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Dear Sir or Madam

Response to Consultation on the Site Allocations and Management of Development (SAMDev) Planning Document on behalf of Freshwater Property Management

Introduction

I write to make representations to Shropshire Council's Site Allocations and Management of Development (SAMDev) planning document consultation process, on behalf of Freshwater Property Management, who are the owners of 163 Abbey Foregate, Shrewsbury.

Site Context

163 Abbey Foregate is a 1960's/1970's style office block comprising approximately 863 sq m (9,294 sq ft) of vacant office floor space. It is therefore a Class B1(a) use according to the Use Classes Order 1987 (as amended).

Although the site has been marketed for a significant period of time, our client has failed to attract an office occupier. Our client is now exploring potential alternative uses for the building and potential redevelopment options, particularly in light of the recent change to Permitted Development Rights which permit a change of use from office to residential through the prior approval process.

In planning policy terms, 163 Abbey Foregate is not currently allocated within a Protected Employment Area. However, in September 2013, discussions with Shropshire Council (SC) Planning Officers revealed that the site was proposed as a 'protected employment' site in the emerging SAMDev.

Although we recognise that SC no longer wish to include a specific allocation of the site as protected for employment use in the SAMDev, we understand that a general policy is now proposed which seeks to protect *any* sites that are currently in employment use class throughout

the authority area, and require them to satisfy a series of policy tests before they can be released for alternative uses.

The reminder of this letter therefore sets out our representations on the proposed policies of the SAMDev planning document.

The SAMDev Planning Document

We wish to make a number of comments about **Policy MD9** and how we believe it would impact on our client's site, along with similar sites throughout the authority. For clarity, the policy is set out below, and then comments are given in relation to the numbered sections of the policy.

Proposed Policy MD9

Proposed **Policy MD9** is currently drafted as follows:

- 1. Existing employment areas shown on the Policies Map will be protected for Class B and appropriate sui generis employment uses in accordance with the significance of the site using the guidance in Table MD9.1 to:*
 - i. Safeguard key employers, local businesses and employment opportunities;*
 - ii. Provide development opportunities for businesses to start up, growth and inward investment to support the portfolio of employment land and premises in Policy MD4;*
 - iii. Contribute to the range and choice of employment land and premises in Shropshire;*
- 2. Existing employment areas not shown on the Proposals Map may also be protected for Class B and sui generis uses. Protection of sites not currently identified will be proportionate to the significance of the employment area in the hierarchy in Table MD9.1 to be determined by the criteria 1i – 1iii above;*
- 3. Planning consent for Class B or sui generis employment uses will be renewed where the proposals continue to accord with the significance of the employment areas in Table MD9.1;*
- 4. Protection of existing employment areas from alternative uses will be proportionate to the significance of the employment area in the hierarchy of existing employment areas in Table MD9.1 in relation to the:*
 - i. availability of other suitable development sites in the settlement or suitable sites on lower tier employment areas in the settlement or in rural locations;*



- ii. *effect of the redevelopment on the quality, character and critical mass of the existing employment area, and;*
- iii. *impact on the range and choice of employment land and premises in terms of location, quality, type and size;*
- iv. *business case for the proposed use including location, accessibility, commercial environment, trade links to suppliers and access for customers and employees;*
- v. *potential for conflict with neighbouring uses on or adjacent to the proposed use especially the effect on key employers;*

5. Where proposals for alternative uses would lead to the loss of the protected employment area, evidence of appropriate marketing over a sustained period will be required to demonstrate that the land or premises are no longer commercially viable for the preferred uses firstly, for that tier of the hierarchy of employment areas or sequentially for uses of a type and quality suited to lower tiers of the hierarchy in Table MD9.1.'

Analysis of Proposed Policy

We assume that proposed **Policy MD9 (1)** does not apply to our client's building, as the site is not shown as an employment area on the proposed Policies Map. However, as an existing employment area not shown on the proposed Policies Map, the site would still be afforded protection as an employment site under proposed **Policy MD9 (2)**.

We have several concerns with this approach and the current drafting of the policy, as set out below:

- **Ambiguity** - The draft wording of proposed **Policy MD9 (2)** is ambiguous, as it creates uncertainty as to both how the significance of sites in employment use is to be determined and hence the extent to which they will be protected under the policy.
- **Significance as an Employment Site** - Proposed **Policy MD9 (2)** states that '*Protection of sites not currently identified will be proportionate to the significance of the employment area in the hierarchy in Table MD9.1*'. In **Table MD9.1** it is stated that the hierarchy of existing employment areas shown on the Policies Map for Shrewsbury, the Market Towns and Key Centres is presented in the **Annual Monitoring Report (AMR)**. From reviewing the AMR, it appears that the site is not regarded as either (a) a Regional or Sub-regional Site; (b) a Key Shropshire/Local Site; or (c) a Mixed Commercial Site. To reach this conclusion, the site must have presumably failed to satisfy the tests required to be shown as an employment site on the proposed Proposals Map.

Therefore, the site is not covered in **Table MD9.1**. This would imply that the site is considered to be of low significance as an employment site, and implies that it should receive less protection as an employment site. However, proposed **Policy MD9 (2)** does not give any guidance as to what level of protection would be afforded to such sites. Therefore, it is difficult to determine exactly what policy tests would need to be met before the site is released for alternative uses (as discussed in further detail below).

- **Level of Protection Proportionate** - Proposed **Policy MD9 (2)** states that the significance of the employment area in the hierarchy in **Table MD9.1** is '*determined by the criteria Ii – Iiii above*'. It appears that these are the criteria that are used by **Table MD9.1** as a justification for protecting employment areas shown on the Proposals Map. If this is the case, employment areas of a much lower order in the hierarchy (or for sites such as the subject, which are not included in the hierarchy at all) should not then be assessed against the same criteria to determine their degree of protection, as this would already have been undertaken to assess the significance of the site in the hierarchy set out in **Table MD9.1**. Therefore, we would suggest that for sites not included in the table, the policy tests which require the significance (and hence levels of protection that is proportionate) should not be required to be considered further (i.e. such sites should be deemed to be of low significance). It also follows that the level of protection that is proportionate for such sites should be low; however, this is not specifically stated in the draft policy wording.

For sites such as our clients, which do not fall within the hierarchy in terms of their significance as an employment site, we would respectfully suggest that a much lower level of protection as employment sites is appropriate and should be afforded. This should be limited to providing evidence of site marketing only, as required by the final limb of **Policy MD9 (4)**. The requirement to meet the other extensive policy tests set out in proposed **Policy MD9 (4)** will place a significant burden on proposals to bring forward employment sites that are of low significance, for alternative uses.

Conclusion

Our client welcomes SC's decision to no longer allocate sites such 163 Abbey Foregate as protected employment sites, as this should provide them with greater flexibility in the future to bring forward alternative uses if an office occupier cannot be secured.

However, our client is concerned about the clarity and appropriateness of the proposed policy as currently drafted, which seeks to protect employment uses across all sites and buildings in employment use across the authority. In addition, very stringent policy tests appear to apply in **Policy MD9 (4)** even where employment sites are not shown on the Proposals Map and their significance does not warrant a position within the Council's hierarchy of employment sites.



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Hence, the level of protection for such sites should be low and the policy test for permitting alternative uses should be limited to providing evidence of site marketing only.

I trust that these representations are useful to inform the consultation process for the SAMDev planning document, and SC's consideration of future revisions to the current drafting of proposed **Policy MD9** as appropriate.

I would be grateful if you could keep me informed of any relevant updates or policy changes that will directly impact upon our Client's site in due course.

Should you have any queries on the above, please do not hesitate to contact me in the meantime.

Yours sincerely

Nigel Simkin
Associate Director
For and on behalf of Jones Lang LaSalle Limited