

Prime Four Retail Capacity Study (LSH)	Ellandi Response
<p><u>Existing Retail Provision</u></p> <p>Section 4 of the Applicant's Retail Capacity gives consideration to existing retail provision in the Study Area, focusing on Aberdeen and assessing its position in a regional and national context. The following statements are made by the Applicant:</p> <ul style="list-style-type: none"> Paragraph 4.2 states that the Aberdeen City and Aberdeenshire Retail Study (2013) estimates that retail expenditure leakage from Aberdeen is in the order of £110m. Paragraph 4.3 states that whilst there is a significant quantum of expenditure leaking from the Aberdeen City region, the City's catchment is considered to be extremely resilient. It goes on to state that this is part due to the fact that out of centre retail competition is limited with a very modest supply of retail warehousing in and around the city and with much of this focused on bulky goods retail. Paragraph 4.4 states that the existing retail parks [in Aberdeen] have limited overall significance in terms of the region's retail provision, supporting the view that the north east has [a] very limited retail park offering when compared with other major Scottish cities. Paragraph 4.5 states that when Aberdeen is compared with other major Scottish cities, particularly Edinburgh and Glasgow, it can be seen that the retail offering of the City is lacking. Paragraph 4.6 states that this view is supported by the ACARS which establishes that the Aberdeen City Region can accommodate a significant quantum of additional comparison goods floorspace and advises that the barriers to this are a perceived lack of retailers and the simple physical restrictions of the City Centre to accommodate new retail floorspace. Paragraph 4.6 also refers to a public statement by Andrew Turnbull (Senior Lecturer at Robert Gordon University) in regard to the Aberdeen retail market: <i>"My suspicion is that Aberdeen has lagged behind and continue to lag behind other centres of retail in Scotland – it's never really had sufficient opportunities for retail. I think its a combination of lack of provision relative to other retail centres and also the lack of availability of appropriate land. It's not a question of can you get good retail space, its a question of can you get good retail space"</i>. Paragraph 4.7 states that the absence of a robust and complimentary retail centre within the Aberdeen City area is perhaps the key reason why the region has failed to meet the clear quantitative requirement for additional retail floorspace. Paragraph 4.8 notes that unlike Aberdeen, both Edinburgh and Glasgow benefit from having a number of sub-regional retail parks which complement their city centres. It goes on to refer to x2 tables which show how the two cities accommodate national retailers in several locations, meeting retailer demand whilst maintaining vital and viable centres. It also refers to a chart prepared by the Applicant which indicates that Aberdeen has a lower ratio of out of town space to residents than other Scottish cities (namely Dundee, Glasgow and Edinburgh). 	<ul style="list-style-type: none"> The Applicant places much emphasis on the fact that £110m has been identified as leaking from the Aberdeen catchment – the implication being that the proposed development will serve to stem this leakage through the provision of additional retail floorspace at Prime Four Business Park. It fails however to interrogate this leakage (which is identified through the ACARS2 2013) – if it did, then it would discover that whilst this expenditure leakage is significant, it is particularly significant for peripheral locations close to Moray (Zones 2 and 4+5) and Angus (especially Zone 22). There is also leakage across the whole of the Study Area, with a significant number of residents undertaking occasional trips to larger centres (notably Glasgow). Lastly, it would find that the flows of expenditure leaking out of the Study Area are generally balanced by flows of expenditure into Aberdeen from those living outwith the Study Area (Paragraph 2.74, ACARS 2013) – an important point, as clearly leakage from the catchment is effectively being 'cancelled out' by inflows of expenditure from elsewhere and is not as big an issue as the Applicant would suggest. In regard to the expenditure that is leaking from the catchment, we consider that it is highly unlikely that the proposal will claw back expenditure leaking towards Angus – most notably because the proposal is a significant distance from those residing in Zone 22 – the same applies Zones 2, 4+5 (in respect of expenditure leakage towards Moray), albeit to a lesser extent. In regard to the catchment wide expenditure leakage to Glasgow, it should be noted that no indication is given within the ACARS as to whether this leakage is to out of centre provision (e.g. Braehead and / or retail parks) or Glasgow City Centre (the Study does not distinguish between the two). If it is the latter (which we suspect is the case), then the proposed development is certainly not the type of retail floorspace that will encourage those currently choosing to shop in Glasgow City Centre to stay within the catchment and undertake their comparison goods shopping – it will instead replicate retailing that is already available in Aberdeen City Centre. Should the Applicant have an alternative view, then it should provide evidence to substantiate this (i.e. a bespoke household survey). There is a clear need to maintain Aberdeen's position in the retail hierarchy and provide for the retail needs of the catchment. This will not be achieved however through a retail park such as that proposed on the outskirts of the City Centre. It is only Aberdeen City Centre that will be able to compete 'head on' with the likes of Glasgow – a Centre which provides an experience that goes beyond just retailing, offering a wide variety of services and facilities such as leisure, entertainment facilities and recreation uses (including cinemas, restaurants, bars and pubs, night-clubs, casinos); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities). Only Aberdeen City Centre can provide this comparable experience. The Applicant's statement at Paragraph 4.3 simply serves to illustrate that the City Centre's resilience is in part due to the modest supply of out of centre retail floorspace. The quote from Andrew Turnbull extracted from a Press and Journal article is taken entirely out of context. Firstly, the quote does not in itself justify the need to deliver a new retail park on the outskirts of the City Centre. It is not a statement of policy - it is a quote from a newspaper article. Moreover, it simply acknowledges that there are constraints to the delivery of additional retail floorspace in Aberdeen and that there are still opportunities for investors in the City (despite the decline in oil prices) – something which the ACARS and emerging LDP both acknowledge and readily seek to address. Secondly, despite these constraints, it remains that Aberdeen is the third most popular city in Scotland and the number one destination for retailing in the north east. It has all the major stores and facilities one would expect to find in such a City Centre, including a number of key department stores, representation from a number of national and international brands and four indoor shopping centres. Moreover, there is a clear appetite to deliver additional retail floorspace (both Hammerson (Union Square) and BMO (Bon Accord and St. Nicholas) are proposing an extension to their existing offers). The constraints associated with delivering new retail floorspace in Aberdeen City Centre is not sufficient to justify upwards of 30,000 sqm of retail / town centre floorspace in an unsustainable location such as Prime Four Business Park – the retail park will simply replicate the City's retail offer, competing head on with existing retail facilities that serve to anchor the City Centre and attract footfall and undermine any attempts to deliver meaningful and sustainable retail development in the City's core retail areas. The Applicant also places significant emphasis on the fact that both Glasgow and Edinburgh have significant out of centre retail provision, which it considers trade successfully alongside more traditional retail provision within the city centres themselves. What this fails to take into account however is how these other city regions choose to operate is not a policy consideration at any level and it is by no means sufficient justification that Aberdeen requires similar provision. Instead, it simply serves to illustrate the commitment of Aberdeen City Council to its town centres first policy and its clear emphasis on preserving and enhancing the vitality and viability of Aberdeen City Centre. The City Centre has benefitted significantly from this emphasis on the town centres first principle – it holds the dominant position in the north east for shopping and in recent years, there have been several key city centre developments such as the development of Union Square and the upgrading of the Bon Accord and St. Nicholas Centres. Going forward, there are sufficient opportunities over the lifetime of the existing and emerging LDP to address the identified capacity for new retail floorspace. Taking all this into consideration, there is no overwhelming need to deliver the proposed floorspace in this location.

The Need for New Retail Floorspace

Section 5 of the Applicant's Study seeks to address the need for new retail floorspace in Aberdeen and the surrounding area, referring in particular to the Aberdeen City and Aberdeenshire Retail Study (ACARS, October 2013) undertaken by Hargest Planning Ltd.

The following statements are made by the Applicant:

- Paragraph 5.2 states that the ACARS report acknowledges that because of the challenges in delivering new floorspace in the last decade, retail provision in the area, specifically comparison goods retail, has not matched growth in expenditure [...]. It goes on to state that the ACARS report advises that *"it is difficult to imagine the identification of sufficient sites to accommodate the scale of new floorspace that would be implied by the growth in available expenditure (ACARS, Page 60)"*.
- Paragraph 5.3 states that in terms of Aberdeen City Centre, the ACARS study comments that there is enormous potential for additional retail floorspace, ranging from £120 to £140m in 2017 which could support 55,000 sqm of retail floorspace. It states that the ACARS report acknowledges that this is an 'enormous market potential' driven by a combination of expenditure growth and large population increases within the catchment area.
- Paragraph 5.4 states that over the longer term, for the period 2022 – 2027, the ACARS report advises that the scale of potential floorspace for Aberdeen is 'enormous' [...] the implied figure is 60-65,000 sqm of gross retail floorspace.
- Paragraph 5.5 states that the ACARS report suggests that it is difficult to consider the scale of new floorspace being developed in the City Centre over this period due to there being limitations on the number of retailers seeking to invest in Aberdeen and the sheer physical constraints of delivering the scale of floorspace which could be supported.
- Paragraph 5.7 states that in terms of delivering new floorspace, the ACARS study does not support the identification of specific locations for new retail floorspace but does indicate that there is significant potential within the City as a whole.
- Paragraph 5.8 refers to the following statement within the ACARS: *"the development of land in the City Centre for new retail will be a protracted, complex and costly process and could be undermined by relatively easy alternatives elsewhere in the City"*.
- Paragraphs 5.9 and 5.10 refer to the three scenario options set out in the ACARS for the delivery of new retail floorspace. It acknowledges that ACARS considered the likely impacts associated with these scenarios and recommends that Scenario 3 be implemented largely on the premise that it would support retail investment in the City Centre and minimise potential impacts on existing centres.

- National (SPP), sub-regional (SDP) and local planning policy (LDP) (inter alia) direct that developments such as that proposed should only be considered where the proposal will help to meet qualitative or quantitative deficiencies. The Applicant has sought to address this particular policy consideration at Section 5 of its Retail Capacity Study, referring to the ACARS which identifies a need to deliver additional retail floorspace within Aberdeen up to 2027. The Applicant also draws attention to a number of passages within the ACARS to highlight the scale of retail floorspace that is required to meet identified need.
- We acknowledge the findings of the ACARS (which, for avoidance of doubt, adopts a scenario which supports retail investment in the City Centre), however much of what it says in the context of the need to provide additional retail floorspace has been taken out of context by the Applicant. For example, the ACARS' reference to the need for between 60 and 65,000 sqm is only made in respect of one scenario that has been tested by the Study ('Scenario 5'). The ACARS tests three scenarios in total and concludes by recommending that Scenario 3 be adopted by the City Council which seeks to meet all retail deficiencies together with 30,000 sqm GFA floorspace within the City Centre. Scenario 5 is rejected on grounds of potential adverse impacts and potential undermining of City Centre retail investment.
- Indeed, the conclusions of the ACARS are quite clear in regard to where this new retail floorspace should be directed and how the Council should go about doing this. It certainly does not advocate the provision of a large retail park on the outskirts of Aberdeen City Centre. Conversely, its recommended retail strategy is to plan for the provision of 30,00 sqm GFA of new retail floorspace within the City Centre and to support Aberdeen City Centre as the principal shopping location serving the whole of the north east of Scotland - *"this support should include both the enhancement of retail provision and the protection of the City Centre against adverse retail impact from retail developments outwith the City Centre"* (Paragraph 6.7, ACARS, emphasis added). The rationale for adopting this approach is clear: *"the recommended strategy is identified to be based on Scenario 3 subject to reducing the scale of retail floorspace in order to support retail investment in the City Centre, to minimise potential adverse impacts on existing centres and to facilitate re-use of vacant floorspace"* (Paragraph 5.58).
- It is also important to note that since the ACARS was published in 2013, the City Council has made significant progress in terms of seeking to address the identified quantitative and qualitative deficiencies identified by the ACARS and to implement the recommended retail strategy in the ACARS to focus retail investment in the City Centre. This includes:
 - the preparation of a City Centre Masterplan and Delivery Programme 2015 (to be adopted as supplementary guidance) with a commitment to the preparation of further 'spin-off' masterplans to provide more detail on specific projects and interventions in due course; and
 - the finalisation of the LDP 2016 which refers back to the findings of the ACARS and allocates a series of strategic sites for retail development including Marischal Square, Crooked Lane / George Street, Aberdeen Market and Union Street.
- The Proposed LDP has recently been through Examination, with the Reporters concluding on 23 September 2016 that subject to minor modifications, the retail policies are consistent with the objectives of SPP – including Paragraph 30 which requires Development Plans to positively seek opportunities for meet the development needs of the Plan area in a way that is flexible enough to adapt to changing circumstances over time.
- If the qualitative and quantitative deficiencies in Aberdeen was so overwhelming, then it would have been for the emerging LDP to determine where this could be met outwith the City Centre. In this case, the emerging LDP (and indeed the Reporters presiding over the LDP Examination) concluded that there are sufficient opportunities within the City Centre (and other town centre locations) to meet the City's retail needs.
- There are no unresolved issues associated with meeting the retail needs of the City and as such no modifications to the LDP have been recommended by the Reporters which would in any way qualify the Applicant's assertion that the proposal is required to meet a quantitative or qualitative deficiency in the provision of retail floorspace. In this regard, it cannot be concluded that there is a 'need' for the proposed development.

Aberdeen City Centre Health Check

Section 6 of the Applicant's Study seeks to examine the current health of Aberdeen City Centre in order to reach a conclusion as to whether its overall health and ability to withstand the impact of a new retail centre in Aberdeen.

In regard to the health of Aberdeen City Centre, the following conclusions are drawn:

- Utilising data from the ACARS, Paragraph 6.3 states that Aberdeen City Centre is in good health with only 66 vacant units, accounting for 7.4% of units and 5.0% of floorspace within the City Centre – below the UK national average of 12.0% (Experian). Paragraph 6.5 goes on to state that this view is supported by the fact that there are no notable clusters of vacant premises, although as might be expected, vacancies are more prevalent in secondary locations.
- Paragraph 6.8 states that yields for prime city centre investments are reported to be in the order of 7% although there are suggestions that yields have compressed over the last 6-9 months and are probably now closer to 6%. (There is no evidence put forward by the Applicant to support the 6% figure).
- Paragraph 6.9 concludes that the size of the City Centre provides a wide range of choice for shoppers seeking both national (and international) brands and also independent local shops.
- Paragraph 6.10 notes that retailer demand in Aberdeen remains very strong. It states that according to EGi data, there are 59 identified requirements, comparing favourably with other Scottish cities with Dundee having 35 recorded requirements, Edinburgh 88, Glasgow 186 and Inverness 34. It goes on to state that Drum Property have confirmed retailer interest from a significant number of UK multiple retailers who wish to increase their representation in the Aberdeen City Region, particularly from fashion, clothing and footwear retailers that have requirements for ne retail units un the order of 2,500 to 20,000 sqft GFA.
- Paragraph 6.11 confirms that Aberdeen has excellent accessibility by a wide range of transport modes including bus and rail.
- Paragraph 6.12 notes that pedestrian flows are as high as 50,000 persons per day in the prime retail locations. Union Street has a daily flow of 33,000 persons per day.
- Paragraph 6.13 concludes that the City Centre is in reasonable condition and that it is generally clean. It also confirms that parts of the City Centre are pedestrianised or traffic calmed which enhances pedestrian amenity.
- Paragraph 6.14 provides the Applicant's overall conclusions in regard to the health of Aberdeen City Centre, confirming that it remains the dominant retail centre in north east Scotland and one of the strongest retail centres in Scotland as a whole. It notes that the City Centre has been particularly successful in attracting shoppers from an extensive catchment area due to the breadth of it retail and leisure offer, its accessibility and integrated transport provision. Moreover it states that the City Centre continues to perform exceptionally well with relatively low levels of vacant commercial floorspace.

- The Applicant's review of the current health of Aberdeen City Centre is, in our view, wholly lacking – it lacks detailed analysis and instead relies on high level data to justify its conclusions. Given the scale of retail floorspace proposed at Prime Four, one would expect a full review of the health of Aberdeen City Centre to be undertaken by the Applicant themselves, instead of relying on data which can now be regarded as out of date (SPP requires that health checks be conducted every two years).
- Our own view is that whilst Aberdeen City Centre continues to perform well as Scotland's third largest centre, it remains vulnerable in the face of retail development such as that proposed. Going forward, it will need to maintain and enhance its position at the top of the north east retail hierarchy to preserve and / or enhancing its vitality and viability. This is confirmed by the City Centre Masterplan which notes that for many, Aberdeen is the commercial shop window for the region and concludes that less employment and commercial activity will have an impact upon perceptions of the City that could ultimately have a negative impact upon the wider region. Conversely, it concludes that a thriving, dynamic commercial centre will better reflect the prosperity and opportunity that already exists in the area and will contribute to growth in North East Scotland and the UK as a whole.
- The supporting evidence base to the Masterplan also highlights a series of challenges facing the City Centre – a number of which appear to have been overlooked by the Applicant. These include:
 - a weakness in the retail and a quite narrow commercial (and cultural) leisure offer;
 - the elongated nature of the Centre - while there is a fairly compact retail heart, Union Street and George Street serve to dilute this effect - generally, the more compact a centre the more viable it is;
 - the environmental quality of some retail streets which are in need of improvement;
 - the central retail circuit does not operate effectively – there are weak links between the prime shopping centre of Union Square and Union Street.
- The above factors point to a Centre that does have its challenges and that it is not entirely resilient in the face of competing development such as that proposed. The fact that the Applicant has failed to 'dig beneath the surface' in regard to the health of the Centre is important because, in the case of large centres such as Aberdeen, quantitative impact assessment / economic analysis can serve to mask the likely impacts of a proposal. Indeed, by its very nature, the comparison goods turnover of the City Centre is very high and as a result, any impact figure resulting from a trade draw analysis will be seemingly 'de minimis' as the turnover of proposals are smaller in comparison.
- In such circumstances, a judgement as to whether the impact of a proposal (in trade draw terms) is 'significantly adverse' can only be reached taking into account local circumstances which is derived from a robust qualitative assessment of the health of the centre. The assessment of numerical impact or trade draw must therefore be set against more qualitative judgements such as impact on investor confidence, the nature of retailers, vacancies and pedestrian flows. In this case, the Applicant's assessment of the health of the City Centre is considered overly optimistic and fails to take into account a number of vulnerabilities. As a result, the impact of the proposed development on the City Centre is likely to be far greater than is anticipated by the Applicant.
- Lastly, the Applicant fails to acknowledge that a key contributing factor to the City Centre's current vitality and viability is the presence of a large number of national multiple retailers which help to attract visitors to the centre and in turn help to drive customers to smaller stores and facilities – it is precisely these types of operations that will be undermined by the proposed development if approved. Indeed, whilst it is unlikely that the proposal will lead to their closure (we acknowledge that many will want to maintain a presence in Scotland's third largest city), it will however undermine their ability to attract visitors to the City Centre as people choose to frequent the retail park instead. In this regard, the proposal will have an amplified impact on the health of an already vulnerable City Centre.

Sequential Site Analysis – Methodology and Area of Search

The Applicant's sequential site assessment as required by Scottish Planning Policy and the LDP is contained at Section 7.0 of the its Retail Study.

- Paragraph 7.3 states that in terms of suitability, regard should be had to the Supreme Court's Judgement of Tesco Stores Ltd v Dundee City Council 2012 ('Dundee' decision).
- Paragraph 7.4 states that the Supreme Court's position frames the Applicant's consideration of alternative sites. It goes on to state that what is required in this instance is a site capable of accommodating circa 30,000 sqm of gross retail floorspace together with associated car parking and associated food and drink uses. In order to deliver a development which meets specific, identified retailer requirements, it is considered that a site of 10.05 ha is required.
- Section 7 of the Retail Study goes on to review a series of sites in Aberdeen City Centre which have been identified through the ACARS. Paragraph 7.6 sets the tone for this assessment, noting that the City Centre presents inherent challenges in terms of accommodating new retail floorspace with the ACARS study commenting that *"the redevelopment of sites within the City Centre for new retail floorspace will be a complex and difficult process"*. Paragraph 7.6 also notes that the application proposals have been shaped by specific requirements from retailers who already have representation in Aberdeen City Centre and who wish to strengthen their representation in the Aberdeen City region but who have no requirement for further City Centre space.

- National (SPP), sub-regional (SDP) and local planning policy (LDP) (inter alia) directs that developments such as that proposed should only be considered where the all town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable. They also require Applicants to demonstrate that proposals cannot be reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location.
- It is our strong view that the Applicant has categorically failed to address this latter requirement which quite clearly specifies that Applicants demonstrate a degree of flexibility when applying the sequential test.
- In this case, the Applicant is seeking planning permission for 30,000 sqm (gross) of unrestricted Class 1 floorspace with no end users identified. The scope for flexibility in this case is therefore significant - a point which was recently addressed at an Appeal relating to the extension and sub-division of a Homebase store in Leamington Spa (APP/T3725/A/14/2218334). Whilst this Appeal relates to a planning decision in England, it was issued in January 2015 (after Dundee) and clearly confirms that as there were no named operators, *"the scope for flexibility here should be greater than otherwise"* (Paragraph 19).
- The need for a greater degree of flexibility by applicants in the execution of the sequential test was also supported by an Inspector presiding over a Section 78 Appeal / Secretary of State decision in Exeter, Devon (APP/Y1110/W/15/3005333). Again, whilst this is an English decision, it clearly grappled with the complexities of the Dundee decision and concluded, quite categorically, that potential sequential sites / buildings should be assessed on their potential to accommodate the proposed floorspace of the application proposals, with adequate servicing arrangements, but without necessarily the need for surface level parking. This decision calls into question the Applicant's methodology which is to only properly consider sites which can accommodate the proposal in full, including associated car parking, servicing and public realm areas with a site area measuring 10.05 ha.
- In our view, the Applicant should be required to significantly reduce the total site area to be assessed as part of its sequential approach. Indeed, without named operators, it is very hard to see how the Applicant has shown the flexibility that is required by SPP at Paragraph 73.
- Turning to the matter of whether or not the Applicant should be required to consider the 'disaggregation' of its proposal, we accept that this is not explicitly referred to in SPP. Notwithstanding this, it is prudent to note that the Court held in the Dundee judgement that, when it comes to flexibility, local planning authorities are expected to consider different built forms and sub-division of large proposals:
"As part of such an approach, they are expected to consider the scope for accommodating the proposed development in a different built form, and where appropriate adjusting or sub-dividing large proposals in order that their scale may fit better within existing developments in the town centre" (Paragraph 28).
- It is also important to note that the proposed ASDA store that was the subject of the Dundee decision was a free-standing store in a single building which could only have been reduced in size through the disaggregation of the store's offer. Similarly, the English North Lincolnshire decision (commonly referred to as the Zurich judgement) (which is also often referred to as justification for not disaggregating a proposal) related to a proposal for a Marks and Spencer store where the only available site in the town centre would have required the operator to split its food and non-food offer.
- Our interpretation of the relevant case law is that where an application proposal comprises a number of separate units or different uses with no end users (such as that proposed), a combination of more central sites should be considered provided that they do not require any of the individual retailers to disaggregate their offer. Indeed, there is a fundamental difference between the disaggregation of a single store compared with the sub-division of individual retailers in a larger proposal such as that proposed. The Applicant is therefore wrong as a matter of law in only assessing sites on the basis that they can accommodate the application proposal in full. In doing so, it makes a mockery of the sequential test as all that is required to pass the test in its view is to increase the size of proposals until no more centrally located sites can accommodate the entirety of that proposal.
- We also note that the Applicant has reviewed a series of City Centre sites as part of its flawed sequential assessment – a number of which are, in our view, capable of accommodating the proposed development in a disaggregated form. Moreover, the development constraints that have been identified (ownership, the historic environment and flooding) do not render these sites unsuitable - a point illustrated by the fact that the LDP has allocated some of these sites for retail development with a view to them being able to accommodate the retail capacity that was identified in the ACARS (this allocation process would have involved a sequential assessment and these sites have now been scrutinised by the Reporters).
- The fact that these sites do have some constraints and may take time to come forward is precisely why the City Council needs to resist developments such as that proposed – not least because they will be competing head on for the same retailers and customers. These City Centre sites need to be given breathing space to come to fruition – developments such as that proposed can undermine investment decisions and can be the tipping point for a decision as to whether or not bring a site forward.
- In summary, we find the Applicant's sequential assessment to be entirely lacking with undue weight placed upon selected passages within both the Dundee case to justify its approach which is incorrect as a matter of law. The sites that are reviewed are all too readily dismissed owing to a flawed methodology / approach. Greater flexibility and disaggregation is required to ensure the SPP requirement to consider a reduced / altered scheme has been satisfied. Without this more robust assessment being carried out, there are clear grounds for refusal of this application.
- We would conclude by noting that the relative ease of deliverability of the proposed development should hold very little weight in the determination of this application. This is because it will be at the expense of genuinely sustainable town centre development, including the redevelopment of sites identified in both the City Centre Masterplan and the emerging LDP.

Sequential Site Analysis – Sites Assessed

- The following sites have been assessed by the Applicant:
 - Land at Denburn / Woolmanhill (1.9 ha) – the Applicant discounts this site concluding that it is not available owing to it being in operational use by the NHS. Furthermore, the site is not considered suitable for the proposed development by virtue of the site being too small to accommodate the proposed development and because its redevelopment would require the loss of Grade A listed buildings.
 - Land at Schoolhill, Robert Gordon College and University (0.6 – 2.0 ha) – the Applicant discounts this site concluding that the land is not available with the University having recently disposed of its surplus assets.
 - Land at George Street / Crooked Lane, Aberdeen (0.6 ha) – the Applicant discounts this site concluding that is neither available or suitable for the proposed development on the basis that it is incapable of accommodating the scale of floorspace proposed.
 - 73 – 149 Union Street (0.3 ha) – the Applicant discounts this concluding that it is not suitable for the proposed development as it cannot accommodate a sufficient quantum of retail floorspace. It also concludes that the ownership and listed building constraints impact on its deliverability.
 - Aberdeen Market (0.35 ha) – the Applicant discounts this site as it is considered to be neither available or suitable for the proposed development as it cannot accommodate a sufficient quantum of retail floorspace.
 - Land at Virginia Street / Regent Quay (2.6 ha) – the Applicant discounts this site, concluding that it is neither available or suitable for the proposed development as its redevelopment would require the loss of listed buildings and development constraints in respect of flood risk would need to be overcome. It also concludes that it is unavailable as the site is in multiple ownerships.
 - Union Square Surface Car Park – the Applicant dismisses this site, concluding that it is neither available or suitable for the proposed development. The applicant considers that it is incapable of accommodating the scale of floorspace proposed in the format required, moreover that the land is under the control of Hammerson and thus unavailable. The Applicant refers to the Dundee case to justify its conclusions in regard to this site, noting that the key determining factor is whether an alternative site is suitable for the proposed development and not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site. It notes that the application proposal is fundamentally different in their form and nature to what is being proposed at Union Square through Application Ref: 152005). In view of this, it states that the Applicant's proposals are incapable of being altered or reduced to fit onto the existing car park at Union Square, even if a degree of flexibility were to be applied. It concludes this point by noting that to accommodate the proposed retail floorspace at Union Square, it would be necessary to develop over multiple levels – something which would not meet retailer requirements. Lastly, the Applicant notes that the application proposal has been tailored to address a specific deficiency within the city Region's offer by providing retailers with the opportunity to increase their representation in the City – an arrangement which is consistent with other major Scottish cities – in view of this, it concludes that the car park opportunity at Union Square is unsuitable to accommodate the proposed development.
 - Union Square South, Palmerston Road (2.6 ha) – the Applicant discounts this site as it considers that it is unavailable in the short term due to it being occupied by a range of uses. Moreover, it considers that the site is unsuitable as its redevelopment would require the loss of listed buildings and because there is no retailer demand for a new retail centre at this location.

- See above – it is considered that these sites should be reassessed in view of the requirement for the Applicant to apply a greater degree of flexibility in undertaking its sequential assessment, as well as considering these sites for their suitability and availability for accommodating a disaggregated form of the proposed development.
- For the avoidance of doubt, it is absolutely not acceptable for the Applicant to argue that because the retailers that they are seeking to attract to the proposed development are already represented in the City Centre, City Centre sites can be dismissed on grounds that they are 'unsuitable'. In respect of this particular point, regard should be had to a recent High Court decision in Mansfield (Aldergate Properties and Mansfield District Council [8th July 2016] – High Court of Justice (Case No: CO/6256/2015). This concluded, quite categorically, that the *"individual corporate personality of the applicant or intended operator"* is not relevant to the application of the sequential approach and indeed would be *"the antithesis of planning for land uses"* (Para 38). In his judgement in this case Mr Justice Ouseley clearly states that: *"It is not intended that the absence of an up-to-date plan creates a rather different world in which retailers could enjoy a much greater degree of temporary freedom based on their individual commercial interests"* (Para 36). He adds that the NPPF *"cannot therefore be interpreted as requiring "suitability" and "availability" simply to be judged from the retailer's or developer's perspective, with a degree of flexibility from the retailer, and responsiveness from the authority"* (Para 37).
- This view can reasonably be applied in a Scottish context (SPP requires Applicants to consider sites for their 'suitability' and 'availability') and as such no weight can be placed on any argument put forward by the Applicant that City Centre sites are not 'suitable' as the intended occupiers are not seeking representation in the City Centre.

Sequential Site Analysis - Conclusions

The following conclusions are drawn by the Applicant:

- While it is evident that there are development opportunity sites in Aberdeen City Centre, in all cases the sites are considered neither available or suitable to accommodate the proposed development. Furthermore, it notes that almost all of the sites have significant development constraints relating to ownership, the historic environment and flooding.
- The Applicant notes that the Prime Four proposal has been tailored to address specific requirements from retailers that already have a presence in Aberdeen City Centre. It notes that these retailers do not require additional City Centre representation and instead wish to invest in other parts of the City region – a pattern of development that has been successfully followed in Edinburgh and Glasgow. It is noted that the proposed development will not prejudice the delivery of sites for retailing in the emerging LDP as the majority of retailers wishing the occupy space at Prime Four have no requirement for additional City Centre representation.
- The Applicant also considers that the rationale for the proposed development is not dissimilar to the case in support of the adjacent Prime Four Business Park which was borne out of a requirement to deliver modern, large format business space to meet an identified requirement in the office and business markets. In view of this, it cites Paragraph 68 of SPP which states that development plans should adopt a sequential town centre first approach when planning for uses which generate significant footfall, including offices. It is asserted that because in allocating the site for office uses, the Council followed the sequential approach with regard to the Business Park (and ultimately concluded that there are no sequentially preferable sites) it accepts that Prime Four is a suitable and sustainable location for high footfall generating uses. Accordingly, it considers that the Council has already confirmed that the site meets the sequential approach to site selection as set out in Paragraph 68 of SPP.
- The Applicant notes that the site is highly accessible from all directions and benefits from having excellent public transport links with Kingswells Park and Ride facility forming an integral part of Prime Four. The local cycle path network is also considered to make sustainable transport viable.
- It concludes by noting that what separates Prime Four from other opportunities is the issue of effectiveness and deliverability. The land at Prime Four is under the full control of the applicant and is free from any significant development constraints. Accordingly, it can be relied to come forward for development immediately, meeting the requirement for new retail floorspace in Aberdeen. It is therefore considered that the Applicant's proposals demonstrate full compliance with the sequential approach to site selection as set out in the SPP and LDP.

See above.

Economic Analysis – Key Assumptions

Section 8 of the Retail Capacity Study provides an assessment of the trade draw impacts of the proposal:

- The Applicant's Catchment Area is defined taking into account the scale of the proposed retail floorspace, its regional function and considering those areas it is most likely to have an influence on. The zones comprising the Applicant's catchment area correspond with the ACARS.
- Paragraph 8.2 sets out the population levels for each of these zones. The Applicant's catchment area comprises 32 zones in total which equates to 402,554 people in 2017 and 410,962 in 2022. No indication is given as to the source of the population data that has been used.
- The Applicant notes at Paragraph 8.3 that the per capita expenditure for each of the zones have been obtained and that these figures have been adjusted to take account of Special Forms of Trading (SFT). A review of the Applicant's full economic trade draw analysis at Appendix 1 (Table 2) would suggest that the EPC is derived from the ACARS – however no indication is given as to how SFT has been calculated and indeed how the EPC is projected to 2022.
- The Applicant's assessment of total retail expenditure is summarised at Paragraph 8.4 and contained at Table 3 of the economic trade draw analysis (Appendix 1). The Applicant asserts that between 2017 and 2022, the available comparison goods expenditure within the catchment is expected to rise by £236m, while convenience goods expenditure is expected to increase by £47m.
- Paragraph 8.5 states that in terms of existing retail floorspace, an estimate based on company average trading density has been made of the turnover of existing facilities within the Catchment Area. These figures are then set against the actual turnover of these stores, as referenced in the ACARS. The Applicant concludes by noting that existing centres and stores are significantly overtrading, which it considers translates into a need for additional retail floorspace, particularly for comparison goods.
- Paragraph 8.6 of the Study provides an indication as to the turnover of the proposed development, noting that it would provide 26,013 sqm of general comparison goods floorspace, together with 3,716 sqm of convenience goods floorspace. The sales densities of this floorspace is estimated to be £5,300 per sqm and £10,000 per sqm respectively which equates to a total comparison goods turnover of £110.29m and a convenience goods turnover in the order of £14.86m.
- The Applicant notes at Paragraph 8.7 that when considering the turnover of the floorspace against the available expenditure generated by the catchment, it is evident that the proposals will only assist in meeting part of the quantitative need for additional retail provision in the catchment area, and will leave capacity for additional floorspace elsewhere within the catchment. Indeed, it notes that only 8% of the available expenditure in the catchment would be entirely consumed by the £236m growth in expenditure between 2017 and 2022.

We have reviewed the Applicant's assumptions which underpin its economic trade draw analysis and have the following observations:

- It would appear that the Applicant has utilised the figures contained within the ACARS to calculate the total available expenditure within the defined catchment area. We are unsure however whether these figures (population / expenditure per head) have been re-based to reflect the passing of time since the ACARS was published and indeed whether or not they have been projected utilising the most up to date forecasts (which can be sourced from retail forecasters such as Experian / Pitney Bowes etc). Moreover, no indication has been given as to what allowance has been made for SFT and whether or not this is based upon the latest estimates produced by Experian / Pitney Bowes etc. Clarification on these points is required if the Applicant's estimate of total available expenditure for both comparison and convenience goods is to be relied upon.
- We note the Applicant has undertaken an assessment of overtrading, presumably to demonstrate that there is an immediate qualitative deficiency in the amount of floorspace that is currently provided in the defined catchment area (particularly for comparison goods). Whilst we do not dismiss these findings, we note that this qualitative deficiency would be better addressed in a sustainable City Centre location (such as the Union Square Surface Car Park which already has planning permission to provide up to 11,000 sqm of retail floorspace). It is also notable that in addition to addressing quantitative and qualitative deficiencies, Applicants are required to satisfy a number of other retail policy tests as prescribed by SPP at a national level.
- We have reviewed the Applicant's assessment of the turnover of the proposed development. Given the scale of the proposed development, we consider these to be broadly reasonable (although not necessarily the worse-case scenario as many retailers will have average sales densities above £5,300 and £10,000 per sqm for comparison and convenience goods respectively). We would however emphasise that the potential turnover of the proposal is significant, representing approximately 10% of the turnover of Aberdeen City Centre. With a total turnover of £125.15m it is also:
 - over 10 times higher than the turnover of Rosemount Town Centre (£12.34m) (ACARS, Page 37);
 - over 20 times higher than the Torry Town Centre (£5.92m) (ACARS, Page 37) – Aberdeen's main town centres and second only in the retail hierarchy to Aberdeen.
- Lastly, the Applicant asserts that the proposals will only assist in meeting part of the quantitative need for additional retail provision in the catchment area and that it will leave capacity for additional floorspace in the catchment: We have two observations in regard to this particular statement:
 - Firstly, this statement is incorrect. Both the ACARS and the LDP adopt a strategy to provide 30,000 sqm of retail floorspace within the City Centre – the proposed development will simply absorb this capacity at the expense of the vitality and viability of the City Centre.
 - Secondly, it is naive to consider that a retail proposal of this magnitude would not make retailers and developers think twice about investing in the City Centre – the proposal will not only accommodate retailers who would have otherwise sought representation in the City Centre, it will also compete head on with the City Centre for custom. The truth of the matter is that the proposed development will serve to set back the delivery of sustainable City Centre retail development though saturating the market with unfettered retail floorspace that has a clear competitive advantage over City Centre sites (such as the ability to offer free, surface car parking and ease of access by car from a main arterial route into the City Centre).

Economic Analysis – Qualitative Issues

- Paragraph 8.8 reasserts the Applicant's previous argument that the retail offer within the Aberdeen City Region does not compare favourably with other major Scottish cities insofar as there is a large gap in the distribution of non food retail floorspace. It states that the proposed development will provide for consumer choice by ensuring that a good distribution of locations is achieved to improve accessibility for the whole region.
- Paragraph 8.9 goes on to state that the proposals have been designed to maximise the qualitative benefits that can accrue to the Aberdeen area, namely that it estimated that the proposal will 'claw back' approximately £19m of the £110m trade which is currently leaving the catchment area to more distant stores and centres. It notes that the proposals present an opportunity to make a significant qualitative improvement to the existing retail offer in Aberdeen, satisfying operator requirements and helping to meet a significant requirement for new retail floorspace in the catchment.

- We have already provided a clear explanation as to why Glasgow and Edinburgh's retail composition is not considered to be a material consideration in the determination of this application.
- We would add to this by noting in recent years, concerns have been expressed as to the growing influence of the retail parks in Glasgow and Edinburgh over their respective catchments. The most recent example of this concern is in the case of Fort Kinnaird in Edinburgh which sought to extend the existing retail park to provide a new Debenhams department store comprising of 5,612 sqm. A planning application for this extension was refused by Edinburgh Council on 25 October 2013 and dismissed by a Reporter following an Appeal Inquiry on 19 March 2015. Amongst other things, Paragraph 98 of the Appeal decision concludes:

"[...] I find that Fort Kinnaird is already competing with the City Centre and that the increase in turnover at Fort Kinnaird that would result from the proposed development would increase the competition with the City Centre. By reinforcing the already strengthening fashion, clothing and beauty components of the retail offer at Fort Kinnaird, the format of the proposed development would increase the impact that Fort Kinnaird has on the City Centre. By further enhancing investor confidence, the proposed development would be likely to increase impact on the City Centre in the future. [...]"
- The Reporter concluded by noting that the proposed development would not accord with the town centre first principle, that the sequential approach had not been satisfactorily followed and that it did not accord with the "Promoting Town Centres" section of Scottish Planning Policy.
- This in itself is a clear indication that the retail parks referred to by the Applicant do not accord with the town centres first approach and that there is concern over their dominance of the retail market in these areas. In this regard, the Applicant's conclusions that the only way to enhance customer choice in Aberdeen is through the provision of an out of centre retail park and that this is a model that is being followed successfully elsewhere, must be dismissed.

Economic Analysis – Trade Draw

- Paragraphs 8.10 – 8.19 provide an overview of the Applicant's assessment of trade draw which is supported by the Applicant's economic analysis tables at Appendix 1.
- Paragraph 8.11 notes that the growth in expenditure, coupled with the level of surplus capacity within the Study Area, means that the trading impact of the proposal will be benign and that it can co-exist with existing stores and centres. Notwithstanding this, the Applicant has undertaken an assessment of the likely trading effects of the proposal.
- Paragraph 8.12 refers to Table 7 of the economic analysis indicating that this sets out the trade draw pattern that has been adopted for the proposed retail floorspace. This draw, the Applicant asserts, has been assessed taking into account the location and distribution of population, the socio-economic characteristics of the area, the characteristics of existing and proposed retail provision within the catchment and the accessibility of the application site by all modes of transport.
- Paragraph 8.13 notes that the application proposals are focused on the provision of comparison goods retailing, with a particular focus on clothing and fashion. As such, it considers that the majority of the proposals turnover will be trade diverted from existing retail destinations in the Aberdeen catchment which are significantly overtrading and from trade which is currently leaking to more distant centres, particularly Edinburgh and Glasgow.
- The Applicant assumes that the proposal will capture 17% of trade that is currently leaking from the Aberdeen catchment (£19m) which is considered to be a conservative estimate (Paragraph 8.14).
- It goes on to state that the proposals are a direct response to established retailer requirements, many of whom have existing city centre representation and have a requirement for additional retail floorspace in the Aberdeen catchment. It notes that this is largely due to existing stores not being able to satisfy customer demand and the need to relieve significant levels of over-trading. It also notes that there is sufficient expenditure within the Aberdeen catchment to allow retailers to justify multiple stores.
- Paragraph 8.16 deals with the likely comparison goods trade draw of the proposal from stores and facilities within Aberdeen City Centre, concluding that it will draw £55m in total, equating to a 5.2% comparison goods impact on the City Centre (which will have a turnover of £1,066m in 2022). It concludes by noting that the effect of this impact will be to modestly reduce levels of over-trading and that there will be no detrimental impact on the vitality and viability of the City Centre as a result of the proposed development.
- Paragraph 8.17 deals with the trade draw impacts of the proposal on stores and facilities outwith the city centre, concluding that the proposals will draw some trade from the retail parks at Berryden, Beach Boulevard, Garthdee and Kittybrewster (£11m) with some trade drawn from Portlethen and the emerging retail floorspace at Chapleton east of Elsick (£5m). It is concluded that in no case will the proposed development threaten the existence of these retail destinations as in most cases, their focus is not on general comparison goods retailing.
- Paragraph 8.18 deals with the trade draw impacts of the proposed convenience store which it regards to be focused on similar sized and functioning stores within the catchment. With this in mind, it concludes that the largest impact will be on similar sized and functioning stores at Garthdee and Berryden (£9.5m). Paragraph 8.19 also acknowledges that some impact will be felt by more local convenience goods stores and facilities in Westhill Town Centre, concluding that this are likely to be in the order of 1.6%.
- Paragraph 8.20 concludes by noting that Aberdeen does not provide sufficient comparison goods floorspace capable of satisfying shopper's requirements. It considers that the proposed development will provide the north east with a retail destination which the Aberdeen catchment currently lacks, enabling shoppers to meet their shopping needs and bringing Aberdeen up to a level of provision that is consistent with other major Scottish cities.

- The Applicant's assessment of trade draw follows a standard model and as such we do not have any comments in regard to its general approach to assessing quantitative impact. We do however have a number of observations in relation to the Applicant's trade draw assumptions that we wish to highlight:
 - The Applicant considers that the proposal will capture 17% of trade that is currently leaking from the Aberdeen catchment (£19m – all from Glasgow and Edinburgh (Table 7 of the Retail Capacity Study) which is considered to be a conservative estimate. This assumption is wholly unsubstantiated for the following reasons:
 - the ACARS does go into detail as to how leakage from the catchment currently occurs (for example, it does not differentiate between retail park and city centre shopping in respect of Glasgow – see comments above). There is even less detail in regard to leakage to Edinburgh. As we have also noted above, the proposal will not be sufficient to prevent a general preference for the local population to undertake their comparison goods shopping in Glasgow and Edinburgh – both centres are significantly larger than Aberdeen and provide a comprehensive and well-rounded shopping experience. The proposed retail park will instead replicate existing provision in Aberdeen City Centre and remove the incentive for existing customers to visit.
 - A large proportion of leakage from the catchment will be as a result of people working outwith the catchment and choosing to shop in this location – no account is taken of this by the Applicant and there is no analysis of this in the ACARS.
- Without a clear indication as to where this trade will be clawed back from, substantiated by evidence (such as a bespoke household survey focusing on the reasons for residents choosing to shop outwith the catchment), there can be absolutely no reliance on this particular trade draw assumption.
- The amount of trade drawn from the retail parks at Berryden, Beach Boulevard, Garthdee and Kittybrewster (£11m) is overestimated. This is because, as the Applicant points out in Section 4 of its Retail Capacity Study, these retail parks are largely bulky goods / value orientated in nature and as such unlikely to compete on a like for like basis with the proposed development (which by the Applicant's own admission is to be focused on the fashion sector).
- Taking into account the above, we consider that the likely trade draw of the proposal from destinations other than the City Centre has been overestimated (it concludes that £30m will be drawn from existing retail parks and from stores and facilities outside of the catchment). This has the effect of underestimating the quantitative impact on the City Centre.
- In addition to the above we note that little or no attempt has been made by the Applicant to undertake an assessment of the qualitative impacts of the proposal which, in our view, will be significant. These qualitative impacts include:
 - impact on investor confidence – the proposal will have a direct impact decisions to invest in the City Centre – a large, out of centre retail park coming on stream will reduce the overall attractiveness of investing in the City Centre;
 - impact on customer perceptions - as we highlighted above, Aberdeen is the commercial shop window for the region – competing investment outwith this location will have an impact upon perceptions of the City that could ultimately have a negative impact upon the wider region;
 - amplified impacts on local, independent business who rely on the footfall generated by anchor stores for custom;
 - impact on commercial rents;
 - potential relocation of businesses to Prime Four from the City Centre (where dual representation is no longer required) – whilst the Applicant indicates this is not the intention of the proposal, there would be nothing to stop this happening in the future.
- In addition to the above, we note with interest that the description of development also includes food and drink uses (Class 3). No attempts have been made by the Applicant to address what the impact of this aspect of the proposal will be – indeed no reference is made to these uses in its Retail Capacity Study. Our view is that placing food and drink uses at the proposal site will enhance the attraction of the retail park and remove yet another reason for shoppers to visit the City Centre. This will not only result in a loss of trade to occupiers in the City Centre it will also increase the patronage of / dwell time at the retail park increasing the likelihood of people diverting their trade to the retail park from the City Centre. Food and beverage uses in this location represent the further erosion of the need to visit Aberdeen City Centre thus impacting on its overall vitality and viability.
- The resultant effect is that the impact of the proposed development has been significantly underestimated to the extent that we do not consider the Applicant has satisfactorily demonstrated that there will be no significant adverse effect on the vitality and viability of Aberdeen City Centre.
- The need for comparison goods floorspace in Aberdeen has already been assessed by Aberdeen City Council and is subsequently being planned for in the emerging LDP – this concludes quite categorically that there is no need direct surplus capacity identified by the ACARS towards out of centre locations and that any major requirements for new retail floorspace can be satisfactorily accommodated within the City Centre.

Assessment of Positive Economic Impact

- In addition to the above, the Applicant seeks to highlight the net economic benefits associated with the proposed development, which it regards to be a key material consideration in the determination of the application (Paragraph 8.21).
- Paragraph 8.22 notes that the retail industry makes a direct contribution to economic prosperity with people directly employed by retailers as well as employees supported in the wider supply chain. It notes that as a result, the proposal has the ability to create more than 500 new jobs, something that would make a significant contribution to the Aberdeen economy.
- Paragraph 8.23 states that it is apparent from the level of surplus capacity within the catchment area that the trading impact of the proposed floorspace will be a benign one and that it can co-exist with Aberdeen City Centre and the other centres in the catchment. It goes on to state that the proposed retail floorspace will not threaten the existence of any existing retailers that trade from Aberdeen City Centre and will not prejudice the development of additional retail floorspace which may come forward in the future.
- Paragraph 8.24 notes that the proposed development at Prime Four will not affect the SDP commitment to the City Centre as it has a much broader role than simply a retail destination and it has a deep breadth of offer in terms of food and drink, leisure, retail, residential, recreational and business space. Paragraph 8.25 goes on to state that the city Centre has a completely different role to the other major shopping destinations in Aberdeen and it provides a different shopping experience. The proposed development is intended to fill a trading gap rather than compete with existing stores in the City Centre.
- The Applicant notes that the proposed retail floorspace will meet the immediate requirements of the market and will significantly improve access for potential customers in the catchment area. It is considered that the location of the proposal will not divert significant numbers of existing customers from the existing stores in the City Centre (Paragraph 8.26). It is further noted that the new retail floorspace will improve competition and choice as well as securing a qualitative improvement which will serve the western quadrant of Aberdeen and parts of Aberdeenshire. The Applicant concludes by noting that the City will experience direct benefit from this qualitative improvement, boosting market confidence in the region.

- The Applicant refers to a series of economic benefits associated with the proposed development which it regards as material considerations of weight in the determination of the planning application. This includes the number of jobs to be created by the proposal.
- Officers should treat these purported benefits with considerable caution in the determination of this application. Indeed, whilst we do not doubt that the proposed development will create new employment opportunities – these opportunities are likely to be at the expense of the jobs lost or relocated as a result of the proposed development (displacement rather than creation). The proposed development will compete head on with existing businesses in the City Centre. We also find the employment generation figures set out in the Applicant's submission to be overstated.
- We would add to the above by noting that not only will the proposal undermine the City's overarching retail strategy (which is to direct new retail floorspace to allocated centres and to maintain Aberdeen City Centre's position at the top of the north east retail hierarchy), it is also unsustainable. It does not offer the range of benefits that can be achieved through in-centre development including the provision of centrally located floorspace which is genuinely accessible to all (not just those who have access to a car) and the ability for linked trips with other services and facilities in the City Centre.

Conclusions

The Applicant's conclusions are set out in Section 9.0 of the Retail Capacity Study:

- Paragraph 9.1 notes the current deficiency of retail floorspace in the Aberdeen City Region and the ACARS which describes the scale of the retail opportunity in Aberdeen as 'enormous'.
- In terms of quantitative need, the Applicant asserts that it has demonstrated that the scale of the existing surplus expenditure in the Aberdeen catchment areas is more than sufficient to justify the proposed retail floorspace and that its assessment shows that the proposal represents a valuable opportunity to make a significant qualitative improvement to shopping provision in the Aberdeen catchment.
- It goes on to note that national planning policy requires that a sequential approach be adopted for the selection of preferred locations for retail development. Its review of Aberdeen Centre concludes that there are no suitable and available sites either in or on the edge of the City Centre.
- Paragraph 9.4 notes that despite its out of centre location, Prime Four is an established and sustainable business location, is already allocated for development and that it is the only viable site within the area which is capable of accommodating the proposed store and meeting the requirement for a new retail centre to serve the Aberdeen catchment. Moreover, it is considered that the proposal is tailored to address a specific requirement from retailers, many of whom already have a presence in the City Centre. It is stated that these retailers do not require additional City Centre representation and instead wish to invest in other parts of the City Region. As a result, it is considered that the proposal will not prejudice the delivery of sites identified for retailing in the City Centre (Paragraph 9.5).
- In terms of impact on Aberdeen City Centre, Paragraph 9.6 notes that the overall impacts of the proposed development on the City Centre will be benign. It also states that it has been demonstrated that the City Centre is currently in good health and is well placed to withstand any impacts from the proposed development.
- Overall, it is considered that the proposal will have positive effects, both at strategic and local levels. At the strategic level, it is considered that the proposal will add a major new retail attraction to the region to ensure that it is in the strongest position to claw back trade that currently leaks to more distant facilities outwith the catchment area. At a local level, it is considered that the proposal has the potential to create significant new jobs.
- The Study concludes by noting that Aberdeen's position as a retail destination cannot survive indefinitely without investment to maintain its position within the retail hierarchy and its ability to serve those who live within its substantial catchment. It notes that there is a requirement for diversification in the north east retail market and a vital element of the proposals is the reinforcing of the retail role in the face of so many external competitive pressures. The Applicant considers that the proposal offers the opportunity to address these challenges and to re-position Aberdeen as one of Scotland's main retail destinations.

- We disagree with the Applicant's conclusions in regard to the acceptability of the proposed development in retail planning terms for the following reasons:
 - the Applicant's approach to sequential assessment does not adhere to the process for sequential assessment set by the SPP due to a misinterpretation of case law - as a consequence, the sequential assessment undertaken is insufficient to demonstrate that all city centre, edge of city centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable;
 - the scale of development proposed is inappropriate, and there have been no efforts on the part of the Applicant to demonstrate that the proposal cannot reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location;
 - the proposal is presented as a means to address qualitative and quantitative deficiencies within the city region – this will however be at the expense of City Centre sites that have been identified in the existing and emerging LDP to address identified capacity for additional retail floorspace; and
 - the Applicant's economic trade draw analysis utilises inappropriate assumptions which serve to underplay the impacts of the proposed development. The assessment it is not fit for purpose and places undue weight on the quantitative impacts of the proposal without due regard to the associated qualitative impacts which must be taken into consideration as part of any assessment of retail impact. In this regard, the Applicant has failed to demonstrate that the proposal will not lead to a significant adverse impact on the vitality and viability of Aberdeen City Centre.
- We would add to the above and enclosed by noting that Aberdeen operates a Plan-led system which must be followed unless material considerations indicate otherwise (Town and Country Planning (Scotland) 1997 Act). Our assessment of the proposed development concludes that the purported benefits associated with the proposed development (as set out in the Applicant's Retail Capacity Study and other associated documents) are by no means sufficient to outweigh its clear non-compliance with the adopted LDP and the Aberdeen City and Shire Strategic Development Plan 2014 (SDP). Moreover, it categorically fails to address the overarching objective of the SPP in regard to town centres and retailing which is to apply a town centres first policy when planning for uses which attract significant numbers of people, including retail and commercial leisure. A town centres first policy is intended to support town and city centres, where these exist, or new centres only when they are supported by the Development Plan.
- In this case, the scale of the proposed development is not envisaged in the existing and soon to be adopted Local Development Plan 2016. Indeed, within the emerging LDP, the City Council has set out a clear and comprehensive strategy for the delivery of additional retail floorspace up to 2035 / 36, informed by a comprehensive masterplanning exercise and the ACARS.
- Moreover, there is evidence of a clear and demonstrable willingness on the part of City Centre investors to deliver this additional retail floorspace within the City Centre itself including the scheme by Hammerson to redevelop the Union Square car park (Application Ref: 152005). This scheme alone has the potential to deliver up to 11,148 sqm of retail floorspace, 6,503 sqm of new leisure space and 4,645 sqm of food and drink uses. While there may well be an appetite from retailers to have additional facilities outwith the City Centre this is not a material consideration of any weight as quite clearly retail planning policy at all levels directs these retailers to town centre locations first and foremost. Indeed, the fact that these retailers would like to have additional representation at Prime Four does not overcome the fact that their very presence in this location will conflict with retail planning policy at all levels and significantly and irreversibly undermine Aberdeen City Centre's position at the top of the north east Scotland retail hierarchy.
- In addition to the above, we note with interest that the Applicant has placed significant emphasis on the fact that both Glasgow and Edinburgh have significant out of centre retail provision, which on the face of it appears to operate quite successfully alongside more traditional retail provision within the city centres themselves. However, what this fails to take into account is that how other city regions operate is not a policy consideration and it is by no means sufficient justification that Aberdeen requires similar provision. Instead, it simply serves to illustrate the commitment of Aberdeen City Council to its town centres first policy and its clear emphasis on preserving and enhancing the vitality and viability of Aberdeen City Centre. The City Centre has benefitted significantly from this emphasis on the town centres first principle – it holds the dominant position in the north east for shopping and in recent years there have been several key city centre developments such as the development of Union Square and the upgrading of the Bon Accord and St. Nicholas Centres. Going forward, there are sufficient opportunities over the lifetime of the existing and emerging LDP to meet the identified capacity for new retail floorspace. Taking all this into consideration, there is no overwhelming quantitative or qualitative need to deliver the proposed floorspace in this location.
- The impact of out of centre development on planned investment such as that proposed within the existing and emerging LDP is summarised by the ACARS. This concludes that there is a need to facilitate and support the growth of Aberdeen City Centre and:
 - *"to maintain the City Centre as the principal retail location serving the north east of Scotland. The primary focus of the City Centre will be for comparison goods retailing. However, it is recognised that the delivery of new sites within the City Centre is a difficult and protracted process reflecting a range of development constraints including complex land ownership. Therefore, in order to provide the maximum opportunity for City Centre development to proceed, some restraint is proposed for out-of-centre retail proposals elsewhere in the City and Shire." (Page 76, emphasis added).*
 - As the Applicant points out at Paragraph 5.8 of its Retail Capacity Study, the ACARS also advises that:
 - *"the development of land in the City Centre for new retail will be a protracted, complex and costly process and could be undermined by relatively easy alternatives elsewhere in the City." (Page 63, emphasis added).*
- We do not dispute that there is significant potential for additional retail floorspace in the Aberdeen catchment area (this is to be expected), however this is quite clearly being planned for (as is required) through the emerging Local Development Plan (and the City Centre Masterplan) in far more sustainable locations, in accordance with recommendations of the ACARS and in line with the town centres first approach. The fact that the delivery of additional retail floorspace can be difficult to achieve in City Centre locations does not give developers 'carte blanche' to deliver unsustainable proposals elsewhere – if anything, it further highlights the need for the City Council to uphold the town centres approach to allow these City Centre developments to come forward in line with what is envisaged in the existing and emerging LDP.