

BALTIC WHARF (MAIDSTONE) LTD – REPRESENTOR R19143.

HEARING SESSION 9 -FURTHER SUBMISSIONS

RETAIL AND OTHER MIXED USE ALLOCATIONS – Qns 9.18 to 9.22.

- 1) In this further representation, Baltic Wharf (Maidstone) Ltd or BWML seeks to respond to the Inspector's Issue (v) which is:

“Whether the desirability of preserving a listed building and associated viability considerations would justify a modification of the Local Plan?”.

More specifically, BWML responds to the five questions raised by the Inspector with respect to the Baltic Wharf site under the headings below. BWML also provides a draft of wording for an additional RMX1 site allocation policy for retail and mixed use development at Baltic Wharf.

- 2) The Framework in section 12 *“Conserving and enhancing the historic environment”* refers to viable use and the optimum viable use of listed heritage assets. These terms are used in the same context in this response. The meaning of the terms can be found in the Planning Practice Guidance note *“Decision-taking: historic environment”*.

Qn9.18. Does this site qualify as in centre, edge of centre, or out of centre for retail and for other main town centre uses:

- 3) It was accepted by all parties at the Baltic Wharf appeal in 2014 that the site (excluding that part known as the North car park) lies within the defined town centre on the emerging Local Plan but is out of centre for the purposes of considering main town centre uses (including retail) according to the Framework Glossary definition.
- 4) Defining sites as in-centre, edge of centre and out of centre is the basis for carrying out a sequential test of planning applications for main town centre uses as set out in paragraph 24 of the Framework and determining whether that application fails to satisfy the sequential test as set out in paragraph 27 of the Framework.
- 5) The inspector who determined the 2014 Baltic Wharf appeal applied the sequential test and concluded in the attached extracts from his decision as follows:

“The sequential test:

62. The reason for the proposal for a foodstore is because, given a retailer willing to come to the appeal site, it represents the only viable development option for the listed Powerhub building. The judgements in Tesco Stores Limited v Dundee City Council and R v North Lincolnshire Council and Simons Developments Limited make it clear that what is to be considered is the suitability of other sites to accommodate the proposal at issue. In this case, the proposal is a combination of uses driven by the needs of a grade II listed building. It is locationally specific. Placing a foodstore development elsewhere in Maidstone cannot resolve the needs of the listed building; because of that, no other site can be suitable for the proposed development.

63. *To that extent, there is no purpose to be served by looking to see if there are other sites suitable for a foodstore in sequentially preferable locations in Maidstone. Nevertheless, if one is looking at retail policy in isolation, there is an argument for looking at the sites suggested by the Council to see whether, if only in theory, they would be capable of accommodating a foodstore of broadly the size proposed in the appeal scheme. The only two sites that really need to be considered are Len House and Maidstone East.*

Conclusion on the sequential test:

70. *The fact that the appeal scheme is site-specific, to enable the preservation of the listed Powerhub building in a viable new use, seriously limits the value of considering the suitability of sites that might, in purely retail terms, be sequentially preferable; development on another site could not achieve what is intended by the appeal scheme. Notwithstanding that, neither of the two sites said to be sequentially preferable is suitable. Len House is not available, not suitable for the size of development proposed and possibly not viable; the Maidstone East / Royal Mail site, while it might be suitable and viable for the size of foodstore proposed, cannot be considered available."*

- 6) Furthermore, from a sequential assessment and impact assessment standpoint, there is already 2,600 m² of open A1 retail floorspace consented at Baltic Wharf. BWML notes that the out of centre Newnham Park retail location (J7/M20) is proposed to be afforded a retail and mixed use policy allocation in the emerging Local Plan. The evidence base for this allocation is not clear. BWML consider that the Council's approach in allocating Newnham Park for new retail development justifies such an allocation on the town centre Baltic Wharf site.

Qn9.19. What effect may permission for a Waitrose store at Eclipse Park have on the implementation of the Baltic Wharf retail development and/or the Maidstone East retail development?

- 7) The following comments relate to a Waitrose store of the specific size in their application at Eclipse Park.
- 8) BWML understand that Waitrose consider that a store of that size at either Baltic Wharf or Maidstone East station would harm the trading prospects/viability of their existing store at Allington shopping centre.
- 9) BWML holds the view, based on the information contained in Waitrose's planning application that, on its own, the proposed foodstore at Eclipse Park would not impact significantly on the available convenience expenditure within the catchment area required for a foodstore operator to trade successfully from Baltic Wharf. We have taken the submitted information at face value. We await any comments Maidstone Borough Council may have on the submitted application supporting documents.

Qn9.20. Is there any evidence that the viability of different forms of development of the Baltic Wharf site has changed since the 2014 appeal?

- 10) BWML's viability appraisal for the 2014 appeal was undertaken by consultants GVA. This was a detailed and development specific appraisal supported by costings from a quantity surveyor. The inspector determining that appeal comprehensively accepted the GVA viability appraisal over that undertaken on the Council's behalf. He noted that, with a retailer in place, the foodstore led appeal scheme was viable while a residential scheme for the whole appeal site could not be considered a viable proposition then (in 2014) or in the foreseeable future (inspector's decision paragraph 21).
- 11) GVA continue to be retained by BWML and updated their viability appraisal in February 2016 which was shared with the Council on a confidential basis. This appraisal continues to show that a foodstore led redevelopment of the whole Baltic Wharf site is the only viable development option. The appraisal demonstrated that a smaller foodstore of circa 50,000 ft² gross floorspace with residential on the floors above in the Powerhub listed building was also viable because development costs would be reduced. This smaller store format has the foodstore at first floor level and parking underneath at grade level, that is not multi-storey car parking.
- 12) At the examination session on 13th October, 2016, the Council suggested that there was generic evidence to show that a residential led redevelopment of the whole Baltic Wharf site would now be viable. If the Council intend to rely on such generic evidence at this session of the examination, then BWML considers that it should be set out in detail. BWML would then reserve the right to respond to this evidence either prior to or at examination session .

Qn9.21: Would MBC please comment on the specific policy change sought by R19143 to SP4 and the requested additional allocation?

- 13) BWML has made a number of attempts to engage with Council planning officers at the Regulation 19 consultation on the Local Plan and subsequently to discuss and agree what needs to be done to overcome the policy vacuum relating to Baltic Wharf in the Regulation 19 version of the Local Plan. The Council's response to this question from the inspector is therefore awaited with interest. BWML is prepared to have a dialogue with Council planning officers prior to the hearing on 10th November, 2016, to agree proposed changes that would recognise the importance of the regeneration of the Baltic Wharf site as part of regeneration of the town centre as a whole, including whether there is a role for enabling development as referred to in paragraph 140 of the Framework.
- 14) In the meantime, BWML submits the following suggested policy wording for a proposed new policy for retail and mixed use development at Baltic Wharf:

Policy RMX1 (5) Baltic Wharf, St Peter's Street, Maidstone.

Baltic Wharf, as shown on the policies map, is allocated for a mixed use development of up to 7,430 m² convenience and comparison retail, up to 4,560 m² for financial and professional services, food and drink, employment and leisure, and for residential development. In

addition to the requirements of policy H1, planning permission will be granted if the following criteria are met:

Design and layout

- 1. The provision of up to 7,430 m² convenience and comparison retail, up to 4,560 m² for financial and professional services food and drink, employment and leisure, and for residential development .*
- 2. Development is designed to respond to the listed Powerhub building within the site and its setting.*
- 3. Development is designed to visually enhance the River Medway frontage of the site.*
- 4. Assessment of the archaeological potential of the site is undertaken and the measures necessary to address the assessment's findings secured.*

Access

- 5. The provision of vehicular and pedestrian access from St Peter's Street.*

Flooding and water quality

- 6. The submission of a detailed surface water drainage strategy for the development based around sustainable drainage principles.*

Noise

- 7. The submission of a noise assessment and the delivery of resultant noise attenuation measures in particular for residential development sited closest to the adjoining railway line.*

Air quality

- 8. The submission of an air quality assessment and emissions reduction plan to be agreed with the Council.*

Land contamination

- 9. The submission of a land contamination assessment and the delivery of resultant mitigation measures.*

Public realm

- 10. Provision of public access to the River Medway frontage of the site.*

Qn9.22. Does MBC's estimate of the housing to be delivered in the Policy H2 Town Centre Broad Location include any dwellings on the Baltic Wharf site?

- 15) BWML is not clear whether the Baltic Wharf site is included in Policy H2 and looks to the Council to provide clarity.*