

To:	1. Rosemary Thomas 2. Minister for Environment and Sustainable Development	cc	PS First Minister Des Clifford (via PS First Minister) PS Minister for Environment and Sustainable Development PS Minister for Finance and Leader of the House PS Counsel General PS Minister for Business, Enterprise, Technology and Science PS Deputy Minister for Agriculture, Food, Fisheries and European Programmes Jo Kiernan Anna McMorris PS Special Advisers	PS Permanent Secretary Jeff Godfrey Peter Greening Andrew Jeffreys Marion Stapleton Clive Bates Gareth Jones Sarah Dawson Teresa Davies Neil Hemmington Marilyn Lewis Nina Ley Sustainable Futures Operations Unit Lynsey May FP Mailbox CGU Mailbox Freedom of Information Officer Mailbox Policy Integration Team mailbox FM Delivery Unit mailbox
From:	Teresa Davies Head of Decisions Branch Ext 3878 Fax 5622			
Date:	10 July 2012		This submission advises on a planning decision. All copies of it are for information only and not for comment	

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED): SECTION 77
CALL IN REQUEST**

**TOWN AND COUNTRY PLANNING ACT 1990 – (SHOPPING DEVELOPMENT)
(ENGLAND AND WALES) (No 2) DIRECTION 1993.**

1. PROPOSED ERECTION OF CLASS A1 RETAIL FOODSTORE, SERVICE YARD, CUSTOMER CAR PARK, NEW ACCESS ROAD, PETROL FILLING STATION AND ASSOCIATED DEVELOPMENT, LAND WEST OF BEECHWOOD INDUSTRIAL ESTATE, LLANDEILO, CARMARTHENSHIRE.

PLANNING APPLICATION E/25041

2. PROPOSED DEVELOPMENT OF CLASS A1 RETAIL FOODSTORE; CLASS C3 RESIDENTIAL DEVELOPMENT; CLASS D1 MEDICAL CARE FACILITY; CLASS

C2 RESIDENTIAL HOME; CLASS A3 WORKINGMAN'S CLUB; NEW DRAINAGE, SERVICES, TRANSPORT AND HIGHWAYS INFRASTRUCTURE, INCLUDING ACCESS TO POTENTIAL SCHOOL "DROP OFF"/VEHICULAR ACCESS, ASSOCIATED ENGINEERING OPERATIONS, STRATEGIC LANDSCAPE AND ENVIRONMENTAL RESOURCE AREAS AND PUBLIC OPEN SPACE INCLUDING IMPROVED PLAYING FIELDS, LAND AT CROSSHANDS WEST, CROSS HANDS, CARMARTHENSHIRE

PLANNING APPLICATION S/23696

Issue

1. Whether to call in the above planning applications for permission for retail developments in Llandeilo and Cross Hands. A number of requests have been received asking that the applications be called in for determination by the Welsh Ministers. The majority of requests relate to the application at Llandeilo (E25041) and includes requests from Jonathan Edwards MP and Rhodri Glyn Thomas AM.

Timing

2. As soon as possible. Article 14 "Stopper" Directions were issued in respect of both applications on 4 May 2012 to provide the Welsh Ministers with further time in which to consider call-in. The Directions prevent Carmarthenshire County Council only from granting planning permission; it does not prevent it from continuing to process or consult on the applications. Neither does it prevent it from refusing planning permission.

Recommendation

3. That you agree:
- (i) to call in the planning applications for determination by the Welsh Ministers; and
 - (ii) the Statement of Information attached at doc.1 and that it is made available within 3 working days of the issue of the letters notifying the applicants and Carmarthenshire County Council of the decision to call in the planning applications.

Background

4. The Statement of Information at doc.1 contains the facts and analyses relating to the submission that may be published in accordance with the Welsh Government's Code of Practice. This statement should be read in conjunction with the following information, which is considered exempt from publication under the "Code of Practice on Access to Information".

5. The applications are for full planning permission for:

A. Proposed erection of class A1 retail foodstore, service yard, customer car park, new access road, petrol filling station and associated development, land west of Beechwood Industrial Estate, Llandeilo, Carmarthenshire.

(Planning Application E/25041)

B. Proposed development of class A1 retail foodstore; class C3 residential development; class D1 medical care facility; class C2 residential home; class A3 workingman's club; new drainage, services, transport and highways infrastructure, including access to potential school "drop off"/vehicular access, associated engineering operations, strategic landscape and environmental resource areas and public open space including improved playing fields, land at Crosshands West, Cross Hands, Carmarthenshire

(Planning Application S/23696)

6. Site maps, plans and photographs of the sites are provided at Appendix 1.
7. In addition to the call in requests Carmarthenshire County Council being minded to approve the planning applications has consulted the Welsh Government under the provisions of the 1993 Shopping Direction
8. As part of our consideration of whether the planning applications should be called in, we sought advice from the following consultees:

PLANNING APPLICATION E/25041 (Llandeilo)

- a. the Welsh Government's Planning Policy Branch (PPB), responsible for national planning policy on retail issues;
- b. the Welsh Government's Planning Policy Branch (PPB), responsible for national planning policy on flood risk issues;
- c. Cadw, responsible for the historic landscape issues, and
- d. the Welsh Government's Network Management Branch, responsible for trunk road transport issues.

PLANNING APPLICATION S/23696 (Cross Hands)

- a. the Welsh Government's Planning Policy Branch (PPB), responsible for national planning policy on retail issues;
- b. the Welsh Government's Planning Policy Branch (PPB), responsible for national planning policy on flood risk issues;
- c. Cadw, responsible for listed building issues in respect of Cross Hands Public Hall;
- d. the Welsh Government's Network Management Branch, responsible for trunk road issues, and
- e. the Welsh Government's Planning Policy Branch (PPB), responsible for national planning policy on landfill issues;

A copy of each set of advice is provided in full at Appendix 2.

9. In accordance with the Town and Country Planning (Shopping Development) (England and Wales) (No.2) Direction 1993, both applications were referred to the Welsh Government by Carmarthenshire County Council (CCC) because, when other eligible proposals in the area are taken in to account, the combined floorspace exceeds 20,000 sqm. CCC in its officer reports for the two applications identified 5 developments already permitted and 3 live applications, which it considers eligible proposals in this respect. The other remaining live proposal, apart from the two proposals the subject of this submission, an application for 4,413 sq m gross shopping floor space at Ammanford, has recently been refused planning permission by CCC. The store at Cross Hands is significantly larger with a convenience turnover twice that of the Llandeilo and Ammanford stores. The two stores (Llandeilo and Cross Hands) will be located within 10 miles of each other. A separate report to committee has been prepared by CCC for each of the proposals.

10. CCC is the joint land and property owner in respect of the proposal for the store at Cross Hands (S/23696). This is not, however, an issue we have taken into account in our consideration of the call-in request.

11. Cadw does not support call-in of either proposal as it does not consider the proposals raise issues of more than local importance as regards the effect on either historic landscapes (E/25041) or listed buildings (S/23696). Similarly Welsh Government (WG) policy advisors with responsibility for trunk road transport, flood and landfill issues did not support the call-in of either application.

12. The WG planning policy advisors with responsibility for retail policy have concluded that, when considered individually, the applications appear to be broadly in keeping with CCC's UDP policies. They also accept CCC's planning officers' conclusions that separately the proposals comply with the sequential test and are acceptable in terms of qualitative and quantitative need. However, they raise issues concerning the cumulative impact of the 2 proposals when considered together and, in this respect, consider the applications may raise issues of more than local importance. Consequently WG planning policy advisors recommend call-in of both applications.

Advice

13. You must consider whether to call in the planning applications for the retail developments at Llandeilo and Cross Hands in the context of whether or not they raise issues that would more appropriately and effectively be considered and determined by the Welsh Ministers rather than the local planning authority, in this case Carmarthenshire County Council.

14. It is insufficient merely that concerns have been expressed about the merits of granting planning permission. The decision you need to make concerns who should be the decision maker and not whether permission should be granted. The latter must not be considered. Nevertheless, it is clearly necessary to identify the nature and scope of the issues apparently raised by the applications in order to determine who the decision maker should be.

15. Welsh Government policy is to interfere with the responsibilities of local planning authorities only where it is necessary to do so and where a planning application involves planning issues of more than local importance. Such cases may involve those which conflict with national policy on important matters, give rise to substantial

controversy beyond the immediate area or have effects beyond their immediate locality.

16. In view of the advice from consultees we consider the main issue raised by this development in respect of call-in to be the cumulative impact of the proposals.

National Policy

17. National policy provisions relevant to these proposals are set out in Chapter 10 of Planning Policy Wales. Particularly relevant are paragraph 10.3.7, which states that out of centre food supermarkets should not be allowed if their provision is likely to lead to the loss of general food retailing in the centre of smaller towns and 10.3.6, which provides that, for major new retail proposals, local planning authorities should consider not only the incremental effects of that proposal but also the likely cumulative effects of recently completed developments, together with outstanding planning permissions and development plan commitments, in the catchment areas of those centres. Technical Advice Note 4 Retailing and Town Centres reinforces the requirement that all applications for retail developments over 2,500 square metres gross floor space should be supported by an impact assessment providing evidence of their likely economic and other impacts on other retail locations, including town centres, local centres and villages, including consideration of the cumulative effects of recently completed developments and outstanding planning permissions.

Officer Reports

18. In 2011 Carmarthenshire County Council (CCC) commissioned Nathaniel Lichfield & Partners (NLP) to provide an independent review of the planning application at Llandeilo (E/25041) and accompanying Retail Impact Assessment (RIA) as prepared by White, Young & Green (WYG), 2011. Savills were commissioned to provide a retail impact assessment (2010) of the Cross Hands proposal. Savills have based their assessment on a Retail Assessment prepared in 2008 in support of the replacement Tesco store at Ammanford. CCC commissioned a County wide retail study by Nathaniel Lichfield and Partners (NLP) (2009) in support of their LDP preparation and the retail impact assessment critique of the Sainsbury's application at Llandeilo (2011), which also makes reference to the proposal at Cross Hands. These reports are highly technical in nature and their assumptions and conclusions are set out in the advice provided by planning policy branch at Appendix 2.

19. The Officer's report for the Llandeilo proposal states NLP has assessed the cumulative implications on expenditure capacity in the area of two or three stores being developed and concluded that there is insufficient convenience goods expenditure capacity to support more than one food store. It identifies a potential deficit of £36.15m in the amount of expenditure available in the area for convenience goods if the two proposed stores operate at an average turnover density of main foodstore operators. This potentially means there will be reduction in the spending capacity available to existing shops. The report confirms that the two and three store scenarios suggest there will be a very high cumulative impact on existing convenience shopping facilities both within and outside town centres. NLP conclude that the approval for this application and the one at Cross Hands merited careful consideration. The CCC case officer reports that, in terms of Llandeilo, the scheme is acceptable in impact, a position which is assisted by the confirmation that both the

Llandeilo and the Cross Hands store will be operated by a single operator, Sainsbury's Ltd. This statement is explored in more detail in the Cross Hands committee report.

20. The Officer's report for the Cross Hands store in its assessment of the retail need states that, on balance, the need for the store has not been fully demonstrated. However, Sainsbury's, which will be the operator for both stores, has undertaken to trade both stores at 80% of Sainsbury's national average turnover density. CCC reports that this would have the effect of reducing the deficit in the available expenditure capacity in the area to £5.89m if both stores were operating. The officer report states that the NLP critique identifies retail capacity within the Ammanford catchment area which is overlapping with the Cross Hands and Llandeilo catchments and that adverse cumulative impact would be diluted and dispersed if the retail application at Ammanford were refused. The Ammanford superstore has since been refused. CCC concludes that, on the basis of a viability assessment provided by the store operator it is considered that there is sufficient commercial case to make the two stores viable.

Assessment

21. The NLP report identifies a potential deficit of £36.15m in the amount of expenditure available in the area for convenience goods if the two proposed stores operate at an average turnover density of main food store operators. Based on those figures the NLP report concludes that two stores cannot be supported. NLP also concludes that two stores would have a very high cumulative impact on existing convenience shopping facilities both within and outside town centres, although it is not specific as to which ones. The officer report for Cross Hands states that, if the stores use Sainsbury's own average turnover density figures and were to operate at 80% of this, the deficit in available expenditure capacity for convenience goods would be £5.89m. It concludes that, on the basis of the viability assessment by the operator, "there is sufficient commercial case within the County to make both stores viable". It is not clear from the officer's report whether and to what extent the estimated reduction in capacity deficit would affect NLP's conclusions concerning the significant impact on existing outlets and centres in the area. Although the reduced shortfall figure of £5.89m represents a substantial reduction to that identified by NLP, it is nevertheless a shortfall in available expenditure capacity, which potentially conflicts with national retail policy in this respect.

22. It has been accepted by CCC that Sainsbury's will trade at 80% of Sainsbury's average turnover density, however it is not clear from either officer report whether, or how, that assumption could be assured by CCC, either with Sainsbury's as the operator or any subsequent operator. Given that CCC has to a large extent predicated the acceptability of these two proposals operating together on the basis of a reduced turnover we consider this to be a significant omission in the assessment of the proposals. In these respects therefore we have concerns that the cumulative impacts of the two stores have not been fully explored. We consider that this raises issues relating to compliance with planning policies set out in PPW 10 relating to retail impact.

Conclusions

23. In the light of the assessment given above we consider the issue that is relevant to the call-in of this application is that associated with the cumulative impact of the two

stores on existing outlets and centres. We have concluded that the proposal appears to be in conflict with national and local policies relating to retail impact, and raises issues of more than local importance. In our view the issues raised warrant taking the application out of the hands of Carmarthenshire County Council to be considered by an independent Inspector before being determined by the Welsh Ministers. We recommend accordingly.

Legal Advice

24. This submission contains no issues that raise the need for legal advice and advice from Legal Services has not been sought.

Powers

25. The power to call in planning applications which would ordinarily be determined by the Local Planning Authority is contained in section 77 of the Town and Country Planning Act 1990. The powers of the Secretary of State under section 77 were transferred to the National Assembly for Wales and have subsequently been transferred to the Welsh Ministers pursuant to Schedule 11 of the Government of Wales Act 2006.

26. The power is a general one and does not contain any criteria which must be met before it is exercised, and may therefore be exercised in any circumstance where there is a reasonable justification. However, the Assembly Government's published policy on the use of call-in creates a legitimate expectation as to how the power will be used in practice, and must therefore be adhered to unless there is good reason to the contrary.

27. Consideration of whether to use call-in powers is not a consideration of the planning merits of the application. It is appropriate here to consider at a provisional level the planning issues it appears to raise, but whether these are ultimately such as to justify the grant or refusal of permission is a matter for later determination.

Statistics

28. None.

Financial Requirements and Governance Implications

29. There will be no additional financial implications now but any work emanating from this is covered by future indicative DRC or programme budgets.

30. The Head of Division responsible for this area of work is satisfied with the financial implications and compliance paragraphs of this submission. Sustainable Futures Operations Unit are content with the previous agreement that casework submissions are not cleared through formal channels, on the basis that any financial pressures which are not manageable within the Division's budget are raised directly with the Head of the Operations Unit.

Press and Publicity Arrangements

31. It is unusual for the Welsh Government to issue a Press Notice in respect of decisions about whether or not to call in a planning application and we do not propose to issue a Press Notice in this case.

Statutory Consideration (Policy compliance)

32. This is not a policy submission

Specialist Policy Advice

33. This is referred to in paragraphs 11 and 12 above.