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Housing & Regeneration
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My ref: Bluewater/ajc
Your ref: DA/12/01464/OUT
Date: 14 May 2013

Dear Paul

Planning application Reference: DA/12/01464/OUT

The West Village (and Adjacent Land) Bluewater Shopping Centre Greenhithe

Outline application for redevelopment of the West Village through part demolition, alteration and refurbishment of existing buildings/structures and erection of new buildings/structures to provide retail and related uses (within Classes A1—A5), new basement servicing corridor, reconfiguration of the existing car and coach parking areas, reconfiguration of existing lake, open space and public realm, alteration of existing pedestrian links within the site, amended vehicular link into existing transit centre; infrastructure and associated facilities

Thank you for supplying an electronic copy of the independent GVA retail report on the application which is dated May 2013. We have asked our retail consultants to consider this and their work (see attached) has informed our response. We have now also had the opportunity to consider the report to your Development Control Board for its meeting on 16 May 2013. We request that this letter and accompanying report be communicated to Members as a supplementary report.

The conclusion we have reached is that the report is fundamentally flawed in a number of critical areas and that the proposals are contrary to both the Dartford LDF Core Strategy policy CS12 and the policies set out in the National Planning Policy Framework (NPPF).

It is a matter of particular concern that Dartford Council restricted the remit of its retail consultants (GVA) to exclude any consideration of planning policy when an independent review may have assisted in resolving contentious issues.

It is the view of Gravesham and its retail consultants, and a number of other key consultees and objectors (Mayor of London; Medway Council; Bromley LB; Havering LB) that the NPPF sequential test should apply in this case. Kent County Council has also raised it as an issue. It is also noted that Lend Lease/Blueco (on behalf of the owners of Bluewater) were also of the opinion at the time of the examination on the Dartford LDF Core Strategy that the national policy tests should apply to any proposals over the 5,000 sq.m.

As previously stated in our letter dated 15 March 2013 we also consider that the issue of prematurity should be taken into account given that the application pre-empts the proposed early review of retail policy promised at the examination of your Core Strategy, which we assume will be undertaken as part of the preparation of your Development Management Policies DPD.

Civic Centre, Windmill Street, Gravesend, Kent DA12 1AU

On this basis, Gravesham Borough Council wishes to register its continued **objection** to the application.

Given the proposals have the potential to have a serious adverse impact on Gravesend Town Centre¹ and important policy issues of more than local importance are raised, we have also made representations to the National Planning Casework Unit that the application be called-in for determination by the Secretary of State. We reserve our position in relation to taking other forms of action necessary to protect the interests of our area.

Please note that it is not intended here to repeat points made in previous correspondence, although these should still be fully taken into account. We therefore concentrate below on issues that have arisen as a result of the additional material provided and rebutting key elements of the report to the Development Control Board.

1. Whether the proposal accords with policy CS12 of the Dartford LDF Core Strategy.

We have already made the point in previous correspondence that policy CS12 does not fully comply with the NPPF and that this has implications as to whether it should be treated as 'up to date'. It is not intended to repeat those arguments here although it should be noted that Gravesham maintains its position in this respect.

However, the independent GVA report clearly establishes that the scale of the Bluewater proposal far exceeds that required to maintain its market share either to 2018 or 2022 – i.e. it is roughly double the size it would need to be by 2022.

The report therefore concludes that Bluewater will need to divert trade from other centres to support the additional floorspace - particularly higher order regional centres such as Stratford and Central London.

As the clear intent of policy CS12 is only to *maintain* the competitive position of Bluewater and not to significantly enhance it (see Dartford LDF Core Strategy section 3.30 and Table 3), we would argue that the current proposals are contrary to policy.

You will appreciate this also has implications for Dartford's position in relation to referral of the application to the Secretary of State under the Consultation Direction should you be minded to permit it.

2. Whether GVA has underestimated retail capacity available to support the expansion of Bluewater.

The report to the Development Control Board (at 8.94 – 8.98) attempts to make the case that the independent GVA report of May 2013 underestimates the level of retail capacity available to support the new development. It does so by contending that:

- The GVA work is a higher level regional analysis that does not take into account the specifics of the locality – in particular growth around Eastern Quarry and Ebbsfleet where new residents may exhibit a different pattern and scale of spend;
- Previous GVA work undertaken in relation to the Dartford LDF Core Strategy based on local spend only resulted in the guideline figure of an additional 5,000 sqm net by 2016 at Bluewater – so GVA's revised figure is likely to be an underestimate; and
- No regard is given to potential tourist spend at Bluewater that would also boost retail capacity.

We consider the position here to be completely untenable because GVA were engaged to provide independent scrutiny of the applicant's retail assessment and their basic conclusions are now being set aside without robust and transparent reasons for doing so.

¹ For your information, on the 30 April our Regulatory Board resolved that application GR/2012/0931 (Heritage Quarter) be PERMITTED subject to planning conditions, informatives, referral to the Secretary of State and negotiation of the s.106 Agreement.

If Dartford wishes to impose an alternative view, it should be supported by a credible assessment providing an alternative floorspace figure capable of independent scrutiny.

On the points made, it is pure conjecture that new residents in the adjoining area may exhibit different patterns of spend when construction in the Ebbsfleet Valley Strategic Site (policy CS5) area has yet to start.

In any event, the claim is contradicted by the Dartford Retail and Commercial Leisure Study (2010) which states that the impact of higher per capita spend from new residents would be marginal even based on the extreme assumption used solely for the purposes of sensitivity testing – i.e. that new residents would have a level of per capita spend equivalent to the affluent Ward of Bray in Windsor and Maidenhead.

Given the fact that the initial phases of development in Eastern Quarry are likely to be at a lower density than originally intended and will have delivered a relatively small number of units by the first critical date of 2018, any such claim the effect of a significantly enhanced level of spend seems even more dubious.

It is also noted that the previous GVA work was based on a sales density for Bluewater of £5,000 per sq.m, similar to Dartford Town Centre, when we now know that a figure in excess of £8,100 per sq.m would be more appropriate. This means that the guideline figure of 5,000 sq.m by 2016 (which has already been eroded by the 2,221 sq.m permitted under DA/12/00882/FUL) is now questionable and should not be used when the more robust up to date assessment made by the same consultants based on the wider catchment is now available.

It would also be inappropriate at this stage to take into account potential synergies with Ebbsfleet and Swanscombe Peninsula when development has yet to commence in Dartford at the former and no details are available on the latter – inclusive of what levels of comparison retail may be provided in conjunction with them and may divert trade from Bluewater anyway.

Indeed, if the remainder of Eastern Quarry is developed to a lower density than originally planned, the permission potentially allows for more comparison retail development than can be supported by the site and its immediate catchment. Such an eventuality is not mere conjecture given the current state of the housing market and the fact that other sites in the area are also moving toward a higher proportion of houses compared to flats – the Fantaseas site at Cotton Lane being a case in point.

This may mean that a potential outcome is excess provision of A1 comparison retail floorspace at both Bluewater and Eastern Quarry that cannot be supported by local levels of spend and may be prejudicial to the delivery of Ebbsfleet and the Paramount proposals at Swanscombe Peninsula rather than providing opportunities for synergy.

This may also have implications for the delivery of Dartford's own Core Strategy policies in relation to Dartford Town Centre which includes an allocation for more A1 comparison floorspace (i.e. 15,000 – 19,000 sqm by 2026) than is included in the Lowfield Street development – something the independent GVA retail report appears not to have considered but should be under the NPPF as it constitutes planned investment.

All of the above point toward the need for further development at Bluewater to be evaluated within the promised early review of Dartford's retail policy that deals with the 'regional considerations' issue, which is ignored in the report to the Development Control Board and engages with stakeholders under the Duty to Cooperate rather than through this ad hoc planning application.

3. **Whether the proposal is 'in centre' or whether the NPPF Sequential Test should apply.**

Whilst policy CS12 of the adopted Dartford LDF Core Strategy identifies Bluewater as a 'centre', this was in the context of policy KTG5 of the South East Plan – i.e. it was not defined as a town centre rather an out-of-centre regional shopping centre. This view is clearly confirmed by a review of the papers supporting the Core Strategy at independent examination as set out in our previous representations.

It should be noted that one of the reasons why Gravesham has asked the Secretary of State to call-in the application is so a definitive view can be given on ambiguities in the NPPF in relation to the definition of and treatment of centres, town centres and the application of the Sequential Test.

This aside, we believe the argument presented in the report to the Development Control Board as to why the Sequential Test does not apply in this case to be incorrect.

Whilst policy CS12 supports retail development that maintains the competitive position of Bluewater as a specialist regional comparison shopping centre, whether the location of such development is 'in centre' or 'edge of centre' relies to a large extent on the definition of Primary Shopping Areas set out in Annex 2 (Glossary) to the NPPF.

Dartford cannot rely on the indicative diagrams in the Core Strategy to define the extent of the Primary Shopping Area at Bluewater because they are not NPPF compliant (Diagrams 2, 5 and 6 actually differ anyway in how they show Bluewater) whilst reference to the full extent of Western Quarry (as Bluewater was known) shown on the Adopted Local Plan Proposals Map (1995) makes no sense as policy R4 that supports this designation was not 'saved' in 2007.

In addition to the above, it is noted that Dartford Council is currently undertaking a consultation on the proposed scope of its Development Management Plan DPD. It is proposed that this document will identify the full hierarchy of centres in the borough, define their boundaries (except the town centre which was dealt with through the Core Strategy) and the extent of Primary Shopping Areas (together with the primary and secondary frontages) in the larger centres. The need to do this through the emerging Development Management Plan DPD therefore indicates that Bluewater as yet has no defined boundary that is compliant with the NPPF.

Gravesham therefore contends that because much of the development site lies outside the malls (the logical extent of the Primary Shopping Area) it must in large part be edge-of-centre. As the Dartford LDF Core Strategy is silent on the application of the Sequential Test, it must defer to the NPPF and national policy applies. The NPPF directs that such applications failing to apply the Sequential Test should be refused.

It is clearly insufficient to argue that town centres could not provide a sequentially preferable location for such development or that Bluewater's need could not be met by other sites. The independent GVA report clearly shows that the scale of the proposals far exceed that necessary to maintain Bluewater's market share and would involve trade diversion from other centres that may be sequentially preferable.

The argument that requiring Bluewater proposals to undergo sequential testing would put them on a par with other out of centre locations is also false as it benefits from the initial 5,000 sq.m net allocation whereas others do not.

4. **Whether the proposals will have a significant adverse impact on Gravesend Town Centre and planned investment.**

As stated above, we have engaged our consultants WYG to review the conclusions of the independent GVA retail report and the resulting output is attached for your information. Aside from confirming our view that the application should be referred under the Consultation Direction and that the NPPF Sequential Test should be applied because the

proposal is edge-of-centre, they suggest that the GVA work is deficient in a number of respects and that further analysis is required before a robust decision can be made.

In addition, they reiterate that the proposals could have a significant adverse impact on Gravesend Town Centre and planned investment contrary to national policy. In this respect they conclude that GVA has wrongly dismissed the potential overlap of trade between Heritage Quarter and Bluewater – a concern supported by GL Hearn, acting on behalf of the Heritage Quarter developers.

It is not intended to repeat the remainder of the technical points raised by WYG and you are advised to read the content of the attachment in full before coming to your conclusions. However, we would suggest that as a minimum the application should be deferred for further consideration unless you are minded to refuse it having taken these points into account.

5. Whether the rationale in terms of sustainability is defensible.

Part of the applicant's justification for the extension to Bluewater is that, in its absence, local people would have to travel to competing regional centres to buy higher order goods and this would not be sustainable.

However, the independent GVA report concludes Bluewater would, in particular, need to increase its market share from the more distant retail study zones to support such expansion. This suggests therefore that the opposite is true and the proposal is less sustainable as it will rely on drawing people away from competing centres in their own areas to support the excessive scale of the development.

This may also have implications in terms of traffic generation in and around Bluewater because the majority of these additional trips are likely to be car based. It is suggested therefore that the Highways Agency and Kent County Council be asked to look at the conclusions reached by in the independent GVA report to see whether these are consistent with the assumptions made in the transport assessment.

6. Whether the adverse impact of the proposals could be controlled through the use of conditions.

It is not considered that the imposition of conditions would mitigate the potential significant adverse impact on Gravesend Town Centre and planned investment due to the excessive scale of the Bluewater proposals.

In particular, it is noted that there are no proposals to limit the quantum of floorspace that could be used for A1 comparison retail below the maximum set out in the application.

It is also noted that the applicant agrees that it would not be possible to limit the range or type of comparison goods sold to mitigate adverse impacts on Gravesend Town Centre to maintain market differentiation.

Yours sincerely

Kevin Burbidge
Director Housing & Regeneration

Attached: Proposed Extension to Bluewater Shopping Centre: Retail Critique – WYG May 2013

Proposed Extension to Bluewater Shopping Centre

Retail Critique – May 2013

1.0 Introduction

- 1.1 WYG Planning and Environment has been instructed by Gravesham Borough Council (GBC) to assess the range of retail reports prepared in connection with proposals submitted by Blueco Ltd to extend Bluewater Shopping Centre.
- 1.2 WYG previously produced advice on this matter to the Council in January 2013. That advice, supplemented with correspondence from the Council themselves, was forwarded on to Dartford Borough Council (DBC) of their consideration at that time. As a result of objections to the proposals received from GBC, and a range of other nearby authorities, DBC chose to appoint an independent auditor to assess both the Retail Impact Assessment prepared by Quod on behalf of the applicants and the range of objections received. This process culminated in the production of an independent review by GVA in May 2013.
- 1.3 Subsequent to preparation of an independent assessment, DBC has prepared its committee report and the application is due to be presented to Development Control Board on Thursday 16th May with a recommendation of a resolution to grant planning permission. Dartford Council is not referring the matter to the secretary of state under the Town and Country Planning (Consultation) (England) Direction 2009 ("The Shopping Directive").
- 1.4 GBC has now asked that WYG consider the veracity of both the independent audit prepared by GVA, and the committee report prepared by Dartford Council (particularly in light of the Council's decision not to refer the matter to the Secretary of State). It is not the purpose of this report to repeat the ground already covered in our January 2013 report. Therefore, it should not be inferred that the omission of any points raised in our previous report means that they have satisfactorily been addressed in the meanwhile.

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2.0 The Heritage Quarter, Gravesham

- 2.1 GBC resolved to grant planning permission for the redevelopment of the Heritage Quarter in Gravesend at committee on 30th April 2013, subject to the signing of a S106 Agreement. The resolution was to grant full planning permission for the Eastern Quarter of the site to provide 141 no. residential units, Class A3 restaurant space and a 50 no. bedroom hotel, and outline planning permission for the Western Quarter which includes up to 12,196 sq. m of Class A1 retail floorspace.
- 2.2 We understand that Edinburgh House, the developer, currently intend to start with the Eastern Quarter in early 2014, for completion in 2015. Details for the Western Quarter, including most of the retail floorspace, will be submitted in early 2014, with construction being in 2016/17.
- 2.3 It should be noted that Edinburgh House submitted a formal objection to DBC on 30th April through their agents GL Hearn. The objection has a number of grounds, including the lack of a sequential assessment and the impact of the development on Gravesend, which is acknowledged by all parties to be struggling, with vacancy rates approaching 20%. Edinburgh House confirm that by approving significant floorspace in excess of the planned growth at Bluewater would send entirely the wrong signals to the market and reduce the prospects for securing new retailers in Gravesend needed to bring the Heritage Quarter development forward.
- 2.4 We note that this letter of objection is not referenced in the initial DBC report to Development Control Board. We assume that it will be referred to in a supplementary report to committee members.

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3.0 Dartford Council – Report to Development Control Board (16th May 2013)

Referral under the Shopping Directive

- 3.1 Under the Shopping Directive, an application must be referred to the Secretary of State if the determining authority is minded not to refuse it and the proposal involves development, *inter alia*, which:
- a) Is to be carried out on land which is edge-of-centre, out-of-centre or out-of-town; and
 - b) Is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and
 - c) Consists of or includes the provision of a building or buildings where the floorspace to be created by the development is 5,000 square metres or more.
- 3.2 At 30,500 square metres, there is no dispute that the application proposals constitute more than 5,000 square metres of retail, leisure and office use and so criterion c) is triggered.
- 3.3 However, DBC contend that Bluewater is within a centre, and that the proposals accord with the adopted Dartford Core Strategy. Therefore, Paragraph 5.5 of the committee report concludes that the relevant triggers are not met and that there is no need to refer the case to the Secretary of State prior to planning permission being granted.
- 3.4 In our view, DBC is plainly incorrect in reaching its conclusion. Whilst Bluewater may be identified within the adopted Dartford Core Strategy as a centre, nowhere is it referenced as a Town Centre as would be required to avoid the need for referral under the Shopping Directive. In contrast, Dartford Town Centre, is clearly labelled as such throughout the Plan. Policy CS12 simply lists Bluewater as one of “*a network of complementary shopping centres*”. Moreover, Paragraph 1.54 of the Core Strategy specifically labels Bluewater as an ‘out-of-town-centre’.
- 3.5 Even if the Core Strategy was deemed to be in any way ambiguous, the Shopping Directive provides further evidence that Bluewater clearly does not constitute a town centre. In defining “edge-of-centre” the Directive explains that this “*means, for retail purposes, a location that is well connected to and within easy walking distance (i.e. up to 300 metres) of the primary shopping area and, for all other main town centre uses, is likely to be within 300 metres of a town centre boundary*”. Related to this, the Core Strategy does not define either a Primary Shopping Area or Town Centre

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Boundary for Bluewater. In contrast, both are defined on the proposals map for Dartford Town Centre.

- 3.6 Therefore, in its Core Strategy, DBC neither defines Bluewater as being anything other than a centre within the network of centres (in an out of town centre location), and nor does it attribute it any of the hall-marks of a town centre on its Proposals Map.
- 3.7 In light of all the above, the Bluewater proposals should be classified as being out-of-town centre, and therefore trigger criterion a) of the Shopping Directive tests.
- 3.8 Turning to criterion b), the application proposals also do not accord with the up-to-date development plan. No conclusive evidence has been produced to demonstrate that the proposals will have no significant adverse impact on existing shopping centres, and the applicant has failed to undertake a sequential test. We examined both of these points in detail in our January 2013 report, and cover both issues again below. In addition, the scale of the proposals would appear to be in excess of that necessary for Bluewater to maintain its position relative to other regional centres which is clearly the intention of policy CS12 as set out at paragraph 3.30 and Table 3 of the adopted Dartford Core Strategy. In terms of scale and impact on other centres, it is arguable therefore that the proposals do not accord with one or more provisions of the development plan in force in the area.
- 3.9 Accordingly, DBC should rightly refer the application to the Secretary of State for consideration of call-in prior to any approval given. A failure to do so would, in our view, represent substantive grounds for Judicial Review of any planning permission granted.

The Sequential Test

- 3.10 GVA was not commissioned to undertake a review of the sequential test. Therefore, this issue is addressed in the committee report where DBC correctly identify Paragraph 24 of the NPPF as setting out the circumstances where a sequential test should be applied. This paragraph states that "*Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date plan*". In light of the guidance, DBC then go on to contend that:
- a) Bluewater is a designated shopping centre, and therefore a sequential assessment to consider the availability and suitability of sites elsewhere is not necessary; and

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- b) That the proposals accord with Policies CS4 and CS12 of the Core Strategy and that the proposals are therefore in accord with the up-to-date plan.
- 3.11 Considering firstly the allocation of the centre, even if we were to entertain the idea that Bluewater was rightfully a town centre (and we agree with Dartford that it is not), then the application proposals are to extend the existing complex into the car park. Linked to this, in the absence of any identified Primary Shopping Area, and in keeping with PPS4 Practice Guidance, it must be correct to assume that the extent of the existing retail and leisure area of the shopping centre constitutes the Primary Shopping Area.
- 3.12 Therefore, even assuming that Bluewater was a town centre, then the extension would clearly still constitute an edge or out-of-centre proposal requiring the submission of a sequential assessment. The continuing failure to provide such an assessment renders the planning application contrary to the development plan, and as previously noted, liable to Judicial Review.
- 3.13 At Paragraph 8.18 of the Committee Report, DBC attempt to define a boundary for Bluewater. The report states that Bluewater *"has an easily identifiable physical boundary being within a quarry, with the entire shopping centre and car parks that surround it being within the applicant's control"*. The report then points to the original designation of the site for a shopping centre on the 1995 Proposals Map.
- 3.14 For the avoidance of doubt, PPS4 defined Primary Shopping Areas as follows (a definition carried forward in the extant PPS4 Practice Guidance); *"Defined area where retail development is concentrated (generally comprising the primary and those secondary frontages which are contiguous and closely related to the primary shopping frontage). The extent of the primary shopping area should be defined on the proposals map. Smaller centres may not have areas of predominantly leisure, business and other main town centre uses adjacent to the primary shopping area, therefore the town centre may not extend beyond the primary shopping area"*.
- 3.15 DBC is clearly therefore misguided in their attempt to define a boundary for the shopping complex. The boundary shown on the Proposals Map is a broad development boundary for Policy R4 (Retail Development Site). It has absolutely no standing in relation to defining town centres or Primary Shopping Areas in terms of the sequential test and as the policy was not 'saved' in 2007 cannot be a material consideration now as it no longer forms part of the development plan. The fact that the site is under a single ownership also has no relevance to the matter in hand. Moreover, in common with the definition of Primary Shopping Areas across the country, even if the physical extent of the buildings were to be defined as town centre, then it certainly does not follow that the extensive car parking would be included as Primary Shopping Areas. The relevance of course being that the

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proposed extension is almost entirely to be situated within the existing car park and landscaping area.

- 3.16 In summary, the centre is neither a designated town centre, and even if it was, the proposed extension would clearly fall outside the extent of any reasonably defined Primary Shopping Area. On any basis, the application proposals must therefore necessitate the provision of a sequential assessment.

The GVA Report

- 3.17 We examine in detail below the standing advice from the Council's appointed independent retail advisors, GVA. Notwithstanding some of our misgivings about their advice as we explain below, they nonetheless make the following key observations (May 2013):
- It is not within their terms of reference to comment or advise on the policy status of Bluewater, or the extent to which the proposals are compliant with the development plan and other aspects of retail policy e.g. the sequential approach (Paragraph 1.2).
 - The applicant's assessment of current shopping patterns and trade draw assumptions "*raises significant methodological issues*" (Paragraph 2.38).
 - The applicant applies a "*highly unusual approach*" to assessing capacity, setting aside the results of the Household Survey which "*provide a more robust and consistent basis for determining the level of expenditure generated within the survey area*". They go on to say, "*a more fundamental concern is that this assessment assumes that 100% of the available expenditure is retained within the survey area and ignores the inevitable in and out-flows of expenditure*" (Paragraphs 3.3 and 3.5).
 - Almost £29m of potential turnover of the Bluewater extension is unaccounted for. Accordingly, "*the failure to properly account for such a significant proportion of turnover is a significant weakness, and the impacts on defined centres (particularly 'higher order' centres) may be understated*" (Paragraphs 3.18 and 3.19).
 - When considering the cumulative impact of retail commitments, GVA "*consider the applicant's cumulative impact assessment is flawed in a number of respects. In particular, we consider it potentially underestimates the impact of Lakeside and other planned commitments and new developments likely to come forward over the timescales assessed by Quod*" (Paragraph 4.6).

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- Ultimately, GVA conclude that *“our review highlights a number of concerns and inadequacies in the applicant’s analysis. However, it also highlights the inherent difficulties in attempting to assess the cumulative impact of such a wide range of developments, particularly over a the ten year timescale preferred by Quod. Taking a more realistic five year timescale, we still consider the wider market uncertainties, and ongoing retail trends are likely to have a more pronounced impact on the fortunes of centres like Gravesend than the specific proposals at Bluewater... We consider the Council will need to judge the significance of the levels of impact predicted against its interpretation of the policy status of Bluewater...”* (Paragraph’s 4.10 and 4.11).

3.18 In summation of the above, it is absolutely clear that GVA has several significant concerns with the Quod analysis. Their conclusion on the critical matter of retail impact is very much left hanging and there is no “green” or even “amber” light for the proposals. Ordinarily, we would expect the Council to have sought further advice from GVA, prior to taking the application to committee. If such work has been carried out, it is not in the public domain and must post-date the committee report. Moreover, we have seen today a “Response to Independent Review” produced by Quod (the document is not dated). Clearly Quod are, at least to some extent in agreement with us that the GVA conclusions are far from conclusive, as they have been moved to produce further evidence at the very last minute.

3.19 Based on these matters, we do not believe that DBC (as the determining authority) could come to a well informed, robust or positive decision based on the current submitted evidence to date and would suggest that further advice ought to have been sought from GVA prior to taking the application to committee.

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4.0 GVA – Independent Review of the Retail Impact Implications of the proposed extension to Bluewater (May 2013)

4.1 Notwithstanding our in principle concerns with DBC's presentation of the application in terms of the Shopping Directive and the sequential test, we also have some fundamental concerns with the independent audit provided by GVA. These can be summarised as follows:

- GVA are too quick to accept Bluewater's estimates of existing turnover and floorspace. They identify significant disparities between the data provided by Bluewater and the household survey (in terms of turnover) and Goad surveys (in terms of existing floorspace). The differences are not marginal, they are significant i.e. £850m versus £1,024m, and 104,983 sq m net versus 85,791 sq m net. The resultant impact upon sales densities is in turn also significant (e.g. the sales density using the Bluewater figures is £8,100/sq m, whilst the sales density using household survey and Goad figures would be £11,956/sq m). As this forms the basis for assessing the likely turnover of the extension, the matter is of critical importance. Like GVA, we also have no reason to assume that the Bluewater figures are provided in anything other than good faith, but given the importance of these figures, we would expect GVA to have sought evidence of a measured floorspace survey and details of the means of assessing the turnover of Bluewater (if the household survey is being set aside). It is evident that neither of these key details has been provided, or requested.
- Linked to this point, GVA are also too accepting of Quod's setting aside of both their Household Survey and Exit Surveys. There is a clear element of the applicant picking and choosing when to use data, and when not to. GVA themselves highlight the 'unusual approach' Quod take into assessing the turnover of existing centres. We would agree with this view. Additionally, we would question the setting aside of the exit survey data from Bluewater when considering inflow (see 2.39 to 2.41 of the GVA report). The survey derived finding is that 22% of trade to Bluewater comes from beyond the survey area. Quod though use a wholly different figure of 5%. GVA accept this at face value. Our question is why? On what are Bluewater basing their assessment of inflow, if not from an exit survey presumably specifically designed to establish this very figure. The result of using a 5% inflow, as opposed to a survey derived figure of 22%, is to add to the uncertainty surrounding the actual impact of the proposals (noting that GVA already identify significant flaws to Quod's assessment).

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- Looking at Table 3.1 of the GVA report, it is apparent that Quod has assumed that the proposed extension will draw a lower amount of trade from Zone 2 (the Gravesend zone) than the existing shopping centre. This makes no sense. Elsewhere, both Quod and GVA argue that Gravesend Town Centre is a lower order centre than Bluewater, and that the extension will appeal to shoppers seeking 'higher end goods'. Given the lack of crossover with Gravesend identified by both parties, why would at least the same proportion of Gravesend shoppers not be attracted to an extended Bluewater? One reason for doing so might be an anticipation that the proposed Heritage Quarter proposals would also account for a significant element of 'higher end' shopping, and would therefore help preserve market share. However, as we discuss below, this is not the case made by either Quod or GVA. Both dismiss the Heritage Quarter proposals as 'serving different retailers and a different market'. The applicants cannot have it both ways. Either they have significantly underestimated trade draw from Zone 2 to the Bluewater extension, or they have mistakenly assumed that the Heritage Quarter would not compete for retailers with Bluewater. This is a significant flaw in the work to date.
- Paragraph 3.30 of the GVA Independent review considers the overlap between the Bluewater proposals and the Gravesend Heritage Quarter project. GVA conclude that in practice they are likely to target different retailers, and serve different market sectors. However, as previously set out in the February WYG Report, the proposal for the retail element of the development is for large retail footprints that could be broken up depending on tenant requirements. As such, as with the extension to Bluewater, the Heritage Quarter development seeks to meet the market demand for larger retail units. The Heritage Quarter and Bluewater are therefore likely to be in direct competition for retailers. Additionally, as we highlighted in our previous report, there is also likely to be an element of retailers switching from elderly units in Bluewater, to the newer ones. Those units which are then left vacant are likely to attract lower rents and may be more attractive to mid-ranging retailers, the likes of whom might otherwise locate to Gravesend, either as part of the existing centre, or within the Heritage Quarter proposals.
- This concern about this potential overlap to meet market demand has been highlighted in the objection letter submitted by GL Hearn on behalf of Edinburgh House Estates Limited (EHEL), the developers for the Heritage Quarter. GL Hearn confirm that while EHEL are in the process of securing tenants for the Heritage Quarter Development, it is considered that approving the additional floorspace at Bluewater would send the wrong signals to the market and reduces the prospect for securing new retailers in Gravesend.

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- Paragraph 3.42 considers the cumulative impact on Gravesend Town Centre, which GVA consider to be 4.7% at 2018. GVA note that this is likely to have been underestimated, so in practice could be even higher. As such, GVA confirm that there is likely to be an impact approaching 5% on Gravesend Town Centre. GVA then erroneously seem to dismiss this level of impact by saying that the likely impact will mainly be on 'higher order' centres. This misses the point. The factual position is that GVA are estimating that a minimum impact of 5% will be felt by Gravesend Town Centre, having already accounted for trade diversions taking account of the 'higher order' nature of centres. As set out above, this level of impact might not be considered significantly adverse on a healthy and viable centre. However, Gravesend is a struggling centre with high levels of vacancy (see our report of January 2013). Moreover, EHEL has confirmed that the extension to Bluewater will undermine the viability and therefore the deliverability of the Heritage Quarter development, which is seen as essential for reversing the decline in the vitality and viability of Gravesend Town Centre. There is therefore a very real prospect that this level of impact will seriously undermine the prospect of retailers occupying the Heritage Quarter proposals, and in turn represent significant adverse impact on Gravesend Town Centre as a whole.

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5.0 Overall Conclusions

- 5.1 In light of the foregoing, it is clear that DBC has misinterpreted both the Shopping Directive and application of the sequential test. In doing so, by erring in law, it seems to us that the application would be liable to Judicial Review.
- 5.2 Notwithstanding these issues, Dartford Council's independent auditors have identified significant flaws with the applicant's retail assessment. There is no confirmation that these flaws have been addressed by the auditors. The Council can therefore have no certainty that a well informed or robust decision has been reached. In the context of this application being of more than local importance, affecting as it does shopping patterns across a very large area, we are therefore surprised that it is being reported to committee at this time.
- 5.3 Moreover, we have ourselves identified a number of significant areas of concern with the GVA audit. Key amongst these issues are the fact that a number of important data sources have not been interrogated in sufficient detail, and also that GVA has wrongly dismissed the potential overlap of trade between the Heritage Quarter and Bluewater. This concern is supported by GL Hearn who act on behalf of the Heritage Quarter developers.