The express reference to the general presumption has been removed; instead, there is renewed emphasis on the presumption in favour of development which accords with the development plan, arising from Section 54A of the Town and Country Planning Act 1990.

² It is assumed that reference is being made to PPG13, paragraphs 1.5, 3.10 and 3.17.

³ ALT/SHOPPING/004 (CD056, page 223).

⁴ ALT/SHOPPING/005 (CD056, page 224).

a commitment in Policy SHO1⁵ to 'sustain or enhance the vitality and viability of ... other shopping provision in the Borough', and this could be interpreted to require the effects of new retail development on any single rural shop to be taken into account.

16.64 I accept the Council's submission that the occasions where such circumstances could arise in the Borough would be few. In view of the foregoing and the relatively compact nature of the District I do not consider that this matter needs to be covered either by a new policy or by an adaptation of CH4 or any other UDP policy.

16.65 The Council maintain that it is made quite clear which shopping centres or parades Policy SH4 is intended to apply to - namely all those in Primarily Residential Areas. The listing of all such facilities in the Written Statement and their representation on the proposals Map would in my view introduce unnecessarily over-detailed material into these documents.

Inspector's Recommendation

16.66 I recommend that the UDP be modified by the amendment of Policies SH3 and SH4 in accordance with ALT/SHOPPING/004 and 005 subject to the deletion of the word 'normally' from the preamble to Policy SH4, but that no modification be made in response to Objections 090/3 and 093/10.

⁵ Policy SHO1 - Principles for New Retail Development (as proposed to be amended by ALT/SHOPPING/001 (CD052, page 218)).

*Part II: Policy SH5 - Residential Development in Small Shopping Centres and Parades in Primarily Residential Areas; Proposals Map
Policy SH6 - Development within Primarily Commercial Areas
Policy SH7 - Upper Floor Uses in Retail Premises
Policy SH8 - Criteria for Shop Fronts*

POLICY SH5 - RESIDENTIAL DEVELOPMENT IN SMALL SHOPPING CENTRES AND PARADES IN PRIMARILY RESIDENTIAL AREAS

Proposals Map

POLICY SH6 - DEVELOPMENT WITHIN PRIMARILY COMMERCIAL AREAS

POLICY SH7 - UPPER FLOOR USES IN RETAIL PREMISES

POLICY SH8 - CRITERIA FOR SHOP FRONTS

OBJECTIONS: 032/6 The Heswall Society 070/110 to 070/113 GO-M
084/8 Merseyside Development Corporation 094/4 Somerfield Stores Ltd

COUNTER-OBJECTION: 094/B Somerfield Stores Ltd

Summary of Objections

- 16.67 'Normally' should be deleted from the Policies (070/110-070/113). Policy SH6 confusingly refers to Policies SH1 and SH2¹ which relate to land *within* centres, whilst Policy SH6 does not. Class A1 development² in SH6 areas should be considered against a criterion about the potential trade impact on any Policy SH1/SH2 centre (094/4).
- 16.68 Policy SH6 is inappropriate to the primarily commercial area around Hamilton Square, Birkenhead, which is part of the town centre but not the shopping centre. Design and scale should be appropriate to the town centre as a whole; the Policy should be reworded (084/8).
- 16.69 The Proposals Map should be amended to show the whole area between May Road and Daryl Road, Heswall as subject to Policy SH6³. It is wrong to designate the area of the Council Offices at Rocky Lane, Heswall under Policy SH6 without including land to the south and east between Telegraph Road and Rocky Lane South, where there are many uses compatible with that Policy. Retail development may not be suitable, but this area should be the subject of a separate policy indicating its suitability for development in Use

¹ Policy SH1 - Criteria for Development in Key Town Centres; Policy SH2 - Criteria for Development in Traditional Suburban Centres.

² Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (SI 1987 No. 764) - Shops.

³ The Objector's statement of further representations (Document 32/W/1) advocates the designation of the same area as part of the Town Centre under Policy SH1. The Council submit that this fundamental change in the nature of the representation does not constitute a 'duly made' objection; as the change is more than one of detail I concur with that view. I will therefore consider the Objection on the basis of the original representation that the area subject to Policy SH6 should be extended.

*Part II: Policy SH5 - Residential Development in Small Shopping Centres and Parades in Primarily Residential Areas; Proposals Map
Policy SH6 - Development within Primarily Commercial Areas
Policy SH7 - Upper Floor Uses in Retail Premises
Policy SH8 - Criteria for Shop Fronts*

Classes B1 and D1⁴. The Written Statement and Proposals Map should be amended accordingly (032/6⁵).

16.70 The proposed amendment to Policy SH6⁶ should for the sake of consistency refer in Criterion (ii) to the 'vitality and viability of any key town centre' (094/B).

Assessment and Conclusions

16.71 Published changes to Policies SH5, SH6, SH7 and SH8 omit 'normally'⁷. A further proposed amendment to Policy SH6⁸ deals with the matter raised in Counter-objection 094/B. The proposed amendments to Policy SH6 involve a radical restructuring of the Policy on a criteria basis. The references to Policies SH1 and SH2 are omitted; Criterion (ii) deals with the issue of trade impact under the objective of protecting the vitality and viability of existing key town or traditional suburban shopping centres. Criterion (iv) clearly applies the consideration of matters of scale, design, materials and landscaping to the whole of the area designated under the Policy.

16.72 In relation to Objection 032/6 I support the Council's view that the whole of the area between May Road and Daryl Road should not be designated under Policy SH6 because the residual area is primarily residential in character and land use. So far as the area between Telegraph Road and Rocky Lane South is concerned, the Council propose to meet the Objector's comments by re-designating this area as a Primarily Residential Area⁹. As the Council point out, if the notation were so amended, Policy HS12 would provide for consideration of non-residential uses subject to certain criteria¹⁰.

⁴ Use Class B1 - Business, Use Class D1 - Non-residential Institutions.

⁵ The comments in this Objection about the need for a larger scale inset map for Heswall are considered elsewhere in this report in relation to Objection 032/5, on pages 309-311.

⁶ See Footnote 7 below.

⁷ ALT/SHOPPING/006 (CD056, page 225); ALT/SHOPPING/007 (CD056, page 226); ALT/SHOPPING/008 (CD056, page 227) and ALT/SHOPPING/009 (CD056, page 228).

⁸ ALT2/SHOPPING/003 (CD057, page 33).

⁹ ALT/SHOPPING/028 (CD056, page 247).

¹⁰ Policy HS12 - Non-Residential Uses in Primarily Residential Areas. See also ALT/HOUSING/013 (CD056, page 44) and my recommendation on page 117 of this report.

*Part II: Policy SH5 - Residential Development in Small Shopping
Centres and Parades in Primarily Residential Areas; Proposals Map
Policy SH6 - Development within Primarily Commercial Areas
Policy SH7 - Upper Floor Uses in Retail Premises
Policy SH8 - Criteria for Shop Fronts*

16.73 The Objector finds the proposed notation change unacceptable¹¹ on the basis that residential uses are in a minority in the area. I found that the area contains an equitable mix of residential and non-residential uses; in my view its being made subject to Policy HS12 should give some scope in principle for the introduction of further compatible land uses, provided that these do not cause material harm to the amenity of those living in the area and otherwise meet the criteria of that Policy. I therefore consider the Council proposal an acceptable way of dealing with the acknowledgement by them that this area may not be generally suitable for further retail development.

Inspector's Recommendation

16.74 I recommend that the UDP be modified by the amendment of Policies SH5, SH6, SH7 and SH8 in accordance with ALT/SHOPPING/006, ALT2/SHOPPING/003, ALT/SHOPPING/008 and ALT/SHOPPING/009, and of the proposals Map in accordance with ALT/SHOPPING/028).

¹¹ This view was expressed in the Objector's further written statement 32/W/1, not as part of any duly made Counter-objection).

POLICY SH9 - CRITERIA FOR OUT-OF-CENTRE RETAIL DEVELOPMENTS
Written Statement Paragraphs 16.38 and 16.39

OBJECTIONS: 014/1 MFI Properties Ltd 054/1 Ellesmere Port/Neston Borough Council
070/020, 070/114 GO-M 072/9 Frank Field MP 083/4 J Sainsbury plc
094/5 Somerfield Stores Ltd 095/1 B & Q plc 096/3 VSEL plc
129/8 British Telecommunications plc
COUNTER-OBJECTION: 094/C Somerfield Stores Ltd

Summary of Objections

- 16.75 Some material in Policy SH9 would be better in the supporting text. The Policy should be more concise, with criteria for out-of-centre retail development. Criteria in Policy SH10 should also be included (draft of SH9 suggested), and Policy SH10 deleted. The Reasoned Justification should be amended to indicate matters to be taken into account in assessing retail impact. The text should set a minimum floorspace level above which impact studies would be required (014/1).
- 16.76 Policy SH9 only sets out to consider the harmful effects of out-of-centre development on centres within the Wirral Borough area, and not those outside the Wirral boundary, and should be amended (054/1). The Policy should include a criterion that the effect of the proposal should not result in increased car usage, in accord with PPG6 *Town Centres and Retail Developments*¹. 'Normally' should be deleted (070/20, 070/114).
- 16.77 Policy SH9 should make it clear that the developer will be required to pay for necessary infrastructure works, that the cost of the works will be secured through a planning obligation² if appropriate, and that planning gain will be sought from developers within the terms of Policy URN2³ (072/9).
- 16.78 Policy SH9 is negative in tone, and prejudices that out-of-centre retail development inevitable has disadvantages which have to be outweighed by benefits. The word 'benefits' is not defined. References to Traditional Suburban Centres in Criterion (i) should be deleted, as only town centres are material in assessing potential impact. Criterion (ii) is vague and unsatisfactory. The supporting text confirms that it has to do with impact, and this results unreasonably in proposed being assessed on impact twice. The implication that alternative uses may be considered at application stage is unacceptable (083/4).

¹ It is assumed that at the time Objection 070/20 was submitted, this was a reference to Paragraph 38 of the 1993 version of PPG6. The comparable paragraphs of the 1996 version of PPG6 are 4.9 and 4.10.

² Under Section 106 of the Town and Country Planning Act 1990 (as amended).

³ Policy URN2 - Planning Agreements for Urban Regeneration.

- 16.79 An additional criterion should be added to Policy SH9 relating to overall impact on travel patterns as referred to in PPG6⁴, to meet the objectives of PPG13 *Transport*. Criterion (iii) is not sufficient on its own (094/5). Criterion (i) is too prescriptive and inflexible a test for out-of-centre proposals (alternative draft suggested) (095/1).
- 16.80 Policy SH9 should be more positive in tone to reflect national policy guidance. It should encourage new out-of-centre retail development subject to safeguarding town centre vitality and viability (096/3). Government guidance recognises that there is no inherent conflict between town centre and out-of-town development⁵. Out-of-town retailing helps to relieve town centre congestion and stimulates competition. The word 'only' should therefore be deleted from the first line of the preamble (129/8). The proposed amendment to Policy SH9⁶ should be further amended to make it clear that the Policy applies to edge-of-centre as well as out-of-centre proposals, and by the replacement of Criterion (iii) by two criteria to accord with the second and third 'key tests' set out in the Consultation Draft of the revised PPG6⁷ (094/C).

Assessment and Conclusions

16.81 Published changes to Policy SH9 ('the first and second alterations')⁸, provide more concise criteria for assessment of out-of-centre shopping proposals. The first alteration relegates information about retail impact assessment to the supporting text. One of the effects is to make Criterion (i) less rigid, and the replacement in the Criterion of 'seriously threaten' by 'undermine' would also adjust the balance of the criterion in favour of development. No floorspace level is set for the requirement to submit an assessment, although the supporting text about the submission of assessments for major retail developments is proposed to be adjusted⁹. The implication is that the Council may require impact assessments to be prepared for developments smaller than the levels prescribed by national guidance; however I do not regard the absence of a threshold to be a serious omission. The amended Policy also makes reference to the additional Criteria in Policy SH10 (although the Council do not propose to delete that Policy) and includes a reference to the potential impact of proposals on centres outside the Borough. Edge-of-centre proposals are also made the subject of the Policy. 'Normally' is omitted. The second alteration to Policy SH9 splits Criterion (iii) of the first alteration into two criteria, as suggested in Counter-Objection 094/C.

⁴ The Objector is referring to Paragraph 38 of the 1993 version of PPG6.

⁵ The Objector refers to Paragraph 21 of the 1993 version of PPG6.

⁶ ALT/SHOPPING/010 (CD056, page 229).

⁷ The Consultation Draft was replaced by the 1996 published version of PPG6; Key feature (iii) (front cover) and Paragraphs 4.6 to 4.8 refer.

⁸ For the first alteration, see Footnote 6 above; the second is ALT2/SHOPPING/004 (CD057, page 34).

⁹ ALT/SHOPPING/012 (CD056, page 231).

16.82 However, the amendments do not satisfy other Objections. Whilst it may often be appropriate for the cost of new infrastructure works to be met by a retail developer, this is not in my view a central issue to Policy SH9. The circumstances in which such works may be sought through planning obligations are set out in Policy URN2, and I accept the Council view that it is not necessary to represent them in Policy SH9 as well. The requirement of adequate infrastructure is also the subject of Policy SH10¹⁰.

16.83 The words 'will only be permitted where' in Policy SH9 may seem negative; but such an expression is in my view not inappropriate where government policy towards the location of new retail development is based upon the sequential test referred to in PPG6 (1996). Proposals for out-of-centre retail development therefore need to be considered particularly carefully; they may divert some traffic out of centres, but sometimes with the effect of reducing the vitality of a centre or introducing traffic into a residential area. Whilst 'benefits' is not defined it would in my view be very difficult to do so without introducing inappropriate rigidity into the Policy. In my view the effect of out-of-centre or edge-of-centre proposals on traditional suburban shopping centres, the focus of daily and weekly local shopping activity and containing other community facilities, is an element which needs to be included in the consideration under Policy SH9. PPG6 (1996) places due emphasis on the 'health' and sustenance of district and local shopping centres, not only to maintain their role in the community but also to support the general objective of reducing dependence on the car¹¹.

16.84 The Council explain how Criterion (ii) of Policy SH9 would apply. The Policy does not relate to sites *within* centres. It is not therefore unreasonable in my view that, in circumstances where the 'sequential test' applies, an out-of-centre proposal should be assessed against the need for other development or for open space. This would be particularly so where the land in question were the subject of a UDP allocation or designation for non-retail purposes, or where alternative sites for retail development were clearly available. Such considerations would not apply where the out-of-centre land were specifically allocated for retail development, although I recommend no such allocation¹². In conclusion I consider the final proposed amendments to Policy SH9 and the supporting text to be a satisfactory response to the matters raised in the Objections.

Inspector's Recommendation

16.85 I recommend that the UDP be modified by the amendment of Policy SH9 in accordance with ALT2/SHOPPING/004 and of its Reasoned Justification in accordance with ALT/SHOPPING/010 and 012, but that no modification be made in response to Objections 014/1, 072/9083/4, 095/1, 096/3 and 129/8.

¹⁰ Policy SH10 - Design and Location of Out-of-Centre Retail Development.

¹¹ PPG6 (1996), paragraph 3.18.

¹² I recommend on page 322 of this report that Proposal SH1a - Land for Non-Food Development (ALT2/SHOPPING/002 (CD057, page 32)) be not incorporated into the UDP, as planning permission has now been granted for the development of land at Green Lane, Trannere for non-food retail purposes.

POLICY SH10 - DESIGN AND LOCATION OF OUT-OF-CENTRE RETAIL DEVELOPMENT; Written Statement Paragraph 16.39

OBJECTIONS: 014/2, 014/3 (part) MFI Properties Ltd
031/1 Sefton Metropolitan Borough Council 070/21, 070/115 GO-M
072/15 Frank Field MP 083/5 J Sainsbury plc
094/6 Somerfield Stores Ltd 096/4 VSEL plc
COUNTER-OBJECTION: 094/D Somerfield Stores Ltd

Summary of Objections

- 16.86 Policy SH10 should be deleted and its provisions incorporated into Policy SH9¹. The reference to planning conditions should be deleted and incorporated into the supporting text (14/2, 14/3). The reference to the role of conditions should be clarified (096/4). The last sentence of Paragraph 16.39 of the Reasoned Justification should be amended to refer to centres in areas adjoining Wirral (031/1). The Policy should include a criterion that the effect of development should not result in increased car usage, in accord with PPG6 *Town Centres and Retail Developments*². The word 'normally' should be deleted, and 'only' inserted in its place (070/21, 070/115, 094/6). Criterion (ii) should be amended by the replacement of 'prejudice' with 'seriously undermine' (083/5).
- 16.87 Policy SH10 should make it clear that the developer will be required to pay for necessary infrastructure works, that the cost of the works will be secured through a planning obligation³ if appropriate, and that planning gain will be sought from developers within the terms of Policy URN2⁴ (072/15). Further amendments should be made to Policy SH10 as proposed to be amended⁵ as a consequence of the clarification of the Policy as applying to edge-of-centre developments, and 'only' should be inserted following the deletion of 'normally' (094/D).

Assessment and Conclusions

16.88 Whilst Policies SH10 and SH9 are linked I see no objection to their remaining as two distinct but complementary provisions. I am content that the Council propose to retain the reference to planning conditions in Policy SH10 itself, given the circumstances in which conditions may be considered is to be clarified. Paragraph 16.39 would be amended to refer

¹ Policy SH9 - Criteria for Out-of-Centre Development.

² It is assumed that at the time Objection 070/21 was submitted, this was a reference to Paragraph 38 of the 1993 version of PPG6. The comparable paragraphs of the 1996 version of PPG6 are 4.9 and 4.10.

³ Under Section 106 of the Town and Country Planning Act 1990 (as amended).

⁴ Policy URN2 - Planning Agreements for Urban Regeneration.

⁵ ALT/SHOPPING/011 (CD056, page 230).

to centres outside the Wirral boundary⁶. I accept that because the two policies are linked, it is unnecessary to insert the criterion requested in Objection 070/21, as it has been included in Policy SH9⁷. It is proposed to delete 'normally', but I see no particular advantage in inserting the word 'only' in its place; it would neither strengthen the policy nor make it more flexible. A further published change to Policy SH10⁸ inserts the references to edge-of-centre developments suggested in Counter-objection 094/D.

16.89 Although 'undermine' is to replace 'seriously threaten' in Criterion (i) of Policy SH9, I see no strong case to replace 'prejudice' with 'seriously undermine' in Policy SH10, especially in the context of Condition (ii) of the latter policy which relates to housing or industrial land requirements. It may often be appropriate for the cost of new infrastructure works to be met by a retail developer. However, the circumstances in which such works may be sought through planning obligations are set out in Policy URN2, and I accept the Council view that it is not necessary to represent them in Policy SH10 as well. The requirement of adequate infrastructure is also a requirement of Policy SH10.

Inspector's Recommendation

16.90 I recommend that the UDP be modified by the amendment of Policy SH10 in accordance with ALT2/SHOPPING/005⁹, but that no modification be made in response to Objections 014/2, 014/3, 070/21, 072/15 and 083/5.

⁶ ALT/SHOPPING/012 (CD056, page 231).

⁷ Under ALT2/SHOPPING/004 (CD057, page 34).

⁸ ALT2/SHOPPING/005 (CD057, page 35).

⁹ The opportunity should also be taken to correct an error in the numbering of the criteria (there are 2 Criteria (v)). My recommendation on Paragraph 16.39 may be found on page 333 this report.

**POLICY SH11 - THE EXPANSION OF OUT-OF-CENTRE RETAIL DEVELOPMENTS
Arrowebrook TEC, Upton**

OBJECTIONS: 070/116 GO-M 072/16 Frank Field MP 094/7 Somerfield Stores Ltd
095/3 B & Q plc 129/9 British Telecommunications plc

COUNTER-OBJECTION: 094/E Somerfield Stores Ltd

Summary of Objections

- 16.91 The word 'normally' should be deleted from Policy SH11 (070/116), and replaced by 'only' (094/7). Policy SH11 should make it clear that the developer will be required to pay for necessary infrastructure works, that the cost of the works will be secured through a planning obligation¹ if appropriate, and that planning gain will be sought from developers within the terms of Policy URN2² (072/16). The Policy should be extended to give priority to the development of large scale, single user non-food retail facilities, having regard to the desirability of locating such uses outside existing centres in accordance with their role and trading characteristics (095/3).
- 16.92 The Arrowebrook TEC site at Upton should be allocated within Policy SH11 to allow for the future expansion of existing out-of-centre retail developments to the north of that site (129/9).
- 16.93 The proposed amendments to Policy SH9³ create a need for consequential amendments to Policy SH11 beyond those proposed under the Council's first published change to the latter Policy⁴. These include reference to edge-of-centre developments in several places, and the insertion of 'only' following the deletion of 'normally' (094/E).

Assessment and Conclusions

16.94 The first published change to Policy SH11 ('the first alteration') omits 'normally'. I do not consider that the insertion of 'only' in its place would confer any benefit on the policy, either in terms of strengthening it or making it more flexible. The second published change to

¹ Under Section 106 of the Town and Country Planning Act 1990 (as amended).

² Policy URN2 - Planning Agreements for Urban Regeneration.

³ Policy SH9 - Criteria for Out-of-Centre Development. The Objector is referring to ALT/SHOPPING/010 (CD056, page 229), although that policy was subsequently proposed for further amendment under ALT/SHOPPING/004 (CD057, page 34).

⁴ ALT/SHOPPING/011 (CD056, page 230).

Policy SH11 ('the second alteration')⁵ does not introduce the references to edge-of-centre developments suggested in Counter-objection 094/E, as the Council state that the Policy relates only to those out-of-centre developments shown on the Proposals Map (the non-food retail parks Bidston Moss and Bromborough and the food superstore sites at Bidston, Bromborough, Woodchurch and Upton), and the second alteration makes this clear. None of those sites could reasonably be described as edge-of-centre, and I accept the Council's view that references to edge-of-centre sites in the Policy are therefore unnecessary.

16.95 As to whether Policy SH11 should be weighted in favour of non-food development, I consider that the Council are right to maintain a more neutral stance in the Policy. This allows greater flexibility in the consideration of applications on their merits under the criteria of Policies SH9 and SH10⁶, especially as four of the sites shown on the Proposals Map are existing food outlets. It may often be appropriate for the cost of new infrastructure works to be met by a retail developer, who may also offer other benefits by way of 'planning gain'. However, the circumstances in which such matters may be promoted through planning obligations are set out in Policy URN2, and I accept the Council view that it is not necessary to represent them in Policy SH11 as well. The adequacy of infrastructure is a consideration under Policy SH10.

16.96 I conclude elsewhere⁷ that the Arrowebrook TEC site should not be allocated for retail development under Proposal SH1a⁸. Accordingly it would be inappropriate to designate this site under policy SH11, even though the adjoining J Sainsbury food store and *Homebase* DIY store immediately to the north have such a designation.

Inspector's Recommendation

16.97 I recommend that the UDP be modified by the amendment of Policy SH11 in accordance with ALT2/SHOPPING/006, but that no modification be made in response to Objections 072/16, 094/7 and 095/3 and Counter-objection 094/E.

⁵ ALT2/SHOPPING/006 (CD057, page 36).

⁶ Policy SH10 - Design and Location of Out-of-centre Retail Development.

⁷ See pages 312-322 of this report.

⁸ As proposed under ALT2/SHOPPING/002 (CD057, page 31) - land for Non-food Retail Development.