



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Miss Pat Thomas
S J Berwin and Co.
222 Grays Inn Road
London
WC1X 8HB

Parc Cathays / Cathays Park
Caerdydd / Cardiff
CF10 3NQ

Eich cyf / Your Ref: 596/M37-506
Ein cyf / Our Ref: A-PP171-07-024 (formerly
APPZ695/X/98/512691

9 January 2002

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77
APPLICATION BY MARKS AND SPENCER PLC FOR AN EXTENSION TO THE
EXISTING MARKS AND SPENCER RETAIL STORE ON LAND TO WEST OF EXISTING
TESCO STORE, CULVERHOUSE CROSS, CARDIFF**

Summary

The Planning Decision Committee is minded for the reasons given below to allow your client's application subject to the submission of an agreement with the relevant highway authority in respect of the access arrangements for the site.

1. Consideration has been given to the report of the Inspector Mr J J Parkinson MSc. CEng. MICE. MRTPI. MIHT who held a public local inquiry into your client's application for an extension to the existing Marks and Spencer store at Culverhouse Cross, Cardiff.
2. The Secretary of State directed on 20 November 1998 under Section 77 of the Town and Country Planning Act 1990 that the application be referred to him for determination instead of being dealt with by the Vale of Glamorgan Council (the local planning authority) because he was of the opinion that the proposed development raised issues of more than local importance. The jurisdiction for the application passed to the National Assembly for Wales in July 1999.
3. On 8 January 2002 the National Assembly for Wales resolved that a committee, to be known as Planning Decision Committee 2001/8 be established, in accordance with Standing Order 35, to discharge the functions of the Assembly under Section 77 of the 1990 Act in respect of the application by Marks and Spencer described above. Accordingly, the Planning Decision Committee have considered the application and have resolved under Standing Order 35.16 to adopt this letter.



BUDDSODDWR MEWN POBL
INVESTOR IN PEOPLE

Tel: 029 2082 3798
GTN: 1208 3798
Ffacs / Fax: 029 2082 5622
Minicom: 029 20823280
E-bost / E-mail: John.Eliot@Wales.gsi.gov.uk

4. The Inspector's conclusions are set out at paragraphs 6.1.1 to 6.10.4 of his report, a copy of which is enclosed, and those conclusions are reproduced as Annex A to this letter. The Inspector recommended that the application be dismissed.

5. Following receipt of the Inspector's report a letter from the National Assembly for Wales dated 2 October 2000 was sent to you and the Vale of Glamorgan Council, and copied to all those persons and organisations who appeared at the inquiry, seeking further information on the need for the additional facilities proposed to be located at the site as well as matters related to the erection of a temporary marquee at the front of the existing store and highway improvements. The letter indicated that before a decision was reached on this application the parties should be given the opportunity to comment on the relevance to the proposal of the conclusions on need in the decision letter of 21 August 2000 setting out the Assembly's decision on the appeal by Edge Developments Limited for retail development east of the Culverhouse roundabout. A copy of that letter is at Annex B to this letter. You submitted representations in response to that letter in your letters of 14 and 28 November 2000, and the Vale of Glamorgan Council submitted representations in their letter of 15 November 2000.

6. Planning Decision Committee 2001/4 established to consider the application met on 26 July 2001. In view of the press reports issued on that date regarding the closure of the Marks and Spencer store at 82 Queen Street, Cardiff, (the former Littlewoods store), the Committee decided that a decision on the application should not be taken until the parties had been given the opportunity to make representations on the implications of the closure for the application. On 30 July a letter, a copy of which is at Annex C to this letter, was issued to the parties seeking their representations. The Vale of Glamorgan submitted representations in their letter of 31 July 2001. Cardiff County Council submitted representations in their letter of 17 August 2001 and you submitted representations in your letter of 14 September 2001,

7. The above representations have been taken into account by the Planning Decision Committee in reaching their conclusion on this application.

8. *For the reasons given below the Planning Decision Committee disagree with the Inspector's recommendation that the application be dismissed. The Planning Decision Committee are minded to allow the application subject to conditions.*

Development Plan

9. Section 54A of the Town and Country Planning Act 1990 states that where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The development plan for the purposes of Section 54A in this case is the South Glamorgan Structure Plan (Alteration No. 1) approved by the Secretary of State for Wales on 31 May 1989 (Structure Plan). The Planning Decision Committee agree with the Inspector's view that it is reasonable to assess the proposal against Policy S6 of the Structure Plan, in the absence of any other policies directly relevant to extensions. As far as Policy S6 is concerned the Planning Decision Committee consider that, as the criteria of that policy are met, the proposal is in accordance with the development plan. The Vale of Glamorgan Unitary

Development Plan (VGUDP) has yet to be adopted but has been taken into account as a material consideration and is dealt with at paragraph 13 of this letter.

10. The Planning Decision Committee have therefore considered whether there are material considerations which indicate that a determination should be made otherwise than in accordance with the development plan.

National Policy

11. The Government's objectives for retailing and town centres are set out in paragraph 10.2.1 of Planning Guidance (Wales) Planning Policy First Revision April 1999 (PG(W)). These are:-

- i) to sustain and enhance the vitality, attractiveness and viability of town, district, local and village centres;
- ii) to focus development, especially retail and leisure development, in locations where the proximity of business facilitates competition from which all customers are able to benefit and maximises the opportunity to use means of transport other than the car;
- iii) to ensure the availability of a wide range of shops, employment, services, and facilities in both urban and rural areas to which people have easy access by a choice of means of transport;
- iv) to maintain an efficient, competitive and innovative retail sector.

The Planning Decision Committee agree with the Inspector, for the reasons given by him at paragraphs 6.9.3 - 6.9.5 of his report, that the aspects of national policy relating to retailing and town centres generally would militate against the proposal if a need for the additional facilities which are proposed could not be established.

12. Paragraph 10.2.6 of PG(W) deals with proposed developments for retailing, including extensions to existing developments, and states that these will be assessed in relation to the strategy of the development plan and to the sequential approach to site selection, as well as: their impact on existing centres; their accessibility by a choice of means of travel; and their impact on overall travel patterns. Additionally, it is stated that those seeking approval for proposals for retail or leisure development which would be located at an edge-of-centre or out-of-centre location and which are not in accordance with an up to date development plan; or which accord with a development plan but where that plan is out of date, inconsistent with this planning policy guidance, or otherwise fails to establish the need for new retail or leisure users should be able to demonstrate a need for the additional facilities. The Planning Decision Committee's conclusions on these issues are as follows:*The development plan strategy*

13. In view of the current Government policy on retailing and town centres as it applies in Wales, set out in PG(W), the Structure Plan cannot be regarded as up-to-date and the Planning Decision Committee consider that little weight should be attached to it. As regards the emerging VGUDP the Planning Decision Committee agree with the Inspector that it would be reasonable to attach weight to that plan, and that policies SHOP 12 and ENV3 are relevant to the consideration of this proposal. They agree with the Inspector that while in the main the proposal does not conflict with policy SHOP 12 it does not meet criterion (iv) of that policy in that Culverhouse Cross cannot be accurately be described as well located to public transport and to the needs of the non-car traveller. The Planning Decision Committee also agree with the

Inspector, for the reasons given by him, that the proposal would not be unacceptably at variance with Policy ENV3.

Need

14. In this case as the proposal is in accordance with the development plan but as that plan is out of date the Planning Decision Committee consider, having regard to the guidance in paragraph 10.2.6 PG(W), that a need for the additional facilities should be demonstrated.

15. The Planning Decision Committee agree with the Inspector that it is not unreasonable for it to be argued (as was done on behalf of your client) that need might include a quantitative and qualitative need, a need to draw back lost trade that has diverted to Causeway and a planning policy need to reduce car journeys in terms of distance travelled and the number of trips; also a need for an extension to the existing store to enable it to perform the desired function.

Need to draw back diverted trade and to reduce car journeys

16. As previously indicated the Planning Decision Committee agrees with the Inspector that the proposal would be unlikely to increase the distance travelled by private car, and could lead to a reduction. They also agree that while there would probably be some transfer of trips, from Cribbs Causeway to Culverhouse Cross, this would not affect any overall assessment of need.

Need for extension to enable store to perform desired function

17. The Inspector accepted that the applicant saw a need for extra space in certain areas and at check outs and that the applicant would prefer certain goods to be more visible. However, he concluded from his inspections of the existing store that there were times when conditions for the customer were very comfortable and that, even if were it accepted that there was a need for more space at peak times and that need should be met, this would not require an extension of the size proposed, nor the provision of a decked/multi-storey car park. He also concluded that other than an understandable desire by the retailer to increase the range of goods and facilities on offer, there would appear to be no strong need in any wider context to provide the facilities and goods at Culverhouse Cross.

18. The Planning Decision Committee do not consider that the requirement of a retailer to supply more of their lines is of itself sufficient to justify the provision of additional out-of-centre floorspace. Each case must be judged according to its merits. Having regard to the Inspector's conclusion that at times conditions in the store are very comfortable, they do not consider that there is sufficient evidence for them to conclude that the operational constraints, at the time of the inquiry, would in themselves justify the extension of the size proposed and the provision of a decked/multi-storey car park. However, for the reasons given at paragraph 26 below they conclude that operational constraints in the store are likely to significantly increase due to the likely increase in the requirement for additional comparison and convenience goods floorspace goods in the catchment area.

Quantitative need (comparison goods).

19. As regards quantitative need, the local planning authority's analysis related to the needs of its own population whereas your client considered that it was necessary to look at the whole catchment area. The Inspector concluded that both methods represented a valid approach and that, in any case, it does not automatically follow that additional floorspace must be provided to meet forecast figures.

20. In this case the Planning Decision Committee consider that your client's traditional approach, taking account of forecast growth in comparison goods spending in the Culverhouse Cross catchment area, is more relevant than an approach based on an administrative area. At the inquiry your client argued that taking the 0-20 minute drive time isochrone as the primary catchment area there was forecast to be a growth in comparison goods spending of between £281 m and £362m between 1998 and 2006. The mid point of these forecasts gave a growth of about £160m up to 2002 set against the forecast comparison turnover of the extension of only about £4.9m. In the Edge appeal it was concluded that between 1999 and 2004 comparison goods expenditure with the 15 minute isochrone would increase by £140m and between 1999 and 2006 by £204m. The net additional turnover of the Edge proposal was projected as about £6.1 m

21. Having had regard to all the evidence before them the Planning Decision Committee accept the conclusion, set out in the representations submitted on behalf of your client in response to the Assembly's letter of 2 October 2000, that, on the basis of the analysis presented at the inquiry, and the more up-to-date analysis presented to the Assembly in relation to the Edge appeal, there is a substantial quantitative requirement for new comparison goods floorspace within both the smaller catchment area of the Edge proposal and the wider catchment area of the your client's proposed extension.

Quantitative need (convenience goods)

22. In the representations submitted on behalf of your client in response to the Assembly's letter of 2 October 2000 it was indicated that the convenience floorspace currently (350m²) proposed would generate a convenience turnover of £1.7m. This was set against figures presented to the inquiry showing a range of forecast convenience goods expenditure growth between 1998 and 2006 of £25.5m to £33.6m in the 0-20 minute drive time band. The Planning Decision Committee accept that these figures demonstrate a substantial requirement for further convenience floorspace in the catchment area of the proposed Marks and Spencer extension.

Qualitative need

23. The Planning Decision Committee have considered whether there is a qualitative need to accommodate the additional retail development floorspace at the application site.

24. The Inspector concluded that when account was taken of the Marks and Spencer floor space in Cardiff City centre which offers a wide range of goods, is well located when considering access by various modes of transport and well situated in terms of population distribution, and the relative proximity of Culverhouse Cross to the city centre, it is difficult to conclude that there is, on any broad and balanced assessment, a need for a major expansion at the Culverhouse Cross store.

25. In the representations submitted with your letter of 14 November 2000 you argued that the operational needs of Marks and Spencer contribute to the overall qualitative need and that, unlike the Edge appeal, there is no suggestion that these needs could be met otherwise than at the Culverhouse store, so that those operational needs also establish a qualitative need for the development at this site.

26. As previously indicated the Planning Decision Committee do not consider that the evidence relating to trading conditions in the store at the time of the inquiry demonstrates an operational need sufficient of itself to justify the scale of extension proposed. However, having regard to their finding that there will be a substantial increase in the requirement for additional comparison and convenience goods floorspace in the catchment area they conclude that the operational constraints at the existing Culverhouse Cross store are likely to be significantly increased. In these circumstances they conclude that on balance both a quantitative need for the retailing facilities which the development would provide and a qualitative need for the proposed extension has been demonstrated.

27. The Assembly's letter of 2 October requested comments on whether a condition regulating the provision of the sales area for comparison and convenience goods should be imposed and whether the assessment of the need for comparison goods and any other issues relevant to the application would be affected by such condition. Having regard to the substantial requirement for both comparison and convenience floorspace in the catchment area the Planning Decision Committee accept that your view that the effect on overall impact of any variation in the allocation of floorspace between these goods would be imperceptible. They also accept your view that, as regards the impact of traffic generation and car parking, there would be no difference in customer attraction between the comparison and convenience elements of the store.

The sequential test

28. The Planning Decision Committee agree with the Inspector's conclusion that, on the basis of the evidence presented to the inquiry, no sequentially preferable site to that which is proposed was suitable and available. They accept that the applicant has no requirement for either a store in Bridgend or for additional space at Pontypridd.

29. Cardiff County in their letter of 17 August 2001 argued that the closure of the Queen Street store affected the interpretation of the sequential approach in this case. The Council consider that the approximately 5,000 m² of net selling space in this unit could easily be remodelled to accommodate more flexible requirements. They acknowledge that you may argue that the unit in Queen Street has already been proven to be commercially unviable for your client's purposes at this time and so not a suitable alternative to their out-of-centre proposal. However, the Council consider that such argument would be based on the current commercial position of the company and not a land use planning issue. The Council also submitted a list of other suitable vacancies that have arisen since the time of the inquiry.

30. In response you argue that the proposed floorspace at Culverhouse Cross is additional to, and not instead of, Marks and Spencer's investment within Cardiff City Centre, which will now be in the form of a single extended city centre store, and that the additional floorspace for Culverhouse Cross is specifically required at the existing store to address the qualitative shortfall and operational requirements. You also argue that the unworkability of meeting needs which are store and site specific elsewhere, even in a location close by, are illustrated by Marks and Spencer's experience both nationally and in Cardiff City centre.

31. The advice of PG(W) is that developers should be able to demonstrate that all potential town centre options have been thoroughly assessed, using the sequential approach, before out-of-centre sites are considered for key town centre uses. In this case you have not provided an assessment of the suitability or otherwise of the individual premises included in the list submitted by Cardiff County Council but have essentially relied on the argument that there is a qualitative shortfall at the Culverhouse Cross store and the unworkability of meeting that need in the city centre.

32. The Planning Decision Committee, for the reasons previously given at paragraph 26, consider that a need for the proposed extension has been established. While the Committee do not consider that this would of itself be sufficient argument to satisfy the sequential test they accept that in applying the test account should be taken of business and customer needs. In the particular circumstances of this case the Committee accept that the meeting of your client's specific site and store needs by the provision of additional floorspace elsewhere would be likely to be unworkable having regard to their experience with 82 Queen Street. The Committee conclude on balance that the likely unworkability of an additional city centre store, taken together with their finding of a qualitative need for the extension, is sufficient for them to conclude that the sequential test has been met in this case notwithstanding the absence of a thorough investigation of the sites put forward by Cardiff County Council. In reaching this conclusion the Committee has borne in mind your client's commitment to an albeit reduced expansion of their existing city centre store.

Impact on existing centres

33. The Planning Decision Committee agree with the Inspector's conclusion that there is no evidence that the proposed extension would, itself, cause harm, or that the vitality and viability of any town centre would be undermined as a result of cumulative impact when account is also taken of current planning commitments and development plan commitments.

34. The Inspector commented that it could not be ruled out that the granting of planning permission in this case would be perceived as the opening up of a new phase in the development at Culverhouse Cross, making it more difficult to resist further applications.

He also commented that the carefully considered existing developments rather than being regarded as complete, could become the focus for new pressure for further additional retail floor space at Culverhouse Cross. In this case the application is for an extension and the Planning Decision Committee do not consider that the proposal would provide a precedent for allowing the development of a further free standing retail store in the area. As regards extensions to existing retail stores, they do not consider that there is sufficient evidence for them to reject this proposal on the grounds that it would create a precedent for allowing similar developments at other stores at Culverhouse Cross.

Accessibility by a means of choice of travel/impact on overall travel patterns and highway network

35. The Inspector's conclusion that the proposal would be unlikely to increase the distance travelled by private car, and if anything could lead to a reduction is agreed by the Planning Decision Committee. They also agree that there is no cogent evidence which demonstrates that the effect of the proposed extension on traffic flows in the immediate area would be anything other than small and that the proposed off-site works would give rise to benefits, including a reduction in traffic queues and delays. They accept that Culverhouse Cross is not a friendly environment for pedestrians or cyclists, but agree with the Inspector's conclusion that the works proposed would benefit pedestrians, and that cyclists would not, as a result of the current proposals, be worse off in terms of safety and convenience than at present.

36. As regards public transport the Planning Decision Committee note that there are some bus services to the site which would be added to as a result of the applicant's offer to underwrite, for three years the cost of a new service from Barry. While the Planning Decision Committee accept that Culverhouse Cross is not as well served by public transport as Cardiff city centre they agree with the Inspector that there is no evidence which indicates that the proposal would increase delays to buses or that it would generate conditions of traffic congestion such that existing bus services would be withdrawn. With the addition of the bus service which the applicants have undertaken to underwrite the Planning Decision Committee conclude that there would be no overriding objection to the proposal on the grounds of public transport.

Relationship with neighbouring land uses

37. The Planning Decision Committee agree with the Inspector, for the reasons given by him, that on balance the proposal is acceptable when considering its visual relationship to neighbouring land.

Noise and air pollution

38. The Planning Decision Committee agree with the Inspector, for the reasons given by him, that the increase in noise as a result of the increase in traffic flow associated with the development would be imperceptible, and that it is highly unlikely that the overall levels of air pollution at Culverhouse Cross would be made worse by the development proposed and the traffic generated by it.

OVERALL CONCLUSION

39. The Planning Decision Committee accept that the proposal is in accordance with the development plan for the area but, as that plan is out of date, they consider that little weight should be attached to it. They have considered whether there are other material considerations which indicate that a decision should be made otherwise than in accordance with the development plan.

40. The Planning Decision Committee for the reasons given at paragraphs 28 to 32 above have concluded that the sequential test has been met and they do not consider that there are sustainable objections to the proposal on the grounds of impact on existing centres or of likely precedent effect. They agree with the Inspector that the proposal is acceptable having regard to its relationship with neighbouring land uses, and that there are no overriding objections on the grounds of noise and air pollution.

They also agree that the proposal would be in accordance with VGUDP policy ENV3, and SHOP12 other than criterion (iv) as it relates to public transport and the needs of the non-car traveller. As regards accessibility and the impact on overall travel patterns the Planning Decision Committee do not consider that the proposal would have an unacceptable impact on traffic flows, the safety and convenience of pedestrians or the provision of bus services in the area, and they agree with the Inspector that it would have some benefits.

41. Nevertheless, as indicated at paragraph 11 of this letter the Planning Decision Committee agree with the Inspector that if a need for the extension cannot be established the general objectives of Government policy set out in paragraph 10.2.1 of PG(W)PP would militate against the granting of permission for this proposal. They also accept that Culverhouse Cross is not a friendly environment for pedestrians and cyclists and is not as well served by public transport as Cardiff City centre, and is therefore contrary to aspects of VGUDP policy SHOP 12. However, given the fact that there is already extensive retail development at Culverhouse Cross, they do not consider that these factors would of themselves be sufficient to justify refusal of the proposal.

42. In these circumstances the Planning Decision Committee conclude that the determining factor in the consideration of the application is the question of need. While the Planning Decision Committee do not disagree with the Inspector's view, based on present conditions at the store, that a present need expressed as a need for this particular development in this particular location cannot be demonstrated they have concluded that those operational constraints are likely to be increased. In any event they regard the consideration of need, in accordance with PG(W) as requiring a broad approach which distinguishes between, on the one hand, the requirement to demonstrate need, whether quantitative or qualitative, and, on the other hand, the requirement to consider whether that need can be met by a different development at a different location, the latter being primarily the subject of the sequential test. For the reasons given at paragraphs 14 to 27 of this letter they consider that a need for the additional facilities has been demonstrated, and, they are therefore minded to allow the application subject to conditions. However, to enable a final decision to be reached the submission of a completed highways agreement, referred to at paragraph 48 below, will be required.

Conditions and agreements

43. The Planning Decision Committee consider that, subject to the comments below, conditions in accordance with those suggested by the local planning authority and listed at inquiry document C4 section 8 as amended at inquiry document C8 should be attached to any grant of planning permission. They consider that condition 2 of the conditions at C4 section 8 should be amended, as suggested on behalf of your client at the inquiry (IR 3.11.3 refers), so as to include the plan forming Appendix KR5 of Mrs Roberts evidence.

44. You state in your representations of 14 November 2000 that suggested condition 10 is considered appropriate to prevent subdivision and thereby comply with the sequential approach. You also consider that it will ensure that the extension trades as an extension to the existing retailer so that it meets the needs of that retailer and its

customers. The Planning Decision Committee accept that the condition would prevent subdivision. However, they consider that it would be reasonable, as the extension is to trade as an extension to the existing store, to impose a condition restricting the sale of any comparison goods from the extension to those specified in condition 4 attached to the Planning Permission for the existing Marks and Spencer store granted in February 1991.

45. The Planning Decision Committee have concluded that with the addition of the bus service which your client has agreed to underwrite there would be no overriding objection to the proposal on the grounds of public transport provision. In reaching this conclusion the Planning Decision Committee have therefore taken into account the undertaking securing this benefit given by your client and submitted to the inquiry (inquiry document A18).

46. The Planning Decision Committee have noted that with your letter of 28 November 2000 you submitted a draft undertaking on behalf of your client whereby, on the grant of planning permission for the extension, they undertake not to erect any marquee at the site pursuant to the planning permission granted on 14 April 2000 for a temporary canvas marquee at the front of the store. You subsequently submitted with your letter of 26 February 2001 the signed and sealed undertaking dated 16 February 2001. The Planning Decision Committee have noted the existence of the undertaking but do not consider that it is a matter which materially affects the decision in this case.

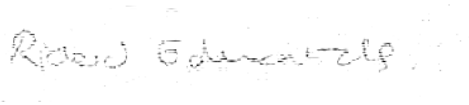
47. The Planning Decision Committee consider that a condition on the lines of condition 8 in the list of conditions at inquiry document C4, Section 8 suggested by the local planning authority should be imposed to ensure that a satisfactory access is provided to serve the development in the interests of the safety and free flow of traffic on the adjacent highway network. They have considered whether the imposition of such a condition alone would ensure the implementation of the improvement works identified in the condition but they consider that they would need to be satisfied that there is at least a reasonable prospect of the works in question being carried out within a reasonable time. The Planning Decision Committee consider that the final test of the acceptability of a condition relating to the highway and access arrangements would be met by the production of a completed highway agreement for those works with the relevant highway authority. Suggested condition 8 refers to improvements detailed on Drawing No. 94/220/P.OIB. Your letter of 14 November 2000 indicates that that this plan was substituted prior to the inquiry by Drawing No. 94/220/P.01C. A condition imposed in relation to highway improvement works would therefore refer to drawing No. 94/220/P.01 C. A suggested revision to condition 8 (inquiry document C8) which incorporates reference to a construction programme and hours of working, and for highway works to be completed and fully operational before beneficial occupation of the extension, appears to relate to a distinct requirement which the Planning Decision Committee also consider should be imposed.

48. Your client is accordingly invited to conclude an agreement with the relevant highway authority in respect of the matter referred to at paragraph 47 above and to submit it to the National Assembly for Wales Planning Division not later than 3 months from the date of this letter. On receipt of the completed agreement, and the settling of any points of detail, within the parameters set out above, relating to the

conditions to be attached a grant of planning permission implementing the Planning Decision Committee's decision set out at the beginning of this letter, will issue.

49. A copy of this letter has been sent to the Head of Planning and Transportation, Vale of Glamorgan Council.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Richard Edwards', with a small blue ink mark to the right.

Dr Richard Edwards AM

Chair

Planning Decision Committee 2001/8

The National Assembly for Wales



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

Parc Cathays/Cathays Park
Caerdydd/Cardiff
CF10 3NQ

Miss Pat Thomas
S J Berwin & Co
222 Grays Inn Road
LONDON
WC1X 8HB

Eich cyf/Your Ref: 596/M37.506

Ein cyf/Our Ref: PP171-07-024

Dyddiad/Date: 2 October 2000

Dear Miss Thomas

**TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77
APPLICATION BY MARKS AND SPENCER PLC FOR RETAIL
DEVELOPMENT AT CULVERHOUSE CROSS, CARDIFF**

1. Consideration has been given to the report of the Inspector Mr JJ Parkinson Msc, Ceng.MICE.MRTPI.MIHT who held a local inquiry into a planning application made by Marks and Spencer Plc to the Vale of Glamorgan Council for an extension to the existing Marks and Spencer retail store at Culverhouse Cross to include decked car parking and associated landscaping.

2. It is considered that, before the Assembly can reach a decision on the application, further information and comments on the matters set out below should be submitted. The purpose of this letter is, therefore, to seek additional information from your clients and it should not be construed as indicating that a conclusion has been reached on the application. An invitation has also been extended to all the persons and organisations who appeared at the inquiry to comment on the issues raised.

NEED

3. on 21 August 2000 the decision on an appeal made under Section 78 of the Town and Country Planning Act 1990 by Edge Developments Limited, for retail development on land immediately east of the Culverhouse Cross roundabout was issued by the National Assembly for Wales. A copy of the decision letter dated 21 August 2000 is enclosed. Also enclosed are the representations submitted after the closure of the inquiry into that appeal, by the appellant's agent and Cardiff County Council in response to the National Assembly for Wales' letter of 15 November 1999 (Annex C to letter dated 21 August 2000), on the need for the additional facilities which it is proposed to locate at that site, and the relevance to that appeal of the

revised Government guidance on retailing and town centres as it applies in Wales set out in Planning Guidance (Wales) Planning Policy on April 1999.

4. The issue of the need for additional facilities proposed to be located at that site is dealt with at paragraph 14 to 18 of the letter of 21 August, in terms of quantitative need the appellant and the Cardiff County Council submitted evidence on the need for additional floorspace for comparison goods.

Having regard to all the evidence before it the Planning Decision Committee concluded that a quantitative need for the additional level of retail space proposed had been established. As regards qualitative need, Cardiff County Council argued that consents in other parts of Cardiff could meet the retail need but the appellant disputed this and, in the opinion of the Planning Decision Committee there was no clear evidence that sufficient units were available. On balance the Committee concluded that there was a qualitative need for proposed retailing at the appeal site.

5. It is considered that before a decision is made on this application the parties should be given the opportunity to comment on the relevance to the proposal of the conclusions on need set out in the decision letter of 21 August 2000 and, if it is considered appropriate, to submit further evidence on the question of the need for additional retail floorspace at the application site.

6. For the reasons given below it is also considered that you should have the opportunity to comment on the mix of comparison and convenience goods likely to be sold from the additional retail floorspace, and the implications of this for the assessment of need and other issues related to the application.

7. The Inspector's report of the inquiry records, in the case for the applicant, reference to constraints on the food and non-food areas of the existing store, and documents submitted to the inquiry include reference to the estimated additional sales of both comparison and convenience goods from the proposed extension and the forecast growth in the demand for those goods. Could you please confirm that this represents the parties evidence on need for convenience goods. You may wish to take account of the fact that a condition regulating the provision of the sales area for comparison and convenience goods may be imposed (as outlined in paragraph 8 below) in submitting any further representations on the need for convenience goods.

8. The Inspector's report also refers to condition 4 of the 1991 planning permission for the existing Marks and Spencer store which restricted the net sales floor space to not more than **6,039m²** of which not more than 4,645 m² was to be used for the sale of comparison goods. Condition 4 was subsequently varied to allow an increase in comparison goods floorspace from 4,645M² to 5,110 m². It is also noted that the draft 24th September 1998 Officer's report on this application (copy enclosed), sent to the Welsh Office by The Vale of Glamorgan Council on 25 September 1998, contains a list of proposed planning conditions (at pages 6-8) which include a condition (no.10) restricting the net sales area for the sale of food and non- food. The purpose of that condition was stated to be to ensure that the development "does not adversely impact on established retail centres and could have adverse effects on traffic generation and car parking provision." However, in relation to this proposal there is no indication in the planning application form, or in the application plans, of an allocation of the proposed additional retail floorspace between comparison and convenience goods. Also, condition 10 in the list of conditions suggested by The Vale of Glamorgan Council, set out in inquiry document C4 Section 8 as amended by Document C8 (copies of which are enclosed), does not seek to regulate the respective provision of sales areas for comparison and convenience goods. You may wish to comment on whether a condition regulating the provision of sales areas for comparison and convenience goods should be imposed.

You may also wish to comment on whether the assessment of need for comparison and convenience goods, and any other issues relevant to the application, would be affected by the imposition of such a condition, or alternatively whether it would be affected if a permission were to be granted subject to condition 10 in the list submitted to the inquiry by the Council.

PLANNING PERMISSION FOR ERECTION OF TEMPORARY CANVAS MARQUEE ON A 156 m² SITE AT FRONT OF EXISTING STORE AT CHRISTMAS AND EASTER

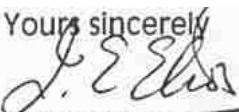
9. An application for full planning permission for the above development was made to The Vale of Glamorgan Council in February **2000**. You are invited to submit any comments you may have on the planning implications, if any, of that development for the consideration of the current application.

HIGHWAYS

10. Condition 8 in the list of conditions suggested by the Vale of Glamorgan Council refers to improvements to the A48 as detailed on drawing 94/220/p.01b received on 17 September 1998. I would be grateful if you could submit a copy of that drawing.

11. Your response to the matters raised in this letter should be submitted to the Assembly's Planning Division within 21 days of the date of this letter and copied to the Vale of Glamorgan Council.

12. A copy of this letter has been sent to the Vale of Glamorgan Council with a similar request for comments to be submitted on the matters raised which they should copy to you. A copy has also been sent to all those persons and organisations who appeared at the inquiry with a request for comments to be submitted and copied to you and the Vale of Glamorgan Council.

Yours sincerely

J E ELIOT
Planning Division



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

Parc Cathays/Cathays Park
Caerdydd/Cardiff
CF10 3NQ

Miss Pat Thomas
S J Berwin and Co
222 Grays Inn Road
LONDON
WC1X 8HB

Eich cyf/Your Ref: 596/M37.506

Ein cyf/Our Ref: PP171-07-024
Formally APP

Dyddiad/Date: 30 July 2001

Dear Madam

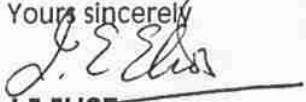
**TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77
APPLICATION BY MARKS AND SPENCER PLC FOR AN EXTENSION TO
THE EXISTING MARKS AND SPENCER RETAIL STORE ON LAND TO
WEST OF EXISTING TESCO STORE, CULVERHOUSE CROSS, CARDIFF**

Summary

The Planning Decision Committee is minded for the reasons given below to allow your client's application subject to the submission of an agreement with the relevant highway authority in respect of the access arrangements for the site.

1. Consideration has been given to the report of the Inspector Mr J J Parkinson MSc. Ceng. MICE. MRTPI. MIHT who held a public local inquiry into your client's application for an extension to the existing Marks and Spencer store at Culverhouse Cross, Cardiff.
2. The Secretary of State directed on 20 November 1998 under Section 77 of the Town and Country Planning Act 1990 that the application be referred to him for determination instead of being dealt with by the Vale of Glamorgan Council (the local planning authority) because he was of the opinion that the proposed development raised issues of more than local importance. The jurisdiction for the application passed to the National Assembly for Wales in July 1999.
3. On 8 January 2002 the National Assembly for Wales resolved that a committee, to be known as Planning Decision Committee 2001/8 be established in accordance with Standing Order 35, to discharge the functions of the Assembly under Section 77 of the 1990 Act in respect of the application by Marks and Spencer described above. Accordingly, the Planning Decision Committee have considered the application and have resolved under Standing Order 35.16 to adopt this letter.

Sent to all those persons and organisations who appeared at the inquiry with a request for comments to be submitted and copied to you and the Vale of Glamorgan Council.

Yours sincerely

J E ELIOT
Planning Division

THE VALE OF GLAMORGAN COUNCIL

APPLICATION

By

MARKS AND SPENCER PLC

Inspector; J.J. Parkinson MSC. Ceng. MICE. MRTPI. MIHT.

Dates of Inquiry: 18, 19, 20, May and 14 June 1999.
Accompanied inspections were carried out during the course of the inquiry and also on 21 May 1999.

File No: **APP Z6950/X/98/512681.**

CONTENTS

Paragraph

PREAMBLE

1.1.1

BACKGROUND

Site and Surroundings

2.1.1

Development Plan and other Local Policy

2.2.1

Planning History

2.3.1

The Proposed Development

2.4.1

CASE FOR THE APPLICANT

Background

3.1.

1

Need

3.2.1

Impact on Shopping Centres

3.3.1

Sequential Test

3.4.1

Highways and Transport

3.5.1

Neighboring Land Uses

3.6.1

Noise and Air Pollution

3.7.1

Policy

3.8.1

Objectors

3.9.1

Vale of Glamorgan Council

3.10.1

Overall Conclusions

3.11.1

CASE FOR THE COUNCIL

(Supporting the Application)

Planning History and Policy	4.1.
1	
Background	4.2.
1	
Need	4.3.
1	
Retail impact	4.4.
1	
Sequential Test	4.5.
1	
Highways and Transport	4.6.
1	
Overall Appraisal	5.7.
1	

CASES FOR OBJECTORS

(1) CARDIFF FRIENDS OF THE EARTH

Introduction	
5.1.1	
Need	
5.2.1	
Retail Impact	
5.3.1	
Alternative Sites	
5.4.1	
Visual Impact	
5.5.1	
Highways and Transport	
5.6.1	
Noise and Air Pollution	
5.7.1	
Policy	
5.8.1	

(2) CARDIFF BUS
5.9.1

(3) CULVER RESIDENTS ASSOCIATION
5.10.1

CONCLUSIONS

Considerations

6.1.1

Need

6.2.1

Impact on Shopping Centres

6.3.1

Sequential Test

6.4.1

Travel Patterns and the Highway Network

6.5.1

Public Transport

6.6.1

Relationship with Neighboring Land Uses

6.7.1

Noise and Air Pollution

6.8.1

National and Local Policies

6.9.1

Overall Conclusion

6.10.1

RECOMMENDATION

7.1.1

ABBREVIATIONS

I have, where appropriate, used the following abbreviations in the report:

ATCM	-	Association of Town Centre Management
CC	-	Culverhouse Cross
CCC	-	Cardiff County Council
The Council	-	The Vale of Glamorgan Council
CO	-	Carbon Monoxide
F of E	-	Cardiff Branch of Friends of the Earth
M & S	-	Marks and Spencer
NAQS	-	National Air Quality Strategy
NO ₂	-	Nitrogen Dioxide
NO _x	-	Oxides of Nitrogen
PG(W)PP First Revision	-	Planning Guidance (Wales) Planning Policy
PM ₁₀	-	Particulate matter less than 10um in diameter
SACTRA Assessment	-	Standing Advisory Committee on Trunk Road
SGRSP Plan	-	The South Glamorgan Replacement Structure
SP No:1)	-	The South Glamorgan Structure Plan (Alteration
TAN	-	Technical Advice Note
TPO	-	Tree Preservation Order
VGLP Draft	-	The Vale of Glamorgan Local Plan Deposit
VGUDP Plan Deposit Draft	-	The Vales of Glamorgan Unitary Development
µm	-	Micron (one millionth of a metre)

Crown Buildings
Cathays Park
Cardiff

To the National Assembly for Wales

1.1.1 I have the honour to report that, on 18 May 1999, I opened an inquiry at the Civic Offices, Holton Road, Barry, into a planning application made by Marks and Spencer Plc. The application was made to the Vale of Glamorgan Council and was for an extension to the existing Marks and Spencer store at Culverhouse Cross, to the west of the Tesco store. The application included decked car parking and landscaping.

1.1.2 The application was called in for decision, by the Secretary of State for Wales, by a direction made under Section 77 of the Town and County Planning Act 1990, as it was considered that the proposed development raises planning issues of more than local importance. On the information available at that time, the following matters appeared to be amongst those relevant to the consideration of the application:

1. possible effects the proposal could have on shopping areas, particularly in Cardiff, the Vales of Glamorgan and the Bridgend and Caerphilly areas;
2. Government policy in respect of out of town retail development, in particular the application of the “sequential test”;
3. the likely implications for travel patterns, including the likely effect on the highway network in the immediate and wider areas;
4. the relationship with neighbouring land uses;
5. relevant national and development plan policies.

1.1.3 This report includes a description of the application site and its surroundings, details relating to the development plan and other local policy, details of the planning history and a description of the proposed development. The report also includes the gist of the representations made at the inquiry and my conclusions and recommendation. Lists of appearances, documents and plans are attached.

BACKGROUND

Site and Surroundings

2.1.1. The area known as Culverhouse Cross is situated around the highway interchange which facilitates the movement of traffic between the A4232, A48 and A4050 main roads. The A48 links Culverhouse Cross with Cardiff city centre which lies about 4 miles to the east and the A4050 provides a link to Barry town centre which lies about 4 miles to the south. The A4232 is the principal route between Junction 33 on the M4 motorway to the north-west and Cardiff Bay to the east. Cowbridge is situated about 7 miles to the west of the interchange, along the A48.

2.1.2. Development at CC is shown on Plan M. The Tesco Store is located to the west of the interchange and the existing M & S store together with its surface car parks lies immediately to the west of the Tesco site. The application site includes the M & S store, its car parking areas to the front and rear of the building and a field to the west under the applicant's control (Document A7, paragraph 3.2). The land to the west and north-west is rural in character, forming part of the countryside which adjoins the existing development.

2.1.3. Vale Gate Retail Park is located to the south of the application site on the opposite side of the A48. Between this and the A4050, Port Road, there is an hotel and to the south of the hotel there are television studios. Brooklands Terrace Retail Park lies to the east of the hotel, adjoining the east side of Port Road. There are dwellings in Brooklands Terrace and permanently occupied mobile homes and chalets at the Cambrian Residential Park to the south-east of the retail park.

2.1.4. The Edge site is located to the north of the development at Brooklands Terrace, on the north side of the A4232. Wenvoe Retail Park is located to the north-west of the Edge site, on the opposite side of the A48. To the north-west of Wenvoe Retail Park, on land between the A4232 and an established residential area, there is new housing.

2.1.5. The highway interchange which links the A4232 with the A48 and the A4050 is in the form of a large grade - separated roundabout with slip roads down to the A4232, a dual carriageway road. To the south-east of this, there is a smaller roundabout on the A48. The north-western arm of this provides access to the M & S and Tesco stores. Knightswell Road, which serves a sizeable housing area, joins the A48, Cowbridge Road West, to the north-east of the Edge site.

Development Plan and Other Local Policy

2.2.1. For the purposes of Section 54A of the Act, the development plan comprises the South Glamorgan Structure Plan (Alteration No. 1), approved by the Secretary of State for Wales on 31 May 1989 (Council's Statement, paragraph 5.6, and Document C4, paragraph 5.10). Policy S 1 of the SP states that there will be a presumption in favour of concentrating further shopping development where it is within or adjacent to established shopping centres, or where it would be within proposed district centres, or where it would provide local facilities in areas of deficiency; subject to detailed criteria relating to the feasibility of further shopping development, the trading

potential of the established centres, accessibility to public transport, design and the amenity of neighbouring residential areas.

2.2.2. Policy S3 of the SP is concerned with the enhancement of existing centres and indicates that priority will be given to the continued maintenance and enhancement of Cardiff central area and Barry town centre. Policy S6 deals with large new stores and retail warehousing, stating that there shall be a presumption against proposals for development of large new stores, retail warehouses and DIY warehouses outside existing and proposed shopping centres.

2.2.3. Policy S6 also states that all proposals will be considered having regard to the scale of existing provision and commitments, the impact on established centres, the effect on traffic flows, the availability of public transport, the adequacy of car parking provision and servicing facilities and local land use and environmental implications (The full text of the SP policies is at Document G3).

2.2.4. South Glamorgan Replacement Structure Plan was placed on deposit in February 1995 (Document C4, paragraph 5.1) but the Council has not progressed this plan, concentrating instead on the preparation of its UDP. Policy R4 deals with out of centre retail development, stating that this will only be permitted where, inter alia, it cannot be accommodated within or adjoining planned or existing centres, where it does not undermine established or planned centres and where it does not undermine urban regeneration schemes. Policy MV1 deals with the location of new developments and the minimisation of traffic movements (Document A8, paragraphs A1.18 to A1.21).

2.2.5. The Vale of Glamorgan Local Plan Deposit Draft has been the subject of public consultation but plans for an inquiry have been abandoned. The policies have, however, been approved by the Council for development control purposes. Policy SHOP 1 indicates that new and improved shopping facilities within or adjoining established district shopping centres will be permitted if, among other things, they would have no adverse effect on the environment. Policy SHOP 12 indicates that proposals for new retail development outside existing district shopping centres will be acceptable, subject to 10 criteria; including that the proposal would not undermine the vitality and viability of the existing shopping centres (Document C4, paragraphs 5.15 to 5.18).

2.2.6. An inquiry into the Vale of Glamorgan Unitary Development Plan Deposit Draft commenced in June 1999, the plan having previously been adopted by the Council for development control purposes in January 1999. Policy SHOP 2 of the VGUDP corresponds closely to **Policy SHOP 1** of the VGLP. Policy SHOP 12 states that proposals for new retail development outside town and district shopping centres will be permitted, subject to 8 criteria being satisfied. Criterion (i) is aimed at safeguarding the vitality, attractiveness and viability of the town and district shopping centres. Criterion (ii) is that there are no suitable town, district or edge of centre sites and in the case of out of town proposals, there are no suitable town, district, edge of centre or out of centre sites (the sequential test). (Document C4, paragraphs 5.19, 5.22 and Document G5).

2.2.7. An extract from the Proposals Map 2 of the VGUDP is at Document C5, Appendix 11. The application site is not specifically zoned on that map but the land to the north and west is designated as part of a Green Wedge. Policy ENV3 indicates that Green Wedges have been identified in order to protect vulnerable undeveloped land, to maintain the settings of built-up areas and to prevent urban coalescence between and within settlements (Document C4, paragraph 5.20 and Document G5).

Planning History

2.3.1. Planning permission was granted on appeal for the existing M & S store at Culverhouse Cross in February 1991. Condition 4 attached to that permission

restricted the gross internal floorspace to not more than 8,361m² and the net sales floor space to not more than 6,039m², of which not more than 4,645m² is to be used for the sale of comparison goods. There was also a restriction on the sub-division of the M & S unit to prevent the formation of 2 or more smaller self-contained shopping units. At the original inquiry, M & S offered an undertaking not to close its city centre store or to reduce its sales area, for a period of 10 years (Document A7, paragraphs 4.5 and 4.6).

2.3.2. Other retail developments at CC are conveniently shown on the aerial photograph attached to the Statement of Case submitted by Cardiff County Council on 18 January 1999. This identifies the sites of 6 developments allowed in the area, including the M & S store. All of these developments were refused by the present or former Cardiff and Vale of Glamorgan Councils but subsequently allowed on appeal by either the Secretary of State or Inspectors.

2.3.3. Prior to the opening of the M & S store in 1992, the then Cardiff City Council granted planning permission, in effect, to vary condition 4 attached to the permission for the store granted by the Inspector. This further permission allowed an increase in retail floorspace for comparison goods from 4,645m² to 5,110m². As part of the permission, M & S entered into a Section 106 legal agreement which ensured that adjoining land, including the field within the current application site, would not be accessed from the existing M & S store except for the purposes of agriculture or in the case of emergency (Document A7, paragraph 4.8).

The Proposed Development

2.4.1. Permission is sought by the applicant for an additional 2,576m² of retail floorspace together with landscaping and a decked car park designed to provide an additional 232 spaces. The extension would involve expanding the retail floorspace, primarily at ground floor level, towards the south, linking it with the proposed decked car park. The sales area of the existing store would be increased by 2,202m², from 6,132m² to 8,334m².

2.4.2. The existing main entrance to the store would be removed and a new entrance created, in the form of a drum. The new entrance and the extended floor space have been designed and would be sited so as to avoid the mature oak trees at the front of the store; those trees being covered by a TPO. Including the ground floor, there would be 3 levels of car parking in the new decked car park. This would be a lightweight steel structure, having brick panels at ground level to complement the brick elements of the existing store and the proposed extension. The proposed scheme is described in detail in the Design Statement (Document A1 and Document A7, paragraphs 4.40 to 4.43).

CASE FOR THE APPLICANT

The material points were:

Background

3.1.1. M & S is one of the UK's most profitable retailers, operating from 291 stores with a total of over 1 million m2 of sales area. The total UK turnover for the financial year 1998-1999 was £7.3 billion and 57,000 people are directly employed by the company. The corporate philosophy and core objectives of M & S are to provide customers with high quality merchandise, in attractive, safe and convenient environments. This is done through a variety of stores within a retail hierarchy.

3.1.2. To maintain its position as a market leader in retailing, M & S has had to respond to changing trading patterns and demands of customers. The range and depth of clothing, food and homeware products sold by M & S has grown consistently. At the same time, the customers' expectations of the shopping environment and the services has risen. The M & S store hierarchy is structured to provide a network of stores to meet customer needs. This recognises the changing demands of customers and their propensity to shop in a variety of M & S stores.

3.1.3. Research has shown that M & S customers have certain shopping domains, stores that they visit regularly, and regional chains are planned to reflect this behaviour. In the high street there are M & S stores serving differing levels in the retail hierarchy and to complement these a number of out-of-centre stores have been developed. These different types of retail offer, combined with the continued popularity of M & S, results in pressure on sales space at all levels of the retail hierarchy (Document A5, Section 3).

3.1.4. Including CC, M & S trades from 9 stores in South Wales. Within the Cardiff area, the 2 existing M & S stores are located in the city centre and at CC.

Both these stores are classified by the company as departmental stores, from which M & S would expect to sell a wide range of clothing, furnishings, furniture and foods. Although the CC store is the company's second largest in Wales, it falls short of the size which would allow the full range of M & S merchandise to be shown.

3.1.5. The largest M & S store in South Wales is situated in Cardiff City Centre. Last year, the total retail offer there was expanded by 4,860m² with the opening of the former Littlewoods store, allowing M & S to introduce lines such as jewellery and a full home furnishings range; including, for the first time, a complete furniture range. Customer facilities, such as the introduction of additional ordering points and the provision of a coffee shop, were improved. Although the target floor space for the next 5 years has been reached, further ways of developing the sales area will continue to be investigated.

3.1.6. M & S rarely invests in a store in isolation, tending to target investment on a regional basis. Cardiff is an example of this approach, where there has not only been recent major investment in the city centre store but also a desire by the company to invest in CC and a new neighbourhood foodstore at Llanishen. Notwithstanding the presence of M & S in Cardiff city centre, the M & S store at Cribbs Causeway in Bristol draws some trade from the main catchment area of the CC store.

3.1.7. M & S believes in active involvement in the communities in which it trades. This is evident from the value of goods purchased from textile and food suppliers in Wales, which totalled over £270 million in 1997, supporting over 5,500 jobs in the companies supplying the goods. M & S takes pride in being involved in all aspects of community life in Wales and a number of M & S managers play a major role in local business initiatives. (Document A4, Section 4).

Need

3.2.1. Over a period of time it has been recognised that the CC store has a number of qualitative deficiencies. The application seeks to address these, enabling M & S to improve its offer by being able to display a fuller range of merchandise and by providing a higher level of customer comfort in terms of circulation space and facilities. The floor space constraints within the existing store lead to a number of unsatisfactory compromises.

3.2.2. As an example, the foodhall is very much smaller than that at the enlarged city centre store. This constrains the number of food lines that can be carried, the CC store selling only about 2500 out of the total of 4000 sold by the company. The lack of space also means that rear service initiatives such as a bakery, butchery, delicatessen, patisserie and fish counter cannot be incorporated. M & S has been introducing these facilities into its department stores throughout the country.

3.2.3. Shortage of space also leads, at busy times, to congestion at checkouts, with queuing customers impeding other customers wishing to circulate round the aisles. The non food floor area is also significantly constrained. This was re-organised less than 2 years ago to maximise the utilisation of the existing floorspace but the reorganisation, which was a compromise, has led to decreased visibility of goods and

problems of circulation within the non-food area. There are also other difficulties, including that of insufficient space to display any of the furniture range, (Document A5, paragraphs 5.2 to 5.5).

3.2.4. The problems faced by the store are illustrated by the results of a survey of 3200 shoppers exiting the CC store. In total, about 21% of the shoppers interviewed were unable to buy all the non-food goods they sought. There were a variety of reasons for this. 21% of all the customers who were unable to buy all the non-food goods they required, indicated that this was because the right size was not available 4% said that it was because the goods were not available or they could not find it.

3.2.5. Concerns about the store's shortcomings have been reinforced by information obtained from customer comment forms. Of 551 forms completed at the CC store, X165 contained adverse comments about store facilities. The most common of these, 54%, related to lack of the range available compared to other stores, or not having items available on display. Lack of floor space also constrains the number and quality of customer facilities that can be provided (Document A5, paragraphs 5.6 to 5.8; survey details are at Document A7, Appendix 17).

3.2.6. Upgrading of the store is required to enhance its ability to meet its customer needs. After the exchange of evidence had taken place, Mr Roach, a witness for the Council, produced a supplementary proof of evidence which deals with the issue of need as raised by PG(W) PP, paragraph 10.2.6. That evidence suggests a very narrow definition of need but even on that construction comes to a conclusion which is not justified on the evidence.

3.2.7. Document A10 contains detailed criticisms which demonstrate that even the Council's estimated low levels of impact, below 2%, are overstated. The conclusion that there is no quantitative need on behalf of the Vale residents is questionable. The Council's analysis relates only to its own area and does not cover the CC catchment. That would be the more relevant area to address if conducting this type of analysis.

3.2.8. Other criticisms of the Council's analysis relate to: the unreliability and inaccuracy of the spending data used; use of turnover per unit floor space from Retail Rankings and then applying it to all floor space in the Council's area; turnover levels in Retail Rankings, which are only for multiple retailers who tend to concentrate in primary shopping areas where rents are highest; lack of realism when taking account of floor space in neighbouring administrative areas; figures for main food and top-up food, which could be misinterpreted; very significantly, no allowance has been made for growth in spending.

3.2.9. The assumptions made in the Council's analysis will consistently tend to overestimate impact on centres in the Vale of Glamorgan. Moreover, when considering the definition of need, this does and should carry a meaning that is consistent with a wider construction of the word. There is no basis for confining it to just quantitative need. Need includes qualitative need and any other relevant needs that may be met by the proposal, if material in planning terms (Document A10; Document A30, paragraphs 2.15 to 2.18).

3.2.10. With regard to the CCC letter dated 24 May 1999, the inability of over 15% of M & S customers to purchase goods which they have specifically gone to the store to buy is in itself a very significant factor representing a need for more floor space. CCC does not suggest that there is not a need for the proposal and a number of factors are ignored in CCC's letter. These are: the CC store is one of the company's smallest out-of-centre stores and the only one which has not been the subject of major investment since it opened; the extended store would provide a more comparable store offer in the South Wales area to that at the M & S store at Cribbs Causeway, reducing the outflow of expenditure and bringing savings in shoppers' time, costs and vehicle mileage; the extension would create a substantially improved level of customer comfort and service; there is a substantial quantitative requirement for new floorspace

in the catchment area, with the application proposal satisfying only a very modest part of the overall requirement.

3.2.11 In looking at quantitative need, it is essential to consider the whole catchment area. This incorporates the area within the 30 minute drive-time isochrone, with some trade being drawn from beyond this. Taking the 0-20 minute areas as the primary catchment area, from which about 58% of the trade is likely to be drawn, there is forecast to be a growth in comparison goods spending of between £281 million and £362 million between 1998 and 2006. The mid point of these forecasts gives a growth of about £160 million up to 2002, probably the first full year of trading of the extension. Set against this, the forecast comparison turnover of the extension is only about £4.9 million.

3.2.12. Clearly, there is a need for new floor space in overall terms, albeit that this proposal would satisfy only a very modest part of the overall requirement. Individually and cumulatively the above factors show a clear need which satisfies the requirement in PG(Wales) PP (Document A26 and Document A10, paragraphs 2.11 and 2.12).

3.2.13. In summary, the needs in this case are: a quantitative need for the new floor space by reference to the stores catchment area; a qualitative need to improve the retail offer; the need to draw back lost trade that has diverted to Cribbs Causeway; a planning policy need to reduce car journeys in terms of the distance travelled and the number of trips; need for the extension to the existing store to enable it to perform the desired function. It should be noted that paragraph 10.2.6 of PG(W) PP, which requires the demonstration of need for any retail proposal that is not in centre, does not explain or describe the nature, type and extent of the need (Document A30, paragraphs 2.15 and 2.17).

Impact on Shopping Centres

3.3.1. A comprehensive retail impact assessment was submitted with the proposals in 1997. Changes in circumstances and data since that impact study was prepared were examined subsequently, the most recent updated health check being carried out in April 1999. This relates solely to qualitative and quantitative changes that have taken place since the original study and does not seek to repeat the full health check undertaken for each centre (Document A7, paragraph 7.2, Document A9, Appendix 12 and Document A17).

3.3.2. The Council and CCC have also done quantitative assessments of the impact of the proposal on relevant centres. The summary of that work, together with that of the applicant, is at Document A4, Section 3. This shows that for Cardiff city centre the impact would be very modest, whichever analysis is preferred. Most of the impact would be on the city centre M & S but this is trading strongly. No material adverse effect on the city centre was identified by CCC officers. Similarly, the evidence indicates that there would be no material adverse effect on other Cardiff district or local centres.

3.3.3. In Barry, the nature and quality of the current retail offer in the centre would not be materially affected. There is no competing comparison outlet and the nature of the convenience stores is such that out of centre competition exists, much closer to the town than CC.

3.3.4. Barry town is in need of regeneration, the key town hall site in particular. However, that is now likely to occur with the development being anchored by Aldi, a discount operator trading at the opposite end of the market to M & S and not in competition with the applicant. The proposed M & S extension at CC would not affect Barry town centre and neither has it been suggested that any other Vale centres would be at risk (Document A4, Section 3 and Document A7, paragraph 7.15).

3.3.5. There would be no discernible effect on Penarth town centre which, like Barry, operates at a low level in the retail hierarchy and is dominated by Cardiff. As might be expected, given the distance involved, the nature of the proposal and other

intervening retail outlets, there would be minimal effect on Bridgend and that has been agreed by the relevant local planning authority. Caerphilly is a healthy town centre and it would not be adversely affected, the assessed impact being less than 1 % (Document A4, Section 3 and Document A7, paragraph 7.17).

3.3.6. As noted in the summary contained in Document A17, the latest update of the health check analysis shows that there have been changes in some of the centres. Cardiff and Newport appear to have strengthened and Bridgend has had modest new development, the centre appearing to remain healthy. Caerphilly appears to have adjusted successfully to the Castle Court development and whilst Pontypridd has remained broadly static since the earlier report, there is retailer demand and a new scheme in the centre has been granted permission. In Barry, commercial yields have remained constant. There have been few significant changes in Penarth which continues to operate at a lower order level in the retail hierarchy.

3.3.7. Cumulative retail impact has been examined, current planning commitments and development plan commitments being looked at to assess whether this proposal could, cumulatively with the other commitments, harm any centre. The proposed development would not undermine the vitality and viability of any town centre. The analysis that has been undertaken is very robust, being a reflection of the low levels of impact forecast, the location and characteristics of the other commitments and the characteristics of the centres concerned (Document A7, paragraph 7.32 and Document A9, Appendix 13).

3.3.8. The M & S study has been done using a traditional and accepted methodology, also having the benefit of first hand access to existing store turnover figures. The assessment by the Council is limited to those parts of the catchment area that fall within its administrative area. CCC figures assert a maximum 2.5% trade withdrawal from Cardiff city centre. The methodology is not set out but it is clear that the figures are wrong and grossly exaggerate the likely impact. Even on its own figures CCC acknowledges that there would be no harm to Cardiff centres.

3.3.9. The appropriate conclusion is that the applicants figures are more likely to be correct. These are:

	Food	Comparison
Barry	< 1 %	< 1 %
Penarth	0.21%	0.36%
Cardiff	1.93%	0.36%
Cowbridge	0.39%	0.6%
Bridgend	0.36%	0.4%
Caerphilly	0.33%	0.4%

(Document A30, paragraphs 2.20 to 2.26).

Sequential Test

3.4.1. Although this test is applicable to extensions as well as to new developments, its relevance is likely to be more limited and qualified. In particular, it is both necessary and sensible first to assess the function of the proposed extension, which may be very different to a proposal for a new store. Here, the purpose of the extension is not to provide a store selling more goods of the same kind as the existing store, nor to provide wholly different goods to the M & S range. It is to supplement the M & S offer by providing its full range of goods and to allow them to be displayed.

3.4.2. The rationale for the extension is the existing store. If that did not exist, then the applicant would not seek to develop 2576m² elsewhere and/or as a separate store. Such a development would only accommodate a smaller range than the existing store or only such as could not be accommodated in the existing building. In the first case, such a store would not make either commercial or practical sense as it would not be even the equivalent of the present store. In the second case, it would not be practical and neither would it make commercial sense to build an overspill store with a limited offer (Document A4, paragraph 4.1).

3.4.3. A sequential test study in support of the then 2 applications was submitted in June 1998. That study examined the rationale for the extension and whether there were potential sites in sequentially preferable locations in Barry. It was concluded that although there was a site in the centre that could have physically accommodated the scale of development proposed in the application subject of this appeal, it was not appropriate in any store sense. In particular, the applicant had no requirement for a new store in Barry and the development of additional floor space as a free-standing unit in Barry could not perform the same function as an extension designed and operated as part of a parent store.

3.4.4. It follows, therefore, that the current proposal could not be satisfactorily or suitably accommodated on that site. In short, the applicant would not develop, elsewhere, a store of similar size to the extension proposed, because neither commercial nor functional objectives would be achieved. Nevertheless, the sequential test may still be acceptable in principle and it has, therefore, out of caution, been properly addressed. In this connection, an analysis of the availability of potential sites within and on the edge of centres has been carried out (Document A4, Section 4, Document A7, paragraph 7.48 and Document A9, Appendix 15).

3.4.5. The requirement in PG(W)PP, First Revision, April 1999, for local planning authorities and retailers to show flexibility and realism needs to be considered in the context of the purpose of the extension and the recent substantial investment that M & S has made in Cardiff city centre. CCC officers' report acknowledged that the applicant's city centre expansion was in accordance with the development plan and took the view that, because of this, it might be difficult to sustain an objection to the CC extension on the grounds that it would be better situated in the city centre.

3.4.6. A flexible and realistic approach must recognise that the proposal is not an alternative to investment in a sequentially preferable location. This floorspace cannot effectively be provided elsewhere as it would not meet the requirement for the store to enhance its ability to meet its customer needs in the same or a similar way. Even if it were possible to develop, in a different location, the amount of floor space proposed in the extension, it would offer a poor service to customers and would not be beneficial in planning terms. The Secretary of State, in his "minded to grant" letter on the Edge appeal, recognised the need to have regard to business requirements (Document A7, paragraphs 7.36 to 7.43).

3.4.7. **PG(W)PP** now requires the sequential test to be applied to extensions but this advice should be considered bearing in mind the purpose and scale of the extension and also the complementary advice which seeks realism. The sequential approach may be capable of being applied to extensions to shopping centres or retail parks where a proposal involved the addition of a new retailer. There may also be situations where a very large extension to an existing store may, because of its nature, be capable of being divorced from the parent store. However, that is not the case here

3.4.8. In concluding on another appeal, the Inspector considered that the proposal would not have any significant effect on what the guidance is seeking to achieve and that the application of the sequential test in that case appeared to offer little assistance. That was a pragmatic approach and should be adopted in this case. Such an approach would not give rise to any conflict with current policy guidance (Document A7, paragraphs 7.44 to 7.47.).

3.4.9. Notwithstanding this and as noted previously, a sequential analysis has been undertaken. Considerable flexibility was introduced by reducing the criteria to account for only 75% of the floor space proposed and only 50% of the additional proposed car parking. The analysis was done on the basis of assessing the availability of potential sites within and on the edge of centres within a 20 minute drivetime isochrone of the application site (Document A7, paragraph 7.48 and Document A9, Appendix 15).

3.4.10. None of the sites identified fall within the 10 minute drivetime isochrone, which is likely to be required if a similar catchment area is to be served. Cardiff city centre cannot be relevant as the applicant has recently carried out major expansion there and there are no sites that are suitable and available in or on the edge of centres in the Vale of Glamorgan which lie within the 20 minute isochrone.

3.4.11. The only 2 sites that could, in theory, accommodate the revised amount of floor space and car parking are in Bridgend and Pontypridd. Both lie close to the 20 minute drive-time isochrone and could only serve part of the CC catchment area. M & S has no requirement for a store in Bridgend and neither does it have a requirement for additional floorspace at Pontypridd where it already has a store (Document A7, paragraph 7.49).

3.4.12. With regard to Barry, it is not a location where M & S has a requirement. The relatively small town centre site would not be developed by M & S as there is no need for a free standing store, which would not, in any case, be capable of performing the function of the proposed extension.

That site is, in any event, required by another retailer who is not dissuaded from the investment because of the M & S proposal. As for the docks site, it is out-of-centre, more than 380m away, and the sequential test does not differentiate between different centres of that kind. It is not an alternative location as no free standing M & S store would, or could, be developed there because of the planning conditions attached to the planning permission.

3.4.13. The particular function of the proposed extra floor space means that it would not be built elsewhere, even if a site was available, which it is not. The importance of functionality in respect of the sequential test is clear from the appeal decision in the Burlesden case. As already noted, the relevance of the business rationale was acknowledged by the Secretary of State in the appeal decision that was issued following the Edge inquiry (Document A4, Section 4).

3.4.14. Refusal of the proposal on the grounds that there is, in theory, physical capacity to accommodate a similar proposal in or adjacent to a centre in the outer part of the catchment area would serve no planning purpose. It would, rather, prevent identified needs being met. This would conflict with the national policy objective of maintaining an efficient, competitive and innovative retail sector and guidance that applications for development should be allowed unless the development would cause demonstrable harm to interests of acknowledged importance. This additional floor space cannot effectively be provided elsewhere as it would not meet the needs in a similar way (Document A7, paragraphs 7.38 and 7.56).

Highways and Transport

3.5.1. Car parking provision would be increased from 956 spaces at present to 1,188, the ratio for car parking to floor space remaining broadly the same as it is now. A total of 537 car parking spaces would be provided in the new decked car park, together with another 225 spaces at surface level at the front of the store. The car park at the rear of the store would be unchanged. High quality design would provide a safe and welcoming environment in the decked car park and the surface level front car park and the access and egress would be re-arranged (Document All, Section 3).

3.5.2. Research has been carried out on the effects of M & S store extensions on both turnover and number of customers. This shows that turnover does not increase pro-rata with the increase in floor space and that the majority of the increase in turnover comes from existing customers on existing trips to the store. A 10% increase in store size is likely to lead to a 1.2% increase in customer numbers. In this case, the 36% increase in sales area would lead to an estimated increase in customer numbers of about 4%. A worst case scenario would be 8% (Document All, paragraphs 4.1 to 4.9).

3.5.3. Not all of the new customers to the store would give rise to new car trips on the road network in the vicinity of CC. Some would choose to use public transport and a significant proportion of customers would be on the highway network anyway. An analysis of the results of a customer survey indicates that it is likely that fewer than half of customers to the existing M & S store are new trips on the overall highway network.

Similarly, fewer than half of the anticipated increase in customers to the store extension would be likely to give rise to new trips on the network (Document All, paragraphs 4.10 to 4.14).

3.5.4. When considering trip distribution, it is generally accepted that the vast majority of additional expenditure at an extended retail facility such as that proposed will be diverted from existing shops, rather than being totally new expenditure. Moreover, very few people, if any, would make a totally new trip from home to visit the M & S store at CC merely because the floor area had been increased.

3.5.5. Considering someone living in the Cardiff catchment area and wishing to purchase the type of goods sold at M & S, they are at present likely to split their expenditure between a number of locations, such as CC, other out of centre units, other town centres and Cardiff city centre; the last of those being likely to be the biggest single source of trade when considering diversion to the proposed extension. Taking the city centre as an example, the most likely scenario is that the total number of shopping trips to the city centre and CC would remain the same but that people would transfer a small proportion of expenditure from the city centre to M & S at CC. Therefore, the effect of the store extension on car based journeys would be likely to be broadly neutral.

3.5.6. Notwithstanding this, an examination has been made of the likely effect of any diversion of trips from the city centre. The zone analysis (Document All, Table 1) shows that there would be a reduction in distance in the case of 55% of trips, that the distance travelled in the case of 22% of trips would increase and that 18% of trips would be neutral. If, therefore, there were a change in the number of vehicular trips to the M & S store at CC due to diversion from Cardiff, it is likely that this would result in a reduction in the overall distance travelled.

3.5.7. The new regional out of town shopping centre, including an M & S store, at Cribbs Causeway near Bristol was opened in March 1998. The applicant is aware that a small but perceptible number of people are travelling from the CC catchment area to Cribbs Causeway to undertake comparison shopping. The long distances travelled by car are against the Government's sustainability objectives. Improvement of the M & S offer at CC would enable more people to find what they want at that store, leading to a reduced need to travel to Cribbs Causeway. This would result in a saving of the distance travelled by private car.

3.5.8. An extension of the existing M & S store at CC would lead to less travel than would be the case if a new M & S store of 2,500M² were provided elsewhere, say Barry. This is because people would be able to undertake all their shopping at one location on one trip, rather than having to undertake a trip to CC and a trip to a new store in order to obtain the full range of goods. Potential changes in travel patterns should, however, be seen in context. Any changes as a result of the proposed extension would be negligible when compared with the total distance travelled for shopping in the Cardiff and CC area (Document All, paragraphs 4.15 to 4.27).

3.5.9. The effects of the M & S extension on traffic flows in the immediate area should also be seen in context as the predicted vehicular increase at peak times on the gyratory would be less than 2% in the worst case, with the average increase being less

than 1%. At those levels, and even without improvement, the increased traffic attributable to the proposal would be minimal and would not materially alter the existing situation (Document All, paragraphs 6.22, 6.23, Tables 2 and 3; Document A30, paragraph 5.2).

3.5.10. Although there have been concerns about traffic conditions at CC, the primary causes of previous difficulties are likely to have been the lack of signals on some approaches to the gyratory, difficulties with the internal layout of the M & S site and insufficient capacity, at certain times, for traffic turning right from Tumble Hill into the M & S/Tesco site. As a result of other recent developments in the area, all the entries to the gyratory are now signalised, except Tumble Hill.

3.5.11. Highway works proposed by the applicant in association with the extension are illustrated at Document A12, Figure 9. These are: signalisation and widening of the Tumble Hill entry to the gyratory; conversion of the existing roundabout at the M & S/Tesco/Valegate entrance to traffic signal control; widening of the length of road between the CC gyratory and the new signals; introduction of full pedestrian facilities at the new site entrance signals; introduction of pelican crossings on the northbound and southbound entry slips to the A4232. As shown in Document A12, Figure 11, there would also be significant on-site works aimed at improving traffic circulation.

3.5.12. The proposed off-site works would give rise to a number of benefits. These include a reduction in traffic queues and delays and improved conditions for both pedestrians and cyclists, particularly as the introduction of pelican crossings on the A4232 entry slip roads would complete the controlled pedestrian route all the way round the gyratory. Improvements to the on-site layout would significantly reduce the incidence of congestion and the risk of traffic backing up to the highway (Document All, sections 6 and 7).

3.5.13. Access by a choice of means of transport has been examined. Public transport to the CC area is provided, predominantly, by 2 bus operators. There are bus turning facilities on the site and also a conveniently located stop and lay-by. All services terminate in central Cardiff, with the majority of the services running along the A4161, Lansdowne Road/A48, Cowbridge Road corridor.

3.5.14. Excluding services that run less than hourly, a total of 8 buses per hour each way visit the CC area on Mondays to Saturdays, with 3 buses per hour on Sundays. Route 19 is a twice hourly service between Llanrumny, to the north-east of central Cardiff, and CC; buses travelling via Ely, the nearest area of significant residential development to the application site. In addition, there are 10 free bus services operated on behalf of Tesco. These pass into the site and use the bus stop adjacent to the stores. The services can be used by those combining a trip to Tesco and M & S, or by those just visiting the M & S store.

3.5.15. Consultations have taken place with the Council to assess how bus services might be improved. The greatest area of opportunity is Barry, where there are significant parts of the town that do not have a direct service to CC. Document A12, Figure 7 shows the route of a proposed new service which would increase significantly the number of people in Barry with a direct bus link to the site.

The applicant has offered to underwrite the cost of this service for a period of 3 years to allow the service to become established. It is hoped that the service would be self-financing after that (Document A1 1, paragraphs 5.6 to 5.17).

Neighbouring Land Uses

3.6.1. It is not too evident what the Secretary of State had in mind by the reference, in his call-in letter, to the relationship with neighbouring land uses. However, it has been assumed that this includes: whether the proposed development would be a compatible/conforming use in the context of its adjoining land uses; the visual and other environmental implications of the development.

3.6.2. With regard to adjoining uses, the locality is now extensively developed for commercial uses, much of the development being for retail purposes. The proposal would, itself, be on largely developed land, incorporating the M & S store and the car park, with only about 5% being on land which is not developed at present. The adjoining uses are the M & S store, its car park and the adjoining field and the A48 road.

3.6.3. Therefore, the proposal is entirely compatible in land use terms. This locality is now developed, the edge with the greenfield boundary being determined as long ago as 1991 when the only other built structure in the immediate vicinity of the gyratory was the Tesco store (Document A30, paragraphs 6.1 and 6.2).

3.6.4. The existing M & S store and its landscape context has been fully assessed. There are no clear views of the site, except from the adjacent fields, a public right of way and public access track and 2 properties to the west overlooking the store. Elsewhere, within the existing zone of visual influence, views are of a fragmented nature, with only glimpses of the store, car park lighting, furniture or signage being obtainable (Document A15, Section 3 and Document A16).

3.6.5. Landscape proposals are of a high quality, as befits the applicant's approach to this development, and have been designed to reinforce the enclosure of the M & S store and car park, to provide screening, to minimise any potential visual impact and to define the entrance, car park and store frontage. Existing vegetation, not affected by the proposals, would be protected throughout the construction period. The hedgerows which enclose the M & S development and the adjacent field would be retained.

3.6.6. Some of the existing planting in the car park would need to be removed but there would be replacement planting within the site. In the adjoining field to the west of the store there would be copse and screen planting and the mature boundary hedges would be retained. A mixture of deciduous and coniferous semi-mature trees and specimen shrubs would be planted to create an area of feature planting adjacent to the re-aligned access road. The store extension has been carefully designed so as to retain the significant mature oak trees at the southern entrance to the store (Document A15, Sections 4 and 5, Document A16 and Plan P).

3.6.7. Importantly, the proposed buildings would not physically encroach on the countryside and they would be viewed within the context of the CC commercial area. The decked car park structure would sit below the height of the store and would not be visible from most points on the interchange, or from the A48. The appearance of the development from the higher ground would be likely to be improved when considering the views currently obtainable from public viewpoints on Tumble Hill. All the other commercial and retail developments built around the interchange were on green field sites, unlike this proposal which would occupy land that has already been developed (Document A15, Section 6 and Document A30, paragraph 6.5).

3.6.8. In the wider context and having regard to the undeveloped adjoining land, it is relevant that none of this enjoys any national or local identification as being of landscape or visual quality. In the VGUDP the adjoining land is designated as a Green Wedge but this is not an indicator of its visual or other scenic value. The purpose of that zoning is simply to protect it from development and provide a buffer between built up areas (Document A30, paragraph 6.6).

3.6.9. As the top deck of the proposed decked car park would be an open parking area, design criteria for external open car park lighting levels would be applied. Low level luminaires would be used and a system within each luminaire would assist in controlling light in a downward direction in order to minimise light spillage and glare. This would be an improvement on the existing spheres. When account is taken of this and the existing high mast lighting on the A48, Tumble Hill, the potential additional impact of the lighting would be limited (Document A27).

Noise and Air Pollution

3.7.1. These matters were raised by F of E who asserted generally that the additional traffic would generate noise materially worse than that existing and that such traffic would also increase atmospheric pollution to levels that should be considered unacceptable and contrary to policy. These are technical issues which the applicant has addressed by way of expert evidence (Document A30, paragraph 7.1).

3.7.2. When considering noise, it is established that for variable noise sources such as traffic, a difference of 3dB (A) is just distinguishable and that a doubling of traffic flow will increase the overall noise by 3 dB(A). The loudness of noise is subjective but it is generally accepted that an increase or decrease of 10 dB(A) corresponds to a doubling or halving of perceived loudness. The maximum change in traffic flow due to the implementation of the proposed extension would be less than 2%. This would correspond to a noise increase of less than 0.1 dB(A) and would be imperceptible.

3.7.3. In raising concerns about noise, F of E referred to the proposed airport link road and the data used related to areas local to that road. None of these is relevant to the CC area or the M & S site. There is no evidence to suggest that the existing noise environment at the gyratory or on the site is other than acceptable and it can be concluded with confidence **that the** proposal would not worsen the existing situation. There are no vulnerable residential properties to be considered here.

3.7.4. The basis of the calculations referred to by F of E is not known but it is likely that they would have related to first floor level, as is usual in that type of calculation. Therefore, noise levels in the rear gardens would be significantly lower due to the boundary fences, lower than the threshold of 68 dB(A) for providing noise insulation as a result of traffic noise from a new road. There is, in any case, no provision for noise insulation against increased noise due to intensification of traffic on existing roads (Document A25, Section 6 and Document A30, paragraph 7.2 and 7.3).

3.7.5. With regard to atmospheric pollution, the concern of F of E is more related to the broader issues and is directed, principally, at the VGUDP inquiry. The assertions in respect of the proposal are broadly based, necessarily so given the absence of any calculation or numerical assessment of the changes it is alleged would result from the development. However, as the matter has been raised, expert evidence, which can better inform on the issue has been brought (Document A30, paragraph 7.4).

3.7.6. Although there are minor sources of emissions, such as the use of gas for space heating purposes, there are no significant sources of combustion on the site. Vehicle exhaust emissions do have the potential to affect local air quality, the key pollutants being: oxides of nitrogen, NO_x, consisting of a mixture of nitric oxide, NO, and nitrogen dioxide, NO₂; fine particulates; carbon monoxide, CO; hydrocarbons, HC. NAQS objectives for 2005 are proposed (Document A25, Section 2).

3.7.7. Existing air quality has been investigated and an air quality assessment undertaken. The results show that it is unlikely that, with regard to NO₂ maximum hourly concentrations, the NAQs objective would be exceeded. The annual average NO₂ concentration would be well below the NAQS objective. As for particulates, the analysis indicates that the impacts associated with the proposed extension would not alter local PM₁₀ concentrations; values for these depending on background concentrations from existing sources over a wider area and from regional sources, rather than from relatively minor changes to local traffic conditions. CO concentrations would remain well below the NAQS objective (Document A25, Sections 3, 4 and 5).

3.7.8 All things being equal, additional traffic does produce extra pollution but here there would be highway improvements and a clawback from Cribbs Causeway leading to a reduction in private car mileage. This would result in a corresponding reduction in polluting emissions. The major impact from additional traffic visiting the extended store would be close to the store. There are no residential properties nearby.

3.7.9. Based on estimates for the proposed airport link road, F of E notes that concentrations of PM₁₀ and NO₂ would exceed national objectives in 2005. However, the locations relating to the estimates are not shown and the estimated concentrations are not consistent with the available monitoring data for the area.

3.7.10. F of E was informed that CCC's air quality review had found that air quality standards for both PM₁₀ and NO₂ are likely to be exceeded and that it had been decided to proceed to the Stage 2 Review for these pollutants. With regard to this, it is important to note that the first stage of the review and assessment process does not allow for an assessment of exceedances of air quality standards.

It should also be noted that almost every local authority in the country will be undertaking a Stage 2 Review as part of their duty under the provisions of the Environment Act 1995.

3.7.11. Off site, effects would tend to be dispersed and would be broadly related to the changes in traffic flow predicted by the applicant. However, it is widely acknowledged that existing background levels of PM₁₀ and NO₂ are high across the whole of the UK and that local traffic has a lesser influence on these pollutants than others. Therefore, a 2% increase in traffic would be expected to give rise to much less than 2% increase in the overall pollution level near to the road, assuming no additional congestion. On this, the proposed highway improvements would improve traffic flow and it is likely that this would more than offset any increase in pollution due to the small increase in the volume of traffic.

3.7.12. Operational emissions were considered but were not significant. The current review of the NAQS has not yet been formalised but the proposed revisions are not considered to alter the situation for NO₂ and would relax the objective for PM₁₀. The proposed vegetation objective for NO₂ is not applicable at CC as there are no agricultural or sensitive ecosystems.

3.7.13. F of E suggests that CC may have to be declared an air quality management area as a result of future PM₁₀ and NO₂ levels. However, PM₁₀ is not amenable to local control and control of NO₂ is not necessary. Stage 2 Review does not in itself imply exceedance of any air quality standard, guideline or objective. Indeed monitoring data for NO₂ in the area indicates that levels are below the annual mean threshold level that would trigger the second stage for this pollutant. There is no evidence that there would be additional congestion as suggested by F of E. The evidence is, rather, to the contrary (Document A25, Appendix A). Examples of appeal decisions involving air quality are at Document A25, Appendix B.

Policy

3.8.1. National strategy and policy has varied significantly over the last 15 to 20 years and the changes in approach have resulted in uncertainty and confusion for retailers and planning authorities. The result has been a retailing landscape that is very varied and the shopping public has benefited greatly, especially those who have access to a car. The dynamism of the retailing sector has been a major factor in the UK economy over the last 20 years, with considerable investment being made in new forms of shopping and in new locations, as well as in traditional centres.

3.8.2. This was encouraged by the Government, which still acknowledges that a range of shopping locations may be appropriate. The Government's current policy approach does not seek to damage previous or existing investment, or to limit the range of shopping opportunities open to the public. It is a policy based upon the locational prioritisation of new investment but which recognises that the existing range of shopping opportunities will continue. Only the policy emphasis has altered, not the principle of the acceptability of retailing opportunities across the full locational spectrum of existing provision (Document A30, paragraphs 2.1 to 2.3).

3.8.3. The development plan, the South Glamorgan Structure Plan Alteration No 1, is somewhat dated and, therefore, pre-eminence should be afforded to the guidance in Planning Guidance Wales. However, the Structure Plan does remain important in the context of Section 54A. The applicable policy for out of centre stores is Policy S6, albeit that it does not expressly apply to extensions and does not reflect the sequential approach.

3.8.4. Policy S6 is inconsistent with national advice, insofar as it contains a "presumption against" out of centre stores but a "presumption in favour" of DIY retail warehouses at certain specified locations. Notwithstanding the "presumption against", it identifies criteria against which proposals are to be assessed. The plan policies have been applied to the majority of developments at CC and in decisions the Secretary of State and his Inspectors have taken the approach of assessing the proposal by reference to Policy S6 and where the criteria of S6 were satisfied, have permitted the proposal. They have also had regard to current, albeit non-statutory regional and local policies and national policy advice. In the analysis, if the criteria of Policy S6 are satisfied then the proposal is in accord with the development plan and Section 54A. Here, the Council is satisfied that the criteria are met (Document A30, Section 3).

3.8.5. The other principal relevant development control policy is Policy SHOP12, New Retail Development Outside District Centres, contained in the VGUDP. This contains no presumption against but is criteria based. It is up to date and it includes the sequential test as one of the criteria. The Council has concluded that the criteria are all satisfactorily met by the proposal and it is important that the plan specifically states that SHOP12 provides developers with certainty as to how any development proposals outside town centres will be addressed (Document A30, paragraph 4.1).

3.8.6. CCC initially raised policy objections, referring to Policy R4 of the unadopted Replacement Structure Plan and Policy 50 of the adopted Cardiff Local Plan. In the event, and following further advice from officers, the only objections maintained relate to a qualified objection on highway and traffic issues, a concern about retail impact and concern about the scale and visual aspects. Concern about impact is not an objection and CCC's expert retailing advisors stated that the matter was not a basis for objection. Concern about visual impact was, at least in part, based on a lack of knowledge and understanding of the scheme. CCC officer's report is, fundamentally, concerned with a request for careful consideration be given to the landscaping and treatment of the site. That aspect has been fully considered by the Council (Document A30, Section 4).

Objectors

3.9.1. Although CCC raised objection on a number of issues, those relating to retail impact and traffic were contrary to the advice of officers and no reason was given for departing from that advice. The inquiry evidence established that neither of these objections can be sustained. The landscape/visual issue was first raised when the landscape assessment report had not been made available. In any case this matter was not raised as an objection, only a concern and a request to ensure that careful consideration was given to the detailed design and landscaping. That has been done.

3.9.2. The matters referred to by Bridgend CBC do not constitute an objection. Caerphilly CBC did not raise any concern or objection on the basis of any possible adverse effect on Caerphilly. The objection made by Cardiff Bus was hardly maintained and after discussions and an understanding that congestion at the roundabout would be eased, Mr Smith felt that the overall position regarding delays would be improved; even that the threatened number 19 service could be retained and extended.

3.9.3. Mr Hill representing Culver Residents' Association first indicated that he was a supporter of the scheme but later asked to be treated as an objector. His sole concern related to a need for traffic signals at the Cowbridge Road West and Knightswell Road junction. That is not a requirement flowing from the proposal and conditions at the junction would not be materially affected by the proposed scheme. Otherwise, Mr Hill supported the extension as being broadly beneficial.

3.9.4. F of E objections relating to pollution, traffic noise, improved public transport, safety of cyclists and pedestrians, and the retail sequential test have all been dealt with. The height of the decked car park was referred to in the statement but was not pursued in evidence. The traffic increase would be very modest and the commitment to expenditure of £1 million on highway works and £150,000 on a new bus route, would be a more than fair contribution. All the experts agreed that the benefits would significantly outweigh any potential for adverse effect from increased traffic to the site. Generally, F of E evidence was not well researched, was pseudo-scientific and lacked objectivity (Document A30, Section 8).

Vale of Glamorgan Council

3.10.1. It may be helpful to comment on the position of the supporting local planning authority as the revised PG(W)PP has been issued since the Council decided that it would have granted permission had the application not been called-in. Also, answers given by the Council's witnesses to questions put by the Inspector on some of the critical issues relating to impact assessments and planning policy are relevant.

3.10.2 Among other things, the Council's witnesses confirmed that: if an out-of-centre proposal conformed to the criteria of Policy S6 of the development plan, then the presumption against was rebutted; that the proposal was considered to satisfy the criteria listed in Policy S6 of the development plan and also those of Policy SHOP 12 of the VGUDP; that detailed designs had been required to establish the continued integrity of the Green Wedge and the proposals did not prejudice this; that with regard to precedent, each case had to be looked at on its own merits.

3.10.3. The Council accepted that need is not necessarily confined to a meaning which refers only quantitative need. The Council had only assessed quantitative need and then only by reference to the needs of the Vale residents. It was accepted that the needs of the full catchment area are relevant. The Council's quantitative need assessment for Vale residents was based on flawed data, inter alia no account being taken of growth in expenditure. It was not questioned that there is a quantitative need by reference to the store's full catchment area or that there is a qualitative need which would be met by the proposal.

3.10.4. Questions were asked by the Inspector about the regeneration of Barry town centre and whether any businesses had closed as a result of the new retailing at CC. From the answers given, there is nothing to indicate that the proposal would be any disincentive when considering proposals for Barry town centre. It is also clear that other appeal decisions relating to development at CC have not perceived Barry town centre as being a factor in the sense of being a material concern.

3.10.5. It was a very useful exercise for Council witnesses to be tested by the Inspector's searching questions. It adds significant credibility to the evidence of those witnesses that, in the context of those questions, the support for the proposal and the evidence is essentially unaltered (Document A30, Section 9).

Overall Conclusions

3.11.1. In the opening statement made on behalf of the applicant (Document A4), certain conclusions were invited in respect of the issues identified by the Secretary of State in the call-in letter. It has been demonstrated that those conclusions are sound. The only additional issue which was not before the Council or referred to by the Secretary of State was that of need, referred to in the revised PG(W)PP. Again, on that point a need has been demonstrated.

3.11.2. A very important consideration is that the application is for the extension of an existing store which is popular with the shopping public and which is a settled part of the sub-regional retail profile. The considerable investment by M & S in Cardiff city centre demonstrates the genuine commitment by the Company to one of the fundamental objectives of Government policy. This proposed extension would add to the comfort and convenience of shoppers at the existing store without harming any town centre proposal or investment. It would, in addition, bring considerable benefits by way of wider improvement to the highway network and traffic movements and it would give rise to a material public transport initiative.

3.11.3. The Inspector is invited to report favourably on the proposal and to recommend that planning permission be granted subject to conditions. The conditions, including the suggested revised condition 8, are agreed. Condition 2 needs amendment so as to include the plan forming Appendix KR5 of Mrs Roberts' evidence. The executed Section 106 agreement has been made available (Document A30, Sections 10 and 11; Document C4, Section 8; Document A16, Appendix KR5; Document C8; Document A18).

CASE FOR THE COUNCIL

(supporting the application)

The material points were:

Planning History and Policy

4.1.1. A planning history of the appeal site and the surrounding area is contained in Document C4, section 4. This notes that the site formerly lay within the administrative area of Cardiff City Council and that outline planning permission was granted for the existing store on appeal. Reference is made to several conditions and to the decision letter at Document C5, Appendix 1. Reference is also made to other retail decisions in the vicinity of the appeal site and to the appeal decisions, full details of which are given in Document C5, Appendices 2, 3 and 4. Relevant local planning policies are highlighted in Document C4, Section 5 where attention is also drawn to national policy relating to retailing and town centres.

4.1.2. It is acknowledged that, for the purposes of Section 54A of the Act, the development plan comprises only the South Glamorgan Structure Plan (Alteration No. 1) (Document C4, paragraph 6.7). However, that plan was approved some 10 years ago. The VGLP was relevant at the time the application was looked at, having been adopted for development control purposes. However, policies in the VGLP have been imported into the VGUDP. In the circumstances, only minimal weight should be attached to the former plan.

4.1.3. The VGUDP has now been adopted for development control purposes and this effectively supersedes the VGLP. Although the policies of the VGUDP have not been tested at inquiry, the plan has been subject to 2 sets of considerable amendments. Policies in the plan are consistent with national guidance and as high a weight as is possible should be attached to these. Policy ENV3 deals with Green Wedges, Policy SHOP 2 with new and improved shopping facilities and Policy SHOP 12 with new retail development outside district shopping centres.

Background

4.2.1. The Council supports the application. However, the first proof of evidence of Mr Roach (Document C1) was prepared before the issue of Planning guidance (Wales) Planning Policy (First Revision), published in April 1999. This revision is material to the application because of the new advice given in paragraph 10.2.4 that local authorities should consider the need for new retail and leisure development. This is a material consideration which was not discussed in the first proof relating to retail impact and the sequential approach.

4.2.2. In view of this, Mr Roach prepared a supplementary proof of evidence to examine the question of need (Document C2). Therefore, whilst the first proof suggested that there was a need, this has now been clarified and up-dated by the supplementary proof of evidence. The conclusions put forward to the inquiry relating to this are those of officers as there was no time to go to committee. Members have not, therefore, re-visited the matter and the Council's stance of support for the application is unchanged.

4.2.3. At the Culverhouse Cross junction, the 5 sectors of land created by the approach roads are either occupied by, or have planning permission for, retail uses; one sector having a mix of retail, office and hotel uses. All the applications for retail uses were refused by the relevant local authorities but were subsequently granted permission on appeal. The application was considered having regard to that background.

Need

4.3.1. There is no clear guidance on this. It might be interpreted as a retailer need or a population need for floorspace and the assessment can be done in various ways. However, the Council regards it as meaning the requirement of the residents of the area for a reasonable choice of stores in which to do their shopping. The matter of reasonable choice can be measured by comparing the spending rate by residents at stores within easy reach, with national averages of spending rates. Comparison of whether local spending per unit floor space is above or below the national average is an indicator of need. If spend per unit is above the national average then it could be reasonably argued that there is a need for more retail floorspace (Document C2, paragraph 3.0).

4.3.2. Determination of retail need in the Vale of Glamorgan relies on 2 sources of data. The first is that presented in the Corporate Intelligence Report on Retail Rankings 1998, which lists average turnover rates per square foot for 1997 for retailer types. The second source of data is a survey of 4000 households in the Vale of Glamorgan in 1997 which obtained details of shopping trips, money spent and opinions of residents for 6 shopping types, such as food and clothes, for each ward and shopping centre used (Document C2, paragraphs 4.1 and 4.2).

4.3.3. When considering the residents' choice of shopping location, the Vale of Glamorgan has an unusually large amount of retail floor space close to its administrative boundary which is within easy reach of and is used by its residents. Table 3 contained in Document C2 is a schedule of existing and committed retail floorspace easily available to residents. The Council's survey shows that these areas are presently being used by Vale of Glamorgan residents and they can, therefore, be considered to be within easy reach. However, the Council's assessment of spending rates does not include any retail floor space at the regional shopping centre, Cardiff City Centre, which is also a major attraction to Vale of Glamorgan residents (Document C2, paragraph 4.3).

4.3.4. If residents of the Vale of Glamorgan spent exclusively in premises within the Council's boundary, the spending rate in some categories would be higher than the averages shown in the Retail Rankings and it could be concluded that there may be a need for extra retail floor space in the furnishing, electrical and DIY sectors. However, bearing in mind the amount of retail floorspace within easy reach of the Vale of Glamorgan residents, close to its boundary, there is currently no need for new areas of retail space in addition to those already available (Document C2, sections 4.4

Retail Impact

4.4.1. A total of 4000 questionnaires were completed in connection with the Council's 1997 survey of residents' shopping habits within the Vale of Glamorgan. These provide a detailed picture of opinions, trips and money movements from each of the 22 wards to each of the 43 shopping centres. This forms the base data for a retail impact assessment, the retail penetration of each shopping centre to each ward being used to estimate the impact of the proposed development.

4.4.2. The resulting impact assessment of the proposal on existing shopping patterns showed a 2% reduction in comparison goods and a 1.7% reduction in spend on convenience goods from other Vale of Glamorgan shopping centres, in aggregate. If the comparison goods in the proposed extension were all clothing and footwear, there would, in total, be a 4% reduction in spend in that category in the rest of the Vale of Glamorgan.

4.4.3. An estimate has been made, using the Council's survey, of the total impact on the Vale of Glamorgan residents' spending due to recent and permitted developments at CC. This shows that the existing developments have already had a significant impact on the patterns of spending, taking 12% of convenience and 13% of comparison spending. Committed developments will also have a significant further impact on the patterns of spending by Vale of Glamorgan residents, taking the figures to 13% for convenience and 27% for comparison goods. The marginal effect of this application would be to increase the proportion of spend on convenience goods by 1% and on comparison goods by 1.5%.

4.4.4. However, the Council's estimates of trade diversion assume that the impact of further development at CC on the Vale of Glamorgan businesses could be absorbed by those businesses. If that were not the case and some business ceased trading, then the transfer of trade to CC would be higher (Document C 1, section 4.2 and Table 1).

4.4.5. The two most recent appeal decisions relating to development proposals at CC, the Edge inquiry and the Brooklands Terrace inquiry, have been influential in the Council's response to the planning application. In his report following the Brooklands Terrace inquiry, the Inspector commented that studies elsewhere had shown that a 20% share of comparison goods expenditure flowing to retail warehouses could be accommodated without any serious impact upon established town centres.

4.4.6. With regard to the relocation of the Currys store from Barry Town Centre to CC, the Inspector concluded that it was not the effect of the CC site availability but "the result of national decisions, rather than a consequence of the Valegate Retail Park". Bearing in mind the relatively small impact of this proposal and also the comments of the Brooklands Terrace inquiry Inspector, it was considered that retail impact would not be an adequate reason to refuse the application (Document C1, paragraphs 3.3.1, 3.3.3 and 6.0.1).

Sequential Test

4.5.1. This test is the assessment of possible alternative sites to the proposed development that could provide for the store's requirements within or closer to an established town or district centre. In this case, 3 possible alternative locations in Barry were suggested to the applicant; the Town Hall site, Barry Waterfront and a recently closed shop at 102-106 Holton Road. With regard to the Holton Road premises, M & S concluded that the site was too small, that it had no off-street parking and that servicing access was poor. That aside, the premises are no longer available.

4.5.2. With regard to the Town Hall site, M & S concluded that the site was, potentially, physically capable of accommodating the proposal but stated that the catchment population was too small and that the proposed store on that site would not be viable. As to Barry Waterfront, M & S said that the site was 380m from the centre and that it was not, therefore, edge of centre. M & S took the view that there was, therefore, no reason to prefer it to any other out of town centre such as CC.

4.5.3. The sequential test conducted by the applicant does not of itself preclude the Town Hall and Barry Waterfront sites, other than for commercial reasons. The Town Hall site at King Square has sufficient area and is located at a focal point of the Town Centre. The waterfront site, whilst not strictly on edge of centre site, is far closer to the Town centre than CC which is 7km away and development at the waterfront would be more beneficial to the town centre viability and vitality. That said, the waterfront site has a floorspace limitation on the mix of the retail development and the Council would not wish to change the conditions because of the likely impact on the town centre.

4.5.4. In his decision letter following the Edge inquiry, the Secretary of State referred to an in-built difficulty with the sequential test, noting a judgement that some regard has inevitably to be given to the developer's own estimate of needs in terms of space. Here, the requirement of M & S is simply to increase the floorspace of its existing site. Bearing in mind the Edge decision, it seemed to the Council that to refuse this application on the grounds that a suitable alternative site nearer an established shopping centre is available would not be accepted should the applicants appeal (Document C1, paragraph 3.3.2 and Section 5).

Highways and Transport

4.6.1. Detailed tripartite discussions and negotiations have taken place between the Council, the applicant and also CCC, the adjoining highway authority. The CC highway interchange falls within the control of CCC and that authority was anxious to ensure that the existing traffic congestion problems that occur at the interchange at peak periods would not be made worse by the proposed development. Among the problems identified was the layout of the internal access road and car park serving the M & S store as these do not function well at busy times, causing traffic to queue back onto the A48 through the interchange.

4.6.2. These issues were raised early in the discussions and it was agreed that a full and rigorous analysis of the interchange and the A48 would be undertaken by the applicant using approved base traffic flows and input data. The resulting traffic analysis has been thoroughly checked and the conclusions are that the predicted traffic that would be generated by the proposal could be adequately accommodated, provided certain highway improvements were carried out.

4.6.3. These improvements include the replacement of the existing roundabout on the A48 by a signalised junction with full pedestrian facilities, a redesigned entry to the M & S and Tesco sites, revision of the car park layout and widening of the exit from the M & S and Tesco sites to 3 lanes. In addition, the section of the A48 between the new signals and the interchange would be widened to allow for 2 right turning lanes into the site and signals would be provided at the A48 Tumble Hill approach to the interchange. These signals would complete the full signalisation of the interchange. Controlled pedestrian crossing facilities would be provided on the slip roads to the A4232, allowing completion of a fully controlled pedestrian route around both sides of the interchange.

4.6.4. In addition to highway improvements, M & S has confirmed that it would be prepared to contribute £150,000 towards improvements in local bus services to assist access by public transport. This, together with the proposed road improvements would provide significant highway and pedestrian benefits. The scheme is not dependant upon a new access road to the airport and there are, overall, no highway reasons to prevent the granting of planning permission (Document C3).

Overall Appraisal

4.7.1. In assessing the scheme against national planning policy, the Council has had regard to the guidance given in PG(W)PP, 1996 which outlines the Government's objectives, including that of sustaining and enhancing the vitality, attractiveness and viability of town and district centres. Particular regard has also been given to the advice in TAN4, Retailing and Town Centres.

4.7.2. Advice given in TAN4 is that all schemes over 2,500m² gross floor space should be supported by a retail impact statement. That document is to include: indications as to whether a sequential approach to site selection was undertaken; indications of economic and other likely impacts on existing retail locations, including cumulative impact; an assessment of accessibility by a choice of means of transport; an indication of likely changes in travel patterns; an evaluation of any significant environmental impacts.

4.7.3. A retail impact assessment has been submitted and examined against surveys and data held by the Council. Impact on existing retailing within the borough as a whole, when considering the additional convenience goods floor space, would be minimal. With regard to the extra durable floor space, this would lead to an overall reduction in durable shopping in centres in the Vale of Glamorgan of 2%. Such a level of impact is insufficient to sustain an objection to the application.

4.7.4. As noted earlier, the development plan for the purposes of Section 54A comprises only the South Glamorgan Structure Plan (Alteration No. 1). Policy S1 of the SP is entitled New Shopping Development and Policy S3 is concerned with the enhancement of existing centres. Policy S6 deals with large new stores and retail warehousing. Policy SHOP12 of the VGLP and also that of the VGUDP relate to new retail development outside district shopping centres. The proposed development does not offend these policies (Document C4, paragraph 6.7).

4.7.5. Consultations were carried out in connection with the planning application and all the adjoining authorities were notified. When considering the wider impact of the proposal on centres within the areas of the adjacent authorities, this is a matter for those authorities and not the Council (Document C4, paragraphs 3.9 and 6.8).

4.7.6. As previously indicated, the traffic issues have been the subject of extensive discussions and negotiations. The proposed highway improvements would result in an improvement of the existing CC interchange and the adjoining road network. Internal road and parking layouts would be improved, reducing the likelihood of traffic queuing back onto the A48 and through the interchange. A contribution would be made by the applicant towards improving the modal split in favour of public transport.

4.7.7. With regard to the impact of the proposal on the environment, a design statement and a landscape assessment were received by the Council. The scheme would result in relatively substantial built development but existing landscaping, where this is not affected by the proposed works, together with new planting, would ameliorate some of the impact.

4.7.8. The most visible element of the scheme would be the drum at the entrance to the store extension. An advertisement is shown on this but that would be the subject of a separate application for advertisement consent. The roof of the multi-storey car park, including its lighting, would also have a potential impact, particularly when in use. The site is most prominent when viewed from the public right of way to the west of the site, looking down on the site from the hillside at the Tumble, but is relatively well screened from the A48/CC interchange (Document C4, paragraph 6.12 and Document A2, Figure 5).

4.7.9. Account has been taken of the scale of the existing development and that committed at CC, the relatively successful screening that has already been undertaken and the potential for additional planting. Given this, the scheme would not have any significant adverse visual impact that would warrant refusing the scheme on grounds of its design. The Council was reassured by the statement that accompanied the application and is satisfied that the matter of landscape treatment could be dealt with adequately by conditions.

4.7.10. An appraisal of the development was reported to the Council's Development Control Sub-Committee on 7 January 1999. The report concluded that, had the proposal been determined by the local planning authority, it would have been approved subject to conditions and, where appropriate, legal agreements. The report and recommendation was endorsed by members of that committee, including a list of conditions that members would wish to see imposed in the event of permission being granted (Document C4, paragraphs 3.10 to 3.12, paragraph 6.12 and Section 8).

4.7.11. In the light of the above and having regard to all the material circumstances, particularly the planning history of the application and the surrounding retail uses, the Inspector is requested to recommend that planning permission be granted, subject to the conditions suggested in Document C4, Section 8.

CASES FOR OBJECTORS

The material points were:

(1) CARDIFF FRIENDS OF THE EARTH

Introduction

5.1.1. The application is objected to on the following grounds: increased size of the store; failing the sequential test; height of the multi-storey car park; increase in the number of parking spaces; traffic increase on the surrounding road network; lack of public transport provision; noise and pollution effects of traffic generated by the development.

5.1.2. If the proposed development were to go ahead, Government guidelines would be broken and there would be significant incremental transport and pollution implications for the surrounding area. If planning permission were to be granted, then conditions should be attached to the permission so as to ensure that there would be no increase in traffic. The conditions should be part of a wider strategy to deal with the congestion problems of the area (Document F1, pages 1 and 2).

Need

5.2.1. The need has not been demonstrated. The combined size of the applicant's 3 stores, CC and the 2 city centre stores, would be greater than that of the M & S Cribbs Causeway store, to which there is allegedly a leakage of sales. Specialisation between the 3 stores would allow M & S to stock its full range of products in the quantities required and to improve the display of goods. Any need for customers to make a return trip for ordered goods would be reduced and the ranges stocked would exceed those at Cribbs Causeway.

5.2.2. Departments are already split between the 2 stores in Cardiff city centre and there other examples of that sort of operation. Whilst it might, in the applicant's view, be operationally desirable to have stores stocking the full range of the company's goods, in practice the range could be divided between specialist stores if necessary. If run in a combined manner, the 3 stores might use the one warehouse facility currently used by the Queen Street stores. Reorganisation of the applicant's method of operation would lead to a reduction in car miles travelled. The applicant's example cannot be used to draw any conclusions on total trip numbers, nor on the adverse effects of pollution and congestion (Document F 19, page 1).

Retail Impact

5.3.1. The applicant's evidence on the health check of shopping in Cardiff contains a number of errors. These include the omission of the shop units at Wilson Road/Snowden Road which are located very close to the Grand Avenue/Wilson Road shops and are the second closest shops to the proposed development. The units include a post office and a small convenience store. Some units are vacant.

5.3.2. Also omitted is the City Road shopping area which consists mostly of secondary uses such as fast food outlets, restaurants and hairdressers. However, there are retailers such as a Spar supermarket and there are vacant units in the road. No mention is made of the effects of the proposal on retailers in Grangetown or Riverside which are located to the west of Cardiff city centre (Document F19, page 4).

Alternative Sites

5.4.1. Even if a need for the development were proved, there are other sites which are more suitable for the location of the additional floor space. CCC Committee report dated 30 September 1999 referred to this. However, the conclusion that it would be difficult to sustain an objection to the proposal because of the M & S expansion that has already taken place is not valid as those alternative sites are still available.

5.4.2. The most suitable sites are the Sports Village site in Cardiff and the Barry waterfront development. Both those sites are better served by public transport and do not suffer as badly from traffic congestion as the application site. Neither are adjacent to sensitive sites. The applicant's witness conceded that CCC had not been approached about the possibility of planning conditions being changed for the Sports Village site. Neither had the applicant asked the Council to vary the conditions for the Barry waterfront site.

5.4.3. Both the Sports Village site and the Barry waterfront site are brownfield sites and development of these would accord with Government guidance that such land in urban areas should be considered before the development of green field sites. The proposed expansion of the M & S store at CC is on the edge of open countryside and the proposed development would increase pressure on the countryside (Document F19, pages 2 and 3).

Visual Impact

5.5.1. Although proposed planting would reduce the visual impact, the development would be visible from points on the public footpath which runs between the public house on Tumble Hill and Coedarhydyglyn. The site is even more visible when viewed from the track on the hillside above the Valegate Retail Park.

5.5.2. CCC officers, in their report of 30 September 1999, were concerned about the scale of the development and the visual impact of the proposed decked car park structure. F of E questions the principle of building such a structure adjacent to open countryside. There would be no environmental benefit to offset this, such as the reinstatement of existing open car parking as open space. (Document F19, pages 3 and 4).

Highways and Transport

5.6.1. The White Paper "A New Deal for Transport: Better for Everyone", makes it clear that it is the Government's aim to discourage car travel and promote public transport, cycling, and walking. The White Paper also acknowledges the strong link between the location of retail outlets and transport. The Road Traffic Reduction Acts, 1997 and 1998, require councils to set road traffic reduction targets.

This proposed development would lessen the chances of both CCC and the Vale achieving their targets.

5.6.2. The road system at CC is notorious for congestion. This would not be removed by the proposed highway changes. Although congestion might, temporarily, be alleviated, it would be likely to return within a year or two. Plans should be drawn up to manage the congestion, including provision for bus priority through CC. Providing increased road capacity in congested conditions with suppressed demand does not achieve the objective of reducing congestion and pollution levels. It could, rather, make matters worse because of pollution from the additional vehicles.

5.6.3. The importance of suppressed demand is brought out in the SACTRA report and other studies. These all agree that increasing road capacity in congested **conditions** generally does not solve traffic congestion. The main conclusion of the SACTRA report was that when parts of a road network suffer from congestion, capacity-restrained assignment models or congested road traffic assignment models should be used in place of the fixed-trip model. By using the fixed-trip model the applicant has ignored this advice and the results are, therefore, unsound (Document F19, pages 5 and 6; Document F15, paragraph 4).

5.6.4. Pedestrian crossings would be provided on all arms of the CC gyratory and on Tumble Hill but some of these would be in different locations to the existing crossing points, resulting in longer trips for some pedestrians. The only safe way for walkers to cross the interchange would be by the provision of physical separation.

5.6.5. As to cyclists, Government policy, contained in "The National Cycling Strategy", is that there should be cycle access to shopping facilities but representatives on the Vale's Cycling Forum have not been consulted on the advanced stop line proposals. Neither has the cycling officer of CCC been consulted. Cycling through the CC interchange is dangerous **and the** proposed stop lines would not be adequate to ensure the safety of cyclists. A pedestrian/cycle bridge should be provided to segregate cyclists from motor vehicles.

5.6.6. Buses are, in particular, adversely affected by traffic congestion as their routes are fixed. Any increase in congestion could result in the withdrawal of bus services. At present there are delays of 10 minutes at peak times and on Bank Holidays the delay is 20 minutes. Lanes for priority traffic, buses, taxis, emergency vehicles and lorries, should be provided. This would be far more effective than transponders, as proposed by the applicant, **and would have** the advantage of reducing the high air pollution levels in the CC area (Document F19, page 6).

5.6.7. A small car parking charge should be imposed to fund non-car transport improvements. This would be in line with Government policy. In the absence of national legislation, local authorities should introduce appropriate measures, as was done at the Arbury Park development in Cambridgeshire. It is inequitable that customers visiting the M & S stores in Cardiff have to pay to park whereas customers at the CC store do not (Document F19, page 7; Document F14).

5.6.8 According to the applicant, there is a small but perceptible number of people making trips to Cribbs Causeway. However, people go there for a variety of reasons, including that of the total shopping experience, and the number of trips likely to be clawed back from Cribbs Causeway by an expansion at CC has been overstated. Moreover, there would be a diversion of trade from the M & S Cardiff city centre stores to the extended store at CC. That would be undesirable, as trips which are currently made by public transport, or by walking or cycling, would then be likely to be made by car because of relative inaccessibility of CC by other means (Document F19, pages 1 and 2).

Noise and Air Pollution

5.7.1. A noise assessment table produced in connection with the proposed airport access road predicted levels at dwellings of 70dB(A) and higher. When this is compared with the legal level of 68dB(A) L10 18 hour, it is clear that residents are already suffering levels of traffic noise which are above a tolerable or acceptable standard. Any increase in traffic would be likely to cause a loss of amenity because of noise (Document F2, pages 1 and 2).

5.7.2. In the environmental statement for the airport access road, the consultants indicated that all air quality levels in the future would be well within current and future air quality standards and objectives. However, following re-assessment the consultants noted that PM10 and NO2 levels would exceed the new regulations at year 2005. The figures imply that CCC and the Vale of Glamorgan Council will have to produce plans to reduce air pollution in the CC area. Planning permission should not be granted for development that would worsen a situation where there is excess air pollution. If permission were granted, the permission should include conditions to ensure that there would be no increase in traffic pollution (Document F2, page 2; Document F15, paragraph 3).

5.7.3. The applicant's initial comments on air pollution cover only the traffic and not the operational emissions. These include: driving up to the proposed multi-storey car park; parking the car; re-starting the car from cold, driving down and queuing to exit from the premises; emissions from staff vehicles and lorry deliveries; emissions from air conditioning, heating or refrigeration systems (Document F15, paragraph 2.2).

Policy

5.8.1. When assessed against Policy SHOP 12 of the VGUDP, the proposal is unsuitable. Air pollution levels are in excess of the urban air quality standard and, therefore, any increase would be unacceptable. Adverse effects would include damage to agriculture and ecosystems and criterion (v) would be contravened. Access by pedestrians and cyclists is poor and the proposal is, therefore, in conflict with criterion (iv) (Document F15, paragraph 6.1).

5.8.2. As noted previously, the applicant did not approach CCC with a view to changing the planning conditions relating to the Sports Village site. Neither was the Vale of Glamorgan Council requested to vary the conditions on the planning conditions for the Barry waterfront site.

This is a major flaw in the applicant's argument that there are no suitable or available alternative sites. When judged against the requirements of Policy SHOP 12 and the statement at paragraph 7.1.10. of the VGUDP, that growing retail floor space at CC is viewed with considerable concern by the Council, it is strange that the Council is supporting the proposal; development which runs counter to its stated policy (Document F19, pages 2 and 3).

(2) CARDIFF BUS

5.9.1. The CC retail park is currently served by Cardiff Bus services 19, 353, 354 and an occasional X91, plus 6 departures a day from Tesco. The 353 and 354 buses provide a 30 minute service to Cardiff and Barry, the bus stop being sited near Tesco on the A48. However, on 20 June the number 19 service is being withdrawn and replaced with a new service 12. This will not serve the retail park because of the delays that are being experienced there.

5.9.2. Traffic congestion in the vicinity of the retail park is such that delays are frequently experienced. At peak times on Monday to Friday the delay is about 10 minutes and on Saturdays, Sundays and Bank Holidays the delay is approximately 20 minutes, especially if the weather is fine.

5.9.3. Introduction of the proposed new traffic signals could introduce further delays of perhaps 2 minutes at times when traffic flows are light, longer when there is heavy traffic. Further delays could result in the withdrawal of all Cardiff Bus services from the area. That would be against the wishes of the company and its customers, some of whom visit the M & S store (Document A30).

5.9.4. However, it is acknowledged that the use of transponders to assist buses would be looked at.

(3) CULVER RESIDENTS ASSOCIATION

5.10.1. The Culver Residents Association was formed by the residents of the Sanctuary Estate. This includes Knightswell Road, which joins Cowbridge Road West to the east of CC, and also roads off Knightswell Road. Residents of Cowbridge Road West in this area are also members of the association.

5.10.2. Local residents are concerned that they are being hemmed in by increased development and the traffic generated by this. Particular concerns relate to the noise, inconvenience and pollution that is being caused. Traffic in the area has increased considerably following the development and success of M & S and the other stores at CC. This has overloaded the roundabout there, causing tail-backs at all popular shopping times, back along Cowbridge Road West into Ely.

5.10.3. This traffic completely blocks the area, making access to and egress from the Sanctuary Estate difficult. There have also been many accidents. As the movement of traffic is slow, additional pollution is caused. Further development should not take place until the existing problems are sorted out.

5.10.4. Consideration should be shown to local residents, particularly those who are members of the association. Traffic signals should be installed at the Cowbridge Road West/Knightswell Road junction to ease access to and from the estate (Document OD2).

CONCLUSIONS

Considerations

6.1.1. Bearing in mind the matters that were identified when the application was called in, I have identified the following considerations:

- (i) need;
- (ii) impact on shopping centres;
- (iii) sequential test;
- (iv) Travel patterns and the highway network;
- (v) public transport;
- (vi) relationship with neighbouring land uses;
- (viii) national and local policies

Each of these is considered before I draw overall conclusions.

Need

6.2.1. As noted by the applicant, the consideration of need at the inquiry stemmed from the guidance contained in paragraph 10.2.6 of PG(W)PP which does not explain or describe the nature, type and extent of the need. In the circumstances, it is not unreasonable for the applicant to argue that need might include a quantitative and qualitative need, a need to draw back lost trade that has diverted to Cribbs Causeway and a planning policy need to reduce car journeys in terms of distance travelled and the number of trips; also a need for an extension to the existing store to enable it to perform the desired function (paragraph 3.2.13).

6.2.2. Attention has been drawn by the applicant to various deficiencies at the CC store. These include restricted circulation space, congestion at check-outs at busy times and insufficient space to display any of the furniture range (paragraphs 3.2.1 to 3.2.3). I accept, that for various reasons, the applicant sees a need for the extension. However, in the overall assessment, a perception of a need for more retail space by its proposer must carry limited weight in the overall assessment as no developer would put forward such a scheme if he did not see a retailer requirement for it.

6.2.3. Notwithstanding this, I have considered the points raised by M & S regarding the existing store at CC and I accept that, at busy times, it would be preferable to provide more space in certain areas and at checkouts. I also accept that M & S would prefer certain goods to be more visible. That said, I concluded during my inspections of the CC store that there are times when conditions for the customer are very comfortable. Even if it were accepted that there is a need for more space at peak times and that the need should be met, this would not require an extension of the size proposed, or the provision of a decked/multi-storey car park.

6.2.4. Other matters raised by the applicant include the number of food lines that can be carried and lack of space to provide a bakery, butchery, delicatessen, patisserie and a fish counter. Another difficulty identified was that of insufficient space to display any of the furniture range (paragraphs 3.2.2 and 3.2.3). Other than an understandable desire by M & S to increase its offer, a retailer requirement, there would appear to be no strong need, in any wider context, to provide these facilities and goods at CC.

6.2.5. With regard to customer demand, CCC in its letter dated 24 May 1999 (Document OD3), drew attention to the results of the customer survey conducted by M & S at its CC store in January 1999. This matter is also referred to by the applicant (paragraph 3.2.4). The point made by CCC that only a fifth of the respondents were not able to buy the non-food goods that they wanted, implying that the vast majority of shoppers surveyed did not experience this problem, is valid. As CCC contend, when account is taken of responses such as "did not like item" or "too expensive" only about 14% of customers perceived any difficulty.

6.2.6. The applicant stressed that, in considering quantitative need, it was necessary to look at the whole catchment area and to take account of forecast growth in comparison goods spending, about £160 million up to the year 2002 according to the applicant's figures (paragraph 3.2.11). The Council adopted a different approach (paragraphs 4.3.1 to 4.3.4). Although the applicant followed a traditional approach, the Council's method of assessing the needs of its population is also valid. In any case, it does not automatically follow that additional floor space must be provided to meet forecast figures, or if it is, that a proportion of this must be sited at CC.

6.2.7. In commenting on the need for additional facilities, CCC made the point that there has been a major expansion of M & S floor space in Cardiff city centre, in a way which is entirely consistent with the aim of sustaining and enhancing town centres (Document OD3). These city centre stores offer a wide range of goods, they are well located when considering access by various modes of transport and they are also well situated in terms of population distribution. When account is taken of this and also the relative proximity of CC to the city centre, it is difficult to conclude that there is, on any broad and balanced assessment, a need for a major extension at the CC store. With regard to travel patterns, some people do visit Cribbs Causeway in Bristol but as the applicant has indicated, the numbers are small (paragraph 3.5.7). Whilst there would probably be some transfer of these trips to CC, this does not affect my overall assessment of need.

NB: The M & S premises in Cardiff city centre have been referred to by the applicant as the city centre store (paragraph 3.1.6) and by F of E as the 2 city centre stores (paragraph 5.2.1). The situation is that there are now 2 adjacent buildings in the applicant's ownership, 1 of these being the former Littlewoods store. In paragraph 6.2.7 above I have referred to these buildings as these city centre stores.

Impact on Shopping Centres

6.3.1. A comprehensive retail impact assessment was submitted with the proposals in 1997 and the applicant has up-dated this work.

The Council and CCC have also undertaken quantitative assessments of the impact of the proposal on relevant centres (paragraphs 3.3.1, 3.3.8 and 3.3.9). CCC did not appear at the inquiry and there was, therefore, no opportunity to test its figures. As the applicant has noted, the Council's assessment was limited to those parts of the catchment area that fall within its administrative area.

6.3.2. The results of the quantitative assessments of impact are summarised in tabular form at Document A4, paragraph 3.1 and those of the applicant are again set out at paragraph 3.3.9 of this report. The applicant's forecasts of impact on the various centres are all low, below 2%. Even if the CCC assessment of 2.5% comparison impact were accepted, that is still a low level of impact. In the light of these figures, there is no evidence that the proposed extension would, in itself, cause harm. Neither is there any evidence that the vitality and viability of any town centre would be undermined as a result of cumulative impact when account is also taken of current planning commitments and development plan commitments (paragraph 3.3.7).

6.3.3. However, it could be a matter of concern if the granting of permission in this case were to lead to pressure for further similar development at CC, a very extensive area. The Council's evidence was that the existing developments there have already had a significant impact on the patterns of spending, taking 12% of convenience and 13% of comparison spending. The Council also said that committed developments will have a further impact, taking the figures to 13% for convenience spending and 27% for comparison goods (paragraph 4.4.3). Therefore, whilst this proposal might not, in itself, give rise to unacceptable harm, the potential for further applications for the extension of retail businesses at CC should not be ignored, given the diversion of trade that has already take place.

6.3.4. In answer to me on the question of precedent, the Council's witness emphasised that the proposal was for an extension and he took the view that each case should be looked at on its merits (answer recorded in Document A30, paragraph 9.3 (d)). That is a reasonable approach. However, it cannot be ruled out that the granting of permission in this case would be perceived as the opening up of a new phase in the development at CC, making it more difficult to resist similar applications. The carefully considered existing developments rather than being regarded as complete, could become the focus for new pressure for further additional retail floorspace at CC.

Sequential Test

6.4.1. The fundamental approach of the applicant is that the rationale for the extension is the existing store and that, if the CC store did not exist, M & S would not seek to develop 2576M2 elsewhere (paragraph 3.4.3.). Nevertheless PG(W)PP indicates at paragraph 10.2.6. that the sequential approach to site selection should be adopted in the case of extensions to existing developments and the applicant has complied with that guidance. The results of the sequential test, together with the relevant maps, are at Document A9, Appendix 15.

6.4.2. At the time when the sequential test study was submitted in June 1998, the applicant concluded that there was a site in Barry town centre that could, physically, have accommodated the scale of the development proposed here (paragraph 3.4.3). That was the Town Hall site.

However, M & S has made it clear that it has no requirement for a new store in Barry and I accept that to be the current situation. In any case, the situation has now changed as the site is required by another retailer. That being the case, the Town Hall site is not available to M & S.

6.4.3. Using the existing road link, the Barry waterfront/docks site is, as argued by the applicant, out-of-centre. Moreover, conditions attached to the planning permission would preclude its use by M & S for the sort of development it proposes (paragraph 3.4.12 and Document G11). The waterfront/docks site is not, therefore, a contender when considering alternative sites; even if M & S had a requirement for a new store in Barry, which it does not.

6.4.4. Two sites, in Bridgend and Pontypridd, were identified by the study as being able to accommodate the floor space now proposed by M & S (paragraph 3.4.11). However, if it is accepted that the applicant has no requirement for either a store in Bridgend or for additional space at Pontypridd, where it already has a store, then these sites are not serious contenders when applying the sequential test.

6.4.5. Paragraph 10.2.5. of PG(W)PP requires flexibility and realism from local planning authorities, developers and retailers when applying the sequential test. Here, the applicant has shown flexibility when considering the amount of floor space and car parking proposed (paragraph 3.4.9.). The availability of sites is constantly changing but it would be realistic to conclude that, at the time of the inquiry, no sequentially preferable site to that which is proposed was suitable and available. F of E drew attention to the Sports Village site in Cardiff but this objector's own evidence concedes that planning conditions relating to that site would need to be changed (paragraph 5.4.2.).

Travel Patterns and the Highway Network

6.5.1. Research on M & S store extensions has demonstrated that the majority of the increase in turnover comes from existing customers on existing trips to the store. It has been shown that turnover does not increase pro-rata with the increase in floor space and that a 10% increase in store size would be likely to lead to a 1.2% increase in customer numbers. Here, the 36% increase in sales area would be likely to increase customer numbers by only about 4%, or perhaps up to 8% at the highest (paragraph 3.5.2.).

6.5.2. Moreover, as the applicant has pointed out, not all of the new customers would give rise to new car trips (paragraph 3.5.3). Also the majority of the additional expenditure at the proposed extension would probably be diverted from existing shops (paragraph 3.5.4.). After taking account of the zone analysis, I accept the applicant's conclusion that, in the case of diversion of trips from the city centre, it is likely that there would be a reduction in the distance travelled in the case of 55% of the trips and that 18% of trips would be neutral. In only 22% of trips would there be an increase in the distance travelled (paragraph 3.5.6.).

6.5.3. The applicant is aware that a small but perceptible number of people are travelling to Cribbs Causeway in Bristol and contends that the improvement of the offer at CC would lead to a reduced need to travel to Cribbs Causeway (paragraph 3.5.7.). F of E have made the valid comment that people travel to Cribbs Causeway for a variety of reasons, including that of the total shopping experience (paragraph 5.6.8.). Nevertheless, it is likely that some trips would be clawed back, albeit a small number, and that this would also result in reduced travel.

6.5.4. As argued by the applicant, an extension of the existing store at CC would give rise to less travel than would be the case if a new M & S store were provided elsewhere. I agree with the applicant that any changes as a result of the proposed extension would be negligible when compared with the total distance travelled for shopping in the Cardiff and CC areas (paragraph 3.4.8). Overall, I have concluded that the proposal would be unlikely to increase the distance travelled by private car; if anything, leading to a reduction.

6.5.5. There is no cogent evidence which demonstrates that the effect of the proposed extension on traffic flows in the immediate area would be other than small, the predicted vehicular increase at peak times on the gyratory being less than 2% in the worst case, with the average increase being less than 1 % (paragraph 3.5.9). Moreover, the proposed off-site works would give rise to benefits, including a reduction in traffic queues and delays (paragraph 3.5.12).

6.5.6. In the opinion of F of E, cycling through the CC interchange is dangerous (paragraph 5.6.5) and I accept that, potentially, to be the case. CC is not a friendly environment when considering the needs and well-being of cyclists and pedestrians. However, it would be unreasonable to require M & S to fund major infrastructure, such as a pedestrian/cyclist bridge as requested by F of E. The works that are proposed are commensurate with the scale of the increase in traffic that has been predicted and would benefit pedestrians. Penarth Section, Cardiff Cycling Campaign, has criticised the proposals and has suggested that there should further consultation (Document OD4). Such consultation would be beneficial but I do not consider that cyclists would, as a result of the current proposals, be worse off in terms of safety and convenience than they are at present.

Public Transport

6.6.1. CC is already served by buses and there is a bus stop near the existing M & S store. In addition to the scheduled services, Tesco operates free bus services. An assessment has been made as to how existing services might be improved and arising from this the applicant has offered to underwrite, for a period of 3 years, the cost of a new service from Barry, to provide an increased number of people living in that area with a direct link to the site. It is hoped that the service would be self-financing after the 3 year period (paragraphs 3.5.13 to 3.5.15).

6.6.2. As an out-of-centre location, CC is not as well served by public transport as Cardiff city centre. Nevertheless, there are some bus services which provide access to the site and these would be added to as a result of the applicant's offer. That would constitute a benefit.

The long term survival of the proposed new service is not guaranteed but this proposal offers the opportunity of an improvement to bus services which might not otherwise take place.

6.6.3. With regard to the objection by Cardiff Bus (paragraphs 5.9.1 to 5.9.4), the applicant has drawn attention to the discussions which took place between Mr Smith and Mr Bird (paragraph 3.9.2). The proposed highway improvements coupled with the use of transponders would assist bus movements (plan at Document A12, Figure 9; paragraph 5.9.4). There is no evidence which indicates that the proposal would increase delays to buses or that it would generate conditions of traffic congestion such that existing bus services would be withdrawn:

Relationship with Neighbouring Land Uses

6.7.1. There is now extensive development at CC, much of it retail, including the retail park to the south on the opposite side of the A48 and the Tesco store located immediately to the east of the existing M & S store (paragraphs 2.1.2 and 3.6.2). In terms of use and character, the proposed development would be compatible with this existing development.

6.7.2. The land to the west and north-west of the site is rural in character, forming part of the countryside which adjoins the existing development (paragraph 2.1.2). This land is shown as a Green Wedge on Proposals Map 2 of the VGUDP (Document G5). However, the proposed buildings would not physically encroach on the countryside and only about 5% of the development would be on land which is not developed at present (paragraphs 3.6.2 and 3.6.7).

6.7.3. With regard to visual impact, the proposed drum feature at the entrance to the extension (see Plans F and G) would be more prominent than other parts of the building but would, on balance, be visually acceptable; as would the extension itself given its limited size and height, which would be below the existing roof line. However, the decked car park would, in particular, be a major new element in the visual scene and its impact needs to be considered with care.

6.7.4. As the applicant has stated, the decked car park structure would sit below **the height** of the store (paragraph 3.6.7) and high quality landscaping would be provided (paragraph 3.6.5). Also, as the applicant has pointed out, many views of the site are of a fragmental nature (paragraph 3.6.4). On the other hand, the decked car park would be a sizeable new multi-storey structure located immediately adjacent to the edge of the Green Wedge, with the top deck used as an open parking area (paragraph 3.6.9). From my inspections, I have concluded that the structure would be visible from the public right of way which crosses the higher land to the west.

6.7.5. The applicant has argued that the designation of the adjoining land as a Green Wedge should not be taken as an indicator of its visual or other scenic value; the purpose of the zoning being simply to protect it from development and provide a buffer between built-up areas (paragraph 3.6.8).

Nevertheless, one of the objectives of Policy ENV 3, Green Wedges, of the VGUDP is to maintain the setting of built-up areas and I do not consider that considerations relating to the visual implications of new developments, when viewed from the Green Wedge, should be ignored.

6.7.6. At present, the area on which the decked car park would be sited comprises a surface level car park together with landscaping. This existing development merges well with the Green Wedge land to the west, providing an appropriate transition between the built environment and the countryside beyond. The maturing landscaping makes a significant contribution to the existing development.

6.7.7. Visually, the decked car park would relate less well to the Green Wedge land and in the absence of the new planting proposed in the field to the west under the applicant's control, (paragraph 2.1.2), it would be visually harmful. Moreover, as a result of the proposed scheme some of the maturing, existing landscaping would, regrettably, be lost (paragraph 3.6.6). However, account does need to be taken of the proposed new planting in the field to the west and also replacement planting within the site (Plan P).

6.7.8. The proposed landscaping would not conceal the decked car park when viewed from the Green Wedge, particularly from parts of the public right of way. Nevertheless it would mitigate some of the visual impact of the proposal. Moreover, the development would be viewed against the backdrop of the other retail and commercial areas at CC. In the circumstances, the proposal is, on balance, acceptable when considering its visual relationship to neighbouring land. The use of the land would be similar to that which exists now. Overall, therefore, there would not be an unacceptable impact when considering the relationship of the development with neighbouring land uses.

Noise and Air Pollution

6.8.1. F of E raised these matters and with regard to noise referred to a noise assessment table prepared in connection with the proposals for an airport access road (paragraph 5.7.1). However, I agree with the applicant that this is not relevant to CC or the M & S site (paragraph 3.7.3). As I have already indicated, the maximum increase in traffic flow as a result of the extension would be less than 2% (paragraphs 3.7.2 and 6.5.4), giving rise to an increase in noise of less than 0.1 % dB(A). The applicant is correct in concluding that such an increase would be imperceptible.

6.8.2. As to air pollution, the applicant put forward detailed evidence in response to the concerns raised by F of E. The applicant's evidence on this matter is comprehensive and specifically directed at the proposal, whereas much of that of F of E is less well directed, tending to be more general in nature. The question of operational emissions was referred to by F of E (paragraph 5.7.3) and this matter has been considered by the applicant. As was concluded by the applicant, these are unlikely to be significant when compared with the existing sources of pollution arising from traffic on the local road network (paragraph 3.7.12).

6.8.3. Air pollution arising from traffic generated by the proposed development must be looked at in the context of the predicted limited increase in traffic; less than 2%, as I concluded earlier (paragraph 6.5.5). Moreover, the applicant is correct in asserting that a 2% increase in traffic would, assuming no additional congestion, be expected to produce much less than a 2% increase in overall pollution when account is taken of existing background levels of pollution (paragraph 3.7.11). Traffic flow would be likely to be improved and congestion eased as a result of the proposed highway improvements.

CONCLUSIONS

Considerations

6.1.1. Bearing in mind the matters that were identified when the application was called in, I have identified the following considerations:

- (i) need;
- (ii) impact on shopping centres;
- (iii) sequential test;
- (iv) Travel patterns and the highway network;
- (v) public transport;
- (vi) relationship with neighbouring land uses;
- (viii) national and local policies

Each of these is considered before I draw overall conclusions.

Need

6.2.1. As noted by the applicant, the consideration of need at the inquiry stemmed from the guidance contained in paragraph 10.2.6 of PG(W)PP which does not explain or describe the nature, type and extent of the need. In the circumstances, it is not unreasonable for the applicant to argue that need might include a quantitative and qualitative need, a need to draw back lost trade that has diverted to Cribbs Causeway and a planning policy need to reduce car journeys in terms of distance travelled and the number of trips; also a need for an extension to the existing store to enable it to perform the desired function (paragraph 3.2.13).

6.2.2. Attention has been drawn by the applicant to various deficiencies at the CC store. These include restricted circulation space, congestion at check-outs at busy times and insufficient space to display any of the furniture range (paragraphs 3.2.1 to 3.2.3). I accept, that for various reasons, the applicant sees a need for the extension. However, in the overall assessment, a perception of a need for more retail space by its proposer must carry limited weight in the overall assessment as no developer would put forward such a scheme if he did not see a retailer requirement for it.

6.2.3. Notwithstanding this, I have considered the points raised by M & S regarding the existing store at CC and I accept that, at busy times, it would be preferable to provide more space in certain areas and at checkouts. I also accept that M & S would prefer certain goods to be more visible. That said, I concluded during my inspections of the CC store that there are times when conditions for the customer are very comfortable. Even if it were accepted that there is a need for more space at peak times and that the need should be met, this would not require an extension of the size proposed, or the provision of a decked/multi-storey car park.

6.2.4. Other matters raised by the applicant include the number of food lines that can be carried and lack of space to provide a bakery, butchery, delicatessen, patisserie and a fish counter. Another difficulty identified was that of insufficient space to display any of the furniture range (paragraphs 3.2.2 and 3.2.3). Other than an understandable desire by M & S to increase its offer, a retailer requirement, there would appear to be no strong need, in any wider context, to provide these facilities and goods at CC.

6.2.5. With regard to customer demand, CCC in its letter dated 24 May 1999 (Document OD3), drew attention to the results of the customer survey conducted by M & S at its CC store in January 1999. This matter is also referred to by the applicant (paragraph 3.2.4). The point made by CCC that only a fifth of the respondents were not able to buy the non-food goods that they wanted, implying that the vast majority of shoppers surveyed did not experience this problem, is valid. As CCC contend, when account is taken of responses such as "did not like item" or "too expensive" only about 14% of customers perceived any difficulty.

6.2.6. The applicant stressed that, in considering quantitative need, it was necessary to look at the whole catchment area and to take account of forecast growth in comparison goods spending, about £160 million up to the year 2002 according to the applicant's figures (paragraph 3.2.11). The Council adopted a different approach (paragraphs 4.3.1 to 4.3.4). Although the applicant followed a traditional approach, the Council's method of assessing the needs of its population is also valid. In any case, it does not automatically follow that additional floor space must be provided to meet forecast figures, or if it is, that a proportion of this must be sited at CC.

6.2.7. In commenting on the need for additional facilities, CCC made the point that there has been a major expansion of M & S floor space in Cardiff city centre, in a way which is entirely consistent with the aim of sustaining and enhancing town centres (Document OD3). These city centre stores offer a wide range of goods, they are well located when considering access by various modes of transport and they are also well situated in terms of population distribution. When account is taken of this and also the relative proximity of CC to the city centre, it is difficult to conclude that there is, on any broad and balanced assessment, a need for a major extension at the CC store. With regard to travel patterns, some people do visit Cribbs Causeway in Bristol but as the applicant has indicated, the numbers are small (paragraph 3.5.7). Whilst there would probably be some transfer of these trips to CC, this does not affect my overall assessment of need.

NB: The M & S premises in Cardiff city centre have been referred to by the applicant as the city centre store (paragraph 3.1.6) and by F of E as the 2 city centre stores (paragraph 5.2.1). The situation is that there are now 2 adjacent buildings in the applicant's ownership, 1 of these being the former Littlewoods store. In paragraph 6.2.7 above I have referred to these buildings as these city centre stores.

Impact on Shopping Centres

6.3.1. A comprehensive retail impact assessment was submitted with the proposals in 1997 and the applicant has up-dated this work. The Council and CCC have also undertaken quantitative assessments of the impact of the proposal on relevant centres (paragraphs 3.3.1. 3.3.8 and 3.3.9). CCC did not appear at the inquiry and there was, therefore, no opportunity to test its figures. As the applicant has noted, the Council's assessment was limited to those parts of the catchment area that fall within its administrative area.

6.3.2. The results of the quantitative assessments of impact are summarised in tabular form at Document A4, paragraph 3.1 and those of the applicant are again set out at paragraph 3.3.9 of this report. The applicant's forecasts of impact on the various centres are all low, below 2%. Even if the CCC assessment of 2.5% comparison impact were accepted, that is still a low level of impact. In the light of these figures, there is no evidence that the proposed extension would, in itself, cause harm. Neither is there any evidence that tile vitality and viability of any town centre would be undermined as a result of cumulative impact when account is also taken of current planning commitments and development plan commitments (paragraph 3.3.7).

6.3.3. However, it could be a matter of concern if the granting of permission in this case were to lead to pressure for further similar develOpnlexit at CC, a very extensive area. The Council's evidence was that the existing developments there have already had a significant impact on the patterns of spending, taking 12'« of convenience and 13%0 of comparison spending. The Council also said that committed developments will have a further impact, taking the figures to 13% for convenience spending and 27% for comparison goods (paragraph 4.4.3). Therefore, whilst this proposal might not, in itself, give rise to unacceptable harm, the potential for further applications for the extension of retail businesses at CC should not be ignored, given the diversion of trade that has already take place.

6.3.4. In answer to me on the question of precedent, the Council's witness emphasised that the proposal was for an extension and he took the view that each case should be looked at on its merits (answer recorded in Document A 30, paragraph 9.3 (d)). That is a reasonable approach. However, it cannot be ruled out that the granting of permission in this case would be perceived as the opening up of a new phase in the development at CC, making it more difficult to resist similar applications. The carefully considered existing developments rather than being regarded as complete, could become the focus for new pressure for further additional retail floorspace at CC.

Sequential Test

6.4.1. The fundamental approach of the applicant is that the rationale for the extension is the existing store and that, if the CC store did not exist, M & S would not seek to develop 2576m' elsewhere (paragraph 3.4.3.). Nevertheless PG(W)PP indicates at paragraph 10.2.6. that the sequential approach to site selection should be adopted in tile case of extensions to existing developments and the applicant has complied with that guidance. The results of the sequential test, together with the relevant maps, are at Document A9, Appendix 15.

6.4.2. At the time when the sequential test study was submitted in June 1998, the applicant concluded that there was a site in Barry town centre that could, physically, have accommodated the scale of the development proposed here (paragraph 3.4.3). That was the Town Hall site. However, M & S has made it clear that it has no requirement for a new store in Barry and I accept that to be the current situation. In any case, the situation has now changed as the site is required by another retailer. That being the case, the Town Hall site is not available to M & S.

6.4.3. Using the existing road link, the Barry waterfront/docks site is, as argued by the applicant, out-of-centre. Moreover, conditions attached to the planning permission would preclude its use by M & S for the sort of development it proposes (paragraph 3.4.12 and Document G11). The waterfront/docks site is not, therefore, a contender when considering alternative sites; even if M & S had a requirement for a new store in Barry, which it does not.

6.4.4. Two sites, in Bridgend and Pontypridd, were identified by the study as being able to accommodate the floor space now proposed by M & S (paragraph 3.4.11). However, if it is accepted that the applicant has no requirement for either a store in Bridgend or for additional space at Pontypridd, where it already has a store, then these sites are not serious contenders when applying the sequential test.

6.4.5. Paragraph 10.2.5. of PG(W)PP requires flexibility and realism from local planning authorities, developers and retailers when applying the sequential test. Here, the applicant has shown flexibility when considering the amount of floor space and car parking proposed (paragraph 3.4.9.). The availability of sites is constantly changing but it would be realistic to conclude that, at the time of the inquiry, no sequentially preferable site to that which is proposed was suitable and available. F of E drew attention to the Sports Village site in Cardiff but this objector's own evidence concedes that planning conditions relating to that site would need to be changed (paragraph 5.4.2.).

Travel Patterns and the Highway Network

6.5.1. Research on M & S store extensions has demonstrated that the majority of the increase in turnover comes from existing customers on existing trips to the store. It has been shown that turnover does not increase pro-rata with the increase in floor space and that a 10% increase in store size would be likely to lead to a 1.2% increase in customer numbers. Here, the 36% increase in sales area would be likely to increase customer numbers by only about 4%, or perhaps up to 8% at the highest (paragraph 3.5.2.).

6.5.2. Moreover, as the applicant has pointed out, not all of the new customers would give rise to new car trips (paragraph 3.5.3). Also the majority of the additional expenditure at the proposed extension would probably be diverted from existing shops (paragraph 3.5.4.). After taking account of the zone analysis, I accept the applicant's conclusion that, in the case of diversion of trips from the city centre, it is likely that there would be a reduction in the distance travelled in the case of 55% of the trips and that 18% of trips would be neutral. In only 22% of trips would there be an increase in the distance travelled (paragraph 3.5.6.).

6.5.3. The applicant is aware that a small but perceptible number of people are travelling to Cribbs Causeway in Bristol and contends that the improvement of the offer at CC would lead to a reduced need to travel to Cribbs Causeway (paragraph 3.5.7.). F of E have made the valid comment that people travel to Cribbs Causeway for a variety of reasons, including that of the total shopping experience (paragraph 5.6.8.). Nevertheless, it is likely that some trips would be clawed back, albeit a small number, and that this would also result in reduced travel.

6.5.4. As argued by the applicant, an extension of the existing store at CC would give rise to less travel than would be the case if a new M & S store were provided elsewhere. I agree with the applicant that any changes as a result of the proposed extension would be negligible when compared with the total distance travelled for shopping in the Cardiff and CC areas (paragraph 3.4.8). Overall, I have concluded that the proposal would be unlikely to increase the distance travelled by private car; if anything, leading to a reduction.

6.5.5. There is no cogent evidence which demonstrates that the effect of the proposed extension on traffic flows in the immediate area would be other than small, the predicted vehicular increase at peak times on the gyratory being less than 2'11a in the worst case, with the average increase being less than 1 % (paragraph 3.5.9). Moreover,, the proposed off-site works would give rise to benefits, including a reduction in traffic queues and delays (paragraph 3.5.12).

6.5.6. In the opinion of F of E, cycling through tl~e CC interchange is dangerous (paragraph 5.6.5) and I accept that, potentially, to be the case. C(; is not a friendly environment when considering the needs and well-being of cyclists and pedestrians. However, it would be unreasonable to require M & S to fund major infrastructure, such as a pedestrian/cyclist bridge as requested by F of E. The works that are proposed are commensurate with the scale of the increase in traffic that has been predicted anal would benefit pedestrians. Penarth Section, Cardiff Cycling Campaign, has criticised the proposals and has suggested that there should further consultation (Document OD4). Such consultation would be beneficial but I do not consider that cyclists would, as a result of the current proposals, be worse off in terms of safety and convenience than they are at present.

Public Transport

6.6.1. CC is already served by buses and there is a bus stop near the existing M & S store. In addition to the scheduled services, Tesco operates free bus services. An assessment has been made as to how existing services might be improved and arising from this the applicant has. offered to underwrite, for a period of 3 years, the cost of a new service from Barry, to provide an increased number of people living in that area with a direct link to the site. It is hoped that the service would be self-financing after the 3-year period (paragraphs 3.5.13 to 3.5.15).

6.6.2. As an out-of-centre location, CC is not as well served by public transport as Cardiff city centre. Nevertheless, there are some bus services which provide access to the site and these would be added to as a result of the applicant's offer. That would constitute a benefit. The long term survival of the proposed new service is not guaranteed but this proposal offers the opportunity of an improvement to bus services which might not otherwise take place.

6.6.3. With regard to the objection by Cardiff Bus (paragraphs 5.9.1 to 5.9.4), the applicant has drawn attention to the discussions which took place between Mr Smith and Mr Bird (paragraph 3.9.2). The proposed highway improvements coupled with the use of transponders would assist bus movements (plan at Document.A12, Figure 9; paragraph 5.9.4). There is no evidence which indicates that the proposal would increase delays to buses or that it would generate conditions of traffic congestion such that existing bus services would be withdrawn.

Relationship with Neighbouring Land Uses

6.7.1. There is now extensive development at CC, much of it retail, including tile retail park to the south on the opposite side of the A48 and the Tesco store located immediately to the east of the existing M & S store (paragraphs 2.1.2 and 3.6.2). In terms of use and character, the proposed development would be compatible with this existing development.

6.7.2. The land to the west and north-west of the site is rural in character, forming part of the countryside which adjoins the existing development (paragraph 2.1.2). This land is shown as a Green Wedge on Proposals Map 2 of the VGUDP (Document G5). However, the proposed buildings would not physically encroach on the countryside and only about 5% of the development would be on land which is not developed at present (paragraphs 3.6.2 and 3.6.7).

6.7.3. With regard to visual impact, the proposed drum feature at the entrance to the extension (see Plans F and G) would be more prominent than other parts of the building but would, on balance, be visually acceptable; as would the extension itself given its limited size and height, which would be below the existing roof line. However, the decked car park would, in particular, be a major new element in the visual scene and its impact needs to be considered with care.

6.7.4. As the applicant has stated, the decked car park structure would sit below the height of the store (paragraph 3.6.7) and high quality landscaping would be provided (paragraph 3.6.5). Also as the applicant has pointed out, many Views of the site are of a fragmental nature (paragraph 3.6.4). On the other hand, the decked car park would be a sizeable new multi-storey structure located immediately adjacent to the edge of the Green Wedge, with the top deck used as an open parking area (paragraph 3.6.9). From my inspections, I have concluded that the structure would be visible from the public right of way which crosses the higher land to the west.

6.7.5. The applicant has argued that the designation of the adjoining land as a Green Wedge should not be taken as an indicator of its visual or other scenic value; the purpose of the zoning being simply to protect it from development and provide a buffer between built-up areas (paragraph 3.6.5). Nevertheless, one of the objectives of Policy ENV 3, Green Wedges, of the VGUDP is to maintain the setting of built-up areas and I do not consider that considerations relating to the visual implications 'of' new developments, when viewed from the Green Wedge, should be ignored.

6.7.6. At present, the area on which the decked car park would be sited comprises a surface level car park together with landscaping. This existing development merges well with the Green Wedge land to the west, providing an appropriate transition between the built environment and the countryside beyond. The maturing landscaping makes a significant contribution to the existing development.

6.7.7. Visually, the decked car park would relate less well to the Green Wedge land and in the absence of the new planting proposed in the field to the west under the applicant's control, (paragraph 2.1.2), it would be visually harmful. Moreover, as a result of the proposed scheme some of the maturing, existing landscaping would, regrettably, be lost (paragraph 3.6.6). However, account does need to be taken of the proposed new planting in the field to the west and also replacement planting within the site (Plan P).

6.7.8. The proposed landscaping would not conceal the decked car park when viewed from the Green Wedge, particularly from parts of the public right of way. Nevertheless it would mitigate some of the visual impact of the proposal. Moreover, the development would be viewed against the backdrop of the other retail and commercial areas at CC. In the circumstances, the proposal is, on balance, acceptable when considering its visual relationship to neighbouring land. The use of the land would be similar to that which exists now. Overall, therefore, there would not be an unacceptable impact when considering the relationship of the development with neighbouring land uses.

Noise and Air Pollution

6.8.1. F of E raised these matters and with regard to noise referred to a noise assessment table prepared in connection with the proposals for an airport access road (paragraph 5.7.1). However, I agree with the applicant that this is not relevant to CC or the M & S site (paragraph 3.7.3). As I have already indicated, the maximum increase in traffic flow as a result of the extension would be less than 2% (paragraphs 3.7.2 and 6.5.4), giving rise to an increase in noise of less than 0.1% dB(A). The applicant is correct in concluding that such an increase would be imperceptible.

6.8.2. As to air pollution, the applicant put forward detailed evidence in response to the concerns raised by F of E. The applicant's evidence on this matter is comprehensive and specifically directed at the proposal, whereas much of that of F of E is less well directed, tending to be more general in nature. The question of operational emissions was referred to by F of E (paragraph 5.7.3) and this matter has been considered by the applicant. As was concluded by the applicant, these are unlikely to be significant when compared with the existing sources of pollution arising from traffic on the local road network (paragraph 3.7.12).

6.8.3. Air pollution arising from traffic generated by the proposed development must be looked at in the context of the predicted limited increase in traffic; less than 2%, as I concluded earlier (paragraph 6.5.5). Moreover, the applicant is correct in asserting that a 2% increase in traffic would, assuming no additional congestion, be expected to produce much less than a 2% increase in overall pollution when account is taken of existing background levels of pollution (paragraph 3.7.11). Traffic flow would be likely to be improved and congestion eased as a result of the proposed highway improvements.

6.8.4 In the circumstances, I consider it highly unlikely that the overall levels of air pollution at CC would be made worse by the development proposed and the traffic generated by it. It is clear from Tables 2.1 and 5.3 contained in Document A25 that the predicted PM₁₀ levels are high when compared with the relevant NAQS air quality criteria to be achieved by 2005. However; it is equally clear that pollution arising from the proposal would make little or no difference to this given the background concentrations.

National and Local Policies

6.9.1. With regard to national policy, the Government's objectives are set out in paragraph

10.2.1 of PG(W)PP. These are:

- (i) to sustain and enhance the vitality, attractiveness and viability of town, district, local and village centres;
- (ii) to focus development, especially retail and leisure development, in locations where the proximity of businesses facilitates competition from which all customers are able to benefit and maximises the opportunity to use means of transport other than the car;
- (iii) to ensure the availability of a wide range of shops, employment, services and facilities in both urban and rural areas to which people have easy access by a choice of means of transport;
- (iv) to maintain an efficient, competitive and innovative retail sector.

6.9.2 The thrust of another important element of the guidance in **PG(W)PP, paragraph 10.2.6, is that** proposers of out-of-centre development such as this should be able to demonstrate a need for the additional facilities. If there is a need, then a sequential approach should be adopted to selecting sites. Evidence on both these matters was adduced by the applicant. Other guidance indicates that flexibility and realism will be required from local planning authorities.

6.9.3. With regard to objective (i) set out in paragraph 6.9.1 above, it is difficult to conclude that further development at CC would do anything to sustain and enhance the vitality, attractiveness and viability of the types of centres referred to. Indeed, the Council's evidence suggests that existing developments at CC have already significantly affected patterns of spending (paragraph 4.4.3).

6.9.4. With regard to objectives (ii) and (iii) and the question of transport, CC is, essentially, a car orientated group of developments. The area, which is crossed by major traffic routes, does not facilitate easy access by pedestrians and cyclists. Although there are some bus services, these do not compare with the range of public transport services available to people who visit the M & S stores in Cardiff city centre.

6.9.5. As to objective (iv), the main effect that M & S development at CC has in relation to maintaining an efficient, competitive and innovative retail sector, has already taken place with the existing store. Any additional influence that the proposed extension would have on these factors would be limited. After taking account of the existing M & S stores, both in Cardiff city centre and at CC, I concluded previously that there is no fundamental need for the extension in any broad sense (paragraph 6.2.7.). If that is correct, then I am of the opinion that national policy relating to retailing and town centres generally militates against the granting of permission for the proposal which would lead to an expansion of floor space and the intensification and consolidation of development at CC.

6.8.4. In the circumstances, I consider it highly unlikely that the overall levels of air pollution at CC would be made worse by the development proposed and the traffic generated by it. It is clear from Tables 2.1 and 5.3 contained in Document A25 that the predicted PMIO levels are high when compared with the relevant NAQS air quality criteria to be achieved by 2005. However, it is equally clear that pollution arising from the proposal would make little or no difference to this given the background concentrations.

National and Local Policies

6.9.1. With regard to national policy, the Government's objectives are set out in paragraph 10.2.1 of PG(W)PP. These are:

- (i) to sustain and enhance the vitality, attractiveness and viability of town, district, local and village centres;
- (ii) to focus development, especially retail and leisure development, in locations where the proximity of businesses facilitates competition from which all customers are able to benefit and maximises the opportunity to use means of transport other than the car;
- (iii) to ensure the availability of a wide range of shops, employment, services and facilities in both urban and rural areas to which people have easy access by a choice of means of transport;
- (iv) to maintain an efficient, competitive and innovative retail sector.

6.9.2 The thrust of another important element of the guidance in PG(W)PP, paragraph 10.2.6, is that proposers of out-of-centre development such as this should be able to demonstrate a need for the additional facilities. If there is a need, then a sequential approach should be adopted to selecting sites. Evidence on both these matters was adduced by the applicant. Other guidance indicates that flexibility and realism will be required from local planning authorities.

6.9.3. With regard to objective (i) set out in paragraph 6.9.1 above, it is difficult to conclude that further development at CC would do anything to sustain and enhance the vitality, attractiveness and viability of the types of centres referred to. Indeed, the Council's evidence suggests that existing developments at CC have already significantly affected patterns of spending (paragraph 4.4.3).

6.9.4. With regard to objectives (ii) and (iii) and the question of transport, CC is, essentially, a car orientated group of developments. The area, which is crossed by major traffic routes, does not facilitate easy access by pedestrians and cyclists. Although, there are some bus services, these do not compare with the range of public transport services available to people who visit the M & S stores in Cardiff city centre.

6.9.5. As to objective (iv), the main effect that M & S development at CC has in relation to maintaining an efficient, competitive and innovative retail sector, has already taken place with the existing store. Any additional influence that the proposed extension would have on these factors would be limited. After taking account of the existing M & S stores, both in Cardiff city centre and at CC, I concluded previously that there is no fundamental need for the extension in any broad sense (paragraph 6.2.7.). If that is correct, then I am of the opinion that national policy relating to retailing and town centres generally militates against the granting of permission for the proposal which would lead to an expansion of floor space and the intensification and consolidation of development at CC.

6.9.6. Turning to local policies, these, unlike PG(W)PP at paragraph 10.2.6, do not specifically refer to extensions to existing developments. Against that background, the applicant has referred to Policy S6 of the structure plan, and Policy SHOP 12 of the VGUDP and it would be reasonable to assess the proposal against those policies in the absence of any other policies directly relevant to extensions. Policy ENV3 of the VGUDP which deals with Green Wedges is also relevant.

6.9.7. In dealing with the development plan, the applicant has drawn attention to the approach taken to Policy S6 of the structure plan in previous cases relating to development at CC; to assess the proposal by reference to S6 and, where the criteria in S6 are satisfied, to then permit the proposal (paragraph 3.8.4). I consider that the policy lacks clarity and that a different interpretation, placing greater weight on the "presumption against" would be equally valid. Nevertheless, adopting the approach that has been taken before, the proposal is not in conflict with the criteria set out in Policy S6.

6.9.8. However, changes in Government policy on retailing, transport and town centres that have emerged since the structure plan was approved in 1989 are relevant. Policy S6 is not up-to-date, albeit that the "presumption against" element of the policy could be perceived as being of greater importance today than might have been the case several years ago. It is a material consideration that the policy is not up-to-date and the development plan is, therefore, the starting point, with material considerations being weighed in the decision.

6.9.9. Turning to the VGUDP, this has been subject to 2 sets of considerable amendments and it has been adopted for development control purposes (paragraph 4.1.3). Following consultation, revisions are proposed to both Policy ENV3 and Policy SHOP 12 (Document G6). Having regard to the procedures towards adoption which the VGUDP has already gone through, it would be reasonable to attach weight to these policies.

6.9.10. The Council took the view that the proposed development does not offend the relevant policies of either the development plan or the emerging UDP (paragraph 4.7.4). With regard to Policy SHOP 12 of the VGUDP, whilst I am, in the main, in agreement with the Council's assessment, I do not consider that the proposal does meet the requirements of criterion (iv).

6.9.11. With regard to this, I have already concluded that CC is, essentially, a car orientated group of developments; the area being crossed by major traffic routes and one which does not facilitate easy access by pedestrians and cyclists. Although there are some buses, CC could not be accurately described as an area which is well located to public transport. Cardiff city centre, for example, is such an area, where there is a range of services, including rail. In the circumstances, it is my view that the proposal fails to satisfy 2 of the principal elements of criterion (iv).

6.9.12. With regard to Policy ENV3 of the VGUDP, I have previously concluded that the decked car park would relate less well to the Green Wedge than the existing development on the site (paragraphs 6.7.6 and 6.7.7). However, the proposal would not, on balance, be so obtrusive as to prejudice the open nature of the Green Wedge land. When account is taken of the proposed planting, particularly that in the field adjoining the decked car park, the development would not be unacceptably at variance with the fundamental aims of Policy ENV3. That said, this is a finely balanced matter as both the drum feature and the decked car park would have a significant visual impact at the periphery of the developed area.

Overall Conclusions

6.10.1. The proposal would not be in conflict with the criteria set out in Policy S6 of the structure plan but this development plan policy is out-of-date. National policy indicates that the need for this type of development should be assessed but this was not an issue when previous proposals for development at CC were considered. Guidance as to what constitutes need was not available to the inquiry but I am unable to conclude, on any balanced, well rounded and broad assessment, that there is a need for the development.


6.10.2. Even if it were accepted that there was a retailer/customer need to provide more circulation space within the store to ease congestion during busy periods (paragraph 3.2.3), such facilities would not, as I concluded earlier, require an extension of this size, or a multi-level car park. Lack of need, together with other aspects of national policy (paragraphs 6.9.3 and 6.9.4), points to refusal of the application.

6.10.3. Policy SHOP 12 of the VGUDP is a material consideration. The proposal would not satisfy all the requirements of criterion (iv) and this again militates against the development. Also, as F of E point out, paragraph 7.1.10 of the emerging VGUDP states that the growing retail floor space at CC is viewed with considerable concern by the Council (paragraph 5.8.2). The Council's support for this proposed development does not sit easily with its stance as set out in the UDP.

6.10.4. Overall, I have concluded that the proposal would be in conflict with elements of current national and emerging local policies. Using the development plan as the starting point and then weighing other material considerations, it is my view that the application should be refused. However, if a contrary view were taken, conditions along the lines of those contained in Document C4, Section 8, as amended by Document Cg, should be attached to any planning permission granted. The unilateral undertaking (Document A18) should also be applied.

RECOMMENDATION

7.1.1. I recommend that the application be dismissed.

A handwritten signature in dark ink, reading "J. J. Parkinson". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke extending to the right.

J J PARKINSON

APPEARANCES

FOR THE APPLICANT

Mr V Pugh	-	Queens Counsel instructed by S J Berwin and Co.
He called:		
Mr C Williams FRICS	-	Senior Executive with the Applicant
Mr G Morgan BSc DipTP MRTPI	-	Director of Nathaniel Lichfield and Partners
Mr D Bird Ceng MICE	-	Director of Savell Bird and Axon
Mrs K Roberts BA DipLD MLI	-	Operational Director of RPS Clouston Limited
Mr D Smyth BSc DIC MSc	-	Principal Consultant with Ashdown Environmental Limited

FOR THE COUNCIL

Miss J Barratt	-	Counsel and the Council's Senior Lawyer
She Called:		
Mr J Roach BSc Ceng MICE MIHT	-	Group Leader, Traffic and Development
Mr C Morgan BA DMS MBA MRTPI MIMgt	-	Principal Planner

FOR FRIENDS OF THE EARTH

Mr C Brown		
He gave evidence and also called:		
Dr M Wallis	-	Research Officer
Mr K Stockdale		

FOR CULVER RESIDENTS ASSOCIATION

Mr K Hill	-	Chairman and resident of 23 Knightswell Road Cardiff
-----------	---	--

FOR CARDIFF BUS

Mr R Smith	-	Barry Operations Manager
------------	---	--------------------------

DOCUMENTS**General Documents**

Document G1	-	Attendance lists
Document G2	-	Letter of notification of inquiry
Document G3	-	South Glamorgan Structure Plan (Alteration No.1)
Document G4	-	The Vale of Glamorgan Local Deposit Draft
Document G5	-	The Vale of Glamorgan Unitary Development Plan Draft 1998
Document G6	-	The Vale of Glamorgan Unitary Development Plan Deposit. Draft Proposed Changes
Document G7	-	The Vale of Glamorgan Unitary Development Plan Deposit Draft Further Proposed Changes
Document G8	-	Draft Strategic Planning Guidance South East Wales, Volume 1
Document G9	-	Draft Strategic Planning Guidance South East Wales, Volume 1 Summary
Document G10	-	Agreed Statement on Behalf of the Council and the Applicant
Document G11	-	Outline planning permission relating to comprehensive redevelopment at No.1 Dock, Barry (190 acres)
Document G12	-	City of Cardiff Local Plan (Extract)
Document G13	-	East Vale Local Plan (Extract)

Applicant's Documents

Document A1	-	Culverhouse Cross Design Statement, June 1997
Document A2	-	Landscape Assessment, June 1997
Document A3	-	Transport Assessment Report
Document A4	-	Opening Statement for the Applicant
Document A5	-	Proof of Evidence of C Williams
Document A6	-	Appendices to Proof of C Williams
Document A7	-	Proof of Evidence of G Morgan
Document A8	-	volume 1 of Appendices to Proof of G Morgan
Document A9	-	Volume 2 of Appendices to Proof of G Morgan
Document A10	-	Supplementary Proof of Evidence of G Morgan
Document A11	-	Proof of Evidence of D Bird
Document A12	-	Figures and Appendices to Proof of D Bird
Document A13	-	Response by D Bird to issues raised By Cardiff Bus
Document A14	-	Response by D Bird to Proof of - Evidence submitted by Friends of The Earth
Document A15	-	Proof of Evidence of Mrs K Roberts
Document A16	-	Appendices to Proof of Mrs K Roberts
Document A17	-	Culverhouse Cross - Updated Health Check (April 1999)
Document A18	-	Unilateral Undertaking
Document A19	-	Drawing Schedule
Document A20	-	Schedule of submitted planning documentation
Document A21	-	ATCM - A Guide to Good Practice

Document A22	-	ATCM - Finding Funding
Document A23	-	About Town - Setting the Scene, Assessing the Need
Document A24	-	Car Parks are for People
Document A25	-	Proof of Evidence of Mr D Smyth
Document A26	-	Supplementary note by G Morgan On CCC letter dated 24 May 1999
Document A27	-	Supplementary note by Mrs K Roberts on Deck Car Park Lighting
Document A28	-	Government Office for the South- East Decision Letter dated 23 September 1997 and extract from Inspector's Report
Document A29	-	Consent Ordering relating to Planning Application, land at Hedge End
Document A30	-	Closing Submissions

Council's Documents

Document C1	-	Proof of Evidence of J Roach Dated April 1999
Document C2	-	Proof of Evidence of J Roach (supplementary) dated May 1999
Document C3	-	Proof of Evidence of S Mathews
Document C4	-	Appendices to Proof of C Morgan
Document C5	-	Appendices to Proof of C Morgan
Document C6	-	Shopping in the Vales of Glamorgan Current Patterns and Preferences
Document C7	-	Committee Rrport, 23 March 1999
Document C8	-	Revision to condition 8 of the conditions suggested in Document C4

Friends of the Earth Documents

Document F1	-	Proof of Evidence of C Brown
Document F2	-	Proof of Evidence of M Wallis
Document F3	-	Planning Guidance (Wales) Planning Policy First Revision (Extract)
Document F4	-	The Vale of Glamorgan Unitary Development Plan Deposit Draft (Extract)
Document F5	-	Technical Advice Note (Wales) 18 Transport (Extract)
Document F6	-	Transport Grant Submission for 1999/2000
Document F7	-	Airport Access Road, Transport Policy Statement
Document F8	-	Chris Blandford Letter relating to Airport Access Road dated 28 October 1998
Document F9	-	Airport Access Road, Summary Sheet
Document F10	-	Airport Access Road, Final Report Air Quality (Extract)
Document F11	-	Local Transport Today 24 September 1998 (Extract)
Document F12	-	The Air Quality Regulations 1997
Document F13	-	Committee Report, 23 March 1999 (Extract)
Document F14	-	Local Transport Today 9 October 1997 (Extract)
Document F15	-	Supplementary Proof of Evidence of M Wallis
Document F16	-	Middleton and Derwent Study
Document F17	-	CCC, No _x Tube Results

Document F18	-	Report on the Review of National Air Quality Strategy; Extract
Document F19	-	Summing up of Evidence

Other Documents

Document OD1	-	Cardiff Bus, letter dated 18 May 1999
Document OD	-	Culver Residents Association, letter dated 28 April 1999
Document OD	-	CCC letter dated 24 May 1999
Document OD	-	Penarth Section, Cardiff Cycling Campaign letter, dated 25 May 1999

PLANS

Plan A	-	Location
Plan B	-	Masterplan
Plan C	-	Ground Floor
Plan D	-	First Floor
Plan E	-	Decked Car Park
Plan F	-	Sales Extension Elevations
Plan G	-	Extension Sections
Plan H	-	Visual Impact Site Cross Sections P09
Plan J	-	Visual Impact Site Cross Section P10
Plan K	-	The Vale of Glamorgan Local Plan, Deposit Draft Proposals Map
Plan L	-	Airport Access Road - Phase 1
Plan M	-	Applications Site and Surroundings
Plan N	-	Drive Time Isochrones and Retail Hierarchy
Plan P	-	Landscape Masterplan