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Subject: Response to England & Lyle Statement – Theme 2, Matter 11

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1. This note responds to England & Lyle's (E&L) Statement (EiP Document HD16) submitted to the Examination in Public (EiP) on Tuesday 23 June 2015. E&L address matters raised by Indigo Planning in our representations (submitted as part of the JVH Town Planning representations) to Theme 2, Matter 11.1 and 11.2 (EiP Document HS15).
2. The Indigo Planning Quantitative Assessment of Retail Need (Appendix 9) of JVH Town Planning's representations highlighted flaws and inconsistencies in the Tamworth Town Centre and Retail Study Update (TTCRSU) 2014 (EiP Document D1), which is the retail evidence base for the Local Plan. E&L respond to the issues raised by Indigo Planning in their Statement, including correcting the discrepancies identified.
3. In particular, this note addresses the comments made in relation to:
 - Adequacy of the capacity analysis;
 - Floorspace thresholds; and
 - Development opportunity sites.

Adequacy of the Capacity Analysis

4. There are two specific issues to which we need to respond: E&L's treatment of overtrading; and the inflow of expenditure.

Overtrading

5. At paragraph 8 of their Statement, E&L state that overtrading should not be taken into account as part of the capacity analysis. E&L state that this is because overtrading reflects market conditions at a particular point in time and that market conditions can change considerably in a short period. They also do not expect the over-trading to continue over the plan period. This is incorrect for the reasons set out below.
6. As outlined in our Quantitative Assessment, the incidence of overtrading (or under trading) at stores is determined by comparing the 'actual' or survey-derived turnover of stores with their benchmark turnover, which is usually their company average. Where stores are performing above their benchmark or company average, they are overtrading.
7. It is relevant to note that 'actual' turnovers are calculated by applying market shares (usually from household surveys) to available expenditure. Available expenditure is generated by multiplying the population by per capita spending estimates. Per capita spending estimates are influenced by economic conditions. Per capita expenditure fell during the recent period of recession.

8. Similarly, company average sales densities, which are often used to determine benchmark turnovers, are annually updated to take account of the latest sales data and portfolio figures. Therefore, if economic conditions have seen a contraction in spending, sales will fall and this will be reflected in the company average sales densities used to calculate benchmarks.
9. In short, we can clarify that any fluctuation in economic conditions is appropriately taken into account in the quantitative assessment when over-trading is assessed. Where there is quantitative evidence of overtrading, it is not simply a reflection of buoyant economic conditions, it can indicate an undersupply of floorspace.
10. In terms of E&L's Statement that overtrading will not continue over the plan period (paragraph 8), we again disagree. Overtrading, or the undersupply of floorspace, does not disappear over time without reason. In their assessments, E&L do not anticipate a significant contraction in comparison expenditure, nor do they anticipate the quantum of new comparison development that is required to absorb the overtrading that we have identified. We do not understand how the overtrading will disappear over the plan period, even allowing for increases in floorspace efficiency. In our view, overtrading is more likely to increase, and the undersupply of floorspace will become more acute with the capacity that arises from expenditure growth.

Is Overtrading an indicator of Quantitative Need?

11. E&L state that overtrading may indicate qualitative need, but it should not be taken into account in assessing quantitative need for plan making purposes (paragraph 9 of their Statement). E&L state that it is not necessarily good practice to take account of overtrading.
12. Overtrading has long been an accepted component of quantitative retail need. As I stated at the EiP, this matter was clarified by the Kidlington decision. The PPS4 Practice Guidance¹ confirmed this at paragraphs 3.16 and 3.17 (attached at Appendix 1 of this briefing note), where it states:

The extent to which the turnover of existing stores significantly exceeds benchmark turnovers may be a qualitative indicator of need, and can in some cases inform quantitative need considerations (paragraph 3.16).

Overtrading is often regarded as an indicator of qualitative need as it is demonstrated by overcrowding/congestion. However, as the Kidlington case involving an extension to an overtrading Sainsbury's store established, it is also an indicator of quantitative need. The case established that

¹ Although the PPS4 Practice Guidance is no longer used for decision making, the advice it gives in dealing with retail matters can still be relevant.

overcrowding/congestion indicates the existing provision is unable to cope adequately with consumer demand. In other words 'overtrading' occurs when there is an imbalance between demand (i.e. available spend) and supply (i.e. existing floorspace capacity) (paragraph 3.17 - our emphasis).

13. It is also confirmed in Figure B1 of the Practice Guidance (attached at Appendix 1 of this briefing note) which outlines the key steps of examining quantitative need. In particular, it identifies that the assessment of retail capacity follows a logical approach of examining expenditure potential; assessing existing retail supply and market shares and comparing this with the demand for retail supply within a defined Study Area. In this regard, PPS4 Practice Guidance states:

Consideration of the quality, range and choice of existing facilities, and their trading performance are integral to the assessment of qualitative needs and consideration of impact (paragraph B.30 our emphasis).

14. The PPS4 Practice Guidance goes on to state that:

Having established the current turnover of existing centres/stores as accurately as possible, it is essential to be clear whether this represents a reasonable baseline for forecasting purposes. In other words, are existing facilities trading broadly in line with 'acceptable' levels, or is there evidence that facilities are underperforming or trading at such high levels that 'overtrading' is occurring (paragraph B.39, our emphasis).

15. It is clear that the PPS4 Practice Guidance advises that the trading performance of existing facilities to be an integral part of assessing capacity, and this approach is endorsed by most practitioners.
16. We are aware that the PPS4 Practice Guidance has been withdrawn. However, for some time it remained as the relevant supporting guidance to the NPPF until the Government had prepared and adopted the significantly shorter NPPG which was in line with their aspirations to streamline national planning policy. Simply because the PPS4 Practice Guidance has been withdrawn does not mean that it was not, and is not, an appropriate source of good practice guidance in assessing retail capacity.
17. The Secretary of State (SoS) further accepted that overtrading is an indicator of quantitative need in the 2005 appeal into the refusal of a DIY store at Ventura Retail Park. The appeal decision (which is attached at Appendix 1, JVH Town Planning representations) stated the following:

'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' (paragraph 16 - our emphasis).

18. Our quantitative assessment showed substantial levels of overtrading at Tamworth town centre and the Retail Parks. E&L does not dispute that this overtrading exists (see paragraph 5.24 and 5.25, TTCRSU 2014).
19. I can understand an argument that overtrading within a town centre at the base date could be excluded from a Local Plan capacity assessment as it demonstrates and reinforces the health of the centre, but there is no reason not to take into account the capacity that exists from overtrading at the Retail Parks. This includes the £124m of overtrading identified at the Retail Parks in 2016 (see Table 3.2, page 5 of the Indigo Planning Quantitative Assessment). As explained in our Quantitative Assessment, this will increase over time.
20. In short, our figures show a clear and significant unmet demand for new floorspace in Tamworth, particularly at the Retail Parks. These findings are based on the figures which are provided in the Council's retail evidence base. The Council cannot ignore this significant undersupply of comparison floorspace when planning for the future needs of Tamworth residents.
21. At the EiP, Mr Shepherd from WYG stated that overtrading is only relevant when calculating convenience capacity. This is not the case. The PPS4 Practice Guidance does not differentiate between comparison and convenience capacity and the SoS's comments are explicitly about a comparison goods scheme.

Inflow Expenditure

22. A briefing note was submitted to the EiP by Indigo explaining the results of a shopper survey undertaken at Ventura Retail Park (EiP Document HD12a). It was confirmed that the survey results show that 33% of the people surveyed lived outside the Study Area boundaries (see postcode results). This confirms that there is an inflow of expenditure to the Retail Parks.
23. The TTCRSU 2014 does not make any allowance for the inflow of expenditure.

24. If 33% inflow is taken into account at the Retail Parks, it would increase the residual expenditure capacity estimate to in excess of £200m at 2016. This is shown in Table 1 below.

Table 1: Comparison turnover at the Retail Parks taking into account inflow

2016	Benchmark Turnover (£m)	Actual Turnover without inflow (£m)	Inflow (%)	Actual Turnover with inflow (£m)	Overtrading (£m)
Ventura/Jolly Sailor Retail Parks	124.58	248.63	33%	330.68	206.09

Source: Table 3.2 Indigo Planning Quantitative Assessment

25. Table 1 shows that the overtrading at the Retail Parks increases from £124m in 2016 to £206m in 2016 when inflow is taken into account. This is an increase of £82m. In other words, it is another £82m of expenditure capacity that has not been taken into account by E&L.
26. Given the evidence of the shopper survey (EiP Document HD12a), E&L must make allowance for the inflow of expenditure to the Retail Parks. This inflow will certainly increase capacity.
27. E&L do not allow for any inflow to the town centre. Given the evidence at the Retail Parks, we consider that it is reasonable to expect that the town centre also benefits from inflow expenditure. Inflow to the town centre will not be as much as the Retail Parks, but even if it was only 10%, it would increase the capacity within the town centre by a further £14.8m. E&L should quantify town centre inflow and make allowance for it when identifying capacity.

Floorspace thresholds

28. At paragraphs 14 – 18 of their Statement, E&L respond to our representations regarding the thresholds for impact assessment. At paragraph 3.51 of the Indigo Quantitative Assessment, we state that the thresholds (up to 500m²) do not constitute ‘major’ development. This is relevant as E&L justify the thresholds as protecting the town centre from ‘major’ out of centre development.
29. E&L state that there is no definition of ‘major’ development in the NPPF. In our view, this narrow view does not reflect the intentions or spirit of the NPPF to remove unnecessary planning barriers and to encourage economic development.
30. The NPPF impact assessment threshold of 2,500m² has not simply been chosen at random. It has long been used as an appropriate threshold for the application of the impact test (including previously in PPG6, PPS6, PPS4 and now the NPPF). The existence of the threshold confirms the acceptance that small scale development will not have a significant adverse impact and that is it not necessary to test proposals where there is no real prospect of significant adverse harm.
31. The application of lower thresholds for impact assessment must be based on a sound evidence base and appropriate justification reflecting

local circumstances. As outlined in our Quantitative Assessment, we do not consider that E&L have provided appropriate justification to support the lower thresholds and nothing further is provided in their Statement that would change our view in this regard. The examples E&L cite are from elsewhere where local circumstances may be difficult. We reiterate that there is no evidence to indicate that the town centre has been harmed by the Retail Parks or that the town centre is particularly vulnerable to impact which would necessitate very low impact assessment thresholds.

32. Indeed, the only evidence from Javelin using Venuescore² (see paragraph 3.45 of the Indigo Planning Quantitative Assessment), and from WYG assessing the health of the town centre for their Sainsbury's proposals (EiP Document HD17), is that the centre is doing well.
33. There are a number of ways we can demonstrate that the thresholds proposed by E&L are inappropriate.
34. Firstly, it is worth considering the recent permission and implementation of the scheme at the former Allied Carpets site at Ventura Retail Park. The 2013 application sought permission for the replacement of the former Allied Carpets retail unit with three A3 units, which are now occupied by Nando's, Costa Coffee and Pizza Express. The total floorspace involved was 873m² (gross). When advising the Council, E&L were unable to conclude that the impact would be significant and the Council reported that the proposals were 'finely balanced' in terms of their acceptability in the accompanying Committee Report (refer paragraphs 9.29 and 10.2, Committee Report, Appendix 3, JVH Town Planning Representations). The application was ultimately approved.
35. The floorspace at the former Allied Carpets site was much larger than the thresholds proposed by E&L and yet they were unable to conclude that there would be significant adverse impact on the town centre. In short, for a much larger scheme, E&L could not identify significant adverse impact. Surely the same will happen with smaller schemes. It is also relevant that this scheme is developed and trading and there has not been a significant adverse impact on the town centre.
36. Secondly, it is also relevant to consider the thresholds this in the context of E&L's position regarding the use of the 2011 household survey to underpin the TTCRSU 2014. At paragraph 5 of their Statement, E&L reiterate their view that shopping patterns will not have changed from the 2011 household survey, despite the introduction of a new Lidl store (1,063m² gross) and over 20,000m² (gross) new floorspace in comparison goods developments at Ventura and Cardinal Point Retail Parks, including a John Lewis Home store. If shopping patterns are not likely to have changed with more than 21,000m² new floorspace being delivered out-of-centre, it is simply not credible to suggest that a scheme

² At the hearing Mr England stated that in 2005 the Javelin Group's ranking for Tamworth was lower (i.e. it was doing better). However, the Javelin Group has confirmed that there have been changes to the methodology over the last 10 years.

of only 250m² new floorspace will change shopping patterns to such an extent to significantly impact on the centre.

37. On this basis, the NPPF threshold of 2,500m² should be used in Tamworth.

Development Opportunity Sites

38. At 3.36 – 3.39 of our Quantitative Assessment, we outlined our concerns regarding the site appraisals undertaken by E&L and the robustness of their assessment of the town centre to accommodate new retail floorspace.
39. At paragraph 36, E&L confirm that the site appraisals which underpinned the TCRSU 2014 were incomplete. They have submitted 'complete' site appraisals to the inquiry as part of their Statement. This has mainly involved the inclusion of site area measurements.
40. The inclusion of site areas does not, however, provide any guidance on the likely capacity of the sites to accommodate new floorspace. E&L cannot provide assurance that retail capacity can be met by the town centre without a clear understanding of the floorspace that could be accommodated on development opportunity sites.
41. In short, the additional information provided by E&L in respect of the development opportunity sites remains insufficient to enable the Council to plan for retail needs in full as required by the NPPF.
42. Furthermore, two of the sites identified by E&L to be appropriate for new retail development in the TCRSU 2014 (EiP Document D1) are also identified by the Council to be housing sites. Emerging Policy HG1 identifies that the Arriva Bus Depot, Aldergate (site 349) and Spinning School Lane (site 508) should be allocated for housing.
43. Paragraph 37 of E&L's statement (EiP Document HD16) has considered the Spinning School site (TTC002) for commercial use and the E&L's TCRSU 2014 has identified the Arriva Bus Depot site (TTC003) appropriate for main town centre uses.
44. Indeed, the Arriva Bus Depot site (and others) are not include in HD16. We are not clear whether this means they are no longer deemed appropriate for town centre uses (i.e. the Site Appraisals attached to HD16 supersede those in D1). If they are not, (and since Spinning Lane is a residential site), there are only two sites now identified (Gungate and Middle Entry).
45. This confusion suggests that E&L are not fully aware of the Council's wider Local Plan strategy. If previously identified retail sites are not available for main town centre uses, it also further supports the view that town centre sites are unlikely to be able to accommodate retail needs in full.
46. In summary, sites previously identified in the Local Plan evidence base (Document D1) for town centre uses have fallen away which concerns us

that the land use strategy premise which underpinned the Plan has now changed.

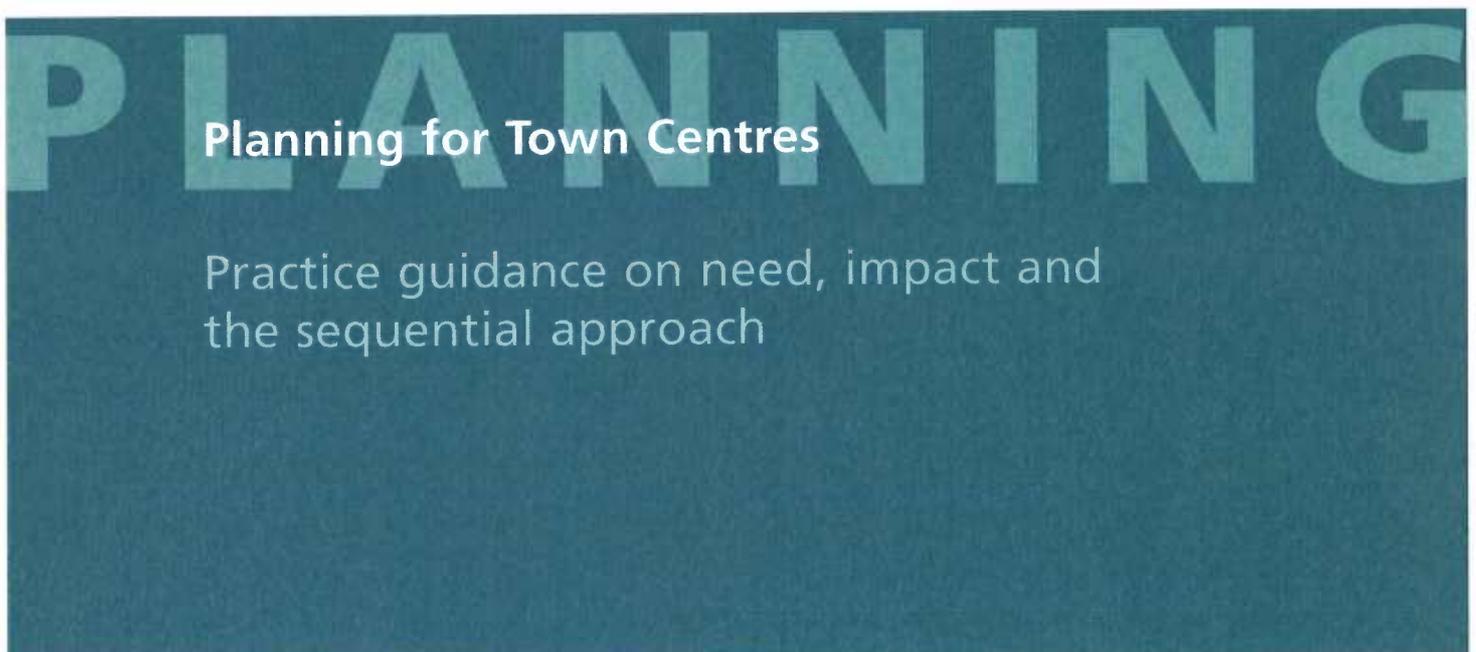
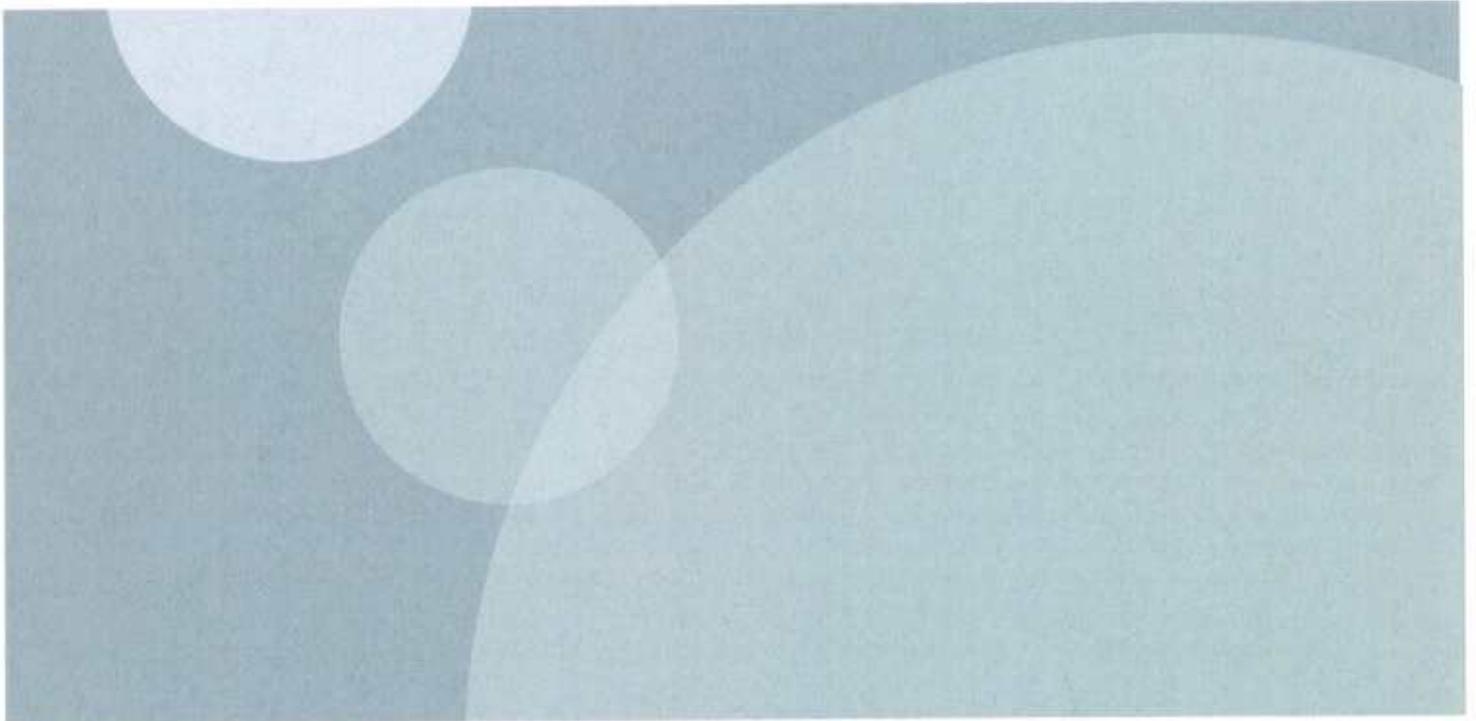
47. The Council are expected to positively plan for the future needs of their residents. They should be providing a clear and evidenced plan for new development, taking a holistic approach to the competing development needs of the Borough. This inconsistency, in which sites are being considered for two separate uses, is confusing and provides no certainty that the Council has a cohesive strategy.

Summary

48. In summary, it is well accepted, and there is established case law, that overtrading is a component of quantitative need and is a relevant consideration in the assessment of retail capacity. We have identified significant levels of overtrading in Tamworth and the existence of this overtrading has not been disputed by E&L. Indeed, it has been identified using their figures in the TTCRSU 2014. Ignoring the overtrading does not enable the Council to plan for the retail needs of the Borough over the plan period.
49. The TTCRSU 2014 has further under-estimated future retail capacity by failing to take into account inflow of expenditure. Evidence has been presented to the EiP that there is an inflow of 33% to the Retail Parks. This must be taken into account by E&L. They should also quantify inflow to the town centre and take it into account in the assessment of capacity.
50. There has been insufficient evidence put forward to justify the introduction of very low impact assessment thresholds in Tamworth. Alternative locally set thresholds should be based on a sound evidence base and clearly related to local circumstances. There is no evidence that the town centre is particularly vulnerable to impact to warrant the thresholds proposed by E&L. Indeed, in a recent example, E&L were unable to conclude that a proposal at the Retail Park involving almost 900m² of floorspace would result in significant adverse impact. This is much higher than the 250m² threshold E&L are proposing for the Retail Parks.
51. The E&L Statement at paragraph 5 confirms that c21,000m² of new floorspace did not alter shopping patterns so it is very unlikely 250m² will.
52. The amendments to the site appraisals undertaken by E&L do not provide the Council with any further guidance on the likely capacity of the sites to accommodate new retail floorspace.
53. Furthermore, there are two sites identified by E&L as potential retail development sites have been allocated by the Council for housing. This indicates that E&L are not fully aware of the Council's wider strategy. It also suggests that the Council are not clear on how they will plan for future development needs.
54. In short, the additional information provided by E&L in respect of the development opportunity sites remains insufficient to enable the Council to plan for retail needs in full as required by the NPPF.



Planning shapes the places where people live and work and the country we live in. It plays a key role in supporting the Government's wider social, environmental and economic objectives and for sustainable communities.



Planning for Town Centres

Practice guidance on need, impact and the sequential approach

Case study: Beverley – Cattle Market site – promoting choice and competition

In Beverley, the principal town of East Yorkshire, a new 3,000 sqm Tesco superstore with shoppers' car park was built in 2002 on the site of the old cattle market, a well-integrated edge-of-centre site. The town centre had an out-dated Safeway foodstore, and a large Morrisons at an out-of-centre location was causing significant leakage of convenience expenditure from the town centre. Qualitative need was demonstrated on the basis that there was already a strong out-of-centre foodstore provision and that a more centrally located option would reduce the need to travel and provide more choice in the town centre.

Following the store opening the Council commissioned the Beverley Retail Study in 2003 to assess the positive and negative impacts of the new store and the health of the town centre. The study found that the new store had made a positive contribution to the health of the town centre, increasing the attraction of Beverley as a place to shop and reducing the leakage of trade out of the town centre.

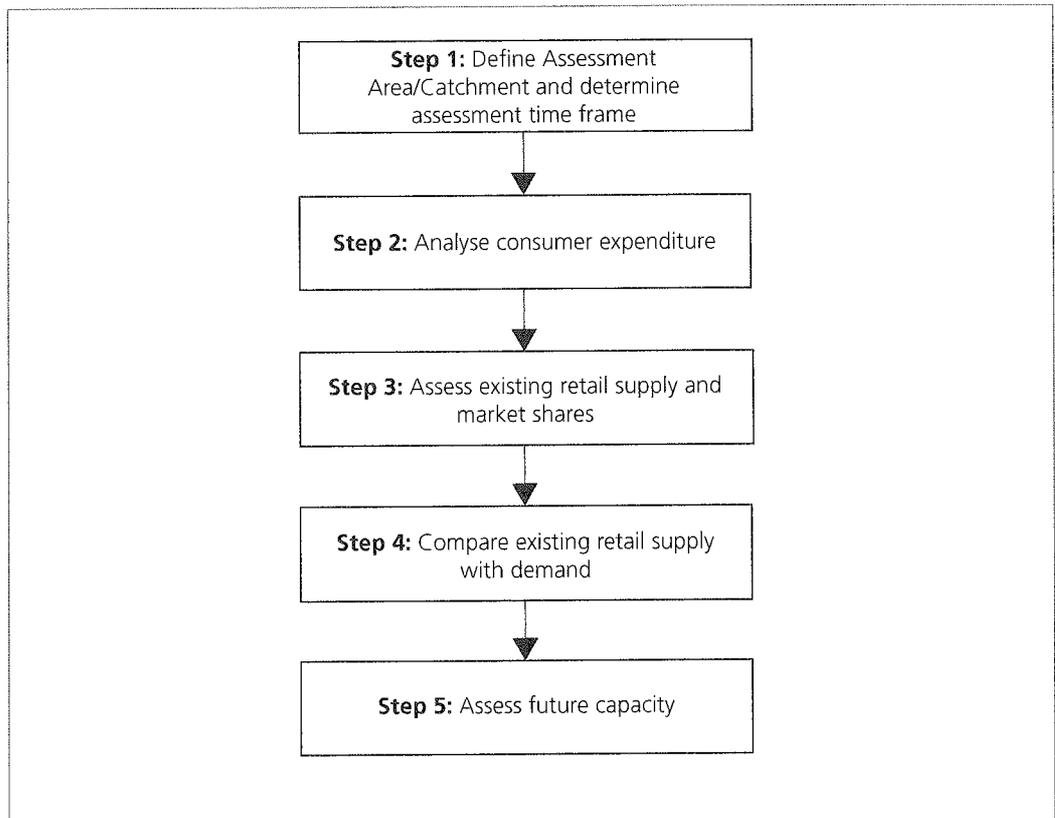
This is an example of a successfully well-integrated edge-of-centre development (aided by the use of the store car park for town centre shopping), located within walking



distance of the town centre that has encouraged linked-trips to other shops and services, increasing choice and competition in the town centre.

(c) 'Overtrading' congestion and overcrowding of existing stores

- 3.16 The extent to which the turnover of existing stores significantly exceeds benchmark turnovers may be a qualitative indicator of need, and can in some cases inform quantitative need considerations. For example it may be an expression of the poor range of existing facilities or limited choice of stores and a lack of new floorspace within a locality.
- 3.17 Overtrading is often regarded as an indicator of qualitative need as it is demonstrated by overcrowding/congestion. However, as the Kidlington case involving an extension to an overtrading Sainsbury's store established, it is also an indicator of quantitative need. The case established that overcrowding/congestion indicates the existing provision is unable to cope adequately with consumer demand. In other words 'overtrading' occurs when there is an imbalance between demand (i.e. available spend) and supply (i.e. existing floorspace capacity).

Figure B1: Key steps to quantitative need assessments

STEP 1: DEFINE ASSESSMENT AREA AND DETERMINE ASSESSMENT TIME FRAME

i) Study area

- B.5 The study area which is to be the subject of the assessment needs to be carefully defined in the context of the objectives and the type of assessment. Where assessments are to inform the preparation of development plans, it is important that the area is drawn sufficiently widely to thoroughly examine the relationship between centres and their catchments, including any neighbouring centres and areas where these have relationships with the planning authority area.

STEP 3: ASSESS EXISTING RETAIL SUPPLY AND MARKET SHARES

- B.29 Having established the level of available expenditure, it is necessary to determine the existing level of retail supply and the distribution of market shares. The existing provision of retail floorspace should be determined in the first instance. This is essential since it is almost impossible to derive a robust estimate of future quantitative need for the assessment period if the existing floorspace supply is unknown. It is important that all retail floorspace is included in such assessments (in-centre, out-of-centre and out-of-town). Where information on net sales floorspace is unavailable it will be necessary to undertake or commission a thorough audit of the existing level of retail provision.
- B.30 As well as estimates of floorspace quantity, a survey of retail occupiers should ideally be carried out. This will ascertain information on the quality of the retail offer, the physical condition of the floorspace provision (e.g. size and configuration of units) and the trading performance of the shops. This would normally form part of a town centre 'healthcheck'. Consideration of the quality, range and choice of existing facilities, and their trading performance are integral to the assessment of qualitative needs and consideration of impact (see later).
- B.31 Having established the existing quantity and quality of floorspace provision at the base year it is important to establish the current market shares in the assessment area. This is the existing pattern of shopper behaviour and retail consumer expenditure flows for different categories and classes of retail goods within the assessment area.
- B.32 The use of bespoke survey and published data on local shopping patterns is preferred. Household surveys of customer shopping habits and on-street surveys of shoppers' views and perceptions will enable existing patterns to be identified as a basis for conducting regional, local and site-specific assessments. Where such surveys are undertaken, it is recommended that they at least cover the whole of the plan area and/or the potential catchment area of the proposal in question. However, there are important benefits if the survey can be extended to cover other adjoining and nearby areas as this will inform the extent of in-flow expenditure from beyond the plan or site-specific catchment area.
- B.33 The most cost-effective form of household survey is by telephone. A minimum of 100 completed interviews per identified sub-area is recommended. It is important that these surveys quantify shopper behaviour for the separate categories and classes of goods, depending on the type of assessment. It is however important to recognise that these surveys can at best only give a general indication of prevailing market shares and further testing is needed during the impact analysis stage of an assessment.

- B.34 Also, surveys that use simple questions about where people shop, provide answers that relate to trips and not spending flows. They can also overstate the importance of the larger centres and stores, and can understate the smaller and less frequently visited stores. More reliable information can be provided through detailed household diary surveys where questionnaires are completed for a specific time period. However, such surveys are expensive and time-consuming and are rarely necessary for planning purposes.
- B.35 As well as building up a picture of shopping patterns catchment areas etc., the main purpose of the survey data in quantitative analysis is to enable a 'baseline' picture of the market share and indicative turnover of existing centres and stores, and where their trade is derived from. This is fundamental to the assessment of what, if any, surplus capacity is likely to arise over the study period.

STEP 4: COMPARE EXISTING RETAIL SUPPLY WITH DEMAND

- B.36 Having identified existing expenditure and market shares it is necessary to identify the relative turnover/performance of each centre and establish how the forecast population and goods-based expenditure growth is likely to be distributed within identified sub-areas.
- B.37 The estimated turnover of existing centres, and, depending on the nature and level of detail of the assessment, key stores derived from household survey-based data, should, wherever possible, be cross-checked against actual turnover figures from other sources (e.g. the retailers themselves), where these are available. The household survey will determine the levels of available retail expenditure retained by individual centres and the plan area as a whole.
- B.38 This information establishes the base year market shares and can be calculated for both comparison and convenience goods categories. For centres which attract long-distance shopping trips and/or which benefit from commuter and tourist expenditure, it is important that allowances are made for turnover contributions from these sources within the study area by applying the market shares to available spend.
- B.39 Having established the current turnover of existing centres/stores as accurately as possible, it is essential to be clear whether this represents a reasonable baseline for forecasting purposes. In other words, are existing facilities trading broadly in line with 'acceptable' levels, or is there evidence that facilities are underperforming or trading at such high levels that 'overtrading' is occurring.