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Dear Emma,

Sequential Test Assessment

**Proposed Change of Use from Office (B1) to Events Venue (Unique Use) and associated works
Boss Park, Stephenson Street, Newport, E:332264, N:186341
Planning Portal ref. PP-14665433**

Asbri Planning is appointed as planning agent to Starburst (UK) Ltd to prepare this Sequential Test Assessment to accompany a planning application for the proposed change of use from Office (B1) to Events Venue (Unique Use) and associated works at Boss Park, Newport. The below Sequential Test Assessment is produced on the basis of a desktop review undertaken on 22 July 2026.

Purpose and Application of the Sequential Test Assessment

The objective of the Sequential Test Assessment is to locate appropriate uses within central locations. Notwithstanding, the purpose is not simply to justify refusing planning permission for developers seeking to develop sites in non-central locations. Alternative sites within these central areas must be suitable, viable and available for the proposed development to be considered sequentially preferable.

Legal Precedent

The seminal and established Supreme Court case law example of Tesco Stores Limited v Dundee City Council provides clear guidance to LPAs in respect of the application of the sequential test. It is important to highlight at this point that whilst the Dundee case was a Scottish case, the Supreme Court's decision applies in Wales. This has been confirmed in the recent Secretary of State decision in Rushden Lakes.

The decision is helpful in understanding the realism with which Local Authorities should consider Sequential Test Assessments. It is also useful in discussing the application of planning policy by LPAs.

The court held that interpretation of policy was a matter of law, not a matter of judgment, professional or otherwise. Previously the position was that, in effect, provided that the interpretation put on a policy by the decision-maker was not unreasonable, the court would not second guess that approach.

In paragraph 38, Lord Hope provided important guidance as to the interpretation and indeed application of the sequential test:

"Here too the context indicates that the issue of suitability is directed to the developer's proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer's assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism to which Lord Reed refers in para 28, above, they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest doing so."

The Tesco v Dundee decision has been reinforced by the Zurich Assurance Limited v North Lincolnshire Council (20 December 2012). The focus of the Appeal was the requirement for LPAs to assess the sequential test within the boundaries of commercial realities. To that end, the decision states:

"It is also important to mark that developers, and planning authorities, work in the real world. Marks & Spencer had assessed the only available town centre alternative to the site, and had concluded that a development that was smaller than that proposed, or one with a more restricted range of goods, was neither commercially viable nor suitable for their requirements."

The Scunthorpe judgement is also helpful in respect of viability. Indeed, para 60 of the decision states:

"In my judgment, it is simply incorrect to say that there was no evidence before the officer and committee that (i) the T J Hughes unit was too small to create an economically viable Marks & Spencer food and non food store, or (ii) it was not economically viable to split the operation into two parts, one of which might be housed in the T J Hughes unit. The evidence was that Marks & Spencer had considered the T J Hughes unit, and in their opinion they could not use that unit (or, indeed, any unit in Scunthorpe town centre) for an economically viable operation. For that reason, they had no interest in any available site other than the Site, as the representative at the hearing made clear. That was evidence that the committee could properly take into account. It is unrealistic to expect a commercial operator to reveal its precise commercially sensitive and valuable calculations as to why it considers possible alternatives to the development proposal not to be commercially viable; and it is unnecessary for them to do so to enable a planning authority to come to a view on viability."

As aforementioned, a further notable decision in this context comprises a Secretary of State decision to uphold and Inspector's recommendation to allow the erection of a mixed-use scheme at Rushden Lakes (ref. APP/G2815/V/12/2190175). Paragraph 2.64 is key in respect of the level of flexibility which must be shown as part of the Sequential Test Assessment:

"...in terms of the size of the alternative site, provided that the Applicant has demonstrated flexibility with regards to format and scale, the question is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site."

Finally, paragraph 8.55 of the Rushden decision also provides guidance on when a site can be considered to be available:

"In terms of availability, NPPF [24] simply asks whether town centre or edge of centre sites are "available". It does not ask whether such sites are likely to become available during the remainder of the plan period or over a period of some years. NBC has previously adopted the same interpretation of "available" as LXB do. Mr Lewin accepted that in the Committee report (24 July 2012) in relation to an application to redevelop the Royal Mail site at Barrack Road for a 5,000+ sq m Tesco superstore, the Council rejected Legal & General's objection that availability should have been looked at over a longer time frame. The site was not currently available and that was what was required by the sequential test."

Accordingly, any Sequential Test Assessment must be undertaken on a flexible basis, both on the side of the LPA and the developer and mindful of relevant case law examples. In addition, clarity on what enables a site to be considered available is also provided.

Planning Policy Wales

National planning policy is contained within the 12th edition of Planning Policy Wales (PPW), published by the Welsh Government in February 2024. It constitutes guidance for Local Planning Authorities (LPAs) and decision

makers and sets out the Government's planning policies for Wales and how these are expected to be applied. Paragraph 4.3.2 of PPW states that:

"Retail and commercial centres should be identified in development plans and include established city, town, district, local, village and neighbourhood centres, which provide a range of shopping, commercial and leisure opportunities as well as places of employment, education, civic identity and social interaction. Opportunities to live in these centres, combined with their good public transport links, make them the most sustainable places."

Needs tests only apply to retail uses and do not apply to other uses which are complementary to town and city centres, examples of which are set out in paragraph 4.3.21.

In respect of the Sequential Test, paragraphs 4.3.18 states:

"If a suitable site or building is not available within a retail and commercial centre or centres, then consideration should be given to edge of centre sites and if no such sites are suitable or available, only then should out-of-centre sites in locations that are accessible by a choice of travel modes, including active travel and public transport, be considered. Developers should demonstrate that all potential retail and commercial centre options, and then edge-of-centre options, have been thoroughly assessed using the sequential approach before out-of-centre sites are considered. The onus of proof that central sites have been thoroughly assessed rests with the developer."

Paragraphs 4.3.21-4.3.23 offer a degree of flexibility in terms of the hierarchical approach to development, should this be required for specific needs and uses.

Newport Local Development Plan 2011-26

Newport Local Development Plan 2011-26 (LDP) was adopted in January 2015 and comprises part of the prevailing development plan for the area. Policy SP19 (Assessment of Retail Need) states as follows:

"Retail and associated uses best located in a city centre will be subject to an assessment of need if not within a defined centre, and application of the sequential test if not within the city centre."

Development will be located according to the following hierarchy of retail centres:

1. *Newport City Centre*
2. *District Centres (as referenced under policy R9)*
3. *Local Centres*
4. *Out of Centre Retail Sites"*

Search Area Parameters

In order that the test is properly applied, it is therefore necessary to consider the form of development for which planning permission is sought. Due to the nature of the proposed development, which inherently has contextual, operational and practical requirements, this point is particularly pertinent.

The former office building at Boss Park has a net internal area of 2,300m². In view of this, a search area threshold of +/- 25% was utilised, in order to demonstrate a level of flexibility whilst also suiting the tenant's operational requirements. In this case, the threshold for suitable alternative sites is therefore between 1,725m² and 2,875m². It is clear that in setting the level of flexibility at 25%, the applicant is willing to show a level in excess of that compared to a traditional approach to the Sequential Test Assessment.

The existing office building at Boss Park has a striking modern appearance and scenic views towards Newport over the River Usk and of the iconic Newport Transporter Bridge. Given the nature of the proposed events space

(particularly in its role as a wedding venue), comparative features are also considered where relevant at alternative sites.

Sequential Test Assessment

The following centres, as identified by Newport Local Development Plan 2011-26 (January 2015), are assessed as part of this Sequential Test Assessment:

- City Centre
- Corporation Road District Centre
- Commercial Road District Centre
- Newport Retail Park District Centre
- Maindee District Centre
- Beechwood District Centre

City Centre

Whilst there are a number of vacant and actively marketed units within the City Centre, these units are targeted at accommodating retail/restaurant/café uses. The following units have been identified as being actively marketed:

Unit	Comments
Commercial Property Upper Dock Street, NP20 ¹	Internal configuration is not suitable due to lack of open floorspace. Unsuitable due to presence of residential accommodation on upper floors. This unit is therefore discounted.
Kings Court, 195 Upper Dock Street, NP20 1DA ²	Internal configuration is not suitable due to lack of open floorspace. Building is structurally unsuitable due to its scale and massing. This unit is therefore discounted.
Kings Chambers, 8 High Street ³	205m ² floorspace, which is below the lower threshold. Internal configuration is not suitable due to lack of open floorspace. Building is structurally unsuitable due to its scale and massing. This unit is therefore discounted.
20 Cambrian Road, NP20 4AB ⁴	72m ² floorspace, which is significantly below the lower threshold. Internal configuration is not suitable due to lack of open floorspace. Headroom is insufficient for proposed use. This unit is therefore discounted.
11 Griffin Street, NP20 1GL ⁵	70m ² floorspace, which is significantly below the lower threshold. Unsuitable due to presence of residential accommodation on upper floors. This unit is therefore discounted.
174 Commercial Street, NP20 1JN ⁶	178m ² floorspace, which is significantly below the lower threshold. Unsuitable due to presence of residential accommodation on upper floors. This unit is therefore discounted.
16 Commercial Street, NP20 1HE ⁷	214m ² floorspace, which is below the lower threshold and so this unit is therefore discounted.

¹ https://www.rightmove.co.uk/properties/153340397#/?channel=COM_LET

² https://www.rightmove.co.uk/properties/754575586593601#/?channel=COM_LET

³ https://www.rightmove.co.uk/properties/171608138#/?channel=COM_LET

⁴ https://www.rightmove.co.uk/properties/149353799#/?channel=COM_LET

⁵ https://www.rightmove.co.uk/properties/745710168039264#/?channel=COM_LET

⁶ https://www.rightmove.co.uk/properties/755868642112497#/?channel=COM_LET

⁷ https://www.rightmove.co.uk/properties/754387669041168#/?channel=COM_LET

Unit 23a Kingsway Centre, John Frost Square ⁸	Whilst the floorspace is not specified, this unit is advertised as a small takeaway kiosk/café. It is therefore considered to be unsuitable for the proposed use and as such, this unit is discounted.
Landmark Commercial Building, Commercial Street, NP20 1LR ⁹	The internal configuration of this building is unsuitable for the proposed use as there are a number of partition walls and vertical support structures which break up the open floor space. The building appears to require significant repair and it is adjacent to a number of seemingly derelict buildings, which makes it unviable and unsuitable for the proposed use. This unit is therefore discounted.

As such, these units are generally too small to accommodate the proposed development, even when allowing for a reasonable degree of flexibility. Importantly, these units do not have suitable internal configurations, comparable external views or amenity space which are necessary for the proposed use. It is therefore considered that there are no sequentially preferable alternative units within the City Centre in respect of the proposed use.

Corporation Road District Centre

Whilst there appear to be a number of vacant units within Corporation Road District Centre, none appear to be actively marketed following an online review. It is therefore considered that there are no available units within this District Centre. Notwithstanding, the nature of the vacant units within the District Centre is not suitable in regard to the specialist requirements of the proposed development. The area is characterised by small retail units, which clearly do not meet the operational requirements of the events venue, and contain residential accommodation or ancillary floorspace on upper floors. The vacant units are therefore wholly inappropriate for the proposed uses and so, it is considered that there are no sequentially preferable units within this District Centre.

Commercial Road District Centre

Whilst there are a number of vacant units within Commercial Road District Centre, no units were found to be actively marketed online. It is therefore considered that there are no available units within this District Centre. Notwithstanding, the nature of the vacant units within the District Centre is not suitable in regard to the requirements of the proposed development. The area is characterised by small retail units, which clearly do not meet the operational requirements of the events venue and contain residential accommodation or ancillary floorspace on upper floors. Any available units are therefore considered to be wholly inappropriate for the proposed use.

Whilst being located outside of the District Centre itself, a nearby unit at 118 Commercial Road¹⁰ was found to be listed online. This unit comprises a ground floor retail unit with approximately 50m² of floorspace, with residential accommodation on upper floors. However, this unit has let agreed, and so, it is not considered to be available. In addition, it is not suitable given that it falls beneath the lower floorspace threshold, it does not meet the operational requirement in terms of headroom and it is inappropriate given the above residential accommodation above.

As such, it is evident that there are no available units within this District Centre. The nearby unit at 118 Commercial Road can be discounted from the assessment on basis of its inadequate size, as well as lack of availability and location outside of the District Centre. In view of the above, it is considered that there are no available, suitable or viable alternative units in this District Centre.

⁸ https://www.rightmove.co.uk/properties/166692602#/?channel=COM_LET

⁹ https://www.rightmove.co.uk/properties/166692602#/?channel=COM_LET

¹⁰ <https://www.rdwales.com/commercial-properties-to-let/property/10251101-commercial-road-newport>

Newport Retail Park District Centre

Units 11c and unit 8 at Newport Retail Park are currently vacant. Unit 11c¹¹ is being actively marketed and it is therefore considered to be available. However, this unit has a floorspace of approximately 99m² and as such, it falls significantly below the lower threshold. Unit 8¹² has a floorspace of approximately 673m² and is also below the lower threshold in terms of floorspace. Furthermore, the letting agent has confirmed that the unit is under offer at present and is therefore not considered to be available. Finally, it is not considered that a retail park would be a suitable venue for the proposed use in terms of character and appearance.

In view of the above, it is considered that there are no available, suitable or viable alternative units in this District Centre.

Maindee District Centre

Whilst there appear to be a number of vacant units, no online listings were found and as such, it is considered that there are no actively marketed units within this District Centre. Furthermore, it is again emphasised that the vacant properties within this District Centre are characterised by small ground floor retail/restaurant/takeaway floorspace with residential/ancillary floorspace on upper levels. The lack of floor space, views and amenity space makes these units not adequate for the proposed purpose as an events venue.

In view of the above, it is considered that there are no available, suitable or viable alternative units in this District Centre.

Beechwood District Centre

It does not appear that there are any vacant and actively marketed units within this District Centre. Therefore, there are no available units within this District Centre. Notwithstanding this, there are no suitable units within this District Centre, as the units comprise ground floor retail/commercial premises with residential/ancillary accommodation on upper floors. The units are relatively small in terms of floor size.

In view of the above, it is considered that there are no available, suitable or viable alternative units in this District Centre.

Conclusion

This Sequential Test Assessment has been prepared on behalf of Starburst (UK) Lt to accompany a planning application for the proposed change of use from Office (B1) to Events Venue (Unique Use) and associated works at Boss Park, Newport.

Policy SP19 details that development proposals for retail and associated uses best located in a city centre should be located according to the retail centre hierarchy.

This Sequential Test Assessment has demonstrated that there are no available, suitable or viable alternative units within the City Centre and identified District Centres. On this basis, it is concluded that there are no sequentially preferable sites within the defined search area and that the sequential test can therefore be satisfied.

It is therefore considered that the former office building at Boss Park is demonstrably the most appropriate location for accommodating the proposed events venue and that the proposed change of use is acceptable in accordance with LDP policy SP19 and Planning Policy Wales.

Yours sincerely,

Jon Hurley

Director

¹¹ <https://completelyretail.co.uk/scheme/Newport-Retail-Park/property/11c-newport-retail-park-newport-48536>

¹² <https://completelyretail.co.uk/scheme/Newport-Retail-Park/property/8-newport-retail-park-newport-48557>