

Application ref: 07/21/0519/F

PINS ref: APP/W1905/W/22/3292367

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION BY Aldi Stores Ltd

Site Address: Homebase Ltd, Sturlas Way, Waltham Cross, Hertfordshire, EN8 7BF

**Reason 1: Potential for the comprehensive mixed use development of the Site**

PROOF OF EVIDENCE of  
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BROXBOURNE BOROUGH COUNCIL  
JUNE 2022

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Appendix B: Former Gala Bingo Site, 108 High Street (28 July 2021)

Appendix C: Poundland Site (26 January 2021)

Appendix D: Pavilions Site (5 February 2021)

Appendix E: Cheshunt Lakeside (5 March 2019)

Appendix F: Rosedale Park Masterplan

Appendix G: Frederick Gibberds' proposals for Council owned land

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Appendix I: Mr Diamond (LCP) submission to Local Plan Examination, 23 October 2018

## Qualifications and Experience

- I am Planning Manager (Policy and Projects) at Broxbourne Borough Council.
- I was employed by the Council as Planning Policy Manager in 2015. Much of my time in the period 2015-2020 was taken up with preparation of the Local Plan and the subsequent examination.
- Prior to that I was employed for a number of years in a number of planning policy roles at East Hertfordshire District Council.
- In April 2022 my job title changed to include reference to the broad range of planning projects with which I have been involved since adoption of the Local Plan.
- I have a Masters degree in Spatial Planning
- I have been a member of the RTPI since 2010.
- The contents of this Proof of Evidence are true and comprise my professional evidence.

## 1. Summary

- 1.1 This Proof of evidence concerns Reason for Refusal 1: **“The principle of development within the site is considered contrary to Local Plan policies WC2, DS1, PM1, RTC2 and DSC7 and the Waltham Cross Town Centre Strategy (2015) which seek a comprehensive development approach to this allocated site.”**
- 1.2 Section 2 shows how the appeal scheme does not meet the policy requirements for sustainable place-making set out in policy PM1, worsening the identified problem of the ‘big box’ stores ‘turning their backs on the town centre’ and adding nothing to the identity or character of Waltham Cross.
- 1.3 Section 3 sets out the importance of the appeal site within the context of the Borough Development Strategy, as one of only two strategic allocations within the urban area of the borough. It also explains with examples the approach to comprehensive urban regeneration that the Council is seeking at the strategic allocations, and how ‘masterplans’ have been the result of collaborative working between the Council and applicants.
- 1.4 Section 4 explains that within both national and local policy the terms ‘vitality and viability’ within the adopted Local Plan, mean far more than the narrow definition of increased convenience retail spend promoted by the appellants.
- 1.5 Section 5 explains the Council’s approach to the future planning of Waltham Cross, backed up by its own property acquisitions, and sets out the background to the Waltham Cross Town Centre Strategy (2015) and the more recent draft Planning Framework (2022). It also demonstrates the Council’s commitment to progression of a comprehensive approach through both its acquisition of strategic land parcels within the town centre and emerging proposals for development of its landholdings within the northern High Street.
- 1.6 Finally, section 6 explains in detail how the appellant’s proposal falls well short of the requirements of Policy WC2, the site allocation and policy framework within which the application was assessed. This section demonstrates that
- the proposal does not contribute to the policy requirement for a ‘mixed use quarter’
  - the visual prominence of the site gives it a wider importance
  - the proposal could impact on design quality at other sites
  - the risks of piecemeal development to comprehensive development
  - the impact of the proposal on investment at Wickes and Sawyers Court
  - the proposal could undermine potential relocations to Park Plaza North.
  - investment in the new stores could impede a CPO
  - development timescales have been delayed because of the changing position of the landowner
  - there is significant demand for apartment development within Waltham Cross, as evidenced by recent proposals and developments

## 2. Sustainable Place-Making

- 2.1 Paragraph 8 of the National Planning Policy Framework (NPPF) states that the social, economic, and environmental objectives of the planning system should be pursued in *“mutually supportive ways”*. Paragraph 9 of the NPPF states that *“Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area”*
- 2.2 The Broxbourne Local Plan 2018-2033, adopted in June 2020, sets out a clear framework for sustainable development within the Borough. The Vision on page 14 states that *“The sense of place and sense of community will be enhanced by delivering high quality development...New development will be of the highest quality design, well-built and well related to its surroundings and will also seek to reduce its impacts on climate change.”*
- 2.3 Part 3 of the Local Plan (from page 30) is entitled ‘Places’. The first section of the plan, which is intended to apply to all the site allocations, and to all developments in general, contains a policy that reflects this overarching approach.

### **Policy PM1: Sustainable Place-Making**

New developments proposed within the Borough are required to complement existing towns and villages and the countryside around them. Major development must also establish their own identities through the implementation of sustainable place-making principles.

- 2.4 As explained in the supporting text to Policy PM1 at paragraph 4.4, these principles are set out in the sustainable neighbourhoods strategy (page 28 of the Local Plan). The headline objective is to ensure that growth and regeneration improves the physical quality and social and economic prosperity of neighbourhoods for residents, businesses, workers and visitors. As stated in paragraph 3.46, the Council is aiming to ensure that developments should be well connected into existing neighbourhoods. In paragraph 3.47 the Plan states that where appropriate, mixed use development are being promoted that will enable interconnection of land uses and interaction between people. Paragraph 3.53 states that by 2033 Broxbourne should have more ‘liveable places’.
- 2.5 There are strong connections between the sustainable place-making policy and the health and wellbeing strategy (page 29), which seeks the emergence of walkable neighbourhoods; encouraging active travel for all ages (paragraph 3.55); that the development and improvement of town centres...will prioritise healthy placemaking through improvements to the pedestrian environment; and safer, more accessible and more pleasant built environments (paragraph 3.59).
- 2.6 The proposed scheme falls well short of all these objectives and requirements. In summary, the evidence of Ms. Laidler confirms that far from creating a sense of identity as required by Policy PM1, the proposals would entrench the out-of-town retail park character into the town centre.

### 3. The Borough Development Strategy

- 3.1 Chapter 3 of the Local Plan contains the development strategy for the borough and reflects the sustainable place-making agenda. Paragraphs 3.4 to 3.11 set out the reasoned justification to the selection of development locations.
- 3.2 **Policy H1: Making Effective Use of Urban Land** (Local Plan page 122) states that the Council will optimise the potential for housing delivery on all suitable and available brownfield sites, in particular *“Suitable opportunities within defined town centre boundaries as shown on the Policies map that are in accordance with policy RTC2”*. The current appeal site, forming part of a site allocation within the town centre boundary, falls within the scope of this policy. Whilst not cited in the reasons for refusal, the purpose behind Policy H1, namely to optimise housing delivery on brownfield sites, sets the context behind the approach set out in Policies DSC7 and WC2. Those policies should be interpreted and applied in the light of this overarching purpose.
- 3.3 The policy approach set out in Policy H1 also reflects paragraph 125c of the National Planning Policy Framework. Failure to optimise the potential of such sites would be likely to increase the pressure on the Green Belt in future Local Plan reviews, given the scarcity of opportunity sites within the urban area.
- 3.4 Paragraph 3.4 (page 16) states that *“in considering options for accommodating this level of growth, the Council has first looked to locations which support improvements to our existing neighbourhoods and town centres, that protect important open green spaces and that encourage journeys by public transport, walking and cycling. It has therefore prioritised appropriate land within the existing urban area and has identified scope to provide for an additional 4,075 new homes on urban sites. Most of these sites are for less than 100 dwellings but two new strategic urban land allocations are proposed through the Local Plan:*
1. **Cheshunt Lakeside** - a new development of approximately 1,750 new homes at Delamare Road in Cheshunt; and
  2. **Waltham Cross town centre** - Redevelopment of lands at the north end of the High Street”
- 3.5 Local Plan **Policy DS1: The Development Strategy** (page 18) lists seven ‘strategic development sites’. It should be emphasised that there are only two strategic development sites in the urban area of the borough, and only one that falls within or near a town centre. As stated at paragraph 3.5 *“The nature and location of town centres and railway stations limits the scope for significant additional development in and around such locations without major redevelopment that is not considered practicable or desirable within the lifetime of this Local Plan.”*
- 3.6 Recognising that a number of the strategic allocations fall within multiple landownerships, and therefore there is a risk of piecemeal development resulting in uncoordinated developments that fail to achieve sustainable development, Local Plan policy DSC7 provides a clear steer as to the Council’s approach.

### **Policy DSC7: Comprehensive Urban Regeneration**

I. The Council will pursue the comprehensive development of the strategic development allocations within this Plan, and will resist piecemeal development of those areas that do not accord with agreed master plans.

II. The Council will promote comprehensive regeneration elsewhere where it is appropriate to do so, and will oppose developments that would compromise such regeneration or the implementation of the wider development of an area.

3.7 The Council has pursued a comprehensive approach to all the strategic development sites identified in the Local Plan. Besides Waltham Cross Northern High Street site, of which the appeal site forms a part, two other strategic sites are in multiple landownerships and a comprehensive approach to masterplanning has been pursued.

3.8 At Paragraph 227 of the Local Plan Inspector's final report on the soundness of the Broxbourne Local Plan, Local Plan Inspector William Fieldhouse stated the following: *"Policy WC2 proposes a comprehensive mixed use redevelopment comprising main town centre uses on land at the northern end of Waltham Cross town centre. This would help to improve the vitality and viability of the town centre in the medium term."*

From this it is clear that in the view of the Local Plan Inspector, the comprehensive approach would help to secure the vitality and viability of the town centre in the medium term.

#### *Cheshunt Lakeside*

3.9 At *Cheshunt Lakeside* (Local Plan Policy CH1), Inland Homes acquired a vacant parcel of land within a wider mixed-use strategic regeneration site. Despite only owning around 40% of the site allocation area, the developers prepared a comprehensive masterplan-led approach to development of the whole allocation, and this formed the basis for an outline permission and subsequently detailed permissions, and construction is currently underway. The Planning Officer report for Cheshunt Lakeside is attached at **Appendix E**.

#### *Rosedale Park*

3.10 At *Rosedale Park* (Local Plan Policy CH2), the Council worked with the various site promoters in pursuit of the principles sets out in the Local Plan allocation. Although no single masterplan has been produced for the whole area, the Council worked with the various landowners and developers to stitch together the various developer-led masterplans to ensure that they cohered into a comprehensive and co-ordinated approach (see **Appendix F**). Through an iterative process acceptable proposals have



emerged and consequently outline permissions have been granted for the majority of the allocation, with detailed permissions for the early phases.

## A comprehensive approach

- 3.11 The above examples provide the context for understanding of the requirement in Policy WC2 for ‘development in accordance with a comprehensive masterplan’. As elsewhere in the borough, given the small size of the planning team, in most cases masterplans have emerged from discussions between applicants and developers, with the Council providing input as to how masterplans can be made acceptable in the context of Policy DSC7 with regards to other developments in the vicinity. In the majority of cases these masterplans have been produced by urban designers working for developers, and these are then reviewed by the Council.
- 3.12 The appellant’s statement of case takes the Council to task for failure to produce a masterplan. However, the wording of Policy WC2 does not require the Council itself to produce a masterplan. As demonstrated above, for the current (as opposed to previous) proposals the landowner did not produce any context-appropriate masterplans looking beyond the site boundary to the remainder of the allocation and the wider town centre, contrary to policies WC2 and DSC7.
- 3.13 The appellant cites in paragraph 7.4 of their Statement of case an appeal decision relating to 133 High Street, [APP/W1905/W/19/3243274 \(October 2020\)](#) concerned *“conversion of A1 storage to C3, in order to create 1no. one bedroom flat and 1no. studio flat”*. The appellant cites paragraph 9 of this decision, in which the Inspector states that *“No evidence has been submitted to show that there is an agreed master plan for the area. The appeal development would not therefore be piecemeal development.”*
- 3.14 There are two linked observations to be made in relation to this case. The first is that, in contrast to current appeal, the 133 High Street appeal concerned a very small development that would not have a substantive impact upon the wider regeneration aspirations for the area. As a result of this, the appeal was not presented with any further evidence of the Council’s approach to masterplanning and the inspector gave it little attention.
- 3.15 The second observation is that, given that the appeal concerned a refusal of planning permission that pre-dated adoption of the Local Plan in April 2020, the Inspector in that case dismissed arguments put forward by the Council in respect of prematurity. Paragraph 8 of the inspector’s decision letter refers to the National Planning Policy Framework (paragraph 49b) advice regarding prematurity in relation to plan-making that *“arguments that an application is premature are unlikely to justify a refusal of planning permission other than where the development proposal is so substantial that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan.”* Unsurprisingly in light of this, the Inspector did not find that a small

residential conversion would fit this description. This appeal decision is therefore not relevant to the current appeal.

- 3.16 A second appeal decision referred to by the appellant is 143-145 High Street, Appeal Ref: PP/W1905/W/18/3213919 (May 2019). This decision by Inspector H Miles, concerns *“a change of use of part ground and first floor from A3 use to 9no flats, 2no ground floor retail units and alternative to add windows/door.”* Paragraph 2 of the decision made clear that as the Local Plan was ongoing at that time, the inspector afforded ‘limited’ weight to the policies. In light of the relative small scale of the proposals, and the limited weight afforded to the Local Plan in light of the ongoing Examination, it is therefore not surprising that the Inspector found at paragraph 13 of his decision letter that *“I am not persuaded that the proposed development would compromise the wider aims relative to this site.”*
- 3.17 In conclusion, because of the prematurity issues and the minor development proposals that would not impact on the comprehensive regeneration, neither of these appeal decisions presented by the appellant have a bearing on the current appeal. It is also worth bearing in mind that in the case of 143-145 High Street, the Council has subsequently acquired the site as part of its efforts to secure comprehensive regeneration, and in the case of 133 High Street the appellant subsequently put in a policy-compliant scheme and there is currently a resolution to permit that revised scheme (see **Appendix A**).

## 4. The Vitality and Viability of Broxbourne's Town Centres

- 4.1 Paragraph 86 of the NPPF states that “*Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:*
- a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;*
- b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre*
- 4.2 The Local Plan policies provide a positive strategy for achieving the vitality and viability of the town centres, allowing them to grow and diversify. They combine a strong steer in regards both the flexibility to adapt to changing circumstances and promoting the distinctive character of the town.
- 4.3 Waltham Cross is one of two main town centres in the Borough retail hierarchy, as set out in Policy RTC1 (the other centre being Hoddesdon). Part 1c of Local Plan **Policy RTC2: Development within town, district, and local centres, neighbourhood centres and shopping parades** states that the “*vitality and viability of the centre*” is one of a number of criteria used to assess the acceptability of development proposals in those locations.
- 4.4 The usage of these terms in the Local Plan supplements the approach to vitality and viability in the NPPF and is important in terms of interpretation of policy for development proposals in the town centre. The terms are not defined in the Glossary to the plan but is explained in the Local Plan is illustrated below.

### **Retail and Town Centres (page 133)**

- 23.1 *The vitality and viability of the Borough's shopping centres is based on a mix of uses which attract a range of visitors. In recent years there have been many financial pressures on town centres, with competition from larger centres, including out of Borough centres, rising proportions of internet shopping and a trend towards reduced retail spend overall.*
- 23.2 *To ensure that the vibrancy and critical mass of our high streets are not irretrievably lost, the Council must plan for the long term to ensure that the integrity of the Borough's high streets is not eroded by piecemeal development.*
- 23.3 *In order to secure the vitality and viability of the Borough's centres, it is important to retain a high proportion of retail uses, but also acknowledge the changing role town centres have as a focus for providing social, cultural and leisure experiences. A mixture of uses in the right locations can spread activity throughout the day and into the evening, providing for social as well as retail needs, and improving the viability of town centres.*

- 4.5 From this it is clear that in both the NPPF and the Local Plan the terms ‘vitality and viability’ refer to a range of factors, including achieving a mix of uses to spread activity throughout the day and into the evening, providing for social as well as retail needs. This includes the potential for increasing footfall within the town centre by boosting the resident population.
- 4.6 Paragraph 23.2 of the Local Plan cited above refers to the need for long-term plans to ensure that the integrity of the Borough’s High Streets is not eroded by piecemeal development. This approach is supported by Policy DSC7 as set out above.
- 4.7 The meaning of ‘vitality’ in the context of Waltham Cross is set out in paragraph 11.3 (page 80) which states *“the emphasis of the Strategy is on improving the vitality of the town centre and in particular the attractiveness and accessibility of its northern end, enhancing the retail offer and attracting investment, enhancing public realm, improving connectivity, and providing a year wide calendar of events.”* This is also supported by paragraph 227 of the Local Plan inspector’s report (cited at paragraph 3.8 above), which states that the vitality and viability of the town centre would be helped by the comprehensive approach set out in policy WC2.
- 4.8 From this it is clear that the use of the word ‘vitality’ includes but is not limited to *‘enhancing the retail offer and attracting investment’*. It also includes the attractiveness and accessibility of the northern end of the High Street, enhancing public realm, and improving connectivity. Each of these are represent qualities that might be expected to feature in proposals for the area.
- 4.9 By contrast, the appellant relies on a narrow definition of vitality and viability. Paragraph 7.13 of their Statement of Case states *“Evidence will therefore be presented which explains how a discount foodstore of the scale and form proposed on the planning application will result in the enhancement of the ‘vitality and viability’ and role and function of Waltham Cross town centre – which is the overarching objective of both the Waltham Cross Town Centre Strategy and the town centre policies of the Local Plan. This evidence will make reference to Broxbourne’s retail evidence base and in particular the Retail & Leisure Study (July 2015) and accompanying Addendum (June 2016).”*
- 4.10 The Council did not refuse this proposal on grounds of a lack of demand for convenience shopping, and therefore the relevance of this is questioned. However, even considering the economic case alone, the impact on the town centre in terms of increased footfall and spend to other shops in the high street is likely to be very limited in light of the location of the store (adjacent to a major roundabout and vehicular through-route) and the amount of car parking provided, which suggests that customers of the new store would overwhelmingly arrive and depart by car with no benefit to the town centre. I rely on the evidence of Ms. Laidler in this regard.

## 5. Planning for Waltham Cross Town Centre

- 5.1 The Council is committed the regeneration of Waltham Cross and is seeking to raise the bar through achieving place-making including through high quality development, adding to street-level activity including in the evenings, and supporting the vitality and viability of the town centre.
- 5.2 The Council has produced two documents that supplement the Local Plan and seek to guide development in the town centre. These are the Waltham Cross Town Centre Strategy (2015) and the Waltham Cross Town Centre Planning Framework (2022). These documents set the context for the Northern High Street site allocation and each is addressed in turn.

### The Waltham Cross Town Centre Strategy (2015)(CD7.1)

- 5.3 The Town Centre Strategy informed the production of the Local Plan approach to Waltham Cross. Although in some respects the Strategy evolved (and continues to evolve), the broad approach remains that pursued by the Council.
- 5.4 The Strategy contains five objectives: 1) An attractive, high quality town centre, 2) a modern, popular and vibrant town centre, 3) a well-managed town centre, 4) an accessible town centre, and 5) a living and working town centre. [EMPHASIS ADDED]
- 5.5 The Strategy was informed by a number of early studies, which sets out the strengths and weaknesses and then proposed improvements to the town centre.
- 5.6 Amongst the strengths identified was that *“the town centre is within walking distance of many surrounding residential areas and is well connected to them by roads, footpaths, and underpasses”*. This presented an opportunity: *“Gateways to Waltham Cross Town Centre can be improved, improving links to the surrounding area and encouraging more people to visit, as well as promoting the town centre as a place to live and work without the need to use a car.”* (page 8)

#### **Northern High Street revitalisation (Town Centre Strategy extract, page 23-4)**

*“The northern end of the High Street presently sees relatively low levels of footfall and has a level of vacancy significantly higher than the southern end. Whilst the ‘big box’ Wickes and Homebase DIY stores at this end of the High Street play a recognised role in the broad retail offer of the town centre, capturing a customer catchment from a wider area, they are also seen as turning their back on this end of the high street and creating closure to the pedestrianised core, consequently limiting footfall and the viability of the retail units.”*

- 5.7 For the reasons set out by Ms. Laidler, the Aldi proposal, oriented away from the town centre, would further exacerbate the sense of the stores ‘turning their backs’ on this end of the high street’.

## The Waltham Cross Town Centre Planning Framework (2022)(CD7.2)

- 5.8 Reflecting current and anticipated future development pressures within Waltham Cross town centre over the past few years, this document seeks to inform and shape a consensus on future construction within the town centre. It seeks to support and further the town centre strategy objective to maximise opportunities for new residential development. It identifies a number of ‘opportunity sites’ which are set out in a plan at Appendix A to the document.
- 5.9 On page 4 it states *“It is anticipated that there will be a number of further developments coming forward over the next few years. The planning framework is necessary in order to ensure that, where they adjoin each other, new developments will not prejudice other developments in the vicinity, and also so that their impacts on the existing land uses, and in particular residents, can be accommodated without undue adverse impacts.”*
- 5.10 The document has been reviewed informally by members of the Cabinet and local members at the Waltham Cross Development Group. It has been formally authorised for publication by the Portfolio Holder for Planning and the Chief Executive. A public consultation commenced on 23 May and is due to close on 15 July.
- 5.11 On page 6, the document sets out a number of general principles supplementary to the place-making principles identified in relation to policy PM1 above, such as the character of Waltham Cross and encouraging active and healthy lifestyles, neither of which the appeal proposal addresses.
- 5.12 **Appendix A** to the document (**CD7.3**) comprises a plan showing the locations of proposed developments. For ease of reference the plan is reproduced on the next page below and where sites are referred to the accompanying reference numbers provided.





## Appendix A Waltham Cross Planning Framework Draft for consultation November 2021

Ref	Location	Indicative development
<b>Phase 1: Short-term opportunities</b>		
1a	149 High Street	90 dwellings
1b	133-137 High Street	52 dwellings
1c	118 High Street (former Poundland site)	10 dwellings, 60 bed hotel
1d	88-102 High Street (former Empire Cinema)	135 bed 'aparthotel'
1e	99 High Street (TFC supermarket)	16 dwellings
<b>Phase 2: Medium-term opportunities</b>		
2a	Homebase	225 dwellings + GF commercial
2b	Fishpools	51 dwellings + GF commercial
2c	Wickes	110 dwellings + GF commercial
2d	The Pavilions Shopping Centre	C.120 Dwellings + GF commercial
2e	Conservative Club	70 dwellings = GF commercial
2f	Telephone Exchange, Stanhope Road	Community facilities
<b>Phase 3: Long-term opportunities</b>		
3a	Sawyers Court	70 dwellings
3b	Royal Mail Depot	70 dwellings + GF commercial to bus station frontage

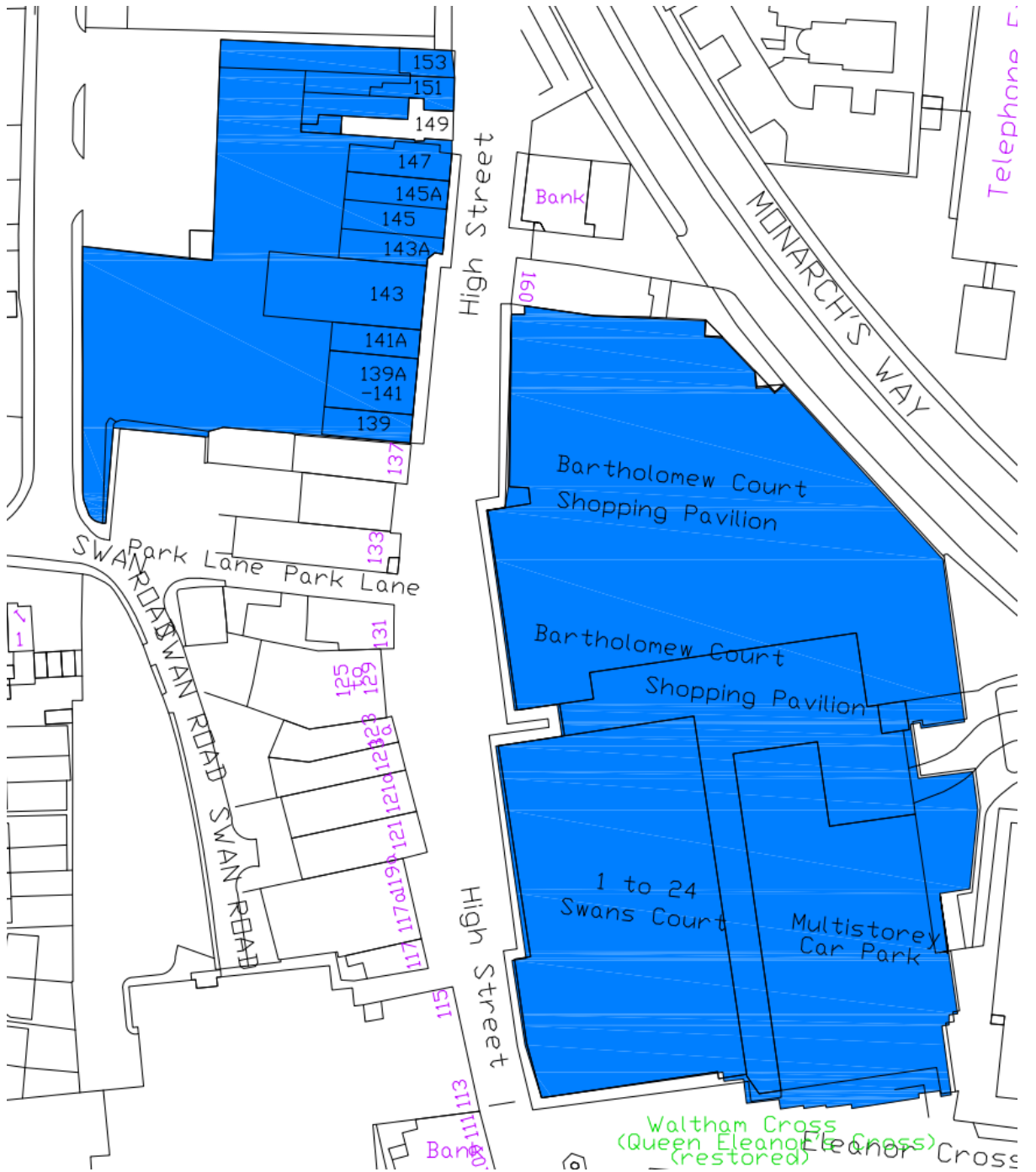
Date : 19 October 2021

## Council commitment to comprehensive regeneration

- 5.13 To that end the Council has been acquiring land within the town centre, including with the Northern High Street site allocation, and also across the street at the Pavilions Shopping Centre, as shown in the Council landownership plan.
- 5.14 In terms of timescales for delivery, absence of a Council masterplan is not evidence of any lack of commitment on the Council's part to delivery of the mixed use quarter. Indeed, as shown in blue on the Council landownership plan (see next page), the Council has recently acquired a number of properties elsewhere within the allocation with a view to a comprehensive approach to development.
- 5.15 Attached at **Appendix G** is a **study by the Frederick Gibberd Partnership**, (an architects practice) commissioned by Broxbourne Council, to set out proposals for the development of the Council owned lands within the Northern High Street site allocation. Extracts from the document are provided on page 18. Gibberds was first commissioned in 2019 and has subsequently been asked to test various concepts for the site, most recently. Whilst the Council has not yet made a firm commitment to redevelopment, the document provides evidence of the progress towards redevelopment of the site.



Council landownership plan, as at March 2022



Extract from Appendix G, showing Gibberds' massing viewed from the South-east (study D) (top – showing current Wickes, bottom, with potential future development)



## 6. Local Plan Policy WC2: Waltham Cross Northern High Street

6.1 The context for interpretation of the policy is provided in paragraphs 11.4 and 11.5 of the Local Plan. From paragraph 11.4 the key concern that emerges is the lack of pedestrian activity in the northern part of the High Street, in part because Homebase and Wickes turn their backs to the town centre. Whilst paragraph 11.5 states that negotiations with Wickes and Homebase may result in the 'status quo', from paragraph 11.4 it is clear that is not the desired outcome of the policy.

6.2 The site allocation policy is reproduced in full below.

### **Policy WC2: Waltham Cross Northern High Street**

Waltham Cross Northern High Street will be developed as a mixed use quarter comprising the following:

- a) On the land east of Sturlas Way, approximately 150 homes;
- b) On the land west of Sturlas Way, the potential for significant housing development, possibly as part of a mixed use development incorporating the existing store;
- c) 40% affordable housing;
- d) Shops/commercial/community ground floor uses.

The site is to be developed in accordance with a comprehensive master plan. Incremental development of the area will be resisted.

Masterplanning is to consider reasonable options for the relocation of the Wickes and Homebase stores.

A section 106 agreement will accompany a future planning permission and proportionate contributions will be allocated to priorities within the Infrastructure Delivery Plan.

If necessary, compulsory purchase will be pursued by the Council.

6.3 Below are set out a number of ways in which implementation of the appeal proposal would harm comprehensive improvement and future opportunities for the site and the surrounding area and therefore amount to harmful "incremental development" which the policy states should be "resisted". These include: harm to investment in the town centre; setting a precedent for poor design; impact on the ability to secure a Compulsory Purchase Order (CPO); and constraining the ability to secure relocation.

## A mixed use quarter

- 6.4 It is clear from the first line of the policy that the whole allocation is to be developed as a **mixed use quarter**. This applies to the land east and west of Sturlas Way. This overarching requirement is then applied to the following sub-clauses in parts a-d of the policy. The concept of a mixed-use quarter is important, because it presupposes that all development within the site allocation will contribute to establishing a coherent, strengthened identity for the area as a whole. The appeal proposal singularly fails to achieve that.
- 6.5 The word 'quarter' is not defined in the Local Plan, but in the context of the policy it is clear that concept refers to something bigger than individual parcels of land, and in this case it explicitly refers to the whole of the allocation as shown in Figure 14 and on the accompanying Policies Map. The word implies that there should be some sense of a coherent or unifying identity which would serve to contribute to the regeneration of the town centre. An example given in the National Design Guide is the Chocolate Quarter in Birmingham. This sentence should also be understood in the context of the requirement in Local Plan **Policy PM1** that *'major developments must also establish their own identities through the establishment of sustainable place-making principles'*.
- 6.6 The appeal scheme is notably deficient in this respect.

## Importance of the Homebase site

- 6.7 One of the difficulties in achieving the regeneration of Waltham Cross is the uninspiring physical appearance of the town when viewed from various key locations, in particular on the approaches to the town. Although the medieval Eleanor Cross monument itself is a great asset to the town, in other respects there are few examples of high quality buildings or structures within the town which make a strong contribution to the identity of the town centre.
- 6.8 For this reason regeneration is dependent upon achieving high-quality, distinctive developments in visually prominent locations, which will achieve that strengthened identity and raise the bar for other developments coming forward in future.
- 6.9 The Northern High Street, including the appeal site, has been identified as one such location. In particular, Sawyers Court and the Homebase site are both highly visible sites within the WC2 allocation, particularly when viewed from the northern approaches into the town centre in the vicinity of the large roundabout.

## Impact on design quality at other sites

- 6.10 The poor quality design of the appeal scheme, if implemented, would be likely to set a low bar for subsequent developments (whether for retail or other form of development) elsewhere in the town centre, contrary to the urgent need to raise the bar and contribute to the twin regeneration and place-making agendas.

- 6.11 Examples of sites where the appeal proposal could result in a precedent for poorer quality development include the Fishpools site, where the owners are seeking to relocate to Park Plaza North, the BT Telephone Exchange site on Monarch's Way, and the Post Office depot site. For ease of reference, the site reference locations in [square brackets] are taken from **Core Document 7.3**, which is reproduced on page 15 above.
- 6.12 **The Fishpools furniture store [site 2b]:** At paragraph 10.5 the Local Plan states that *"The Council is also supportive of the potential to develop the Fishpools business by relocating the High Street store to a state-of-the-art site that would help to anchor a flagship development at Park Plaza North."* Fishpools furniture store occupies a prominent site very close to the historic Eleanor Cross memorial in the heart of the town centre. The Council would expect to see the highest quality design at this sensitive site.
- 6.13 **The BT Telephone exchange [site 2f]:** this site has been identified as a medium-term opportunity. The Council would like to see a high quality design for this site which is prominently located on Monarch's Way, but is currently occupied by an uninspiring 1960s block. The site is located on the edge of the town centre. Granting of permission for the type of designs proposed at the appeal site would make it more difficult for the Council to persuade the site owners to raise the design quality at the telephone exchange site.
- 6.14 **The Post Office Depot site [site 3b]:** was identified in the Waltham Cross Town Centre Strategy 2015 as an opportunity site. Redevelopment of the site is a longer term opportunity as it also depends up relocation site becoming available. Like the Homepage site, the Post Office depot is within the town centre but does not directly front the High Street. The site has significant potential for ground floor commercial development with residential development above, complementing the new hotel and apartment development at the adjacent Poundland site [1c] and Gala Bingo site [1d].

## Piecemeal development

- 6.15 The requirement for a comprehensive approach across the site is further articulated through the sentences below clauses a to d. These sentences should be read in the context of Policy DSC7(l), which states that *"The Council will pursue the comprehensive development of the strategic development allocations within this Plan, and will resist piecemeal development of those areas that do not accord with agreed master plans"*.
- 6.16 In relation to land west of Sturlas Way (b), given the emphasis in Policy WC2 on place-shaping for a mixed-use quarter, and the requirements of Policy DSC7 for a comprehensive approach, it might be expected that applicants would test the potential for significant residential development, and if residential development is not possible, to provide a clear justification for why it is not. This should entail design concept testing to explore whether a certain level of residential development would make a scheme viable. The application provides no such justification.



- 6.17 The policy requires development in accordance with a comprehensive master plan. As set out in Section 3 above, the Council has worked with developers on a case-by case basis to work through comprehensive approaches to the other strategic allocations in multiple landownerships. In some cases that has resulted in a fully resolved masterplan, and in other cases a more flexible approach has been adopted to pulling together different plans into a coherent framework. The appellant's proposal make little attempt to look beyond the site boundary at the wider allocation or the relationship to the wider town centre within which the site is located.
- 6.18 The policy states that incremental development will be resisted. This does not mean that the developments cannot come forward separately.
- 6.19 For example, the Council has taken a pragmatic approach at **133-137 High Street, (Appendix A)**, in resolving to grant permission for a stand-alone proposal within the site allocation, because the proposal is capable of being made compatible with a comprehensive approach to development of the adjacent site. However, where incremental development would harm the ability to develop the Northern High Street allocation as a comprehensively developed mixed-use quarter, it will be contrary to Policy WC2.
- 6.20 On 25 May 2022 Planning Committee resolved to grant outline consent for a scheme of 40 apartments on this site. The Officer report in relation to that scheme is appended at **Appendix A**. Paragraph 9.1 of the report states that *“Although Local Plan Policy WC2 seeks to resist incremental development, this scheme has been designed so as not to compromise development of the sites to the north and it is considered that approval of this scheme could be a catalyst to other sites being brought forward in the overall allocation.”*
- 6.21 Paragraph 8.5 of the officer report for 133-137 High Street draws attention to the issue of north-facing windows at that site, which could compromise redevelopment of other adjacent properties in High Street to the north. If the appeal were to be granted and the principles of policy WC2 undermined, this would weaken the Council's ability to control north-facing windows at the Reserved Matters stage.
- 6.22 The appellant's proposals do not demonstrate how consideration has been given to facilitating the policy objectives, as part of a comprehensive approach

## Relocations

- 6.23 The policy states that masterplanning is to consider reasonable options for the relocation of the Wickes and Homebase stores.
- 6.24 One (but by no means the only) reason for allocating the northern High Street site for development was the potential availability of a relocation site at Park Plaza, also included within the list of strategic development sites at Policy DS1. The location of the Park Plaza North site is shown in the indicative concept plan (page 75).The fourth bullet point in paragraph 3.7 (page 17) states that *“Park Plaza North will provide an*

*opportunity site for the relocation of retail and other uses from Waltham Cross and elsewhere, freeing up development sites to improve the vitality and viability of the town centre.”*

- 6.25 **Policy PP2: Park Plaza North** (page 77) states that the site is “*allocated for a mix of employment uses as follows: 1. Bulky goods retailers that need to be relocated as a result of regeneration developments proposed within Waltham Cross Town Centre; and 2. A mix of B1, B2, and B8 uses on the remainder of the site.*” Paragraph 10.5 notes that the site is well placed to accommodate the relocation of businesses that may be necessitated by several regenerative developments, including the Waltham Cross Northern High Street (Policy WC2).
- 6.26 Park Plaza North is currently being marketed for sale by its owner. At the present time it is not known whether there are prospective buyers and if there are, who those buyers may be.
- 6.27 If an Aldi is granted permission what would need to be relocated to Park Plaza (should re-location be decided as preferred option) would be both an Aldi and a Homebase. That would not be compliant with the uses specified in Policy PP2 and also because an out of centre food-store would be contrary to Local Plan Policy *RTC1: Retail Hierarchy*, which requires main town centre uses such as foodstores within defined town centres. Permission for the appeal scheme would therefore potentially constrain the ability to relocate what is on the appeal site to Park Plaza and therefore constrain the ability to develop the appeal site as a fully residential allocation.
- 6.28 Even if Park Plaza North were not to become available for relocations from the Northern High Street site, it has not been demonstrated by the appellants how the site would make a positive contribution to a mixed-use quarter as part of the wider framework to Waltham Cross town centre.

### **Impact on investment in the Wickes site**

- 6.29 The Wickes store also falls within the Northern High Street site allocation, on the eastern side of Sturlas Way. This site is envisaged as making a significant contribution towards the 150 dwellings indicated by the policy. Similarly to the Homebase site, the Council has been in intermittent discussions with the site owners over a number of years.
- 6.30 Were the appeal proposal to be implemented, it would be natural for Wickes to consider whether it might be possible to reconfigure their premises in a similar manner, perhaps to add another convenience store or other use that is not compatible with the policy aspirations to achieve a mixed-use quarter.
- 6.31 The **High Court judgement at Appendix H** contains interesting parallels. In that case, the Sainsburys was the only retail store within the site allocation, and the claimant therefore argued, contrary to the Inspector’s decision letter, that there would be no cumulative effect. In paragraph 77 of his judgement, Justice Holgate referred to a

decision of Lord Widgery: *“There is no doubt whatever that, human nature being what it is, if permission is granted for a particular form of development on site it is very difficult to refuse similar development on site B if the circumstances are the same.”*

- 6.32 In his conclusions on this matter (paragraph 85) the judge found that there was evidence of a risk of precedent, and dismissed the claimant’s grounds of appeal. In the case of Wickes, it is true that the site is not at imminent risk. However, Wickes is very similar to those of the Homebase site, in terms of a DIY store in a town centre location. Given those similarities, it cannot be disputed that the risk of a similar proposal emerging from Wickes is evidence-based, not based on fear.
- 6.33 At paragraph 7.3 the Appellant’s Statement of Case states that *“the proposed physical changes required to the building would evidently not be so substantial that the proposed development would pre-determine long-term decisions about the delivery and development of the ‘Waltham Cross Northern High Street.”*
- 6.34 I do not agree with this view. Were the appeal scheme to be granted permission, the proposal would set the pattern of development for the site for the foreseeable future, probably in excess of 15 years, and possibly significantly longer. In this time, any opportunities for the site to make a positive contribution to the place-making strategy for the town centre would have been squandered.

### Investment in the Homebase site

- 6.35 The Homebase site forms a key part of the Northern High Street Allocation. The appellant points to the fact that the diagram on page 24 of the town centre strategy indicates the ‘main opportunity site’ east of Sturlas Way and the Homebase Store as a ‘potential inclusion.’ Paragraphs 5.42 and 5.43 of appellant’s Statement of Case refer to this wording in the Town Centre Strategy as evidence that the Homebase site is not a ‘core’ part of the Local Plan allocation.
- 6.36 It is however, not appropriate to cite the Town Centre Strategy 2015 as evidence of a reduced emphasis to be applied to the appeal site. The Town Centre Strategy preceded the Local Plan and provided initial concepts that were then worked up through the preparation of the Local Plan and revised through the Examination in Public (EiP). The broad thrust of the policy, which was to provide a broad impetus to increased pedestrian activity in the town centre, including during the evenings, remained the same.
- 6.37 The appeal proposal has the potential to constrain development opportunities on the Homebase site. This can already be seen by two examples.
- 6.38 **Sawyers Court [CD7.3 site 1a]** is a residential block of 42 dwellings on the northern end of the site allocation, opposite Homebase and adjoining Wickes to the north. The block is of poor design and makes a negative contribution to perceptions of the town at a prominent gateway location. For this reason the Council is keen to see this block redeveloped.



- 6.39 To that end the Council has been in discussions with the Metropolitan Housing Association, which owns many of the units within the block. Metropolitan has expressed the view that for new, better accommodation for residents could be achieved on the Homebase site as part of a mixed-use scheme. Metropolitan proposed to enter discussions with the owners of the Homebase site with a view to exploring the potential for such an agreement.
- 6.40 Perhaps unsurprisingly in light of the current appeal proposal, the landowners have not been receptive to approaches from Metropolitan. Were the appeal to be dismissed, that may well change and the Council would be happy to facilitate such a dialogue within the established policy framework.
- 6.41 In addition, during the Local Plan examination, Mr Diamond of LCP submitted the note attached at **Appendix I** in October 2018, which suggested that the landowner was looking more favourably upon a mixed-use development and considered that Homebase may not be viable. Negotiations with LCP continued in that vein for some considerable time thereafter.
- 6.42 The current development proposals have resulted in proposals for a mixed-use development on the site being stalled. The investment involved in these proposals are also likely to result in Homebase being more reluctant to negotiate with the Council to secure a relocation in the future (a factor relied on by the Inspector in the **Sainsbury's case at Appendix H** – see paragraphs 8 and 67).

### Impact on the ability to secure a CPO

- 6.43 The final sentence of Policy WC2 states that *“if necessary, Compulsory Purchase will be pursued by the Council.”* This sentence relates to the possibility that it may only be possible to achieve the mixed-use quarter, and the overall aims of the policy, through the acquisition of land by the Council in support of those aims. Whilst the Council would not be seeking to drive any operators out of business, it is clearly the case that the policy cannot be implemented without significant changes to the current pattern of land use. Should a CPO become necessary, the Council would in the first instance seek to facilitate either a redevelopment including the existing land uses, or relocation of uses to vacant sites elsewhere.
- 6.44 If the appeal scheme were to be implemented, it would be significantly more difficult for the Council to use its CPO powers in relation to the site since this would require the compulsory acquisition of land that had been recently developed.
- 6.45 **The High Court judgement attached at Appendix H**, which relates to a proposed expansion by a Sainsburys supermarket within an area allocated for a comprehensive redevelopment, is instructive in this regard. In that case, the Council's argument, with which the Inspector concurred, was that *“somebody in the position of Sainsbury's, who had made an investment in the extension and refurbishment of their store, might be*

*more reluctant to move, and that this would be something which could have an adverse effect on the negotiations, ultimately leading to the prospect of a Compulsory Purchase Order. No one had said to the Inspector that there would be no need for a Compulsory Purchase Order to be relied upon...*" The judge in this case agreed with this line of reasoning and dismissed the claimant's grounds of appeal.

- 6.46 The same concern arises in respect of the current appeal scheme. Having invested in the Homebase Site, with an additional tenant in the form of Aldi, any chance of securing relocation or redevelopment of the site would be pushed back to some remote point in the future, if ever.
- 6.47 *National Guidance on the Compulsory Purchase Process and Crichel Down Rules (CD5.4)* makes clear the implications of inclusion of an additional business on the site, including compensation for disturbance (paragraph 87) and loss (paragraph 89). In relation to Section 226 of the Town and Country Planning Act 1990, which would form the legal basis for any CPO, paragraph 104 of the guidance states that "*The planning framework providing the justification for an order should be as detailed as possible in order to demonstrate that there are no planning or other impediments to the implementation of the scheme.*" Given the presence of an Aldi as well as a Homebase on the site, both of which might require relocation, it would become increasingly difficult to demonstrate that there were no impediments to implementation of the scheme.

## Timescales for Development

- 6.48 Table 1 on page 7 of the Town Centre Planning Framework (**CD7.2 and 7.3**) includes a number of 'short term' opportunity sites in Phase 1, 'medium term' opportunity sites, and 'long term' opportunity sites. No dates have been added to these broad phases because experience in the town centre has shown that because the pace of change is very difficult to predict. However, based on the information available last year when the document was prepared, the Homebase site is shown as falling within Phase 2, based upon an assumption of apartment dwellings above ground floor commercial uses.
- 6.49 The appellant's statement of case refers to the Council's Strategic Land Availability Assessment (SLAA) as evidence that the Council is only looking to the appeal site as a long-term development opportunity. The SLAA findings reflected the evidence at the time the site was prepared, before it was known that LCP were actively looking to redevelop the site. However, as indicated by the document, the uncertainty as to the phasing largely reflects the lack of a resolution with the landowners.

## Housing as part of mixed-use development

- 6.50 Policy WC2 refers to the 'potential' for significant housing development, 'possibly' as part of a mixed-use regeneration. This retention of housing as part of the policy reflects the 'living and working' aspirations of the Town Centre Strategy, and also NPPF paragraph 86 parts a and f, both of which emphasise the potentially significant role that housing can play in securing the vitality of town centres.

- 6.51 The caveats within the policy are not down to lack of demand in the local area. Whilst the delivery of housing across the Borough has been below the housing requirement in recent years, this reflects in large part the absence of an up to date Local Plan, a deficiency which was remedied with the adopted of the new Local Plan in June 2020.
- 6.52 This has led to rapid delivery at a number of Local Plan allocations, for example, in the vicinity of Waltham Cross, a block of 195 affordable units was completed this year at Cheshunt Lakeside, with a second block of 205 market homes under construction. Housing associations have indicated that there is significant appetite for further development opportunities.
- 6.53 Within Waltham Cross itself, a number of developments are either under construction or have recently secured planning permission. The location of these is shown in **CD7.3**, reproduced in section 5 above. The site reference numbers are shown in [square brackets]. The relevant sites and decisions are as follows:
- resolution to grant outline permission granted for 40 apartments at **133-137 High Street (Appendix A)**, within the site allocation **[site 1b]**;
  - construction currently underway on 92 apartments at the former **Gala Bingo site (Appendix B)**, a five minute walk from the appeal site in the town centre [site 1d];
  - construction currently underway on a new 60-bed hotel and 10 residential apartments at the **Poundland site (Appendix C) [site 1c]**;
  - developer proposals for redevelopment of the **Pavilions car park (Appendix D)**, involving removal of the top decks and construction of 119 apartments **[site 2d]**.
- 6.54 Taken together, these examples do not support the assertion in paragraph 7.11 of the Appellant's Statement of Case that there is no market demand for high density development at the Homebase site.

## 7. Conclusion

7.1 The main conclusions to draw from the above are as follows:

- a) that the appeal proposal is contrary to the requirement in Local Plan Policy WC2 that developments within the site allocation should contribute to a 'mixed use quarter', in that the proposed scheme makes no substantive contribution to the character of the area or its qualities in terms of place-making and sustainable neighbourhoods, contrary to Policy PM1, and that it does not represent sustainable development, contrary to the aims of planning as set out in the National Planning Policy Framework.
- b) the poor quality design of the appeal scheme makes it inappropriate to this important site, which is in a prominent location at the northern gateway to the town centre, and the policy framework indicates is a vital component of plans to kick-start regeneration across the town centre.
- c) That, rather than being a short-term, flexible use of the site, the proposed scheme would have a long-term negative impact in terms of entrenching poor quality development that would become a benchmark for other developments.
- d) That the economic benefits to the town centre would be very small given the orientation of the proposed scheme with its entrances on the north side, facing away from the town centre, and, given the proposed introduction of a discount supermarket in close proximity to a major road junction, the likelihood that the majority of visitors will arrive and leave the site by private car.
- e) That the proposal would miss the investment opportunities offered by a comprehensive approach that were recognised by the local plan inspector, in terms of co-ordinated approach including with Sawyers Court, Wickes, and the potential for further benefits in association with relocations to Park Plaza North.
- f) That there is substantial evidence of demand for residential development within Waltham Cross and nearby areas but that the appellants have failed to respond to this in putting together the current proposal.
- g) Given the Green-belt constrained nature of the Borough and the paucity of brownfield development opportunities, the failure to take advantage of opportunities offered by strategic site allocations such as that presented by the Waltham Cross Northern High Street site is likely to generate further pressures to release Green Belt to meet housing need at the next Local Plan review.

7.2 For the reasons set out above, this appeal should be dismissed.