

**HAYLE:  
WEST CORNWALL  
RETAIL PARK**

**Assessment of  
Planning Application  
for the Sale of Food  
from Unit CD**

**May 2006**

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## 1.0 INTRODUCTION

1.1 In December 2005, Colliers CRE were instructed to consider a submission made by RPS Planning on behalf of Marks & Spencer plc (Planning Application Reference 05/P/1410) for the variation of a planning condition to allow the sale of food from a specific quantum of floor space in a permitted non-food retail unit on the West Cornwall Retail Park. In January 2005 we were subsequently requested to consider the inclusion of a coffee bar in the store, comprising some 98 sq m.

1.2 The application site has a long history of planning permissions for retail use but has not yet been fully developed. The most recent permission, approved in May 2005 was for the installation of mezzanine space. The site is situated in an out of centre location on the eastern side of the A30 Exeter to Penzance via Oakhampton route. The area around the site is in a mix of uses comprising road related uses in proximity to the A30 (i.e. McDonalds, Hotel), the Hayle Rugby Club Ground immediately adjacent to the south and car showroom (currently under construction) to the east of the Rugby Club. To the west, on the other side of the trunk road the area is primarily residential in character. Construction is almost complete although none of the units has commenced trading. A site location plan is attached at **Appendix 1**.

1.3 The current retail planning permission comprises a retail park of five units, two of which (Units C and D, known jointly as Unit CD, and amounting to 2,787 sq m gross including mezzanine) it is proposed will be occupied by Marks & Spencer plc for a mixed convenience and comparison goods store. There is no restriction on the sale of any comparison goods from the store; however there is a condition which prevents the sale of food, other than for confectionary or for consumption on the site. The relevant condition reads:-

*“(2) No food shall be retailed from the site apart from confectionary and that for consumption on the site.”*

1.4 The reason given for the imposition of this condition is:-

*“To safeguard the vitality and viability of Hayle Town Centre.”*

1.5 Marks & Spencer plc has submitted a planning application for the variation of this condition “to allow limited ancillary food sales”. The planning application forms indicate that the application relates to an area of 650 sq m (6,997 sq ft) via however the supporting Planning Statement by the agent, RPS Planning, indicates that this area would be subdivided into retail sales and associated dedicated (although not exclusive) cash tills. As a result only



some 465 sq m would be used for retail sales which would also include some non-food goods such as household cleaning products which are non-food goods, and drinks which, although typically referred to as "convenience" goods, are not restricted from sale by the existing planning permission. The amount of floorspace taken up by these products is not given.

- 1.6 We do not consider that the installation of additional tills to process, although not exclusively, food sale transactions would require planning permission under the terms of the original consent. Similarly we agree that there is no restriction on the sale of 'convenience' items other than food. Accordingly this report concentrates on the acceptability on the use of 465 sq m of the existing retail sales space primarily for the sale of food. The extent of other 'convenience' goods sales is assumed to be de minimis for the purposes of this report.
- 1.7 Our report assesses this proposal against the background of existing shopping patterns in the western Cornwall area and in the context of national, strategic and local planning policy. Notwithstanding that the reason given for the imposition of the condition was the protection of Hayle town centre our report also considers whether there would be any harm to other town centres which would justify the withholding of planning permission.
- 1.8 We have also been provided with correspondence from Cornwall County Council dated 30 January and 15 May 2006 which raises specific comments on these proposals. We address these comments in our assessment.

## 2.0 THE PROPOSED DEVELOPMENT

- 2.1 The application site has a long history of planning permission for retail development, although we understand that no retail planning permission has been implemented. We attach a schedule of relevant previous planning decisions at **Appendix 2**.
- 2.2 Planning permission was first granted by the Secretary of State in 1986 for the construction of two, 2,323 sq m retail warehouses (a total of 50,000 sq ft). This permission was subsequently renewed in 1991 and again in 1994. This scheme was known as the “Eskvale” scheme.
- 2.3 The current proposals on the site were first submitted in January 2005 (Reference 05/P/0034/F). The development comprises a 6,332 sq m retail park consisting of five units supported by 200 car parking spaces in an ‘L’ shaped terrace. Access is taken from the A30 via Marsh Lane which in turn gives access to the site with a shared junction which also serves Hayle Rugby Club. The on site access road is shared with service vehicles and runs around the rear of unit E before entering the shopper car park area.
- 2.4 This planning application, referred to in this report as the ‘original’ permission, was considered at Committee on 5 April 2005. The relevant Committee Report notes that the scheme does not fit current development plan policy which seeks to direct retail development to within or adjacent to town centres and that an out of town development such as that proposed is only justifiable if there were a proven need and a sequential test showed it was the most appropriate site. The report then goes on to refer to the previously approved “Eskvale” permission, which was some 583 sq m smaller than that proposed. In the light of this material consideration, the report identifies the main policy issue as being whether the larger scheme is more or less acceptable than that which had already been granted.
- 2.5 The report then goes on to make that assessment looking at five issues, retail impact; transport; design; tourist information centre; and crime reduction. With respect to retail impact the report agrees with the applicant’s case that the increase in floor space can be justified on three grounds:-
- (i) Growth in retail expenditure since the “Eskvale” consent;
  - (ii) Leakage of expenditure to Truro;
  - (iii) Need for qualitative improvement in comparison shopping in West Cornwall.



- 2.6 It is noted that Kerrier District Council objected to the proposals based upon the potential impact on the regeneration of Camborne, Pool, and Redruth and pointed to the change in circumstances since permission was granted in 1986. It was concluded however that these objections did not provide any reason to disagree with the arguments in favour of the proposal.
- 2.7 The planning permission was subject to 14 conditions which, inter alia, restricted the sale of food (condition 2) and the amount of retail floorspace (condition 6) as follows.
- 2.8 Subsequent to the approval of planning permission, a planning application was submitted to vary the restriction contained in Condition 6 to allow the construction of a mezzanine floor. Condition 6 restricted the total retail floor space to a maximum of 6,332 sq m (68,158 sq ft). The variation sought to increase the sales area by 42 sq m, but also to provide additional "non-retail space" of 942 sq m, predominantly through the creation of a mezzanine in Unit CD, a combined increase of 983 sq m.
- 2.9 This application was presented to Committee on 4 October 2005 and the Committee Report concluded that it would be difficult to suggest the proposal it did not represent a significant increase in total retail floor space. Reference is made to the previous planning permission as being in conflict with policy, but that the fall back position was material in granting permission. The report concludes that the increased floor area cannot be justified in policy terms and recommended refusal.
- 2.10 At the Committee Meeting members were advised that the applicant had offered to reduce the additional retail floor space sought and consequently resolved to delegate the power to approve planning permission to the Sustainable Development & Design Manager subject to further consultation with the County Council regarding conditions and the reduction in floor space. Planning permission was issued on 4 November 2005 which contained a revised Condition 6 as follows:-

*"The total retail floor space (gross internal) shall not exceed 6,374 sq m. In addition, there will be allowed 570 sq m of ancillary floor space not to be used for the retail sale of goods. Furthermore the use of Unit CD as indicated on the approved plan shall not commence until a detailed plan confirming the layout and "non-retail sales" use of the approved first floor space has been submitted to and approved in writing by the Local Planning Authority. The first floor shall be laid out in accordance with the plan so approved and thereafter shall not be used other than for the agreed purpose."*



2.11 The reason given for the imposition of this condition remained unchanged as set out below. There were no changes to condition 2 or the reason for it:

*“To ensure the retail impact of the development is limited such as not to adversely impact on other centres in the area”*

2.12 This new permission (05/P/0690/F) restated Conditions attached to the previous permission, including the restriction on the sale of food (Condition 2).

2.13 The current application was submitted on 4 November and seeks the variation of Condition 2 of the original permission (05/P/0034/F).



### 3.0 NATIONAL RETAIL PLANNING POLICY

3.1 The Government's town planning policy for town centres and in particular for retail and leisure development is set out in Planning Policy Statement (PPS) 6: Planning for Town Centres (2005).

3.2 PPS6 replaces PPG6 and subsequent ministerial statements and is to be read in conjunction with 'Planning for Town Centres: Guidance on Design and Implementation Tools' (2005), a guidance note which deals specifically with design issues. Additional guidance documents on assessing need and retail impact; the application of the sequential approach and; providing strategies for smaller centres are in the course of preparation but are so far without a publication date.

3.3 The Government's key objective for town centres (paragraph 1.3) is to promote their viability by:

- *"planning for the growth and development of existing centres; and*
- *promoting and enhancing existing centres, by focussing development in such centres and encouraging a wide range of services in a good environment, accessible to all"*.

#### **A) A Plan-led Approach**

3.4 PPS6 states (paragraph 2.1) that new development should be focussed in town centres in order to strengthen and, where appropriate, regenerate them. Planning bodies (paragraph 2.1) should:

- *"actively promote growth and manage change in town centres;*
- *define a network and hierarchy of centres each performing their appropriate role to meet the needs of their catchments; and*
- *adopt a proactive, plan-led approach to planning for town centres, through regional and local planning"*.

#### **B) Assessing Proposed Developments**

3.5 In respect of development control issues relating to, inter alia, new development; PPS6 states (paragraph 3.2) that where applications are to be determined before development plans can be reviewed to reflect PPS6; the policies of the Statement may supersede the policies in the development plan.



3.6 PPS6 confirms (paragraph 3.6) that local planning authorities should require applicants to demonstrate that proposals meet five key considerations, as well as taking into account local issues and other material considerations. The five key considerations are:

i) The need for development

3.7 Need must be demonstrated for a retail application which would be in an edge of or out of centre location and which is not in accordance with an up to date development plan document strategy (paragraph 3.9). A need assessment should be based on that carried out for the development plan document and should relate to the class of goods to be sold. Need should not normally be assessed more than five years ahead as town centre sites might become available. The catchment area should be realistic and well related to the size and function of the proposed development, taking into account competition (paragraph 3.10). Authorities should also consider (paragraph 3.11) whether there are qualitative considerations which might provide additional justification.

ii) Securing the appropriate scale of development

3.8 Where there is an indicative upper limit for the scale of acceptable development expressed in the development plan documents, or where the document is out of date, the relevant factors to be considered are as for the allocation of sites (paragraph 3.12). As such, Planning authorities are to ensure that the scale of a proposal is directly related to the role and function of the centre and its catchment (paragraph 2.41).

iii) Applying the sequential approach to site selection

3.9 The sequential approach applies to all development proposals that are not in an existing town centre nor allocated in an up to date development plan document. The relevant centres in which to search depend on the overall strategy in the development plan, the nature and scale of the development and the catchment it seeks to serve (paragraph 3.13). All options in the centre should be assessed before less central sites are considered. The same search sequence applies as for the allocation of sites (paragraph 3.14).

3.10 Developers and operators should be able to demonstrate that in seeking a site in or on the edge of a centre, they have been flexible about their proposed business model in terms of:

- The scale of development – reducing the floorspace;
- The format of their development – more innovative site layouts and store configurations;



- Car parking provision – reduced or reconfigured car parking areas; and
- The scope for disaggregation (paragraphs 3.15 and 3.16).

3.11 The purpose is to explore the possibility of enabling the development to fit onto more central sites by reducing its footprint. Local authorities must be realistic in considering whether sites are suitable, viable and available, and take into account any likely genuine difficulties in operating the applicant's business model from the sequentially preferable site, such as the provision of a significantly reduced range of goods (paragraph 3.16).

3.12 It is also important to explore whether specific parts of a development could be operated from separate, sequentially preferable sites (paragraph 3.17). A single retailer should not be expected to split their development into separate sites where flexibility in terms of scale, format, car parking and the scope for disaggregation has been demonstrated (paragraph 3.18).

3.13 Where it is agreed that sequentially preferable sites are not appropriate for the development proposed, applicants should provide clear evidence (paragraph 3.19) why such sites are not practicable alternatives in terms of:

- Availability: the sites are unavailable now and are unlikely to be available within a reasonable period. What is reasonable is determined by the merits of the case.
- Suitability: with due regard to the requirement to demonstrate flexibility, the sites are not suitable for the type of development proposed.
- Viability: the development would not be viable on these sites.

iv) Assessing impact

3.14 Impact assessments should be undertaken for any application for a retail use in an edge of or out of centre location which is not in accordance with an up to date development plan strategy. Where a significant development would substantially increase the attraction of a centre and could have an impact on other centres, that impact will also need to be assessed (paragraph 3.20). The assessment should take into account the likely cumulative impact effect of recent permissions; developments under construction and completed developments. The identification of need does not necessarily indicate there will be no negative impact (paragraph 3.21).

3.15 The level of detail and type of evidence should be proportionate to the scale and nature of the proposal. Impact assessments addressing the points listed below should be provided for

all developments over 2,500 sq m gross, and occasionally for smaller developments likely to have a significant impact on smaller centres (paragraph 3.23).

3.16 Local authorities should take into account six considerations (paragraph 3.22) when assessing the retail impact of developments in the context set out above:

- a) the extent to which the spatial planning strategy for an area or centre would be put at risk;
- b) the likely effect on public and private sector investment needed to safeguard the vitality and viability of centres;
- c) the likely impact on trade / turnover and on the vitality and viability of existing centres within the catchment area;
- d) changes to the range of services provided in a centre;
- e) the likely impact on number of vacant premises in the Primary Shopping Area;
- f) potential changes to the quality, attractiveness, physical condition and character of the centre and its economic and social roles.

v) Ensuring locations are accessible

3.17 Developments should be accessible by a choice of means of transport, including public transport, walking, cycling and the car. In determining whether developments are genuinely accessible, local authorities should assess the distance to public transport facilities, the frequency and capacity of services, and whether access is easy, safe and convenient for pedestrians, cyclists and disabled people (paragraph 3.25).

3.18 Authorities should assess the extent to which developers have tailored their approach to meet the objectives set out in PPG13, such as through the preparation of accessibility analysis; transport assessments; travel plans; and the promotion of opportunities to reduce car journeys through home delivery services, contributions to improve access, traffic management and parking (paragraph 3.26).

3.19 Authorities should also consider whether the proposal would impact on the overall distance travelled by car and the effect on local traffic levels and congestion.

(vi) Planning Conditions

- 3.20 It is appropriate to consider using planning conditions to ensure the character of a development does not change to create a form of development which would not have originally been permitted. Such conditions can be used to prevent sub-divisions; ensure ancillary elements remain ancillary; limit internal extensions; and limit the range of goods sold (Paragraph 3.31).

## 4.0 EXISTING RETAIL PROVISION

- 4.1 Hayle is a small coastal town in northern Cornwall at the western end of the peninsular. It is some seven miles north-east of Penzance, the main town in the area, with good road linkage along the A30. It is some four miles east of St Ives (via the A30/A3074) and some six miles west of Camborne (again via the A30).
- 4.2 The main comparison goods centre serving the sub-region is Truro, some eighteen miles to the east, however convenience shopping, which includes food, is provided from stores in much closer proximity.
- 4.3 Hayle itself has two relatively small shopping areas, Foundry and Copperhouse, with a modest representation of small convenience traders in each. The largest food stores are the Co-Op Supermarkets at Cupper Terrace and Fore Street however neither of these are large enough to cater for a main weekly food shop. There is in addition an out of centre Lidl store at Loggans Mill, situated just off the A30 on the western side of the roundabout serving the application site. This store also provides a limited range of goods, but again is not large enough to support a weekly shopping trip.
- 4.4 There are a number of large superstores which do cater for the main weekly food shop in the area, in both town and out of town locations. The nearest comprise the town centre Tesco in Camborne (1,924m<sup>2</sup> net) and the out of centre Tesco on the road into St Ives (1,578m<sup>2</sup>). There are in addition two large stores situated out of centre at Pool, midway between Camborne and Redruth. These comprise an established former Safeway, now Morrisons (2,806m<sup>2</sup> net), and the recently opened Tesco Extra at Station Road, a hypermarket selling an extensive range of food and non-food items, which is likely to become the dominant food shopping destination in the area.
- 4.5 Penzance is in addition well served by large food stores with a Morrisons (2,657m<sup>2</sup> net) and a Tesco (2,265m<sup>2</sup>), both in out of centre locations, which attract trade from the Hayle area.
- 4.6 On the basis of this distribution, it seems clear that the majority of food expenditure is already taking place out of town and in particular that there are only relatively low levels of expenditure in Hayle itself. We consider these conclusions are supported by the findings of the Hayle Shopping Survey in 2001, a copy of which was provided in our briefing papers. This survey indicated the town retained a total of about 42% main food shopping expenditure, a position which is likely to have decreased following the opening of the Tesco

Extra, which is likely to attract more trade away from the town than the Lidl is likely to persuade to stay.

- 4.7 The survey also revealed the strength of Hayle town centre for top up shopping, particularly the Co-Op Pioneer Store. We do not consider there will have been significant change to this position as top up shopping is primarily undertaken at the nearest stores. Whilst the Lidl has subsequently opened, it operates as a “discounter” and does not offer a full range of produce.

#### **The Proposed Development\***

- 4.8 The proposed occupier, Marks and Spencer, can occupy the approved unit under the terms of the existing planning permission (subject to the installation of mezzanine floor space on which we comment later) save for the sale of food. The nearest Marks & Spencer stores are at Truro and Falmouth and so it is likely this store will draw its trade from the area to the west of Redruth and Helston, a far wider catchment area than that for existing food stores in Hayle.
- 4.9 Whilst the trading problems at Marks & Spencer have been well publicised over the last few years, under the stewardship of Stuart Rose the company appears to have turned the corner. It should be noted that over this period Marks & Spencer has remained profitable and it is the size of the profits which have been affected, largely due to the under performance of the core clothing ranges.
- 4.10 In the 2003/2004 financial year, food sales accounted for about 48% of the company’s turnover, up from about 42% in 1999. Food however returns a much lower proportion of profits as margins at around 5% lag behind group margins of 10.6% (in 2004).
- 4.11 Marks & Spencer have consistently opened new stores with many recent openings comprising the relatively new “Simply Food” concept. The majority of food floor space remains located in their department stores however, typically occupying between 745-1,395m<sup>2</sup> net and offering approximately 2,500 lines. The Simply Food stores have a much smaller footprint of between 140-650m<sup>2</sup> and only offer some 1,300 lines.
- 4.12 Marks & Spencer’s share of the grocery market remains extremely stable at 2.8% of the UK market. Unlike its core clothing range, which is aimed at the mass market, its core food offer is aimed more up market. Its sales mix is heavily skewed towards fresh food categories with ready meals, fresh and chilled produce/meat accounting for over 70% of grocery sales. This proportion is far higher than any other food retailer and reflects its unique grocery offer,



which results in its typically higher prices than mainstream competition, achieved through superior product quality and greater added value.

- 4.13 The latest financial performance figures (Retail Rankings 2005) for the trading year 2003-2004 reveal that food sales achieved an average sales density of £10,908m<sup>2</sup> in that year (allowing for VAT at 7%). If it is assumed that the store achieves a settled trading pattern by 2009, and that the operator achieves improvements in sales productivity of +1% per annum, the sales density will increase to £11,465m<sup>2</sup> which for the 465m<sup>2</sup> floor space proposed would generate a turn over of some £5.33 million. This figure is comparable with that given in the RPS Planning Statement (Appendix 4, Table 2) of £5.12 million when adjusted to the same price base (ie £5.17 million).

\* Note: Except where stated the data on which this section is based is drawn from "Grocery Retailers 2005" produced by Verdict.



## 5.0 PLANNING POLICY SUMMARY

5.1 The development plan for the application site comprises:

- (i) Regional Planning Guidance for the South West (RPG10);
- (ii) The Cornwall Structure Plan 2004;
- (iii) Penwith Local Plan 2004.

### (i) Regional Planning Guidance

5.2 RPG10, approved in September 2001 sets out the Regional Spatial Strategy for the South West for the period up to 2016 and beyond. It identifies four key aims including ensuring prosperity for local communities and the regional and national economy. Within this aim, one of the key objectives is to promote economic development in ways and locations where it can best contribute to meeting local, regional and national needs.

5.3 The location of future development should be guided by sequential approach (reference PPG3 and 13 and PPS6) in order to, inter alia, make adequate provision for all land uses, including those with large space requirements (Policy VIS2).

5.4 The region is divided into four sub-regions with Cornwall falling within the western sub-region where there is a need to tackle long term and deep seated economic and social problems, accentuated by its peripheral location. The Western Sub Regional strategy seeks to alleviate the sub-region's remoteness through investment in transport and communication infrastructure/networks, and to focus major new employment, social and cultural investment in Plymouth, Cambourne and Redruth (identified as a significant potential area for growth and focus for regeneration), Barnstaple, St Austell, Newquay and Bodmin, with Truro's sub-regional shopping and administrative role being maintained. Retail development is to be undertaken in appropriate locations to reduce social exclusion and rural need.

5.5 Retail development should be located in the centres of the Principal Urban Areas and the other designated centres for growth. Appropriately sized town centre development should be encouraged in the market towns and other large settlements where it would contribute to the regeneration and environmental improvement of these centres, and help reduce the need to travel and encourage journeys by modes other than by the private car. Town centre retail development can ensure that the vitality and viability of existing centres can be protected and

enhanced, and Local Authorities should assess the need for new development and apply the sequential approach to site selection. For convenience shopping a distribution of provision should be maintained that minimises the lengths and frequency of trips so that any settlement of reasonable size has access to all normal day-to-day necessities in keeping with the scale of the centre and its catchment area (Policy EC6).

**(ii) Cornwall Structure Plan**

- 5.6 The Structure Plan was approved in 2004 and sets out the long term strategy for development in Cornwall. Its policies apply the principles for sustainable development seeking a long term sustainable improvement in the county's economic, social and environmental circumstances without harming future opportunity.
- 5.7 Priority is given to the improvement and enhancement of town centres providing shopping and other facilities to meet the needs and aspirations of the whole community. Retail development should be in or adjoining town centres where it can help sustain the centre's vitality and viability contribute to the improvement of the town centre environment and be accessible to all sectors of the community by a choice of means of transport.
- 5.8 Elsewhere development should be limited to circumstances where particular needs could not reasonably be expected to be met in or adjoining town centres, having taken into account existing further development opportunities. It is important to assess the capacity of a centre as a whole to meet future retail needs, rather than its ability to accommodate a particular retailer or form of development.
- 5.9 Development should not be harmful to the vitality and viability of existing centres and development locations should be in or well integrated with towns where impact on travel patterns would be unlikely to lead to increased car usage, and where convenient access by public transport serving the catchment area is available. Consideration should also be given to the potential of retail development in the physical and economic regeneration of urban areas (Policy 14).
- 5.10 The Structure Plan does not define a rigid hierarchy of centres but instead identifies seven Strategic Urban Centres, which include both the Cambourne-Pool-Redruth areas and Penzance. Cambourne – Pool – Redruth is identified as a strategic priority for regeneration and growth where better retail provision in the town centres will be supported. In Penzance development should support the maritime and tourist industries and complement its role as the major service and retail centre of Penwith.

5.11 Hayle is identified as an 'other main town' where again development should be well integrated with the built up areas, and support the role and function of the centre in meeting the needs of its own population and surrounding area, in order to reduce the need to travel. The level of development will be assessed against the ability of such centres to consolidate their role and function and to support balanced growth through jobs, services and transport infrastructure (Policy 25).

(iii) **Penwith Local Plan**

5.12 The Local Plan was adopted in 2004 and covers the whole of the district for the period up to 2011.

5.13 The Local Plan strategy is based upon the principle of sustainable development, protecting, improving and managing environmental resources and the consequences of development, whilst at the same time seeking to strengthen the local economy, to provide for housing and other development, in ways that are sustainable, meet the needs of the community as a whole and respect the special character of the district. New development is to be focused on the three main urban areas of Penzance and Newlyn; St Ives and Hayle, or in the case of serviced industrial land, in the main transport corridor at transport nodes where accessibility to non-car modes of transport can be maximised. Proposals should maximise the use previously developed land.

5.14 Proposals for retail development in edge and out of centre locations will not be acceptable unless the sequential test has been met; there is a need for the development which can not be met in a town centre; they would not be likely to lead to a significant reduction in the range of retailing in an existing town centre or affect their vitality and viability; be readily and conveniently accessible by alternative means of transport; be compatible with surrounding land uses and; not materially affect the vitality of village or neighbourhood shops (policy TV-17). The plan also indicates that where a subsequent change in the retail character of a development would be likely to harm the vitality and viability of existing town centres, conditions will be imposed or planning obligations sought to limit such changes.

5.15 The plan recognises the historic influences which have created the town of Hayle today, with its twin centres at Copperhouse and Foundary. The extensive area of derelict land around the harbour is also identified and the objectives for the town are to regenerate these derelict sites for mixed use purposes, which, inter alia include the effective integration of retail and other town centre uses within the existing Foundary centre.

5.16 Four regeneration sites are identified as follows:-

- (i) South Quay/Foundry Yard – 6 hectare
- (ii) North Quay – 7.9 hectare
- (iii) East Quay – 1 hectare

5.17 Proposals for mixed use purposes including retail development should be closely integrated with the adjacent town centre in terms of location, orientation and pedestrian movement.

## **6.0 PLANNING ASSESSMENT**

6.1 In the light of our Factual Assessment set out above, we have identified a range of issues arising from these proposals which we consider in turn below.

### **(i) Disaggregation**

6.2 Whilst Marks & Spencer do operate stand alone food stores, it is an established part of their business operation to operate mixed use stores selling both food and non-food products. The approach of PPS6 is not to seek the arbitrary sub-division of proposals, but to explore the extent to which the constituent parts of the development proposals can be accommodated in town centres, with an example being given as to whether it is possible to incorporate any of the constituent units of a retail park in a town centre. We do not consider it would be appropriate in this instance to seek to disaggregate the food sales element of the proposed Marks & Spencer operation, on the basis that it forms a relatively small part (17%) of an approved retail unit, which will not change the primary nature of that unit.

6.3 Whilst PPS6 confirms that local planning authorities can use conditions to ensure the character of the development does not change to create a form of development which would have originally been refused (Paragraph 3.31), including a limitation on the range of goods sold, Circular 11/95 "The Use of Conditions in Planning Permissions" confirms that a condition should not be retained unless there is a sound and clear-cut reason for doing so (Paragraph 15). The crux of this assessment is therefore to establish whether there is a sound and clear-cut reason for resisting the introduction of a small area of foods sales, amounting to about 7% of the total floor space in the scheme (including the permitted mezzanine area) in the light of the reason for the imposition of the condition, which was to safeguard the vitality and viability of Hayle Town Centre. For this reason we identify the main consideration as the retail impact of the proposal but nevertheless also consider other issues raised by PPS6 and the Development Plan, to ensure a comprehensive analysis.

### **(ii) Retail Impact**

6.4 The applicant's estimation of £5 million food sales is accepted as being reasonable. The RPS Study also assumes that about 90% of this turnover will be drawn from residents living within 20 minutes drive time, with the remainder coming from beyond, including tourist trade. We also consider this assumption to be reasonable but comment that, adopting the figures in the RPS Study, the turnover of the store drawn from the local catchment area amounts to about 67% of the existing turnover of Hayle Town Centre.



- 6.5 Nevertheless, we do not consider this space will have a significant impact on food provision in either Foundry or Copperhouse, due to the pattern of existing retail provision and the nature of that which will be provided in the store. Most main food shopping is already taking place at large superstores outside of Hayle Town Centre, with the majority of stores actually being situated in out of town locations. Provision in Hayle Town Centre is directed at meeting 'top up' requirements, in effect the replenishment of perishable goods in between main food shopping trips. Whilst the size and offer in the proposed M&S will also only support top up shopping trips, the price and quality of goods on offer will differentiate it from that available in Hayle Town Centre, ensuring it provides a complementary offer. The offer will also be different to that of the out of centre Lidl store which operates as a 'discounter' at the other end of the market. As a consequence we anticipate that the proposed floor space will compete in the main with the larger out of town superstores which do provide a wide range of pre-prepared foods and compete more directly on quality (eg Tesco Finest range).
- 6.6 Due to the mixed nature of the retail offer, and the travel distance to the nearest alternative Marks & Spencer store, we also consider the impact of the store will be spread over a wide area, as shoppers will be drawn from across western Cornwall to undertake a mixed shopping trip and purchasing both food and non-food items at the same time. The spreading of impact will also help ensure that there is no material harm to facilities in Hayle Town Centre. This pattern of impact is broadly that predicted by RPS Planning in their statement (Appendix 4, Table 3).
- 6.7 PPS6 indicates Impact Assessments should be undertaken for any retail development in an edge or out of centre location which is not in accordance with an up to date Development Plan Strategy. However, the level of detail should be proportionate to the scale and nature of the proposals and assessments which address all of the issues identified in PPS6 (see Paragraph 3.16 of this report) are only required for developments of over 2,500m<sup>2</sup> gross. They may occasionally also be required for smaller developments where these would have a significant impact on smaller centres however we do not consider this to be such a case. Consequently we consider the assessment undertaken in support of the proposal is sufficient.

### **(iii) The Effect on Development Plan Strategy**

- 6.8 The strategy is to focus major new development in Camborne and Redruth, however a distribution of local convenience shopping is sought which minimises the length and frequency of trips. We consider this proposal would help achieve that objective for local residents, by providing an improved range of local food shopping. However, whilst trade to the store as a whole will be drawn from a relatively wide area, the additional food offer is not

likely to significantly affect the strength of that draw as it would be attracted by the non-food sales in any event. Whilst the Local Plan seeks to apply the tests set down in PPS6, this assessment has already largely been undertaken in respect of this proposal for which planning permission was granted within the last twelve months. Whilst the proposed food sales are an extension of that permission, for the reasons given above we do not consider it to be a significant extension.

- 6.9 Consequently we conclude that whilst these proposals do not comply with the broad strategy of Regional policy to focus development in town centres and regenerate Camborne-Pool-Redruth, it will meet the objective of improving local shopping provision and the existence of the planning permission on the site is an important material consideration to which substantial weight should be given. The focus of our report has therefore been to identify the material differences between the retail development as already approved and that for which permission is now sought, and the impacts arising there from. It is our view that the changes sought are modest in nature and scale and will not have a harmful material impact on Hayle Town Centre.

**(iv) Retail Need**

- 6.10 The applicant has not undertaken a detailed Quantitative Need Assessment but has submitted a simplistic analysis comparing the growth in convenience expenditure within 20 minutes with the turnover of the store. Whilst this identifies a growth in local convenience expenditure of £13.85 million in the period 2004 – 2009, there is no assessment as to how much of this will be absorbed by improvements in the trading performance of existing stores. If thought appropriate your Council could require a more detailed assessment to examine this point, however as the basis of the argument is that the store will capture trade which is currently being undertaken at other large and mainly out of centre facilities elsewhere, we do not consider there to be significant merit in requiring this assessment. We anticipate it would demonstrate that there is no significant quantitative need for the development, but we consider that in the geographical circumstances of western Cornwall, the qualitative benefits should be given significant weight.

**(v) Sequential Test**

- 6.11 In the light of the existing planning permission, our conclusions on disaggregation and impact, we do not consider the application of the Sequential Test appropriate in this instance. We have consequently not undertaken a detailed assessment of Sequential Test sites.



#### **(vi) Appropriate Scale of Development**

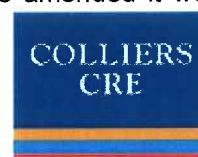
- 6.12 The extent of the proposed development is, in broad terms, relatively modest, although in the context of facilities available in Hayle Town Centre relatively extensive. In operational terms however we consider that the floor space proposed is appropriate for this location and will not significantly change the primary function of either the subject premises or the retail park as a whole. Consequently we conclude that the food sales space proposed is acceptable but that it would be appropriate to re-impose a condition preventing any further expansion in food sales area to ensure that the scale of such sales does not become inappropriate in the future.

#### **(vii) Accessibility**

- 6.13 We have not sought to undertake a detailed investigation into accessibility as we consider this a committed retail site, where the trading patterns will not significantly alter due to the proposed change. We also conclude that the Marks & Spencer is likely to help reduce vehicle miles travelled, as it will reduce the number of trips to stores at Falmouth and Truro and will also help reduce trips to existing main food destinations further afield. You may however care to commission a more detailed analysis of impact on travel patterns and the effect on local road capacity, especially the junctions with Marsh lane and the A30 if you continue to have a concern on this point.

#### **(viii) The Inclusion of a Coffee Bar**

- 6.14 By Letter dated 21 December 2005 the agent acting on behalf of Marks & Spencer sought confirmation that the inclusion of a small coffee bar (93 sq m) in place of general merchandising (i.e. comparison goods) space would be acceptable as being ancillary to the main use of the premises.
- 6.15 Typically high street coffee shops fall into Use Class A1 although they could also fall into Use Class A3 subject to the amount of hot food sales and seating on the premises. In this case we consider the use would be ancillary to the main use of the unit and so would be acceptable under the terms of the existing A1 permission. Whilst there is likely to be a small element of food sales we do not consider that the intention of condition two was to restrict such sales and so do not believe that this use would breach the condition, particularly where that food is primarily intended to be consumed on the premises.
- 6.16 We do not consider that the decision as to whether food sales can or cannot take place from the unit is relevant to this issue. If however the condition is to be amended it would aid



clarity if the new condition expressly makes clear that a small amount of food sales in the coffee shop primarily for consumption on the premises were acceptable in addition to the general sale of food.

**(ix) Objections by Cornwall County Council**

- 6.17 We attach copies of the County Council's correspondence at **Appendix 3**. The County Council's approach is to consider the proposal as being for a Marks & Spencer store as a whole, which they consider would raise very significant policy issues in respect of retail and transport accessibility matters. The letter of 30 January concludes that the impact of the proposed store should be assessed in its entirety, looking at both food and non food, and taking into account the key policy matters identified in PPS6. Their letter of 15 May makes clear their basis for reaching this conclusion where it states that the original consent was to accommodate bulky goods retailing which cannot be accommodated in a town centre.
- 6.18 We do not accept that the approach advocated by the County Council is the correct one as the premise on which it is based is wrong. The fact and terms of the existing planning permission on the site are an important material consideration. We have reviewed the planning permission in Section 2 which allows the sale of any non food goods. It is clear that the permission is not restricted to the sale of 'bulky' goods in any way, although the sale of food is prevented. Consequently the sale of all non food items stocked by M and S is already permitted under the terms of the planning permission. We do not consider there to be any requirement in national, regional and local policy to reassess the acceptability of these sales from this site in connection with these proposals. Consequently we are satisfied that the approach adopted by RPS is appropriate in the context of this site and that the focus should be on the impact of the proposed food sales.
- 6.19 The County Council's letter of 15 May is quite helpful. It confirms that there has been no change in policy since the previous application was approved. Hence we believe it appropriate to assess the proposal in the context of the condition and the reason for it as set down on the decision notice – namely to safeguard the vitality and viability of Hayle Town Centre (refer to paragraph 1.4). The County Council's letter goes on to say:-

*'Taken by itself the food element is unlikely to adversely affect town centres...'*

- 6.20 We agree with this conclusion. We have already referred to national policy on the use of conditions is set down in Circular 11/95 which states that they ought not be imposed unless there is a definite need for the restriction, and when considering proposals for their variation, they should not be retained unless there are sound and clear cut reasons for doing so



(paragraph 15). In this case it is accepted by the County Council that the reason for which the condition was applied is not harmed by this proposal. In accordance with national policy therefore the County Council's position would indicate that planning permission should be granted. The lack of harm may not remain if there were proposals for a larger element of food sales and hence we recommend the restriction on food sales be retained but varied to allow the current proposals as part of a mixed goods retail offer from unit CD.

- 6.21 The County Council's letter of 15 May also confirms that they accept that M and S should not be expected to disaggregate their food and non food offer. Again we agree with this conclusion. Whilst we do not consider a sequential test necessary in this case, if it was considered one was, the assessment would need to try and identify a site capable of accommodating the whole of the M and S store.
- 6.22 The County Council also state the application should be referred as a major departure from the development plan. The Departure Direction applies to retail development of more than 5,000 sq m or, inter alia, any other development which by reason of its scale or nature or location of the land would significantly prejudice the implementation of the development plan's policies and proposals. For reasons stated above, we do not consider these proposals would significantly prejudice the development plan. The size of the whole scheme does however exceed 5,000 sq m, and so in the context of the points made at section (i) above, there may be grounds to refer under the floorspace threshold if in fact you consider the proposal contrary to the development plan.
- 6.23 For clarification, we confirm we have not sought to establish whether this proposal should be referred under the Shopping Direction.

