

## LOCAL MEMBER SUPPORT

COMMITTEE DATE: 09/11/2016

APPLICATION No. **16/02119/MNR** APPLICATION DATE: 05/09/2016

ED: **ADAMSDOWN**

APP: TYPE: Variation of conditions

APPLICANT: Blue Coast Cardiff LLP & TJX Europe  
LOCATION: UNIT 5, CITY LINK, NEWPORT ROAD, ADAMSDOWN,  
CARDIFF, CF24 1PQ

PROPOSAL: VARIATION OF CONDITION 6 (SIZE OF RETAIL UNIT  
FLOORSPACE AND SCOPE OF GOODS TO BE SOLD) OF  
16/00929/MNR

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**RECOMMENDATION** : That, subject to relevant parties entering into a binding planning obligation, in agreement with the Council, under **SECTION 106** of the Town and Country Planning Act 1990, within 6 months of the date of this resolution unless otherwise agreed by the Council in writing, in respect of matters detailed in paragraphs 8.25 and 8.26 of this report, planning permission be **GRANTED** subject to the following conditions:

1. C01 Statutory Time Limit
2. The retail floorspace of Unit 3A shall only be occupied by a Limited Assortment Discounter and shall not exceed 1,595sq. m. gross, either by internal or external alteration and shall only be used for the sale of convenience goods, except 319sq. m. of the gross sales area may be used for the sale of comparison goods and for no other purpose including those set out in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking, amending or re-enacting that Order with or without notification. (For the avoidance of doubt convenience goods shall be taken to mean: Food, drink, tobacco, household cleaning products, newspapers and magazines).  
Reason: The implications of other uses or changes to the format of sales have not been tested in relation to this application and would need to be examined fully in line with each of the criteria and tests of the retail strategy of the development plan and/or national guidance.
3. The retail floorspace of Unit 3C shall not exceed 1,042sq m gross, either by internal or external alteration and shall only be used for the sale of convenience goods, except that up to 77sq m of gross sales area may be used for the sale of comparison goods and for no other purpose including those set out in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision

equivalent to that Class in any statutory instrument revoking, amending or re-enacting that Order with or without modification. (For the avoidance of doubt convenience goods shall be taken to mean: Food, drink, tobacco, household cleaning products, newspapers and magazines).

Reason: The implications of other uses or changes to the format of sales have not been tested in relation to this application and would need to be examined fully in line with each of the criteria and tests of the retail strategy of the development plan and/or national guidance.

4. The retail floorspace of Unit 3B shall only be used for the sale of home improvement and DIY goods, plumbing and hardware goods, timber and building products, paint and wallpaper, garden supplies, furniture, carpets and other floor coverings, soft furnishings, homewares, electrical goods, computers, office equipment and supplies, pets and pet products and motor accessories, and for no other purpose including those set out in Class A1 of the schedule for the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order with or without modification'.

Reason: The implications of other uses or changes to the format of sales have not been tested in relation to this application and would need to be examined fully in line with each of the criteria and tests of the retail strategy of the development plan and/or national guidance

5. The retail floorspace of Unit 4 shall not exceed 929 sq m either by internal or external alterations and shall only be used for the sales of home improvement and DIY goods, plumbing and hardware goods, timber and building products, paint and wallpaper, garden supplies, furniture, carpets and other floor coverings, soft furnishings, homewares, electrical goods, computers, office equipment and supplies, pets and pet products and motor accessories, and no more than 20% shall be used for the sales of convenience goods; no more than 13% for the sales of health and beauty products; no more than 11% for the sale of household goods (including cleaning products); no more than 2% for the sale of clothing and no more than 37% for the sale of the following products:- entertainment, baby, seasonal/celebration, stationary, cards and toys and for no other purpose including those set out in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to the Class in any statutory instrument revoking, amending or re-enacting that Order with or without modification .

Reason: To ensure that changes to the type, format and scale of development do not compromise the retail strategy of the development plan and/or national planning guidance.

6. The retail floorspace of Unit 5 shall not exceed 2,275sq m gross either by internal or external alterations and shall only be used for the sale of home improvement and DIY goods, plumbing and hardware goods, timber and building products, paint and wallpaper, garden supplies,

furniture, carpets and other floor coverings, soft furnishings, homewares, electrical goods, computers, office equipment and supplies, pets and pet products and motor accessories, and no more than:

- 1,204sq m to be used for the sale of clothing, footwear and accessories;
- 328sq m to be used for the sale of the following products:- luggage and travel items, toys, sports equipment; seasonal goods, health and beauty goods;
- 114sq m to be used for the sale of ancillary convenience goods; and for no other purposes, unless expressly provided for and/or on a basis which is incidental and/or ancillary to the main goods sold, including those set out in Class A1 of the schedule for the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order with or without modification and the provision of an ancillary A3 café/restaurant/coffee shop within the unit.

Reason: In order to ensure changes to the format and scale of the development would not compromise the retail strategy of the development plan and/or government planning guidance by introducing the sale of too large a proportion of goods that ought to be sold in designated centres.

7. The retail floorspace of Unit 6A shall not exceed 1,122 sq m gross either by internal or external alterations and shall only be used for the sale of home improvement and DIY goods, plumbing and hardware goods, timber and building products, paint and wallpaper, garden supplies, furniture, carpets and other floor coverings, soft furnishings, household textiles, homewares, electrical/ battery related goods, computers, office equipment and supplies, pets and pet products and motor accessories, except that 561sqm may be used for the sale of convenience goods; 337sqm may be used for the sale of clothing, footwear and related accessories, 224sq m may be used for the sale of luggage, toys and games, health and beauty products, toiletries, books, stationary and craft related items, entertainment media, seasonal products and party related items and for no other purpose including those set out in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking, amending or re-enacting that Order with or without modification.

Reason: To ensure that changes to the type, format and scale of development do not compromise the retail strategy of the development plan and/or national planning guidance.

8. The retail floorspace of Unit 6B , shall be used for the purpose specified in the application (as a coffee shop) and for no other purpose falling within Class A3 of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order),The unit shall only be able to revert to class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision

equivalent to that Class in any statutory instrument revoking, amending or re-enacting that Order with or without notification to only sell the range of goods permitted under Condition 4.

Reason: To prevent other retail uses or changes to the format of retail sales which would need to be fully considered separately by the Local Planning Authority in terms of development plan policies and/or government planning guidance.

9. There shall be no further sub-division of units 3A, 3B, 3C, 4, 5 and 6A which would result in the creation of any unit with a gross floor area of less than 900 square metres.

Reason: The implications of other uses and changes to the format of sales have not been tested in relation to the application and would need to be examined fully, in relation to the policies of the development plan and/or government planning guidance.

10. The existing car parking, manoeuvring areas and loading and unloading areas shall be maintained and retained at all times for those purposes in association with the development.

Reason: To make provision for the parking of vehicles clear of the roads so as not to prejudice the safety, convenience and free flow of traffic.

## 1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 This planning application (S.73 T&CPA) seeks to vary Condition 6 of Planning permission 16/00929/MNR to allow TX Max to occupy the vacant Unit of the City Link Retail Park.
- 1.2 The application is presented to the Planning Committee as the amount of S106 monies exceeds the Council's officer scheme of Delegation.
- 1.3 The applicant has served Certificate B (Town and Country Planning Act) on the adjoining land owners.

## 2. **DESCRIPTION OF SITE**

- 2.1 The application site forms part of a retail park with a variety of national retailers. The unit itself measures 2,345 sq m (gross) of A1 retail floor space of which 1,038sqm is currently provided at mezzanine level. Following the recent non-material amendment consent (16/01651/MNR) the floor space of the unit has been marginally reduced to 2,275Sq m
- 2.2 Access to the site is via Newport road with a secondary access to the rear of the site onto Rover way. To the rear of the site is the main London bound Railway line.
- 2.3 The site has under gone regeneration in recent years, in terms of the external appearance and occupancy.

### 3. **SITE HISTORY**

- 3.1 14/02934/MNR - Refurbishment unit 3A - approved
- 3.2 14/02935/MNR – Vary condition 1 of 99/02144/R – to allow Aldi to trade from unit 3A – approved
- 3.3 15/00647/MNR- Vary condition 2 of 99/02144/R allow sub-division of unit 6- approved
- 3.4 15/00650/MNR – Allow Costa Coffee into unit 6B – approved
- 3.5 15/01784/MNR- Alterations – approved
- 3.6 15/01791/MNR- Variation of condition 1 of planning application 14/02935/MNR- allow Iceland into unit 3C – approved
- 3.7 15/02644/MNR – Alterations to unit 4 – approved
- 3.8 15/02642/MNR – Vary condition 4 of 15/01791/MNR to allow Pound Land – approved
- 3.9 16/00929/MNR – Vary condition 4 of 15/01791/MNR to allow a wider range of goods from unit 6A – approved
- 3.10 16/00930/MNR – external alteration to unit 6A- approved

### 4. **POLICY FRAMEWORK**

- 4.1 *Planning Policy Wales Edition 8 (2016):*
- 4.2 Technical Advice Note (TAN):  
4(Retailing and Town Centres),  
23 (Economic Development)
- 4.3 The Cardiff Local Development Plan 2006-2026 provides the Local Planning Policy framework. Relevant policies include:  
  
KP5: Good Quality and Sustainable Design  
R6: Retail Development (out of centre)
- 4.4 Supplementary Planning Guidance: Access, Circulation and Parking (January, 2010)  
Supplementary Planning Guidance: Waste and Collection and Storage Facilities (2007)

*The SPGs were approved as supplementary guidance to the City of Cardiff Local Plan (1996). Although the City of Cardiff Local Plan (1996) has recently been superseded by the Cardiff Local Development Plan (2016), the advice*

*contained within the SPGs is pertinent to the assessment of the proposal and remains consistent with the aims of both LDP Policies and guidance in Planning Policy Wales and are afforded significant weight.*

## **5. INTERNAL CONSULTEE RESPONSES**

- 5.1 The Operational Manager, Transportation: No objection in principal as there are no changes to parking.

## **6. EXTERNAL CONSULTEE RESPONSES**

- 6.1 Nil

## **7. REPRESENTATIONS**

- 7.1 Local members have been notified of the application. Councillor Nigel Howells supports this application.

- 7.2 The application was advertised by a Site Notice: No representations have been received.

## **8. ANALYSIS**

- 8.1 Key issues: Land use (retail hierarchy), transportation, conditions and legal agreement

### **Land Use**

- 8.2. The application site is in an out-of-centre location in terms of retail policy. Planning Policy Wales Edition 8 (January 2016) is clear that planning applications for retail developments, including redevelopment and extensions in out-of-centre locations should be assessed against the following tests:-

- (i) Compatibility with a Community or up-to-date Development Plan Strategy;
- (ii) Consideration of need;
- (iii) The sequential approach to site selection; and
- (iv) The impact on existing centres.

- 8.3 Policy R6 of the Adopted Local Development Plan provides the Development Plan Policy framework.

Local Development Plan Policy R6 only allows for retail development outside the Central Shopping Area, District and Local Centres identified on the Proposals Map if the proposal would meet the following criteria:-

- (i) There is a need for the proposed floorspace (with precedence accorded to establishing quantitative need);
- (ii) That need cannot satisfactorily be accommodated within or adjacent to the Central Shopping Area, within a District or Local Centre;
- (iii) The proposal would not cause unacceptable harm to the vitality, attractiveness or viability of the Central Shopping Area, a District or

- Local Centre or a proposal or strategy including the Community Strategy, for the protection or enhancement of these centres;
- (iv) The site is accessible by a choice of means of transport; and
  - (v) The proposal is not on land allocated for other uses. This especially applies to land designated for employment and housing, where retail development can be shown to limit the range and quality of sites for such use.

8.4 The agent has submitted a Planning and Retail Statement that provides an assessment of the proposed development in respect of retail planning policy in relation to the need for the proposal, the sequential approach to site selection and the potential retail impact on the vitality and viability of nearby district/local centres. A summary and assessment of the main retail issues are outlined below.

### **Retail Need**

#### Quantitative Need

- 8.5 Convenience goods – As minimal convenience goods floorspace is proposed (115sqm) and given the nature of the convenience goods to be sold (chocolate/confectionary) and its ancillary function (5% of the gross floorspace), it is considered not necessary to undertake a convenience goods needs assessment. The turnover of the convenience goods floorspace will be very limited (£0.2m) and it is considered immaterial when compared to the nearby significant food stores of Sainsbury's and Morrison's.
- 8.6 Comparison goods – Under the existing permitted situation, having regard to the published sales densities of the permitted range of retailers, the existing floorspace of Unit 5 could generate a total potential comparison goods turnover of £15.8m should PC World/Curry's trade from the unit. Should Wickes occupy the floorspace the comparison goods turnover could be significantly less at £2.5m. In light of the significant difference in comparison good turnover of the fallback position, an average comparison goods turnover figure of all the permitted retailers is assessed to be £9.6m.
- 8.7 The potential comparison goods turnover of the proposed TK Maxx store at 2021 is £5.6m. As such the proposal will result in a decrease in comparison goods turnover of £4.0m when compared to the existing permitted situation. As the comparison goods turnover of the proposal is significantly lower than the existing turnover it is considered in this instance, that there is no requirement to undertake a comparison goods quantitative need assessment.
- 8.8 In addition as a result of the redevelopment and refurbishment works at City Link Retail Park over the last few years, including the re-occupation of existing comparison goods retail warehouse units by convenience goods retailers, and the giving up of the new comparison goods retail warehouse planning consent, the level of comparison goods floorspace at the retail park has significantly decreased resulting in a subsequent reduction in comparison goods retail turnover.

### Qualitative Need

- 8.9 Similar to the current retail warehouse store located at Culverhouse Cross, which serves residents in the western part of Cardiff, this store will offer the same facilities in the eastern part of the city.
- 8.10 In addition Unit 5 has been vacant for over 2 years and its re-occupation by TK Maxx will ensure a prominent retail warehouse is brought back into use and help to ensure the long term sustainability of the site.
- 8.11 The re-occupation of the unit by TK Maxx will also result in the creation of 40 additional jobs at the retail park.

### Sequential Test

- 8.12 The agents have undertaken a sequential search for alternative sites and premises within the primary catchment area of the application site and provided a detailed assessment/analysis of potential sequential alternative sites and units within or on the edge of the following centres; Albany Road/Wellfield Road District Centre, City Road District Centre, Clifton Street District Centre, Splott Road Local Centre and Rumney Local Centre.
- 8.13 TK Maxx's operational requirements for a warehouse format store include a gross floor area of between 1,800-2,500 sq m gross. Notwithstanding these identified business model requirements the agents have undertaken a detailed review of the centres to assess whether there are any sites/units capable of accommodating the proposed development. This detailed review of the centres capable of accommodating the proposal found no sequentially preferable sites or units in those centres. The retail statement concludes that the proposed development is consistent with the sequential approach to site selection.

### Impact

- 8.14 The impact analysis established the existing expenditure pattern within the Primary Catchment Area and projects this pattern of comparison goods expenditure forward to 2021 assuming that each location maintains its current market share of expenditure; assesses the pattern of trade draw to the proposed store at 2021 and calculates the percentage change in retail turnover in each store/centre between 2016 and 2021.
- 8.15 If Unit 5 is occupied by TK Maxx, it is assessed that 25% of trade would be drawn from the city centre (including TK Maxx's existing high street format store). Having regard to the number and type of existing comparison goods retailers in the centres it is anticipated the proposed TK Maxx store would draw 4% of its trade from each of Albany Road/Wellfield Road and City Road district centres. A high proportion of trade (42%) is assessed to be drawn from existing out-of-centre retail warehousing in Cardiff, most notably Matalan on Newport Road, Laura Ashley and Homesense at Lifestyle Park, Ty Glas, Llanishen and Next and Outfit at Capital Retail Park, Leckwith. A further 20% is assessed to



be drawn from retail facilities outside Cardiff, including TK Maxx retail warehouse format store at Culverhouse Cross. In terms of Clifton Street District Centre, Splott Road Local Centre and Rumney Local Centre having regard to the lack of retail trading overlap between these centres and the proposed store, these centres are not anticipated to experience any material impact.

#### Retail Policy Conclusions

- 8.16 It is considered that the Retail Planning Statement has, on balance, adequately demonstrated that the proposal satisfies the standard retail tests of need, sequential test and impact (in isolation), and therefore a refusal of planning permission on this basis alone cannot be justified.
- 8.17 However, the Council operates a policy of maintaining a balance between the city centre and designated district and local centres and out of centre retailing and seeks to control the amount, size and nature of out of centre retailing in order to sustain and enhance the vitality, viability and attractiveness of the city centre, district and local centres. This control has been achieved through the imposition of conditions to control the scale and nature of out-of-centre retailing by restricting the amount of floorspace of retail units, preventing sub-division of retail units and restricting the type of goods that can be sold out-of-centre to those that are bulky in nature and whilst the retail statement provides evidence that the comparison goods turnover at City Link Retail Park will be less with the occupation of TK Maxx compared to the fallback position, the concern is that the nature of the retail park has changed over time from bulky comparison goods retailing to non- bulky comparison goods retailing.
- 8.18 The present proposal would lead to the further intensification of the sale of 'town centre' (i.e. non bulky comparison goods) goods being sold from an out-of-centre retail park, thereby further increasing the attractiveness of the retail park as a one-stop retail destination; the cumulative impact of which, could lead to a greater impact on centres than the retail statement suggests.
- 8.19 In conclusion, retail policy concerns remain in relation to the proposal, as the application proposes further non-bulky high street goods floorspace in an out-of-centre location. However, it must be acknowledged that in terms of assessing the proposal in relation to Government Policy as set out in Planning Policy Wales (Edition 8) January 2016, the retail tests of need and the sequential test against which the development proposals must be assessed make it difficult in this instance to justify a refusal of permission for this application. Although the impact of this individual proposal on designated centres is not shown to be significantly adverse in isolation, the cumulative impact of the proposal in addition to more recent changes of conditions at the retail park make the impact potentially more significant and as such it is apparent for the need to set out mitigation measures. Without mitigation, the wider, improved retail offer proposed by this application and the full occupation of all units at the retail park which have benefitted from recent permissions to sell a wider range of goods, has the potential to have an increased adverse impact on centres. This impact will be more acutely experienced by those

centres that are already experiencing economic, social and/or environmental challenges.

- 8.20 It is therefore, considered that appropriate mitigation measure can help address the broader retail policy concerns in relation to cumulative impact, in this instance.
- 8.21 The proposal will also create 40 jobs and the reoccupation of the last remaining vacant unit will complete the regeneration of the retail park which is a material consideration in the determination of the application.
- 8.22 The provision of an ancillary Class A3 café/coffee shop/restaurant is also allowed within the unit.

### **Transportation**

- 8.23 The Council Transportation Officer has been consulted, and raises no objections. It is also noted that the retail park is well established and has in recent years been under occupied; therefore, it is considered that the anticipated demand of the proposed store will be able to be accommodated within the existing infrastructure.

### **Conditions**

- 8.24 The type of application before the Planning Committee (S.73 T&CPA), is seeking to vary a condition of an existing permission and having regard to case law, where the variation of such condition(s) create a new chapter in the life of the planning permission, the council should impose those conditions from the previous permission(s) which the council believe are required. The council has undertaken this duty to ensure that the unit and retail park in general is bound by the relevant original conditions.

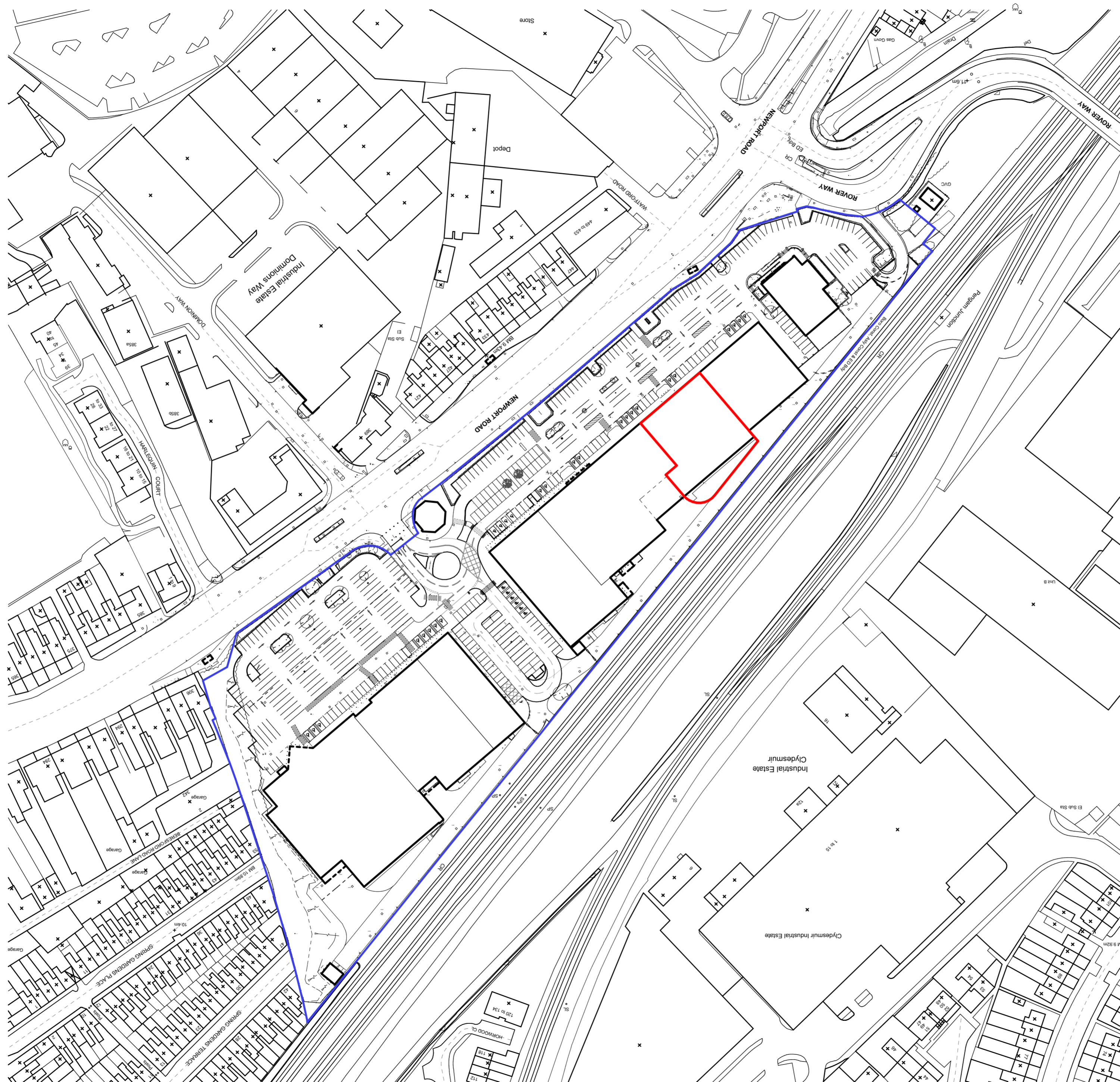
### **S106 Requirement**

- 8.25 If the application is to be approved, to mitigate against the potential cumulative adverse impact of the development the matters below should therefore be sought:
- A financial contribution of £70,000 toward the City Road District Centre Regeneration Scheme (approved April 2012);
  - A commitment by TK Maxx to continue trading from a city centre store and equivalent floorspace to the existing shop for not less than 5 years from the opening date of the store at City Link.
- 8.26 Members will note that the granting of this permission would trigger a payment of £70,000 towards City Road District Centre Regeneration Scheme and other legal requirements as outlined above. In formulating the above officers have had regard to National Guidance as set within Welsh Office circular 13/97 'Planning Obligations' (policy tests), Community Infrastructure Levy regulations 2010 ( legal test) and Planning Policy Wales, paragraph 5.290 of the Cardiff Local Development Plan and consider the contribution and retaining a city

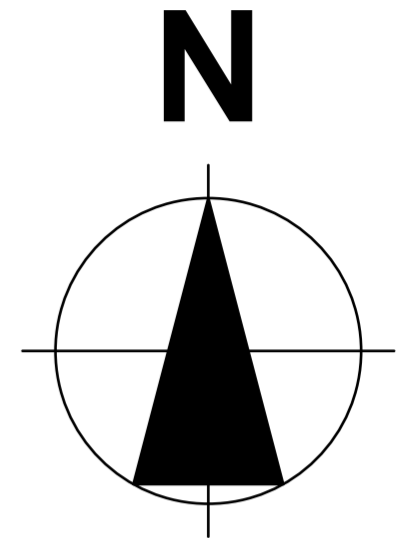
centre store meet both policy and legal tests.

### **Conclusion**

- 8.27 Having regard to the policy context above, the proposal is considered acceptable and planning permission is recommended subject to conditions.



- Notes**
- 1) This drawing MUST NOT BE SCALED.
  - 2) All dimensions to be CHECKED ON SITE and any DISCREPANCY reported to the Architects.
  - 3) The site boundary shown is the best assumed from available data and does NOT represent legal ownership.



- Revisions.**
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|--------------------------------------|---|
| <input type="checkbox"/> APPROVAL    | <input type="checkbox"/> INFORMATION      |
| <input type="checkbox"/> PRELIMINARY | <input type="checkbox"/> FOR CONSTRUCTION |

**Project**  
 CITY LINK RETAIL PARK,  
 NEWPORT ROAD, CARDIFF

**Client**  
 BLUE COAST CARDIFF LLP

**Drawing Title**  
 SITE LOCATION PLAN (Units 5)

<b>Drawing By</b> DMW	<b>Checked By</b>
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<b>Date</b> MAY 2015	<b>Scale</b> 1:1250 @ A2
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<b>Drawing Number</b> 6409 / 300	<b>Revision</b>
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