

19/00794/APP
5th July 2019

Section 42 Application to vary condition 3 of Planning Permissions 03/01749/FUL (P/PP/75/96/GE/46) 05/02364/FUL 06/02174/FUL and 10/01154/APP to allow the sale of food and drink at Unit 3 Elgin Retail Park Edgar Road Elgin for Robertson Of Elgin Executive Retirement Fund

Comments:

- A SITE VISIT HAS BEEN CARRIED OUT
- The proposal (as a whole or in part) has previously been reported to Committee or to a Departure Hearing (Special Committee Meeting) and the appointed officer considers that significant amendments have been made to any previous application for Committee to reconsider the development
- Advertised for neighbour notification purposes
- 1 representation received

Procedure:

- None

Recommendation

Grant Planning Permission - Subject To The Following:-

Conditions/Reasons

1. Condition 3 as attached to the applications for planning permission as granted under formal decision notices P/PP/75/96/GE/46 (or 03/01749/FUL), 05/02364/FUL, 06/02174/FUL and 10/01154/APP is hereby varied and shall be substituted by the following: "With the exception of Unit 3 (as identified on approved plan (LP-)001) the permission hereby granted is for non-food retailing only, except that up to 300 sqm (public trading area) of food sales will be allowed within the Elgin Retail Park, subject to such floorspace forming no more that 40% of the public trading area of any individual trading unit".

Reason: In order to retain the overall non-food retail character and nature of the development granted on the site and to provide for an acceptable scale or amount of food retailing within the Elgin Retail Park which would not have a significant adverse impact on the vitality and viability of Elgin town centre.

Reason(s) for Decision

The Council's reason(s) for making this decision are:-

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

List of Informatives:

THE TRANSPORTATION MANAGER has commented that:

Planning consent does not carry with it the right to carry out works within the public road boundary.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
(LP-)001	Location Plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
19/00794/APP

Site Address:
Unit 3
Elgin Retail Park Edgar Road Elgin

Applicant Name:
Robertson Of Elgin Executive Retirement Fund

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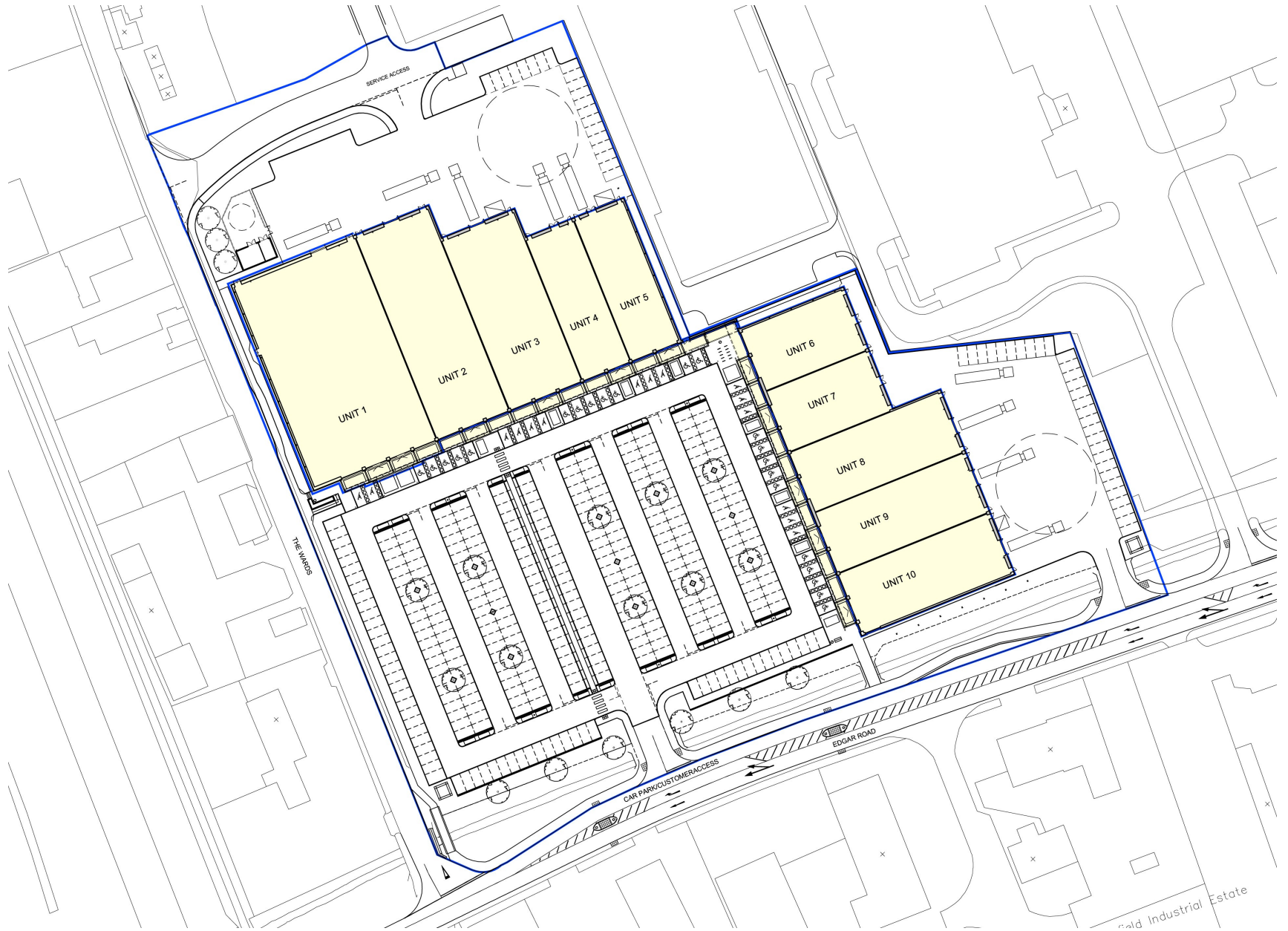
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Location Plan



Site Layout plan









PLANNING APPLICATION: 19/00794/APP

In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications

THE PROPOSAL

- This application seeks to vary a condition on each of three applications for planning permission for a retail warehouse development as built at Elgin Retail Park to allow exclusively food retail from unit 3 only.
- The existing conditions allow up to 300m² (public trading area) of non-food retail within the Retail Park provided this represents no more than 40% of the public trading area of any individual unit. The proposal is to remove all restrictions in relation to unit 3 only.
- A Retail and Planning Assessment and Parking Assessment have been submitted in support of the application.

THE SITE

- The application site is Unit 3 of the Elgin Retail Park, located on Edgar Road.
- The unit is currently vacant.
- The Retail Park consists of 10 retail warehouse units of varying sizes. The application relates specifically to Unit 3 which is 939m².
- The Retail Park is currently partially occupied with a range of clothes, discount and bulky goods retailers. Unit 4 is now occupied by a gym.
- The Retail Park is adjoined by Walkers factory premises to the east, and various industrial and commercial units to the south, west and north, plus residential premises to the north-west.
- The site is accessed from Edgar Road with car parking area located to the front of the retail units, and rear servicing from The Wards and Edgar Road.
- The site is within the Edgar Road Commercial Centre as identified in the Moray Local Development Plan (MLDP) 2015 and the proposed MLDP 2020.

HISTORY

19/00336/ADV - Signs to front elevation gantry entrance sign rear elevation loading bay sign and panels to totem pole - Approved 30/04/19.

13/00455/APP - Subdivision of unit for Class 1 and Class 3 and associated internal and external alterations (unit 3) – withdrawn.

10/01154/APP - Variation of planning condition 3 of planning permission P/PP/759/96/GE/46, 05/02364/FUL and 06/02174/FUL to read "The planning permission hereby granted is for non-food retailing only, except that up to 300 sqm (public trading only) of food sales will be allowed within the site, subject to such floor space forming no

more than 40% of the public trading area of any individual trading unit – Granted 15/12/2010.

06/02174/FUL - Make amendments to approved drawings under 03/01749/FUL and 05/02364/FUL to accommodate reduction in original building footprint and addition of internal unit sub-division walls and entrances together with minor elevational reconfiguration associated with the changes at Edgar Road – Granted 03/11/06. Subject to conditions including condition 3 which reads: “the permission hereby granted is for non-food retailing only”.

05/02364/FUL - Erect Class 1 non-food retail warehouse on site at Edgar Road – Granted 12/06/2006 - Subject to conditions including condition 3 which reads: "The permission hereby granted is for non-food retailing only and the development shall be exercised in conjunction with the non-food retail warehousing development approved under application 03/01749/FUL and granted planning permission by the Scottish Ministers by letter dated 28 October 2005".

03/01749/FUL or P/PP/75/96/GE/46 - Erect non-food retail warehousing (Class 1) at Edgar Road (85,000 sq ft) (7898 sqm) (gross) (5 units) granted (by Scottish Ministers) 28/10/05 – subject to conditions including condition 3 which reads: “the permission hereby granted is for non-food retailing only”.

POLICY - SEE APPENDIX

ADVERTISEMENTS

None

CONSULTATIONS

Strategic Planning & Delivery – No objections.

- A report on the submitted Retail Assessment has been carried out by the Council's consultant.
- The proposal complies with the sequential approach (R2 a) and demonstrates that there will be no unacceptable impact on town centres (R2 b). The Strategic Planning & Delivery Team offered advice on the units considered as part of the Sequential Assessment and these are considered to be acceptable.
- It is accepted that the town centre units identified are unsuitable due to their layout, size or access to parking.
- Since the applicant's carried out their assessment additional units in the St Giles Centre have been marketed but it is acknowledged that they do not meet the minimum floor space requirements, are on multiple levels and do not have direct access to parking.
- No edge of centre units are available and the Edgar Road Commercial Centre is the next sequentially preferable location.
- The Council's Retail Consultant broadly accept the approach taken to assessment of retail impact but have suggest that a slightly higher level of trade diversion is likely. However, they still conclude that the impact is modest.

- On reviewing the Town Centre Health Check The Council's Retail Consultant conclude that the development will not adversely impact on the vitality and viability of the town centre.
- The impact of a different retailer has also been considered and the impacts were found to be similarly modest.
- The MLDP 2020 – Proposed Plan is a material consideration. At its special meeting on 25 June 2019, the Committee approved the submission of the Proposed Plan for examination by Scottish Ministers and agreed the plan policies would continue to be given minimal weight.

Transportation – No objections.

- A scoping exercise in relation to trip generation and parking demand was undertaken in consultation with the Council in order to inform the Parking Assessment.
- The submitted Parking Assessment contains a robust assessment of trip generation identifying key times of demand and demonstrates capacity to accommodate this proposal.
- A parking survey and assessments have also been submitted which identified space capacity of 50-57% at times of maximum occupancy.
- Additional trip generation has been estimated at a total of 45 trips during week day pm peak. It is noted that this does not account for shared trips therefore actual trip generation associated with the development is likely to be lower.
- Trip generation associated with the retail park has been assessed as part of previous applications and this proposal will not have a material impact on the surrounding road junctions.
- Transportation are content that there is sufficient capacity in the car park and surrounding road network to accommodate the development both at present and in the event of full occupation of the retail park.
- A further parking assessment would be required for any additional proposed changes of use at the retail park.

Environmental Health – No objections.

Developer Obligations - None sought.

OBJECTIONS-REPRESENTATIONS

NOTE: Following the determination of this application, name and address details will be/have been removed (i.e. redacted) in accordance with the General Data Protection Regulations (paragraph 3 of Minute, Planning & Regulatory Services Committee 16 September 2014).

Issue: The Local Plan contains policies to ensure to protect town centres.

Comment: The proposal has been fully assessed against the relevant MLDP 2015 policies. The sequential approach has been complied with and the proposal is not considered to adversely impact the vitality and viability of the town centre.

Issue: Scottish Planning Policy and the National Review of Town Centres recognises the importance of town centres and promotes town centres as the focus for a mix of uses including retail.

Comment: The primacy of the town centre is acknowledged. In line with local and national policy the applicant has been required to submit a retail assessment to demonstrate that convenience retail in this location will not undermine the vitality and viability of the town centre.

Issue: A sequential approach must be taken to site selection for retail proposals.

Comment: A sequential assessment has been undertaken. None of the town centre sites identified met the minimum requirements for the development and no edge-of-centre sites were identified. The application site is within the Edgar Road Commercial Centre as identified in the MLDP 2015 and as such is the next most sequentially preferable location.

Issue: A shopping survey has identified an increase in the number of people shopping in out of town retail developments from 49% in Spring 2014 to 60% in Spring 2019.

Comment: These findings are noted but the planning authority does not have knowledge of the format, methods or findings of this survey and as such limited weight can be attached to it.

Issue: Changes to the planning permission at this retail park have resulted in a relaxation of conditions that have directly and negatively affected the town centre.

Comment: It is acknowledged that successive applications have led to a more permissive set of conditions being in force than those attached to the original consent for the site. Nonetheless the use of the units is still restricted by the conditions in place and the current application only applies to one unit within the retail park. Any proposals to further amend the existing permissions would have to be supported by a further retail assessment.

Issue: This development would set a precedent for further applications that would further undermine the town centre.

Comment: Each application is considered on its own merits against the relevant policies and other material considerations.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29 January 2019, with the Committee agreeing that between June/August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.

- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management & Building Standards Manager and Strategic Planning & Delivery Manager.

In this case the proposal is subject to a designated site which will not be subject to the Examination process and therefore will be given greater weight.

The main issues are considered below.

Planning History

Planning Permission (03/01749/FUL or P/PP/75/96/GE/46) for units 1-5 in the Retail Park was granted by Scottish Ministers following a Public Local Inquiry. This permission was subject to conditions including condition 3 which restricted all the units to non-food retail only. Planning Permission (05/02364/FUL) was then granted for an additional unit (unit 6). This was also granted subject to a condition (3) which required the development to be exercised in conjunction with the permission for units 1-5 and restricted unit 6 to non-food retail only. The approved plans were reconfigured by application reference 06/02174/FUL. The changes approved under this application included the provision of ten units instead of the previously approved six and a reduction in the overall floor area from 8827m² to 7898m². The Retail Park was built in accordance with the plans approved under the 2006 permission. Condition 3 of the 2006 permission restricts all units to non-food retailing only. A further application (10/01154/APP) to vary condition 3 of the three preceding applications (06/02174/FUL, 05/02364/FUL and 03/01749/FUL or P/PP/75/96/GE/46) to allow limited food sales was lodged in 2010. This was granted subject to a condition (3) that permitted food sales on 300m² (public trading only) within the Retail Park up to a limit of 40% of the public trading area of any given unit. This condition remains in place across the Retail Park but it is noted that Unit 4 has been converted to a gym and therefore is no longer in retail use. For the avoidance of doubt planning permission would be required to return unit 4 to retail use. At present Home Bargains (Unit 2) is the only unit selling food. Plans submitted to discharge conditions attached to the 2010 permission show 215m² of food sales within Unit 2 which represents 20.5% of the public trading area of this unit. Should the current application be approved the 300m² would continue to apply across the other units within the Retail Park (with the exception of unit 4 which is no longer in retail use).

Compliance with Retail Policy (R2, Edgar Road Commercial Centre)

Policy R2a requires retail development outwith the town centre to comply with the sequential approach which requires that locations for new development be considered in the following order of preference: town centre sites, edge of centre site, other commercial centres identified in the MLDP, derelict or vacant land in out of centre locations that are easily accessible and out of centre sites that are accessible. Policy R2b requires proposals to demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of town centres. Parts c-e of the R2 policy do not apply in this case as the site is within an established retail park.

Sequential Approach

The submitted retail assessment includes a sequential assessment the scope of which was agreed with the Council. The minimum requirements identified for the proposal are

929 m² with limited floor plate obstructions and easy direct access to parking for trolley shoppers.

A number of town centre locations have been identified and assessed as follows.

77-83 High Street (formerly Poundland). This unit is large enough but does not lend itself to trolley to car shopping of the type proposed here.

Units within the St Giles Centre. These units are more suitable for comparison retail and would not allow the shelving and aisle layout required for this type of retailing. Since the applicant's assessment was carried out additional units within the St Giles Centre have been marketed however, the Strategic Planning & Delivery Team have advised that these units would not be suitable either due to their size and layout.

51 South Street (formerly Junners). This site is unsuitable as the floor space is only 815m² and is spread over two floors with very low ceilings. Furthermore there is no easy access for trolley to car shopping.

57 – 61 South Street. This site is too small at 743m² and extends over three floors. There is no suitable access for trolley to car shopping.

No edge-of-centre sites have been identified. A site within the Edgar Road Commercial Centre such as the application site is the next sequentially preferable location. The information supplied is sufficient to demonstrate that there are no sequentially preferable sites available that meet the minimum requirements for the development. The sequential approach is therefore satisfied and the proposal accords with policy R2 (a).

Impact on the Town Centre

Policy R2 (b) requires that there is no unacceptable impact on the vitality or viability of the town centre. The retail assessment includes an assessment of the impact of the development on Elgin town centre. The approach taken by the applicant takes account of the modest scale of the proposed change and the fact that the unit benefits from planning permission for non-food retail despite being vacant at present. The Council's retail consultant considers this to be a reasonable approach however, in their view the likely retail impacts will be slightly different from those identified by the applicant.

The council's retail consultant suggests that a simple comparison between existing and proposed use indicates a trade diversion of £1.13m. The Council's retail model shows that Elgin town centre has a total turnover of £118.4m (2018 prices) of which £53.5m is for convenience goods and £64.9m for comparison goods. The proposal therefore represents a loss from the town centre of 1% for all goods. It is noted that the effects are different for convenience and comparison goods. For convenience goods the loss would be 5.5% with the impact chiefly felt by Tesco and Farmfoods. It should be noted here that the purpose of the assessment is to consider the impact on the town centre overall and not any individual business. For comparison goods there would be a 2.8% increase in trade for the town centre as Unit 3 would cease to be available as an out of centre location for comparison goods. The impacts identified are relatively modest and there is some potential benefit to the town centre in relation to comparison goods sales.

The retail consultant notes that if approved the application would permit any convenience retail operator and has undertaken an additional assessment of the impacts of a metro style supermarket which is considered to be the most likely alternative format to operate

from the proposed unit should the current applicant or a similar occupier choose not to take on the unit. Whilst higher impacts are predicted compared to the currently proposed operator the overall impacts are considered to be modest and would not be expected to have a significant impact on town centre vitality and viability.

Notwithstanding any differences in the assumptions and interpretations in the assessment, the Council's retail consultant has concluded that the proposal to amend the condition will not have a significant adverse impact on the vitality and viability of Elgin town centre. On this basis the proposal is considered to comply with policy R2b.

Parking and Access (T2 and T5)

The application is supported by a Parking Assessment the content of which was scoped by with the Council's Transportation Section. The Transportation Section has confirmed that the submitted report represents a robust assessment of the proposal. There were 373 parking spaces within the car park. In terms of parking accumulation and demand the assessment estimates that maximum parking demand would occur between 1200-1300 on a weekday and between 1400-1500 on a weekend. The assessment found that at these peak times demand could be as high as 109 and 119 spaces respectively during these times there would be 264 and 254 spaces remaining available for use. The assessment is further backed up by a parking survey undertaken within the car park which highlights a maximum weekday and weekend occupancy of 160 and 185 vehicles respectively at present. This represents 43% occupation during the week and 50% at the weekend. A further assessment based on a mixed use development at the retail park concluded in these circumstances there would be 21% spare capacity. In all cases, the assessment demonstrates that there is spare capacity to accommodate the demand associated with the current proposal. The submitted assessments and survey demonstrate that there is sufficient capacity in the car park to accommodate the development both at the current level of occupation and in the event of full occupation of the Retail Park. The parking provision is acceptable and in accordance with policy T5.

The impact on the existing road network has also been considered. For the proposed change of use an additional 45 vehicle trips have been estimated weekday for the pm peak period. It is noted that this is a 'worst case scenario' and does not account for any shared trips (trips that would be made on the road network anyway). In practice, new trip generation associated with this development is likely to be much lower. The Transportation Section has also advised that the impact of the Retail Park on the wider road network has been assessed in relation to previous applications and a Developer Obligation was provided. The current proposal is not considered likely to have a material impact on nearby junctions. No mitigation or modification of the road network has been sought. The proposal accords with policy T2.

Conclusion

Following the submission of retail information and analysis (by the applicant's agent and the Council's retail consultant) the proposal is considered to comply with policy R2a and R2b as the requirements of the sequential approach are satisfied and the retail analysis demonstrates that there will be no unacceptable impact on the vitality and viability of the town centre. In this instance it is considered that allowing unrestricted food retail from one unit within the retail park will not detract from the character, function and role of the Edgar Road Retail Park or adversely impact on the town centre. It is recommended that the application is approved and the conditions of the previous planning permissions are varied as set out in the recommendation.

REASON(S) FOR DECISION

The Council's reason(s) for making this decision are: -

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Moray Local Development Plan 2015 - Material Consideration

Policy EP8: Pollution

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Policy T2: Provision of Access

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.
- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.
- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

The practicality of use of public transport in more remote rural areas will be taken into account however applicants should consider innovative solutions for access to public transport.

When considered appropriate by the planning authority developers will be asked to submit a Transport Assessment and Travel Plan.

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

Policy T5: Parking Standards

Proposals for development must conform with the Council's current policy on parking standards.

Policy IMP1: Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.

- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy R2: Out of Centre Development of Retail, Commercial and Leisure Proposals

Outwith town centres retail development proposals (including extensions) and other uses generating significant footfall such as leisure or public buildings, must:

- a) comply with the sequential approach which requires that locations for new development be considered in the following order of preference:
 - Principal and Other Town Centre Sites;
 - Edge of Town Centre Sites;
 - Other Commercial Centres identified within the Table 1 "Retail Centres and Roles";
 - Derelict or vacant land in out of centre locations that are or can be made easily accessible by pedestrians and a choice of modes of transport;
 - Out of centre sites in locations which are, or can be made, easily accessible by pedestrians and a choice of modes of transport;
- b) demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, this being demonstrated where appropriate, by a Retail Impact Assessment,
- c) meet any requirements for linking development to existing infrastructure including roads access, parking, as demonstrated by a Transport Assessment, sewerage, water run-off and Sustainable Urban Drainage Systems (SUDS),

- d) provide specific opportunities for access by public transport, pedestrians, cyclists and the disabled, and
- e) contribute positively to the built environment of the area by having a high standard of design.

Proposals outwith settlement boundaries will not be acceptable, with the exception of specialist retailing associated with tourism which should be considered against Policy R3 and roadside facilities which should be considered against Policy T3. Small shops intended to meet the convenience needs of a local neighbourhood should be considered against Policy R3.

Policy IMP3: Developer Obligations

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

The Council will prepare supplementary guidance to explain how the approach will be implemented in accordance with Circular 3/2012 on Planning Obligations. This will detail the necessary facilities and infrastructure and the scale of contributions likely to be required.

In terms of affordable housing, developments of 4 or more units will be expected to make a 25% contribution, as outlined in policy H8.

CC: Commercial Centre - Edgar Road

It is recognised that Edgar Road is an established retail area and this area is identified as a Commercial Centre within Table 1 "Retail Centres and Roles" within Policy R2. This is the preferred location for bulky good and comparison outlets if no town centre or edge of town centre sites are available. The area is currently characterised by convenience, bulky goods, and comparison retailing. This area has helped to maintain the area's competitiveness with Inverness and Aberdeen. A flood risk assessment may be required for any planning application within this area.

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the

development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.

- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles;

(i) Character and Identity

- Create places that are distinctive to prevent homogenous 'anywhere' development.
- For developments of 20 units and above, provide a number of character areas that have their own distinctive identity and are clearly distinguishable. Developments of less than 20 units will be considered to be one character area, unless they are part of a larger phase of development or masterplan area.
- Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development.
- Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres.
- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations.

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.

- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi-functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect;
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

- Provide a wide range of well integrated tenures, including a range of house types and plot sizes for different household sizes, incomes and generations and meet the affordable and accessible requirements of policy DP2 Housing.
- All tenures of housing should have equal access to amenities, greenspace and active travel routes.

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.
- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaped areas must not be 'left-over' spaces that provide no function. 'Left-over' spaces will not contribute to the open space requirements of policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.

- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/ sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

(v) Biodiversity

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees, hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.
- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and connect into wildlife corridors/ green networks and prevent fragmentation of existing habitats.

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 75% of car parking must be provided to the side or rear and behind the building line with a maximum of 25% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor
- Secured and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardized.
- Dead-end streets/cul-de-sacs will only be selectively permitted on rural edges or where topography dictates. These must be short, serving no

more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.

- Roundabouts must be designed to create gateways and contribute to the character of the overall development.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

- (d) Masterplans have been prepared for Findrassie (Elgin), Elgin South, Bilbohall (Elgin), and Dallas Dhu (Forres) and are Supplementary Guidance to the Plan. Further Masterplans will be prepared in partnership for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/ Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. A peer review organised by the Council will be undertaken at the draft and final stages in the masterplan's preparation. Following approval, the Masterplans will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

DP1 DEVELOPMENT PRINCIPLES.

This policy applies to all developments, including extensions and conversions and will be applied proportionately.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".

- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
 - d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
 - e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
 - f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
 - g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
 - h) Existing stone walls on buildings and boundaries must be retained.
 - i) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain
- (ii) **Transportation**
- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
 - b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.

- c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

iii) **Water environment, pollution, contamination.**

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP7 RETAIL/TOWN CENTRES

a) Town Centres.

Developments likely to attract significant footfall including retail, offices, leisure, entertainment/cultural and community facilities must be located in town centres.

Within Core Retail Areas (identified on settlement maps, CRA), at ground level, only development for Use Class 1 Shops, Use Class 2 Financial, professional and other services, or Use Class 3 Food and drink will be supported.

Proposals must be appropriate to the scale, character and role of the town centre (Table 6) and support a mix of uses within the town centre. Proposals that would lead to a concentration of a particular use to the detriment of the town's vitality and viability will not be supported.

b) Outwith Town Centres

Outwith town centres, development (including extensions and sub-divisions) likely to attract significant footfall including retail, offices, leisure, entertainment/cultural and community facilities must;

- a) Demonstrate that no sequentially preferable sites are available. Locations will be considered in the following order of preference;
- Town centres (as shown on settlement maps).
 - Edge of centre.
 - Commercial Centres (as shown on settlement maps, CC).
 - Brownfield or OPP sites that are or can be made easily accessible by pedestrians and a choice of modes of transport.
 - Out of centre sites that are or can be made easily accessible by pedestrians and a choice of modes of transport.

b) Demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the network of town centres (Table 6), where appropriate by a Retail Impact Assessment.

Flexibility will be allowed to ensure that community, education and health care uses are located where they are easily accessible to the communities they serve.

c) Neighbourhood Retail.

Small shops that are intended to primarily serve the convenience needs of a local neighbourhood within a settlement boundary will be supported. Depending on scale, proposals may be required to demonstrate that they will not have an unacceptable adverse impact on the vitality and viability of the network of town centres (Table 6), by a Retail Impact Assessment or Retail Statement. Within a neighbourhood one unit of up to 400m² designed to meet the day to day convenience needs of the neighbourhood will be supported. Other small units of up to 150m² that contribute to creating a mix of uses in a neighbourhood centre/hub will be supported. This could include small retail uses (Class 1 non-food), financial and professional services (Class2) and cafes and small restaurants (Class 3). Neighbourhood hubs/centres should aim to contribute to the sense of community and place, the sustainability of an area, reduce the need to travel for day to day requirements and provide adequate parking and servicing areas.

Change of use of established or consented neighbourhood retail units will only be supported where it can be demonstrated that active marketing has failed to find a retail use for the premise. For a change of use to be considered, the premises must have been vacant and actively marketed for a minimum of three years at an appropriate market rent/value. Where the unit is part of a consent for wider development, the three year marketing period will be counted from the completion of the development as a whole i.e. change of use of a retail unit will not be considered half way through completion of a development or in the three years after the completion of the whole development.

d) Ancillary Retailing.

See policy DP5 Business and Industry in respect of ancillary retailing to an industrial or commercial business.

e) Outwith Settlement Boundaries.

Outwith settlement boundaries, proposals for small scale retail development will only be supported if these are ancillary to a tourism or agricultural use. Small scale extensions to existing retail activity will only be supported where this does not undermine the vitality and viability of the network of town centres (Table 1).

Table 1 Moray Town Centres

EP14 POLLUTION, CONTAMINATION & HAZARDS.

a) Pollution.

Development Proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate

impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

b) Contamination.

Development proposals on potentially contaminated land will be approved where they comply with other relevant policies and;

- i) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment, and
- ii) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/ or treatment of any hazardous material.

c) Hazardous sites.

Development proposals must avoid and not impact upon hazardous sites or result in public safety concerns due to proximity or use in the vicinity of hazardous sites.

CC Edgar Road Commercial Centre

Suitable Uses/Role of Centre

- To meet the demand for comparison and bulky goods retailing where these cannot be accommodated within the town centre or edge of centre. Help stem leakage outside the region.
- A Flood Risk Assessment may be required for planning applications in this area.