



Office of the
Deputy Prime Minister

Creating sustainable communities

JVH Town Planning Consultants Ltd
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Marchington
Staffs
ST14 8LN

The Development Planning
Partnership
21 The Crescent
Bedford
MK40 2RT

Dear Sirs,

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78

APPEAL A: APP/Z3445/A/04/1150000

**CARDINAL POINT, LAND AT THE JUNCTION OF VENTURA PARK ROAD,
TAMWORTH, B78 3HG**

**APPEAL BY REDBOURN GROUP LTD AGAINST THE DECISION OF TAMWORTH
BOROUGH COUNCIL TO REFUSE TO GRANT OUTLINE PLANNING PERMISSION
FOR A MIXED USE DEVELOPMENT, COMPRISING CLASS A1 BULKY GOODS NON-
FOOD RETAIL WAREHOUSING AND ASSOCIATED GARDEN CENTRE AND
BUILDERS YARD, CLASS B1 OFFICE, CLASS B2 GENERAL INDUSTRIAL AND
CLASS B8 DISTRIBUTION USES, TOGETHER WITH NEW ACCESS
ARRANGEMENTS (PLANNING APPLICATION NO: 0345/2002).**

APPEAL B: APP/Z3445/A/04/1153751

**LAND ADJACENT TO TAMWORTH HERALD CO LTD, VENTURA PARK ROAD,
TAMWORTH, B78 3HH**

**APPEAL BY AUCOTT HOLDINGS LTD AGAINST THE DECISION OF TAMWORTH
BOROUGH COUNCIL TO REFUSE TO GRANT OUTLINE PLANNING PERMISSION
FOR A DIY/BULKY GOODS STORE (PLANNING APPLICATION NO: 0070/2002)**

1. I am directed by the First Secretary of State to inform you that consideration has been given to the report of the Inspector, JS Nixon BSc(Hons) DipTE CEng MICE MRTPI MIHT, who held a public inquiry on 19-22, 26-29 April and 3-5 and 9 May 2005 into your clients' appeals against the refusal of the above applications for outline planning permission at Cardinal Point, land at the junction of Ventura Park Road, Tamworth and land adjacent to Tamworth Herald Co Ltd, Ventura Park Road, Tamworth.

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Our Ref: APP/Z3445/A/04/1150000
APP/Z3445/A/04/1153751

31 March 2006

Inspector's Recommendation

2. The Inspector, whose conclusions are reproduced as an annex to this letter, recommended that both appeals be allowed and outline planning permission granted, subject to conditions. The Secretary of State referred back to parties for more information on 1 December 2005. The text of his letter is attached at Annex C to this decision, and a schedule of correspondence received in relation to that letter is attached at Annex D. Copies of this correspondence are not attached to this letter but can be made available upon written request to the above address. Having considered the responses to that request, and for the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and allows the appeals. All references to paragraph numbers, unless otherwise stated, are to the Inspector's report (IR).

Procedural Matters

3. The Secretary of State notes that the Inspector was assisted by Robin Muers BA Solicitor LARTPI, the Local Plan Inspector appointed to hear objections lodged against the Revised Deposit Draft Tamworth Borough Local Plan. He considers matters relating to the emerging plan at paragraphs 7, 14, 21 and 22 of this letter.

Environmental Statement

4. The Secretary of State agrees with the Inspector for the reasons given at IR4 and IR6 that an Environmental Impact Assessment and an Environmental Statement were not required for either the Redbourn or Aucott proposals.

Policy Considerations

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case, the Development Plan comprises the Tamworth Local Plan (adopted January 1995), the Staffordshire and Stoke on Trent Structure Plan (for the period 1996-2011), and Regional Planning Guidance for the West Midlands (RPG11, now the RSS, June 2004).
7. The public inquiry into the Revised Draft Deposit Tamworth Local Plan closed on 17 May 2005. The Local Plan Inspector provided his report to the Council in September 2005. That report recommended that the Appeal B (Aucott) site be allocated for retail development for a DIY / Bulky goods store, and was one of the matters addressed by the Secretary of State in his reference back letter of 1 December 2005. On 7 February 2006, the Council resolved to reject the Inspector's recommendation for this site. The Council's proposed modifications are now subject to public consultation. The Secretary of State affords significant weight to the emerging local plan, but given the continuing uncertainty surrounding the allocation for this site, he does not accord it full weight. He considers this matter further at paragraphs 21 to 22 of this letter. Draft Supplementary Planning Guidance (SPG), "Redevelopment of Gungate Precinct and Adjacent Car Park" has been out for public

consultation as part of the emerging Local Plan. It was adopted as Interim Planning Guidance by Tamworth Borough Council on 15 August 2005. The Secretary of State consequently affords it some weight.

8. Material considerations which the Secretary of State has taken into account include Planning Policy Statement 1 *Delivering Sustainable Development* (PPS1), Planning Policy Statement 6 *Planning for Town Centres* (PPS6), and Planning Policy Guidance note 13 *Transport* (PPG13).
9. The Secretary of State has also taken into account Planning Policy Guidance note 4 *Industrial and Commercial Development and Small Firms* (PPG4) as a material consideration. He notes that this was not raised during the Inquiry, but does not consider that it raises any issues that would either affect his decision or require him to refer back to the parties for further representations prior to reaching his decision on the application.
10. The Secretary of State notes that the Statement of Common Ground was produced and agreed prior to the publication of Planning Policy Statement 6 *Planning for Town Centres* (PPS6). He has considered the proposals against the policies in PPS6. In his letter of 1 December 2005, the Secretary of State referred back to parties for more information on certain PPS6 matters, and has taken into account the material received in response to that letter in reaching his decision in this case.

Main Issues and Consideration

11. The Secretary of State considers the main issues in deciding these proposals are:

- The development plan and emerging land use policies
- The need for additional retail floorspace and impact
- The sequential approach
- Employment land
- The proposed office development (Appeal A)
- Accessibility, traffic and transport matters

12. The Secretary of State notes that the planning application for Appeal A refers to bulky goods non-food retail warehousing and Appeal B to a DIY/bulky goods store, and that the Inspector uses these descriptions in assessing the proposals. The Secretary of State does not consider that "bulky goods" is a category that can be the basis of a retail need assessment in its own right. He takes the view that any assessment of need should relate to classes of goods, in accordance with PPS6. The Secretary of State, in this case, has considered the further evidence the applicants have presented on the need for the type of comparison goods they propose to sell (DIY goods and Furniture).

The Development Plan and Emerging Land Use Policies

13. At the time of the inquiry, the Aucott site was allocated in both the existing and the emerging Local Plans for employment purposes, but an objection had been lodged to its designation in the emerging Local Plan (IR241). The Redbourn site was not

allocated for built development in the extant Local Plan (IR241), and included employment development, in accordance with emerging Local Plan policy for part of the appeal site. The retail units were proposed on land that was unallocated at the time of the inquiry, due to an employment permission having expired in January 2005.

14. Subsequent to the inquiry, the Local Plan Inspector recommended that the Appeal B (Aucott) site be allocated for retail development for a DIY/bulky goods store. As mentioned in paragraph 7 of this letter, the Council have resolved to reject that recommendation. This matter is considered further at paragraphs 21 to 22 below.

The Need for Additional Retail Floorspace and Impact on Tamworth Town Centre

15. The Secretary of State has assessed the proposals against the policy in PPS6. In his letter of 1 December, he sought further information on the need assessments provided at the inquiry, requesting that assessments be provided for the specific classes of goods proposed to be sold from the appeal sites, and sought further information as to the reliance he could place on levels of overtrading identified in Tamworth. He has carefully considered the material provided in response to that letter.
16. The Secretary of State notes that the assessments provided have been updated to reflect actual expenditure levels in 2004, and supported by new forecasts, again reflecting the most recent expenditure data available. He also notes that they are supported by a telephone survey undertaken in Tamworth in 2004. As he is now assured that the assessments are based on up-to-date evidence of expenditure, the Secretary of State has given weight to the allowance for overtrading in the retail assessments. These updated forecasts, based on DIY and Furniture expenditure, show a need for additional floorspace for these goods by 2009 that would not be met by existing commitments, or the potential for additional DIY floorspace in a redeveloped Gungate scheme. He notes that there would still be significant expenditure capacity even when allowing for the development proposed on both appeal sites. The Secretary of State therefore concludes that quantitative need for additional DIY and Furniture goods retailing in Tamworth has been demonstrated.
17. With regard to qualitative need, the Secretary of State agrees with the Inspector, for the reasons given in IR 262-271, that there is some qualitative justification for the appeal proposals in general terms, primarily as a consequence of the anticipated overtrading, and a specific benefit by improving the DIY offer in Tamworth.
18. For the reasons given in IR275-276, the Secretary of State agrees with the Inspector that the proposed DIY floorspace would draw predominantly from other out of centre operations and only marginally from the DIY offer in Tamworth Town Centre, and that the improved MFI offer would not impact materially on the Town Centre. The Secretary of State also agrees with the Inspector, for the reasons given in IR 278-281, that allowing these appeals would not adversely impact on the development of the Gungate site.

The Sequential Approach

19. All parties at the inquiry agreed that the appeals sites are out of centre in PPS6 terms (IR 288). The Secretary of State agrees with the Inspector in IR 270, that the individual retail elements of these proposals are not capable of meaningful disaggregation, although he does not accept the terminology of “true bulky goods offers” used by the Inspector. For the reasons given in IR288-307, the Secretary of State agrees with the Inspector that the sequential examination undertaken at his request produced no proposals that are suitable and viable and in a position to be developed in the foreseeable future to accommodate these proposals, even if they could be disaggregated. The Secretary of State also agrees with the Inspector that, although there might be an option to house an MFI operation in the town centre in the longer term, their undertaking to forfeit the Tame Valley site offers sufficient benefits against pursuing such a line in this instance (IR308).

Employment Land

20. The Secretary of State agrees with the Inspector’s findings at the time of the inquiry, set out in IR 310-323, that a figure approaching the 120 ha Structure Plan (SP) requirement could be identified with a good proportion of readily available land of a range and quality that matched the emerging Local Plan (LP) aspirations. The Inspector concluded that the need for retail floorspace and the lack of sequentially preferable sites justified the release of Appeal site B, and that part of Appeal site A could be left unallocated in the LP when adopted. The Inspector also found that the lack of interest in the appeal sites for employment purposes, the access/traffic problems and the cost of infrastructure necessary to open up the sites were compelling factors leading to this conclusion. At the time of the inquiry, there was no objection to the proposals from either the borough or county councils based on the loss of employment land.

21. The Secretary of State’s letter of 1 December invited parties to comment on the recommendation of the Local Plan Inspector that the Appeal B (Aucott) site be allocated for retail development. Subsequently, as mentioned in paragraph 7 of this letter, Tamworth Borough Council have resolved to reject the Inspector’s recommendation for this site. The Secretary of State has given careful consideration to Tamworth’s representations on this issue. The Borough Council consider that the appeal sites are good quality employment sites and should be retained as such, that future employment need will be addressed via the Local Development Framework, informed by the Regional Spatial Strategy revision, and that this method will ensure that both employment and retail needs for the future are properly assessed and a balanced approach taken in making site allocations.

22. Against this, the Secretary of State has borne in mind the Local Plan Inspector’s finding that there is a more than ample supply of employment land for the remainder of the plan period, even were some half of the land identified not found to be immediately available, or unsuitable for some reason. Given the level of quantitative need identified in these appeals, and the lack of a sequentially preferable site, together with the finding of the appeals inquiry Inspector that within the readily available employment land portfolio, there is a range and quality that matches the emerging LP

aspirations (IR 324), the Secretary of State concludes that there is no justification in rejecting these appeals based on the loss of employment land.

Proposed office development (Appeal A)

23. In his letter of 1 December, the Secretary of State sought further information relating to the proposed office development on the Appeal A (Redbourn) site. As the office element of that appeal had not been assessed against PPS6, he wished to be satisfied that the office development was intended to be ancillary to the B2 and B8 uses. He has seen that the appellants are willing to accept a condition limiting the proposed office development to being ancillary to the proposed industrial / warehousing site, and has imposed a condition to that effect. The Secretary of State has seen the representations of Tamworth Borough Council that they would wish to see speculative office development on the site. However, as stated previously, no assessment was made by any party to the inquiry in relation to PPS6 and the proposed office development, and the application was submitted in outline, with means of access only to be determined. He therefore sees no reason not to impose the proposed condition, restricting the office development to that being ancillary to the proposed industrial / warehousing uses.

Accessibility, traffic and transport matters

24. For the reasons given in IR 330-331, the Secretary of State agrees with the Inspector that the integrity of the A5 strategic route could be maintained, as could the A51 link between the A5 and Tamworth Town Centre. He further agrees, for the reasons given in IR332-335, that the proposed bus service would be a benefit to the area in general and a feature that has the potential to enhance the Town Centre offer by improving links between the appeal sites and the centre. He further agrees with the Inspector in IR344 that these improvements would provide the foundations for further betterment of modal choice. Despite these improvements, the Secretary of State agrees with the Inspector for the reasons given in IR336, that it is doubtful whether walking between sites within the Retail Parks would prove much more attractive than today.

25. With regard to the Travel Plans, the Secretary of State agrees with the Inspector, for the reasons given in IR338-339, that the current modal split is unlikely to change appreciably as a consequence of the Travel Plans, but that given the level of the retail need identified, the shortcomings of the Travel plans do not weigh sufficiently against the appeals to justify their dismissal. The Secretary of State agrees with the Inspector's assessment of the levels of parking proposed, and the situation regarding on-street parking at present. For the reasons given in IR340, he agrees with the Inspector that a Grampian condition requiring waiting restrictions prior to opening is not necessary in relation to these appeals. The Secretary of State considers, for the reasons given in IR141, that increased parking on the appeal sites to support a Park and Ride scheme would not be appropriate.

Other Relevant Topics

26. For the reasons given in IR 352-354, the Secretary of State agrees with the Inspector that issues relating to flood risk, sustainable drainage, land contamination, trees and ecology can all be dealt with satisfactorily by condition and/or agreement. He also

agrees with the Inspector's conclusion in relation to improvement to the Fazeley Canal side towpath, and the requirement for the appointment and financing of a Town Centre manager. With regard to the Inspector's comments in IR 355, as the Local Plan Inspector's report was released prior to the Secretary of State's decision on these appeals, the comments in this paragraph are not applicable.

Obligations and Conditions

27. The Secretary of State agrees with the Inspector, for the reasons given in IR338-339, that the obligations proposed for the appeal schemes, as amended, are necessary and relevant, and comply with Circular 05/05 *Planning Obligations*. The Secretary of State has made some minor amendments to the conditions proposed by the Inspector, removing the references to "bulky goods", adding a condition restricting the office space to that which is ancillary to the B2 and B8 uses, and adding a condition preventing the subdivision of the retail units. As amended, he considers that the conditions comply with Circular 11/95 *The Use of Conditions in Planning Permissions*.

Conclusions

Appeal A (Redbourn)

28. The Secretary of State concludes that there is a quantitative and qualitative need for the proposals, and that there is no sequentially preferable site which is suitable, available and viable. Those elements of the proposal which relate to employment uses are in accordance with the development plan, taking into account the restriction of the office element of the scheme. The remainder of the appeal site is unallocated land. The undertaking providing for the closure of an existing out of centre retail permission also weighs in favour of the scheme. The Wickes store would increase the range of goods available in the borough. There would be no material loss of employment land from the level required by the SP, and those sites that are readily available provide a portfolio that meets the aims of the emerging LP in terms of quality, range and choice.

Appeal B (Aucott)

29. The proposal is not in accordance with the emerging local plan as currently out to consultation. The Secretary of State concludes that there is a quantitative and qualitative need for the proposals, and that there is no sequentially preferable site which is suitable, available and viable. There would be no material loss of employment land from the level required by the SP, and those sites that are readily available provide a portfolio that meets the aims of the emerging LP in terms of quality, range and choice. The proposal would improve the range of the DIY retail offer in Tamworth. Overall, the Secretary of State concludes that those elements weighing in favour of the appeal scheme justify determining this appeal other than in accordance with the development plan.

Formal Decision

Appeal A

30. For the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby allows Appeal A for a mixed use development, comprising class A1 non-food retail warehousing and associated garden centre and builders yard, class B1 office, class B2 general industrial and class B8 distribution uses, together with new access arrangements, thereby granting planning permission, subject to the conditions attached at Annex A to this letter.

Appeal B

31. For the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby allows Appeal B for A DIY store, thereby granting planning permission, subject to the conditions attached at Annex B to this letter.

Right to Challenge the Decision

32. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

33. A copy of this letter has been sent to Tamworth Borough Council and to all interested parties.

Yours faithfully,

Andrew Lynch
Authorised by the First Secretary of State to sign in that behalf

Conditions – Appeal A (Redbourn)

1. Before the commencement of the development hereby approved, details of the siting, design and external appearance of the building(s) and the landscaping of the site (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
2. Application for the approval of reserved matters shall be made to the Local Planning Authority not later than the expiration of 3-years beginning with the date of this permission and the development shall be begun not later than whichever is the later of the following dates:-
 - a) the expiration of 5-years from the date of this permission, or
 - b) the expiration of 2-years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last matter to be approved;
3. Save as stated in condition 13 the plan submitted with the application Reference No. 2361/SK03B is for illustrative purposes only and shall not prejudice the layout of the development on the site when considering the reserved matters application.
4. Details of the proposed means of disposal of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be brought into use until such details are implemented. Insofar as the disposal of surface water is concerned, the potential for drainage of all or part of the site by means of a sustainable drainage system (SuDS) should be assessed in accordance with the principle of SuDS, as set out in PPG25, and a scheme based on the outcome of that assessment has been submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be implemented in full on site before any building is first occupied and shall be retained in full working order at all times thereafter, unless otherwise agreed in writing by the Local planning Authority.
5. No development shall take place on the site until a scheme to deal with land contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a comprehensive investigation and assessment to identify the extent of any contamination, the measures to be taken to avoid risk to the environment and adjacent uses when the site is being developed and identification of satisfactory levels of contamination at all stages of construction, subsequent first occupation and final completion of the development. Development shall not progress until the approved measures at each stage have been implemented in accordance with the approved scheme and stabilised levels of residual contamination, commensurate with the use of the site have been achieved.

6. Prior to the commencement of the development hereby approved, mitigation measures to control flooding on the site, including details of measures to attenuate surface water run off and finished floor levels to prevent inundation, shall be submitted to and approved in writing by the Local Planning Authority and, unless otherwise agreed by the Local Planning Authority in writing, the approved details shall be implemented before any part of the development is brought into use and retained thereafter in fully functioning order.
7. Detailed plans to be submitted in accordance with condition 1 shall include a landscape scheme, such scheme to provide details of the species, siting, planting distances, measures for the protection of existing trees during development and a programme of planting and maintenance to establish the landscaping. Any plants that die, are removed or are destroyed within 5-years of planting shall be replaced in a manner to be agreed in writing with the Local Planning Authority. Particular attention shall be paid to the Ventura Park Road, Bonehill Road, and the A5 frontages of the site together with the boundary to the Birmingham and Fazeley Canal.
8. Prior to the commencement of the development hereby permitted detailed plans showing the road network internal to the site, making provision for pedestrians and cyclists and a programme for implementation shall be submitted and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be brought into use until such details are implemented and the works so approved shall be retained thereafter in fully functioning order.
9. No mezzanine floor shall be erected within any building without the prior approval in writing of the Local Planning Authority.
10. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
11. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

- 12.No raw materials, finished or unfinished products or parts, crates, packing cases or waste shall be stacked or stored on site except within buildings or storage areas that have been approved in writing by the Local Planning Authority.
- 13.The location of the retail units on the site shall be generally in accordance with that shown on the illustrative plan referenced 2361/SK03B.
- 14.Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting these Orders with or without modifications) the premises shall not be used for any purpose other than the retail sale of non-food goods, DIY and associated garden products, and uses ancillary to the primary use of the site for A1 retailing, where such ancillary uses may include a store for retail goods, the office, staff restroom, customers' coffee shop, parking and servicing, unless otherwise agreed in writing by the Local Planning Authority;
- 15.The DIY store hereby approved shall not exceed a maximum gross retail floorspace of 5,574 sq m and it shall include an outdoor area of 1,393 sq m gross for the sale of bulk building supplies and an outdoor garden centre of 1,858 sq m gross, unless otherwise agreed in writing by the Local Planning Authority.
- 16.The furniture store hereby approved shall not exceed a maximum gross retail floorspace of 1,858 sq m gross, unless otherwise agreed in writing by the Local Planning Authority.
- 17.No development shall take place until there has been submitted to the Local Planning Authority, and approved in writing, a Traffic Management Plan. The Traffic Management Plan shall identify the routing of all construction traffic, the period of time during which vehicles would be expected to arrive at and depart from the site, the type of vehicles to be used, parking provision for contractors' vehicles and wheel washing facilities. The Traffic Management Plan shall be complied with at all times, unless otherwise agreed in writing by the Local Planning Authority.

(For the purposes of this condition "time" shall include hours of the day, days of the week and months of the year.)
- 18.No development shall take place until there has been submitted to the Local Planning Authority, and approved in writing, full details of the site accesses to Ventura Park Road and Bonehill Road, as shown in outline on drawing number 2361/SK03B, shall be submitted for approval to the Local Planning Authority. The details as approved shall be completed in their entirety prior to the occupation of any building and shall be retained thereafter in fully functioning order unless agreed in writing by the Local Planning Authority.
- 19.The B1 office use approved by this grant of permission shall not be for any purpose other than those ancillary to the B2 General Industrial and B8 Distribution uses.
- 20.There shall be no subdivision into separate retail units of the two retail units hereby permitted.

Conditons – Appeal B (Aucott)

1. Before the commencement of the development hereby approved, details of the siting, design and external appearance of the building(s) and the landscaping of the site (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
2. Application for the approval of reserved matters shall be made to the Local Planning Authority not later than the expiration of 3-years beginning with the date of this permission and the development shall be begun not later than whichever is the later of the following dates:-
 - (a) the expiration of 5-years from the date of this permission, or
 - (b) the expiration of 2-years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last matter to be approved;
3. The plan submitted with the application Reference No. 1574/05 is for illustrative purposes only and shall not prejudice the layout of the development on the site when considering the reserved matters application.
4. Details of the proposed means of disposal of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be brought into use until such details are implemented. Insofar as the disposal of surface water is concerned, the potential for drainage of all or part of the site by means of a sustainable drainage system (SuDS) should be assessed in accordance with the principle of SuDS, as set out in PPG25, and a scheme based on the outcome of that assessment has been submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be implemented in full on site before any building is first occupied and shall be retained in full working order at all times thereafter, unless otherwise agreed in writing by the Local Planning Authority.
5. No development shall take place on the site until a scheme to deal with land contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a comprehensive investigation and assessment to identify the extent of any contamination, the measures to be taken to avoid risk to the environment and adjacent uses when the site is being developed and identification of satisfactory levels of contamination at all stages of construction, subsequent first occupation and final completion of the development. Development shall not progress until the approved measures at each stage have been implemented in accordance with the approved scheme and stabilised levels of residual contamination, commensurate with the use of the site have been achieved.
6. Prior to the commencement of the development hereby permitted, mitigation measures to control flooding on the site, including details of measures to attenuate surface water run off and finished floor levels to prevent inundation, shall be

submitted to and approved in writing by the Local Planning Authority and, unless otherwise agreed by the Local Planning Authority in writing, the approved details shall be implemented before any part of the development is brought into use and the works so approved shall be retained thereafter in fully functioning order.

7. Detailed plans to be submitted in accordance with condition 1 shall include a landscape scheme, such scheme to provide details of species, siting, planting distances, and a programme of planting and maintenance to establish the landscaping. Any plants that die, are removed or are destroyed within 5-years of planting shall be replaced in a manner to be agreed in writing with the Local Planning Authority. Particular attention shall be paid to the Bitterscote Drive, Ventura Park Road and the A5 off-slip frontages of the site.
8. No mezzanine floor shall be erected within any building without the prior approval in writing of the Local Planning Authority.
9. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
10. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected.
11. No raw materials, finished or unfinished products or parts, crates, packing cases or waste shall be stacked or stored on site except within buildings or storage areas that have been approved in writing by the Local Planning Authority.
12. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting these Orders with or without modifications) the premises shall not be used for any purpose other than the retail sale of non-food goods, DIY and associated garden products, and uses ancillary to the primary use of the site for A1 retailing, where such ancillary uses may include a store for retail goods, the office, staff restroom, customers' coffee shop, parking and servicing, unless otherwise agreed in writing by the Local Planning Authority;
13. The DIY store hereby approved shall not exceed a maximum gross floorspace (measured externally) of 5,574m² and an outdoor garden centre of 1,487m² gross unless otherwise agreed in writing by the Local Planning Authority;
14. No development shall take place until there has been submitted to the Local

Planning Authority, and approved, a traffic management plan. The traffic management plan shall identify the routing of all construction traffic, the period of time during which vehicles would be expected to arrive at and depart from the site, the type of vehicles to be used, parking provision for contractors' vehicles and wheel washing facilities. The traffic management plan shall be complied with at all times, unless otherwise agreed in writing by the Local Planning Authority. (For the purposes of this condition "time" shall include hours of the day, days of the week and months of the year.)

15. No development shall take place until there has been submitted to the Local Planning Authority, and approved, full details of the site access to Ventura Park Road, as shown in outline on drawing number 1574/05, shall be submitted for approval to the Local Planning Authority. The details as approved shall be completed in their entirety prior to the occupation of any building and shall be retained thereafter in fully functioning order, unless otherwise agreed in writing by the Local Planning Authority.
16. There shall be no subdivision into separate retail units of the retail unit hereby permitted.

TEXT OF SECRETARY OF STATE'S LETTER OF 1 DECEMBER 2005

Dear Sirs,

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78

**APPEAL A: APP/Z3445/A/04/1150000
CARDINAL POINT, LAND AT THE JUNCTION OF VENTURA PARK ROAD,
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**APPEAL BY AUCOTT HOLDINGS LTD AGAINST THE DECISION OF TAMWORTH
BOROUGH COUNCIL TO REFUSE TO GRANT OUTLINE PLANNING PERMISSION**

1. The First Secretary of State is considering the report of the Inspector, JS Nixon BSc(Hons) DipTE CEng MICE MRTPI MIHT, who held a public inquiry on 19-22 April, 26-29 April, 3-5 May and 9 May 2005 into your clients' appeals against the refusal of applications for outline planning permission at Cardinal Point, land at the junction of Ventura Park Road, Tamworth and land adjacent to Tamworth Herald Co Ltd, Ventura Park Road, Tamworth.
2. The Secretary of State considers that he is not yet in a position to determine the above applications. This is because of issues raised by the publication of the Tamworth Local Plan 2001-2011 Inspector's report, given to Tamworth Borough Council on 31 August 2005, and because he wishes to seek further information in respect of the retail need assessments put forward at the inquiry, and in respect of the proposed office element on the Redbourn site. In view of this the Secretary of State is inviting the applicants and all those who appeared at the inquiry or who made representations to comment on the issues set out below. The Secretary of State will take into account all such comments in coming to his decision on the applications.

Local Plan Inspector's Report

3. In paragraphs 7.1.12 – 7.1.21 of the Tamworth Local Plan 2001-2011 Inspector's report, that Inspector considers the question of whether the Aucott site should be allocated for development for retail purposes. He concludes that:

“Policy TCR2 should be headed ***'Shopping Proposals'***. It should be divided into two sections: A and B. 'A' should relate to Gungate. 'B' should relate to ***'Land adjacent to the Tamworth Herald, Ventura Park Road'***. The policy text following this heading should read: ***'It is proposed that there is retail development (for a DIY/bulky goods store) on***

land adjacent to the Tamworth Herald, at Ventura Park Road, as shown on the Proposals Map.’”

4. As this is a material change from the position when the public inquiry into these appeals was held, and as the weight to be afforded to the emerging plan may alter as it proceeds through the plan process, the Secretary of State wishes to invite views regarding the extent to which this issue alters evidence given by any party to the inquiry on either application, particularly as the changes proposed by the Local Plan Inspector, if accepted, would offer explicit development plan support for only one of the two appeal sites. The Secretary of State also notes the Local Plan Inspector's opinion at paragraph 7.1.15 of his report, that retail development of the Aucott site (even if it were combined with retail development on part of the Cardinal Point site, as proposed in that Section 78 appeal) would have very little impact on the vitality and viability of Tamworth town centre. He also invites views on this statement in the light of the points made about the retail assessments in paragraphs 5 to 7 of this letter. The Tamworth Local Plan 2001-2011 Inspector's report can be found at:

<http://www.tamworth.gov.uk/categoryL.asp?id=5077>

Retail assessments – Quantitative Need

5. The Secretary of State notes that the assessments of retail need provided to the inquiry were based upon the broad category of comparison goods. National policy in PPS6 states that quantitative need assessments should be based upon forecast expenditure for specific classes of goods to be sold, within the broad categories of comparison and convenience goods. Before finalising his consideration of these appeals and in the light of the Tamworth Local Plan Inspector's recommendation on Policy TCR2, the Secretary of State invites parties to submit evidence regarding the quantitative need for the specific classes of goods to be sold from the proposals.
6. The Secretary of State notes that the appellants have placed reliance on an allowance for overtrading to demonstrate quantitative need. PPS6 makes clear that overtrading is a qualitative need consideration. In considering the weight to give to this allowance to demonstrate quantitative need, the Secretary of State has been unable to identify whether this is based on up-to-date indicators of expenditure (see judgment of the Court of Appeal in *First Secretary of State & Anor v Sainsbury's Supermarkets Ltd* [2005, EWCA Civ 520]).
7. The Secretary of State invites parties to comment further on the extent to which he is able to place reliance on the allowance for overtrading as demonstrating quantitative need in the absence of up-to-date indicators of expenditure. He also invites any further comments on the robustness of the allowance which has been made in seeking to demonstrate quantitative need.

Proposed Office Development

8. The Secretary of State seeks further information as to the nature of the proposed office element on the Redbourn appeal site. Although he notes this is an outline application, he wishes to be informed whether the proposed office use would be ancillary to the proposed industrial/warehousing uses, or whether it would comprise a

separate, stand-alone, office development. In responding, the Secretary of State is asking parties to have regard to the policy in PPS6 which makes clear that offices are a main town centre use to which PPS6 applies.

Procedure

9. The Secretary of State wishes to emphasise that representations on the above issues are to enable him to take a fully informed decision since he has not yet determined the applications. This letter should not be read as any indication as to his attitude to the proposals generally one way or the other.
10. Written representations should be sent to the above address and should be received within 36 days of the date of this letter that is, not later than 6 January 2006. The Secretary of State will, as soon as practicable thereafter, circulate these representations for comment, giving a further period within which final comments may be made. The final deadline will be set when the representations are circulated.
11. The Secretary of State does not propose to allow a lengthy series of cross-representations and further comments. Please note, furthermore, that the Secretary of State is inviting representations only on the particular issues set out above, and he does not regard this invitation as an opportunity to address other issues raised during the inquiry. Accordingly, interested parties are asked to restrict their representations to the matters set out above.
12. A copy of this letter is being sent to those persons listed at Annex A.

Yours faithfully

Andrew Lynch
Authorised by the First Secretary of State to sign in that behalf

ANNEX D

Schedule of correspondence received in response to Secretary of State's letter of 1 December 2005.

Respondent	Date
Mr K W Forest	1 January 06
Tamworth Borough Council	19 January 06
JVH Town Planning Consultants	19 January 06
Development Planning Partnership	19 January 06
Mr K W Forest	21 February 06
Tamworth Borough Council	2 March 06
JVH Town Planning Consultants	2 March 06
Development Planning Partnership	2 March 06