

Matter Statement

Eastbourne Town Centre
Local Plan

Examination Hearing

Performance Retail Limited
Partnership

May 2013

Contents

1	Introduction	1
2	Matter 4	2
3	Matter 5	4
4	Matter 6	9
5	Matter 7	11
6	Matter 8	13

Appendices

Appendix 1 – Plan of Application Site

TA reference: LEGL2004
LPA reference:
Date of issue: 09 May 2013

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1 Introduction

- 1.1 We act on behalf of Performance Retail Limited Partnership (PRLP) who is the freeholder of the Arndale Shopping Centre in Eastbourne Town Centre. We are submitting this statement in response to the Matters and Issues for the Hearing, as set out by the Inspector in her Timing and Programming Agenda for the Independent Examination in to the Eastbourne Town Centre Local Plan (TCLP).
- 1.2 PRLP have a resolution to grant planning permission for the extension to the Arndale Centre to provide a new extended shopping centre, additional town centre car parking and public realm improvements. Discussions regarding the Section 106 agreement are well advanced and it is envisaged that this will be engrossed within the coming weeks.
- 1.3 PRLP's proposal seeks to widen the existing retail offer within a sequentially preferable designated Town Centre location which will enhance consumer choice as well as improving the vitality and viability of Eastbourne Town Centre which will act as a catalyst for further regeneration in the centre as a whole.
- 1.4 We consider that our client is an important stakeholder within the development plan process and on this basis we would be grateful that due consideration is given to this representation.

2 Matter 4

Quantum and Type of Development

4.1 Does the quantum of development align with the Core Strategy Local Plan?

- 2.1 A resolution to grant planning permission, at the site identified as Development Opportunity Site 1 (DOS1) allocated under Policy TC18 within the Town Centre Local Plan (TCLP), was given at the Eastbourne Planning Committee on the 23 August 2012 for the following:

Demolition of existing buildings to provide for an extension to the existing shopping centre for new Class A1, A2, A3, A4 and A5 (retail) use at ground and first floors plus second floor ancillary space; a two storey extension to existing car park deck, new pedestrian access including new shopfronts onto Terminus Road and associated highway works.

- 2.2 On this basis, the proposals envisaged within Policy TC18 to come forward at DOS1 have been tested through the Development Control process. Therefore issues of scale and quantum (both floorspace and physical appearance) of development are considered to be acceptable in relation to TC18 as evidenced in the Council's Planning Committee Report, which stated:

The scale of development and the provision of additional retail floorspace is entirely appropriate and accords well with the Council's aims and objectives for the Town Centre. The proposal will provide additional retail floorspace and assist the Council in strengthening Eastbourne's Town Centre helping it consolidate its position as the primary comparison shopping destination in Eastbourne and its rural hinterland.

- 2.3 It is notable that the proposed retail development sought to come forward at DOS1 needs to be of a sufficient scale in order to achieve the benefits of preventing retail expenditure leakage to other main shopping centre destinations such as Tunbridge Wells and Brighton. Any restriction on floorspace coming forward at DOS1 would restrict the ability of Eastbourne Town Centre to compete with other regional centres and more notably out-of-centre shopping destinations.
- 2.4 Policy TC18 is in accordance with the Core Strategy and will assist in meeting Core Strategy Key Spatial Objective 3, which seeks to strengthen Eastbourne's Town Centre as a leading sub-regional shopping and leisure destination. The TCLP is also in conformity with Core Strategy Policy C1 'Town Centre Neighbourhood Policy' which seeks to strengthen the retail offer through new retail development. Policy C1 also identifies the DOS1 sites as a 'Major Retail Development Opportunity', in order that new retail development will come forward and strengthen the offer of the Town.
- 2.5 The National Planning Policy Framework (NPPF) states that planning policies should be positive, promote competitive town centres environments and set out polices for the

management and growth of centres over the plan period. It does not require local authorities to set a maximum floorspace provision for delivering retail development. It is important that the opportunity for retail and other town centre uses are met in full and are not compromised by limited site availability (NPPF, paragraph 23) which could be caused by limiting the amount of floorspace to be delivered.

- 2.6 Moreover, the key tests for the acceptability for any retail proposal that is out of centre are the test's of the sequential approach and impact, including the impact on existing and planned public/ private investment and on town centre vitality and viability. There is no requirement to demonstrate retail capacity.
- 2.7 On the basis of the above the TCLP is aligned with the quantum envisaged within the Core Strategy Local Plan.

4.2 Does the plan identify the distribution of uses in the Town Centre?

- 2.8 Policy TC18 clearly identifies that the DOS1 has A1 retail uses as a requirement at ground floor which would provide active frontages to pedestrian areas of Terminus Road and Ashford Road. The primacy of the policy for retail use at this site is therefore unequivocal however the policy also identifies additional uses of restaurants and Cafes at ground floor which would also be acceptable. Further to the acceptable ground floor uses, additional uses such as offices, residential and assembly and leisure uses will be acceptable above ground floor.
- 2.9 The resolution to grant for the Arndale Centre extension development at the DOS1 site goes to the heart of the key development components set out in TC18 and provides significant A1 retail uses at ground floor. The provision of these uses is also in accordance with National Planning Policy Framework (NPPF) which seeks to promote retail uses in Town Centre locations. The allocation of the development site within the Primary Shopping Frontage is aligned with the requirement to provide retail uses in this location.
- 2.10 Policy TC18 therefore clearly identifies the distribution of uses within this part of the Town Centre. The Primary Shopping Area and Development Opportunity Sites, in accordance with the NPPF, are identified as being locations for 'Main Town Centre Uses' as defined in Annex 2 of the NPPF, therefore in any event, the plan by way of identifying the Primary Shopping Area sets the distribution of uses accordingly.
- 2.11 On this basis, it is not considered appropriate or in accordance with the NPPF to restrict the type of retail uses within the Primary Shopping Frontage as set out in Policy TC4 (see Matter 8). The TCLP needs to delete this policy in line with the NPPF. This would allow for a wider distribution of uses to come forward within the Primary Shopping Frontage helping to preserve the vitality and viability of the Town Centre.

3 Matter 5

Development Opportunity Sites – General Matters

5.1 Are the DO sites intended to be Site Allocations and if so where are their boundaries / site areas and phasing defined?

- 3.1 The DO sites are intended to be Site Allocations. In the case of DOS1 the ‘allocation’ reflects the resolution to grant planning permission as discussed under Matter 4.1. This is a clear reflection of the Council’s aspirations for the site and an acknowledgement that the site allocation is acceptable in development control terms. The work undertaken to support the planning application therefore underlines the assessed suitability of the site for the development identified, which supports the designation as a Site Allocation coming forward in the short term.
- 3.2 In addition, as discussed under Matter 4.1, DOS1 (as a Site Allocation) will provide additional weight to Eastbourne Borough Council in terms of their Core Strategy Key Spatial Objective 3 and Core Strategy Policy C1, which seeks to promote retail development and regeneration within Eastbourne Town Centre. This is especially critical in light of the competition from Out-of-Centre shopping destinations which compete with Eastbourne Town Centre. The designation of DOS1 as a Site Allocation would therefore give further credence for the site, which is already coming forward as a major retail development, providing further protection of the position in light of out-of-centre retail competition.
- 3.3 The site area for DOS1 is clearly defined on the TCLP Figure 1 and Figure 5. This mirrors the planning application site boundary for the retail extension element of the scheme (please see **Appendix 1**).
- 3.4 Para 6.3 of the TCLP sets out three 5 year periods covering the life of the TCLP. There are Short Term (2012-2017), Medium Term (2017-2022) and Long Term (2022-2027). Within ‘Table 1: Timescales and Programme Policy’ Policy TC18/ Project DOS1 are identified to come forward within the ‘Short Term’. Whilst the table shows this as the end of 2016, there is clear overlap between the three periods, therefore it is envisaged within the TCLP that the DOS1 site will have been implemented sometime within the year 2017.
- 3.5 This is consistent with the current programme which anticipates the opening of the extension in early 2017. It should be noted that this programme is based on a worst case scenario in terms of land assembly risk, factoring in a CPO process with Public Inquiry. Given the ‘short term’ timescale envisaged for the Arndale Centre to come forward by 2017, the current programme credibly achieves the timescales envisaged within the TCLP.

5.2 Are the DO sites and proposed uses justified and supported by robust evidence?

- 3.6 Notwithstanding that DOS1 is allocated under Policy TC18 to deliver retail development at this location, the proposed uses are justified and supported by the NPPF. The NPPF is

the primary policy document which informs the Local Plan process, which has informed one of the key objectives, which seeks to achieve vitality and viability for Town Centres. DOS1 is situated within a Primary Shopping Frontage where Town Centre uses (which include those identified in Policy TC18) are considered acceptable.

- 3.7 As identified under Matter 4.1, Policy TC18 and DOS1 are in conformity with the Core Strategy Local Plan, which designates the site as a Major Retail Development Opportunity and identifies Town Centre Regeneration as a Key Spatial Objective. The Core Strategy was informed by the Eastbourne Shopping Assessment Volume 1 (May 2010). In Paragraph 7.4 of this document it identifies that there is considerable quantitative need, particularly for comparison goods floorspace over the LDF plan period as a whole. The potential scale of floorspace requirement in Eastbourne Town Centre remains consistent with the research undertaken by the Regional Assembly's Town Centres and Retail Task Group "Priorities for Retail Development (November 2004)" as part of the formulation of the South East Plan. On this basis, Policy TC18 and DOS1 are justified and supported by a robust evidence base.
- 3.8 In addition to the work which informed the Core Strategy/TCLP, the resolution to grant planning permission for the extension to the Arndale Centre has effectively assessed the evidence to support TC18 in detail. As part of the planning application a number of documents were submitted in relation to the principle of development at this location. These included a Design and Access Statement; Planning and Retail Statement; Transport Statement; Heritage Statement; Flood Risk Assessment and Daylight and Sunlight Assessment. The suite of information submitted as part of the planning application clearly demonstrates that such a development, as promoted by Policy TC18, is acceptable from a technical planning perspective. The planning application tests and supports Policy TC18 and therefore the policy is self-evidently considered to be justified and supported by robust evidence.

5.3 Are the DO sites Deliverable? Are tables 1 and 2 (Programme and Delivery Framework) underpinned by project plans for each of the DO sites?

- 3.9 The resolution to grant planning permission has demonstrated that the site is acceptable for the development proposed and will allow the delivery of the site to come forward. During discussions with the Council as part of the planning application process it has always been PRLP's aspiration to meet the timescales for development of the site as set out in Table 1. These timescales have informed the basis for the planning application and were set out in the Planning and Retail Statement as part of the retail impact assessment.
- 3.10 PRLP are currently working up the detailed design for the proposed scheme. The current programme will seek to discharge all the pre-commencement planning conditions by the end of the year. Following on from that a CPO process may well need to be undertaken with a potential for a Public Inquiry. Following design solution and procurement processes, a start on site is currently anticipated for summer/autumn 2014 with the final tenant fit out being completed in early 2017. This is the current project plan which is being worked to by PRLP and clearly demonstrates that the site is deliverable within the programme and delivery framework as set out in Table 1 and 2 of the TCLP.

3.11 Whilst there is always elements of uncertainty with large scale development processes such as that proposed at DOS1, it is clear that the site is deliverable in the Short Term (i.e. up to 2017). The funding sources are in place without any requirement from external contributors and figures have been agreed for developer contributions to public realm and public transport infrastructure improvements. In terms of the Land Assembly, this process has been factored into the programme and project plan. It is not anticipated that issues of land ownership will impact on the delivery of the scheme as a worst case scenario. On this basis, DOS1 is deliverable.

5.4 Evidence is needed to address the following questions:

1. Has masterplanning commenced for work shown in Table 1 as taking place in the first phase of the plan?

3.12 A detailed planning permission has been tested through the development control process. As part of this application detailed discussions were had with the local Design Review Panel as well as Council Officers in relation to the design and layout of the scheme. The design went through an iterative process and was tested against emerging and existing planning policy. Therefore the scheme is in place ready to be implemented in the first phase of the plan.

2. To what extent has infrastructure provision for each of the DO sites been explored?

3.13 As part of the resolution to grant planning permission for the Arndale Centre scheme a financial contribution, towards the implementation of a Car Park Guidance System and Terminus Road Improvements, was required. This would assist in the delivery of the associated infrastructure requirements likely to be impacted by the development. The Section 106 legal agreement is close to being engrossed and therefore the proposed contribution to these infrastructure elements is considered adequate by Eastbourne Borough Council and East Sussex County Council (the Highways Authority).

3.14 In addition, the planning application also provides additional town centre car parking on top of the existing multi-storey car park within Eastbourne.

3.15 On the basis of the above, the infrastructure provision has been explored and agreed for DOS1, as part of the planning application to extend the Arndale Shopping Centre.

3. Has this been taken into account in the timescales/programmes in Table 1?

3.16 The programme takes into account the delivery of the additional multi storey car park levels.

3.17 There have been numerous discussions between the County Council and PRLP in relation to the concurrent implementation of the Terminus Road works and the Arndale Centre extension. It should be noted however that the delivery of the Arndale Centre extension can be facilitated prior to, or indeed after, the completion of the Terminus Road

improvement works if necessary. It is the current intention of the County Council to progress with the public realm works to be completed before the opening of the first retail units at the Arndale Centre extension (see Matter 7).

4. What evidence has been used to justify the phasing assumptions for the DO sites?

3.18 At the outset of the submission of the planning application for the Arndale Centre extension PRLP have stated their intention to develop the site following the receipt of planning permission

3.19 This is still the position of PRLP and the current programme seeks to develop the extension by early 2017. It should also be noted that the permission is subject to a 5 year time period therefore there is a significant time constraint for delivery to come forward within the short term. As detailed under Matter 5.3 the funding is in place for the development to come forward in the short term and this is the intention of PRLP.

5. Does the programme and delivery framework take account of timing needed for masterplanning and land assembly?

3.20 The masterplanning for the site is considered within the programme as per the information provided in relation to point 1 under Matter 5.4.

3.21 The programme takes into account the potential land assembly issues. Eastbourne Borough Council has a Council Resolution which grants authority to use Compulsory Purchase Order powers in order to assist the delivery of Arndale Centre extension if necessary.

3.22 On this basis, the programme and delivery framework to take account of the timing needed for the issues of masterplanning and land assembly.

6. Has lead-in work for DO sites 1, 2 and 5 commenced?

3.23 The resolution to grant planning permission for the Arndale Centre extension with the imminent engrossment of the Section 106 Legal Agreement demonstrates that a significant amount of lead-in work has been undertaken for DOS1.

7. What evidence is there to demonstrate that the physical / economic / transportation / environmental impacts of overlapping development on DO sites? (for example DO sites 1, 2, 5 are shown as being implemented concurrently)

3.24 The DOS1 resolution to grant did not assess DOS2 and DOS5. They were not commitments and there was no planning permission on either site and neither site benefited from an adopted site allocation.

3.25 As part of the planning application a number of technical documents were submitted, specifically in relation to Transport, Design and Environmental Impacts. These

documents assessed the proposed development site and were tested against emerging and current planning policy as well as scrutiny from the Local Authority Officers.

- 3.26 DOS1 and DOS5 both have planning permission and are more advanced than DOS2. The permission granted for DOS5 is for a hotel permission is outside from the Primary Shopping Frontages of the Town Centre. Therefore in terms of physical proximity and competing uses, there is unlikely to be any impact from the overlapping or parallel development of these two sites on a physical, economic, transport or environmental basis.
- 3.27 In relation to DOS2, it is unclear as to whether or not this site is deliverable within the short term and it is actually indicated at paragraph 5.27 that this site is likely to come forward as part of the medium term phase. This is considered appropriate given that there are no current proposals to bring this site forward and any schemes which are put forward would need to consider DOS1 and DOS5 as commitments in any event.

8. Does the programme and framework in Tables 1 and 2 allow flexibility to all for the slippage of each site?

- 3.28 As set out under Matter 5.3, there is always a risk of slippage in large scale town centre projects such as those proposed. However, it is the intention of PRLP to deliver this site as early as possible within the short term period upto 2017.
- 3.29 The permission when issued will have a 5 year time limit for implementation therefore at the very latest the scheme would fall within the medium term timescale, although this is not envisaged by PRLP and is not being planned for.

4 Matter 6

Development Opportunity Sites – Site Specific Matters

6.1 Policy TC18: DO 1- Does the Policy provide a clear and consistent steer regarding mix of uses?

- 4.1 As set out in Matter 4.2 the policy gives a clear and consistent clarification in terms of the uses expected to come forward within DOS1 under Policy TC18. The planning application delivers this preferred use by providing a predominantly A1 retail scheme with scope for other town centre uses such as restaurants and cafes at ground floor.
- 4.2 Whilst there are alternative acceptable uses listed within the policy, the testing of the scheme through the planning application process did not result in a development that would be able to accommodate other acceptable uses by virtue of various physical and design constraints. These included the listed train station building to the west, daylight and sunlight issues with additional height and the retail operator requirements to deliver the enabling retail use at this location.
- 4.3 In any event, a key issue for the scheme was to claw back leaked retail expenditure from other centres such as Brighton and Tunbridge Wells. On this basis, the critical mass of the retail offer was one of the key issues which underpinned the benefits of the scheme, the amount of retail uses therefore could not be diluted in lieu of other acceptable but additional uses.

6.2 Policy TC18: DO 1

1. How much of the site is covered by the planning permission which has been granted for the Arndale Centre extension?

- 4.4 The DOS 1 is covered by the retail element of the Arndale Centre extension permission as identified in **Appendix 1**.

2. How much remains?

- 4.5 None.

3. What are the proposals for the remainder of the DO?

- 4.6 See point 2 of Matter 6.2, this is not applicable.

4. Is the delivery of this DO site 2016, as the programme indicates, achievable?

- 4.7 As already noted within Matter 5.1 the delivery of the DOS1 is identified in the Short Term. It should be noted that the short term encompasses at time period of 2012-2017.

- 4.8 As already set out under Matter 5.3 PRLP are working towards this short term programme of delivery by 2017 and it is achievable. Notwithstanding the fact that the development can be achieved within this timeframe, DOS1 represents a key site which will underpin a number of Key Spatial Objectives within the Core Strategy and the TCLP. Given the importance of the scheme and the complexity of large town centre schemes, there should be no time pressure for its delivery and it should not be knocked out as a key driver for regeneration by virtue of timescales.

6.3 Policy TC18: DO 1

1. What progress has been made on additional land and capacity and network modelling referred to in paragraph 5.22?

- 4.9 None has been undertaken to our knowledge.

2. Does the plan take account of implications for DO 1 to progress with or without the additional land?

- 4.10 The two pieces of land are mutually exclusive. The Arndale Centre extension scheme addresses Ashford Road and it is treated on it's own merits and separate from the additional land to the west of Ashford Road.

3. What are the implications for the quantum of development with/without the additional land

- 4.11 This scenario has never been investigated as the scheme to come forward relates solely to DOS1 which benefits from the resolution to grant planning permission. The additional land is not a commitment, is not linked physically to DOS1 and in addition there is a Listed Building between the two sites which will need to be treated sensitively.

5 Matter 7

Public Realm Projects / Initiatives

7.1 Have the public realm projects listed in Policies TC2 and TC13 been costed?

- 5.1 As part of the planning application a contribution to the Terminus Road Improvement Works was required to be provided. This committed PRLP to provide a contribution based on an overall cost of the works estimated by the County Council. Therefore the Terminus Road Corridor works as set out in Policies TC2 and TC13 have been costed and a scheme has been worked up for their implementation.

7.3 Policy TC2: Are the projects listed here deliverable? They are shown on table 1 as 'aspirational' and as being delivered in the last year of the plan period. Table 2 shows some as being delivered in the short/medium term. Is there any evidence that these projects will be delivered at all?

- 5.2 The County Council is currently working in conjunction with PRLP to progress the detailed design of the Terminus Road corridor public realm works. It is the intention of the County Council to progress with the works as early as possible meaning that this project is expected to come forward within the short term in parallel with the Arndale Centre extension. The scheme proposals are likely to go out to public consultation during the summer/autumn of this year.
- 5.3 The works are to be part funded by the County Council, Eastbourne Borough Council and by contributions from PRLP agreed as part of the S106 Legal Agreement which will be attached to the Arndale Centre extension permission. The detailed design is being progressed with significant input from the County and Borough Council. When considered in line with the fact that the funding is in place, this forms substantive evidence that the project will be delivered, otherwise the relevant local authorities would be unlikely to devote any resource to it.

7.4 Policy TC13: Table 2 contains some useful information which links projects to DO sites. Does the delivery of the public realm projects align with the development of the DO sites?

- 5.4 As stated under Matter 7.3, PRLP are working in conjunction with the County Council and Borough Council to work up a detailed design for Terminus Road corridor public realm improvements. As part of the resolution to grant it has been agreed that a S106 obligation is required to contribute to these works.
- 5.5 Given the joint working between the parties on the public realm scheme and the fact both PRLP and the County Council wish to carry out the works within the Short Term period, it is more than likely that the public realm works would be carried out in parallel with the Arndale Centre extension. That said, implementing the two schemes in conjunction is not

a prerequisite for either scheme coming forward. Both the schemes can be delivered in their own right should circumstances drastically alter.

- 5.6 It is clear therefore that all parties (Eastbourne Borough Council, East Sussex County Council and PRLP) are working towards a scenario in which the public realm works and key regeneration project are delivered in tandem, however there is scope within the proposals to progress with both sites unilaterally should circumstances significantly change.

6 Matter 8

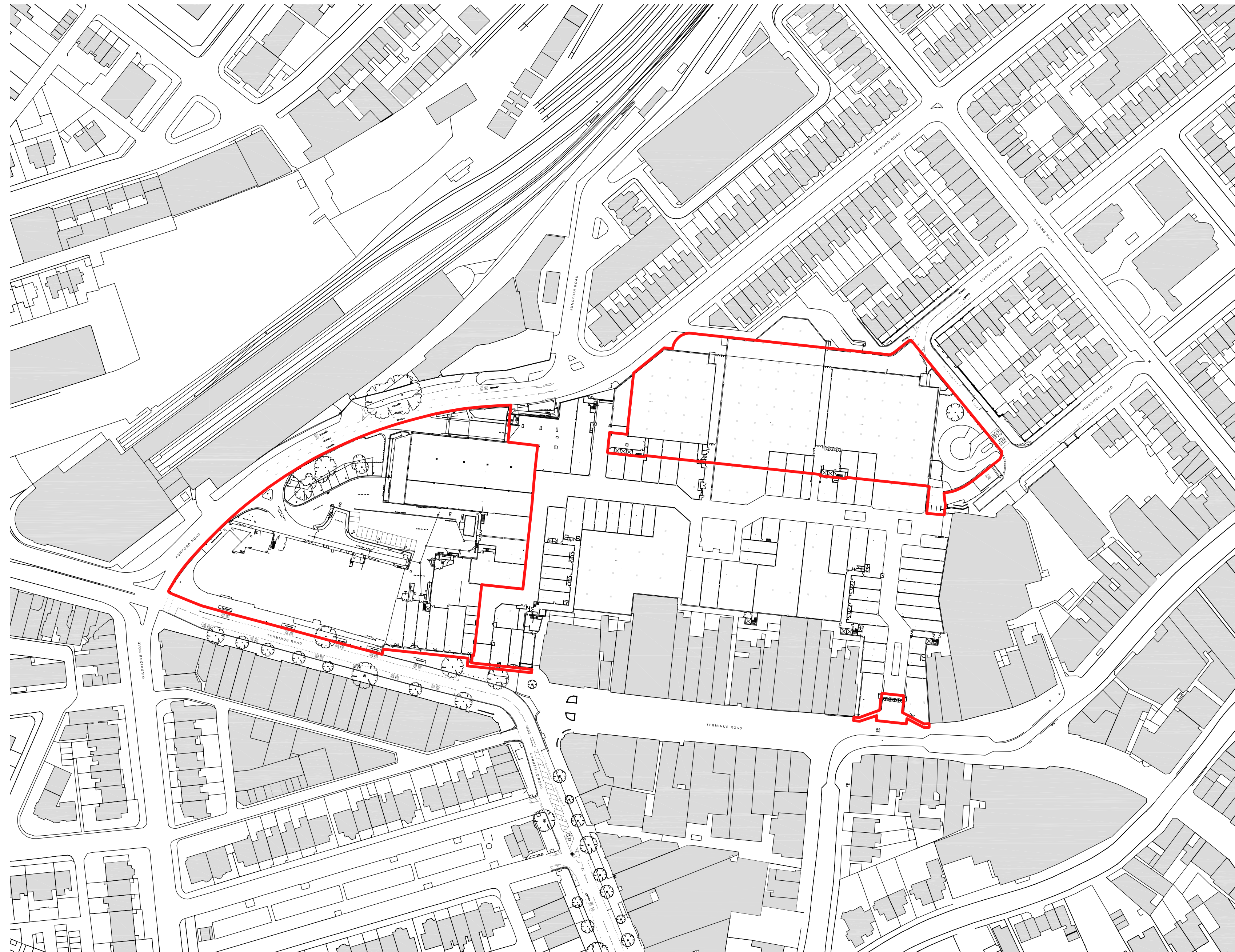
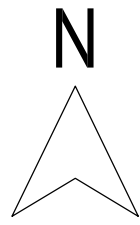
Management / Framework Policies

8.2 Policy TC4 – Is the restriction of A2, A3, A4 uses in the Primary Retail Area justified?

- 6.1 The Policy identifies the primary retail frontages, which will be the principal retail areas which are to be maintained and enhanced. Retail is identified as being the predominant land use within these areas. Use Classes A2, A3 and A4 are considered 'non-retail' for the purposes of this policy. As a result, Policy TC4 seeks to restrict Use Classes A2, A3 and A4 within the Primary Retail Areas (PRAs). However it is established in paragraph 4.12 that such uses would be permitted provided they contribute to the vitality and viability of the town centre and encourage activity at different times of the day and add to the overall variety of the centre.
- 6.2 It is clear that such uses, including cafes, restaurants, drinking establishments and banks, all contribute towards the vitality and viability of any town centre and encourage activity throughout the day and in the evening. This is supported by recent Portas Review which sets out a clear vision that town centres need to be places that are not only destinations for shopping, but all for socialising, culture, health, wellbeing, creativity and learning. As a result, one of the key recommendations of the Portas Review, which was accepted by Government, was:
- "12. Address the restrictive aspects of the 'Use Class' system to make it easier to change the uses of key properties on the high street" (Portas, 2012).*
- 6.3 Given that A2-A4 uses contribute to the main Town Centre Objectives 1-8 as set out at Section 2.2 of the TCLP, it is not clear as to the reasoning behind restricting such uses within the PRA. On this basis, it is not clear as to the justification for this policy.
- 6.4 Furthermore, this approach is not supported by the NPPF as Paragraph 24 states that planning authorities should:
- "...require applications for main town centre uses to be located in town centres..."*
- 6.5 The key term 'Main Town Centre Uses' is defined in Annex 2 of the NPPF and includes reference to A2-A4 uses:
- Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment facilities the more intensive sport and recreation uses (including cinemas, restaurants, drive through restaurants, bars and pubs, night-clubs, casinos, health and fitness centres, indoor bowling centre, and bingo halls).*
- 6.6 Whilst it is appreciated that any proposed development or use within town centres should be refused should it not contribute to the vitality and viability, this should not extend to a policy which effectively restricts main town centres uses to be provided within identified town centre locations (PRA).

- 6.7 All Development Plan Documents need to be in accordance with the NPPF as part of the definition of Soundness which requires Local Plans to be positively prepared, justified, effective and consistent with national policy.
- 6.8 The restriction of town centre uses within a defined town centre (PRA) boundary is in conflict and not consistent with paragraph 24 of the NPPF. Policy TC4 will impact on the delivery of TCLP Policy TC7 'Supporting the Evening and Night-time Economy' and the Town Centre Objectives 1-8. These objectives/policies seek to support the economic potential, competitiveness, diversity and promotion of evening and night time economy to establish Eastbourne as a broad and inclusive destination and to contribute to the vitality and viability of ETC. There is no justification that a restrictive policy as proposed would help to achieve these objectives.
- 6.9 On this basis that Policy TC4 is not consistent with National Policy and is not justified, it cannot be found to be sound.

Appendix 1 – Plan of Application Site



Legend



Revisions	First Issue	Drawn	Checked	Date
P1	JP	SB	18.02.13	

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The Arndale Extension
Eastbourne
Performance Retail Limited Partnership

Plan of Application Site

Drawn	Checked	Date	Scale @ A1	CAD Files
JP	SB	18.02.13	1:250	
Project	Series	Ext	Drawing No.	Rev
E1008	E 0	202	P1	

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