



# Sainsbury's Supermarkets Ltd and Cranford (Hayle) LLP Land at Marsh Lane, Hayle

## PPS25: Sequential Test Assessment

June 2010

Ropemaker Court, 12 Lower Park Row, Bristol, BS1 5BN  
Tel: 0117 925 4393



## Document Control

Project: Proposed Foodstore, Hayle

Client: Sainsbury's Supermarkets Ltd and Cranford (Hayle) LLP

Job Number: A039340

File Origin:

Document Checking:

Prepared by:	Peter Grubb, Senior Planner	Signed:
--------------	-----------------------------	---------

Checked by:	Simon Coles, Regional Director	Signed:
-------------	--------------------------------	---------

Verified by:	Simon Coles, Regional Director	Signed:
--------------	--------------------------------	---------

Issue	Date	Status
1	29 <sup>th</sup> March 2010	Draft 1
2	20 <sup>th</sup> April 2010	Draft 2
3	12 <sup>th</sup> May 2010	Final Draft
4	4 <sup>th</sup> June 2010	Issue Date



## Contents Page

1.0	Introduction.....	1
2.0	The Requirements of PPS25.....	2
3.0	PPS25 Requirements .....	4
4.0	<b>Defining the “proposed development area” that should be applied to the Sequential Test.....</b>	<b>7</b>
5.0	Area of Search (AOS) .....	11
6.0	Detailed Requirements for a Sequential Site.....	12
7.0	Definition of Appropriate Sites.....	13
8.0	Practical Application of the Sequential Test to the Proposed Development .....	15
9.0	Location of Built Development within the Site .....	27
10.0	Conclusions .....	29

## Appendix Contents

Appendix A – Cornwall Council letter dated 11 January 2010 & EA letter dated 18 January 2010

Appendix B – Minutes of meeting dated 18 February 2010

Appendix C – Marsh Lane Flood Zone Classification

Appendix D – Location Plan

Appendix E – Area of Search

Appendix F – Map of proposed site excluding highway and ecology works

Appendix G – Heritage Impact Assessment

**WYG** Planning & Design

part of the **WYG** group





## PPS25: Sequential Test

### 1.0 Introduction

- 1.1.1 This Assessment has been prepared by WYG Planning & Design on behalf of Sainsbury's Supermarkets Ltd and Cranford (Hayle) LLP in relation to a revised planning application for a new foodstore (Class A1), associated car parking and servicing, petrol filling station (PFS), nature reserve, highway works and access on land at Marsh Lane, Hayle.
- 1.1.2 It takes account of the requirements of PPS25 (Development and Flood Risk) and the updated Practice Guidance. It is submitted alongside a Flood Risk Assessment (FRA) prepared by RMA Environmental Ltd and a Retail Assessment prepared by WYG.
- 1.1.3 This Assessment updates a PPS25 Sequential Test Assessment previously undertaken and submitted to Cornwall Council in connection with a planning application for a foodstore on the site dated 20<sup>th</sup> November 2009 which was subsequently withdrawn. However, prior to the withdrawal of the application Cornwall Council (CC) and the Environment Agency (EA) provided detailed consultation responses on the previous Assessment in the form of letter dated 11<sup>th</sup> January and 18<sup>th</sup> January 2010, respectively. The letters are attached at **Appendix A**.
- 1.1.4 Following the receipt of comments from CC and the withdrawal of the previous planning application the applicant met with the Environment Agency (EA) and CC on 18th February 2010 to agree a revised methodology for the Assessment. The meeting minutes (which have been agreed by all parties) are attached at **Appendix B**.
- 1.1.5 The methodology adopted for this assessment extends beyond the requirements of PPS25 and associated Practice Guidance. As such, the applicants have prepared this Assessment on a 'without prejudice' basis to the less onerous requirements of PPS25 and associated Practice Guidance.



## PPS25: Sequential Test

## 2.0 The Requirements of PPS25

### 2.1 Background

- 2.1.1 PPS25 was first published in December 2006 and was updated on 29<sup>th</sup> March 2010. It is material to the consideration of individual planning applications and sets out how the planning process should facilitate and promote sustainable patterns of development, avoid flood risk and accommodate the impacts of climate change. PPS25 is accompanied by Practice Guidance. The PPS25 Practice Guidance was first published in June 2008 and was replaced by updated Practice Guidance in December 2009. This revised Assessment takes account of the updated PPS25 and Practice Guidance.
- 2.1.2 PPS25 requires the application of the Sequential Test (and where appropriate the Exception Test) on all sites located outside of Flood Zone 1. This Assessment seeks to apply the Sequential and Exception Tests to the proposed development.

### 2.2 Sequential Test

- 2.2.1 PPS25 requires local planning authorities (LPAs) to undertake a sequential approach to determining land uses that are compatible with the level of flood risk at each potential development site within its area. A LPA must demonstrate that it has applied the Sequential Test and where necessary, the Exception Test when considering planning applications for individual developments.
- 2.2.2 PPS25 and accompanying Practice Guidance require the Sequential Test be applied to all development located outside of Flood Zone 1. The updated Practice Guidance (paragraph 4.25) states that:

*"In these cases the developer will need to provide evidence to the Local Planning Authority that there are no reasonably available sites that could be considered as being suitable and appropriate for the development that it proposed, where that development can then be located."*



## PPS25: Sequential Test

### 2.3 Exception Test

2.3.1 PPS25 paragraph 18 confirms that if, following the application of the Sequential Test, it is not possible for the development to be located in zones of lower probability of flooding and the proposed use is “not appropriate” within the proposed flood zone, the Exception Test can be applied.

2.3.2 For the Exception Test to be passed, PPS25 paragraph D9 confirms applicants must demonstrate:

- i. that the development provides wider sustainability benefits to the community that outweigh flood risk;
- ii. the development should be on developable previously-developed land or, if it is not on previously developed land, that there are no reasonable alternative sites on developable previously-developed land; and
- iii. a Flood Risk Assessment (FRA) must demonstrate that the development will be safe.



## 3.0 PPS25 Requirements

### 3.1 Flood Risk Classification of the Application Site

- 3.1.1 The starting point for identifying the flood risk classification of the application site is defining the “**proposed development**”. The application site extends to 13.89 ha and is defined as the foodstore, service yard, petrol filling station, access, highway works and ecology enhancements.
- 3.1.2 The previous Assessment excluded the ecology enhancements from the “**proposed development**” and this approach was accepted by CC. Furthermore, the ecology works are classified by PPS25 as ‘**water-compatible**’ (PPS25 Table D3) and **appropriate in all flood zones**.
- 3.1.3 The previous assessment also disaggregated the proposed highway works from the rest of the development in order that it may be classified separately as “**essential infrastructure**” (as opposed to “**buildings used for shops**”) on the understanding that this is the closest definition provided by PPS25. The EA objected to the definition adopted for the proposed highway works.
- 3.1.4 This revised Assessment proposes to include the highway works as part of the proposal, in order to address the concerns of CC. **For these purposes, the “proposed development” is therefore redefined** as the foodstore, service yard, petrol filling station, access and highway works. Collectively, these individual elements of the proposal are assessed on the basis that they all fall under the definition of “**buildings used for shops**” (PPS25 Table D2), as agreed with CC and the EA. Point 6 of the agreed meeting minutes state:

*“Identifying the proposed development site: Agreed that the application site should include the south west corner of the site proposed for the food store together with the highway works, but **exclude the ecology works.**”*

- 3.1.5 The map at **Appendix C** shows the relationship between the “**proposed development**” and the flood zones, as defined by PPS25. The map has been produced as a result of flood modelling undertaken by H2ok on behalf of the applicants. The extent of the flood zones shown on this map have been agreed by the EA.
- 3.1.6 It shows that the vast **majority of the “proposed development”** lies within Flood Zone 1 (lowest probability of flooding); a small area of the car park, the PFS kiosk and part of the highway works lie within Flood Zone 2 (medium risk of flooding) and a very small stretch of a footpath linking the



## PPS25: Sequential Test

foodstore to the bus stop lies within Flood Zone 3a (highest probability of flooding). The subsequent requirements of PPS25 are considered below.

3.1.7 In accordance with PPS25, Table D2 “buildings used for shops” are classified as a “less vulnerable” use. An extract from Table D2 is shown below:

Less Vulnerable	<ul style="list-style-type: none"> <li>• Buildings used for: shops; financial, professional and other services; <del>restaurants and cafes</del>; hot food takeaways; offices; general industry; storage and distribution; non-residential institutions not included in ‘more vulnerable’; and assembly and leisure.</li> <li>• Land and buildings used for agriculture and forestry.</li> <li>• Waste treatment (except landfill and hazardous waste facilities).</li> <li>• Minerals working and processing (except for sand and gravel working).</li> <li>• Water treatment plants.</li> <li>• Sewage treatment plants (if adequate pollution control measures are in place).</li> </ul>
-----------------	---

Source: PPS25 (Table D2)

## 3.2 Assessing the Need for the Sequential and Exception Tests

3.2.1 Shops are therefore considered to be an appropriate use within Flood Zones 1, 2 and 3a. However, Table D1 confirms that a Sequential Test is still required.

Table D.1: contd.

<p><b>Zone 3a High Probability (continued)</b></p> <p><b>Policy aims</b></p> <p>In this zone, developers and local authorities should seek opportunities to:</p> <ol style="list-style-type: none"> <li>i. reduce the overall level of flood risk in the area through the layout and form of the development and the appropriate application of sustainable drainage techniques;</li> <li>ii. <u>relocate existing development to land in zones with a lower probability of flooding; and</u></li> <li>iii. create space for flooding to occur by restoring functional floodplain and flood flow pathways and by identifying, allocating and safeguarding open space for flood storage.</li> </ol>
--

Source: PPS25



**PPS25: Sequential Test**

3.2.2 Table D3 confirms that an **Exception Test is not required for “less vulnerable” development** (buildings used for shops) within Flood Zones 1, 2 and 3a.

**Table D.3<sup>22</sup>: Flood Risk Vulnerability and Flood Zone ‘Compatibility’**

Flood Risk Vulnerability classification (see Table D2)		Essential Infrastructure	Water compatible	Highly Vulnerable	More Vulnerable	Less Vulnerable
Flood Zone (see Table D.1)	Zone 1	✓	✓	✓	✓	✓
	Zone 2	✓	✓	Exception Test required	✓	✓
	Zone 3a	Exception Test required	✓	x	Exception Test required	✓
	Zone 3b ‘Functional Floodplain’	Exception Test required	✓	x	x	x

Key:

- ✓ Development is appropriate
- x Development should not be permitted

Source: PPS25

Proposed Development

3.2.3 Therefore, a Sequential Test is required, but the Exception Test is not required in this instance.



## PPS25: Sequential Test

# 4.0 Defining the “proposed development area” that should be applied to the Sequential Test

## 4.1 Planning Policy Definition (PPS25)

- 4.1.1 As set out above, the updated Practice Guidance requires the application of the Sequential Test to the *“development that is proposed”* (paragraph 4.25) which refers to all of the development proposed in the planning application. This can be defined as all development proposed within the red line.
- 4.1.2 As noted above, the development proposed includes the erection of a single storey foodstore, petrol filling station, surface car park, access and service yard, nature reserve and enabling highway works. The **‘proposed development area’** is encompassed by the red line shown on the submitted Site Location Plan (ref: PL001 D) which is attached at **Appendix D**.
- 4.1.3 The proposed development area involves a site that extends to 13.89 ha.
- 4.1.4 In accordance with the requirements of PPS25 and updated PPS25 Practice Guidance, the Sequential Test must be applied to the development that is proposed on a site that extends to a minimum of 13.89 hectares.
- 4.1.5 The EA and CC have agreed this principle, point 5 of the agreed meeting minutes state:  
  
*“Agreed that PPS25 requires the application of the Sequential Test to the ‘development that is proposed’ (PPS25, Prac Guid, para 4.25) which is the red line site and all development within it.*
- 4.1.6 PPS25 and updated Practice Guidance do not require any flexibility in the proposed development area when it is applied to other sequential sites. This point is accepted by the EA and CC at point 7 of the meeting minutes which states:  
  
*“Agreed that (unlike PPS4) PPS25 does not require any flexibility in the proposed development (PPS25, Prac Guid, para 4.25).”*
- 4.1.7 Where the application of the sequential test is required and in order to comply with the provisions of PPS25 and the updated Practice Guidance, the applicant must identify sequential sites and investigate whether the development proposed on a site that extends to a minimum of



## PPS25: Sequential Test

13.89 hectares, can be accommodated on any of the sequential sites. If the sequential site is less than 13.89 ha it will not by definition be able to accommodate the development that is proposed and will not therefore be suitable for the development proposed.

4.1.8 It is acknowledged by CC and the EA that PPS25 does not require the applicant to demonstrate flexibility in the size of the site or development proposed. A Sequential Test Assessment undertaken on this basis would lead to a clear conclusion that that at 13.89 ha none of the sequential sites identified by CC would be physically capable of accommodating the development.

4.1.9 This is the starting and finishing point of the Sequential Test for this application. However, CC and the EA have requested that the applicants undertake a more flexible approach and this is considered below. In summary, the applicants have agreed to adopt a more flexible approach **on a 'without prejudice' basis and the applicant reserves the right at any time to revert to an approach** that is consistent with the requirements of PPS25.

## 4.2 Introducing Flexibility into the Proposed Development Area Beyond the Requirements of PPS25

### Introduction

4.2.1 Introducing flexibility into the proposed development goes beyond the requirements of planning policy but is welcomed by the EA and CC, as set out at point 8 of the attached meeting minutes in Appendix B. The EA and CC also acknowledge that the degree of flexibility introduced is not required by policy. The agreed meeting minutes state:

*"Agreed that a robust approach is to show flexibility in the proposal particularly in terms of the land take required for a food store and car parking. Agreed that degree of flexibility should be justified in the Assessment."*

4.2.2 The following section considers the scope for introducing flexibility into the proposed development by assessing the potential to reduce the size of the application site.



## PPS25: Sequential Test

### Flexibility in the Foodstore and Car Parking

- 4.2.3 The proposed Sainsbury's foodstore has a gross floor area of 4,983 sq m, a net sales area of 3,042 sq m and 317 car parking spaces.
- 4.2.4 The Penwith Retail Study (PRS) identified the need for a step change in Hayle's convenience and comparison offer and suggested that this could be delivered by a new supermarket capable of retaining a greater proportion of main food shopping spend.
- 4.2.5 The submitted Retail Assessment concludes that a larger foodstore is required to meet the need than that identified by the PRS **and that a foodstore of the size proposed by Sainsbury's is required** in order to provide a genuine main food shopping destination that is capable of clawing back a substantial portion of the main food shopping trade leaking out of Hayle. A full justification for the size of the proposed store is provided within the Retail Assessment. The number of car parking spaces proposed is required in order to provide a satisfactory level of customer car parking to serve the store taking account of the requirements of planning policy and anticipated customer numbers and frequency of visits. There is therefore little scope for further flexibility in the foodstore proposals and even if there were, it is not likely to have a material impact on the site of the proposed development area.

### Flexibility in the Ecology Enhancements

- 4.2.6 The proposed ecology enhancements are a result of an opportunity specifically generated by the application site. The same opportunity is unlikely to exist for other sequential sites and on this basis, the land required for the works could be excluded when applying the sequential test.
- 4.2.7 The application site is therefore reduced from 13.89 ha to 4.16 ha. This approach is agreed by CC and the EA; point 6 of the agreed meeting minutes state:

*"Agreed that the application site should include the south west corner of the site proposed for the food store together with the highway works, but **exclude the ecology works.**"*



## PPS25: Sequential Test

### Flexibility in the Highway Works

- 4.2.8 The highway works are required to enable the proposed development to proceed on the application site but the same highway works may not be required when applying the proposed development to sequentially preferable sites. It is therefore proposed to introduce further flexibility into the proposed development by excluding the highway works. This would further reduce the site required to **accommodate the "development that is proposed"** from 4.16 ha to 2.3 ha.
- 4.2.9 It is noteworthy that, for the purposes of assessing the flood risk classification of the application site the highway works are included. This approach is set out in the consultation response from CC as a requirement and was agreed at the subsequent meeting (paragraph 4.2.9 above).

### Summary

- 4.2.10 In summary therefore the 'proposed development area' to be applied to other sequential sites is 2.3 ha.



## PPS25: Sequential Test

### 5.0 Area of Search (AOS)

- 5.1.1 The PPS25 Practice Guidance advises that the search area should normally start as the local authority boundary. In this case, the proposal justifies a more bespoke search area for the following reasons:
- The local authority area covers the whole of Cornwall, an area that is too large for a meaningful Sequential Test to be undertaken;
  - The proposed development seeks to meet a retail need arising in Hayle; and
  - All the sequential sites identified by Cornwall Council are located in Hayle.
- 5.1.2 The Retail Assessment demonstrates that there is both a quantitative and qualitative need for a foodstore in Hayle (noting that need is no longer a retail policy test) which can serve the main food shopping needs of the local population. This conclusion is supported by the Penwith Retail Study 2007 (PRS).
- 5.1.3 The PRS is supported by a household survey of shopping patterns across the former Penwith district. The survey defines a Study Area based on 8 main post code zones. Zone 1 includes Penzance, Zone 2 includes St Ives and Carbis Bay and Zone 3 includes Hayle.
- 5.1.4 In preparing the Retail Statement, WYG updated this evidence base by undertaking a further household survey using the same Study Area as the PRS. Zones 2 and 3 have been adopted as the Primary Catchment Area (PCA) for the proposed foodstore. However, the deficiency in main food shopping facilities in the PCA is particularly acute in Zone 3 (Hayle) since there are no food stores that serve a genuine main food shopping function in Zone 3, whereas there is a Tesco in Zone 2 (Carbis Bay) which provides a main food shopping destination. There is therefore a specific qualitative deficiency for a main food shopping destination to serve Hayle.
- 5.1.5 The consultation response from CC (attached at **Appendix A**) raised no objection to the proposed AOS. Accordingly, the AOS is identical to that previously adopted and accepted by CC. A map showing the AOS is provided at **Appendix E**.



## PPS25: Sequential Test

### 6.0 Detailed Requirements for a Sequential Site

#### 6.1 Site requirements

6.1.1 This Section confirms the minimum requirements of a sequential site.

6.1.2 As described above, PPS25 updated Practice Guidance requires applicant's to demonstrate that *"...there are no reasonably available sites which could be considered as being suitable and appropriate for the [our emphasis] development that is proposed, where that development could then be located."*

6.1.3 PPS25 updated Practice Guidance (paragraph 4.29) states that *"**The Sequential Test** will show whether there are any reasonably available sites for the [our emphasis] type and scale of proposed development in a lower flood risk zone or at a lower flood risk than the application site."*

6.1.4 The foodstore development proposed requires a site of at least 2.3 ha in size.



## PPS25: Sequential Test

# 7.0 Definition of Appropriate Sites

## 7.1 Introduction

7.1.1 In order to undertake a robust and systematic assessment of the appropriateness of sequential sites, it is first necessary to define “appropriateness.” PPS25 does not define the term; paragraph 4.27 of the Practice Guidance refers the practitioner of the Sequential Test to PPS3 (Housing) for definitions, however, PPS3 also fails to provide a sufficiently detailed definition. The EA and CC agree and point 9 of the agreed meeting minutes (attached at **Appendix B**) states:

*“Agreed that PPS25 does not provide an adequate definition of these terms.”*

7.1.2 In the absence of a satisfactory definition in PPS25, the updated Practice Guidance and PPS3, one option is to adopt the definitions provided by PPS4 (Planning for Sustainable Economic Growth) which sets out detailed definitions and parameters for the application of a retail sequential test. The EA and CC agree to this approach; point 9 of the agreed meeting minutes states:

*“Agreed that the Assessment should default to the detailed definitions provided in PPS4.”*

7.1.3 Accordingly, PPS4 definitions are adopted, again on a ‘without prejudice’ basis, for the purposes of this Assessment.

## 7.2 PPS4 Definitions

7.2.1 PPS4 (paragraph EC15.1) confirms that in carrying out the sequential approach to site selection, sites are assessed for their availability, suitability and viability.

7.2.2 These terms are defined at paragraph 6.37 of PPS4 Practice Guidance, as:

- o Availability – whether sites are available now or are likely to become available for development within a reasonable period of time (determined on the merits of a particular case, having regard to inter alia, the urgency of the need).
- o Suitability – whether sites are suitable to accommodate the need or demand which the proposal is intended to meet.



## PPS25: Sequential Test

- o Viability – whether there is a reasonable prospect that development will occur on the site at a particular point in time.



## PPS25: Sequential Test

# 8.0 Practical Application of the Sequential Test to the Proposed Development

## 8.1 Proposed Development

8.1.1 As noted above, the proposed development (a foodstore, car parking, petrol filling station, access and servicing) requires a site extending to a minimum of 2.3 ha.

## 8.2 Sites identified in the Development Plan

8.2.1 The Development Plan does not specifically allocate any sites for a foodstore in Hayle.

8.2.2 The Local Plan Policy TV-D allocates part of Hayle Harbour for regeneration, including South Quay, North Quay and Jewson's. It provides a list of criteria that must be met to ensure development is acceptable. Amongst the criteria is a requirement for a mix of uses including Class A1 (retail).

## 8.3 Sequential Sites

8.3.1 Cornwall Council confirmed by letter dated 10 July 2009 (copy at **Appendix H** of the Retail Assessment) that the PPS6 sequential assessment (national retail policy in force at the time) should consider the following sites:

1. Hayle Harbourside South Quay
2. Hayle Harbourside North Quay
3. Jewson
4. Jewson and South Quay combined
5. R & J Supplies
6. Loggans Moor
7. Hayle Rugby Club



## PPS25: Sequential Test

8.3.2 The EA and CC agreed that this Assessment should also consider the same seven sites. Point 1 of the agreed meeting minutes states:

*"Agreed the list of (7) sequential sites to match those used for the retail assessment (R&J Supplies, North Quay, South Quay, Jewson, Jewson and South Quay, Hayle Rugby Club, Loggans Moor)"*

## 8.4 Assessment of Sequential Sites

### *Introduction*

8.4.1 The assessment below identifies the Flood Risk classification of each of the sites in order to identify the sites which would be sequentially preferable in terms of flood risk. Those sites which are proportionally (%) not within a lesser flood zone than the application site are discounted on the basis that they are at equal or greater risk of flooding. The potentially preferable sites that have been identified are then assessed in terms of their availability, suitability and viability for the proposed development.

### *Flood Risk Classification of Sequential Sites*

8.4.2 PPS25 requires applicants to locate development in a lower flood risk area where there is a reasonably available site that is appropriate to accommodate the proposal. In so doing, it implies a requirement to identify the flood risk classification of each sequential site but does not specifically require **applicant's** to assess the proportion (%) of each Flood Zone on any given site. Indeed, the EA and CC agreed that this is not a requirement of PPS25 or the accompanying Practice Guidance; point 3 of the agreed meeting minutes states.

*"Agreed that PPS25 doesn't require the identification or assessment of the 'proportion of flood risk zones within the sequential sites'. SP [EA] considers that a pragmatic approach would be to identify and assess the proportions of each zone within each sequential site, with the aim to differentiate between sites with the same flood risk classification to see if the proposed development could be located outside of zone 3a."*

8.4.3 The seven sites tested are listed in Table 1, which includes blue shading to indicate that part of the site lies within a particular Flood Zone. Flood Zone 1 is defined as land with less than a 0.1% annual probability of flooding from rivers or the sea; Flood Zone 2 is defined as land with between a 0.1% and 1.0% annual probability of flooding from rivers or 0.1% to 0.5% from the sea; and Flood



## PPS25: Sequential Test

Zone 3 is defined as land with an annual probability of flooding of more than 1.0% from rivers or 0.5% from the sea.

**Table 1: Details of PPS25 Sequential Test Sites (ranked by % proportion in Flood Zone 3)**

Sequential Site	Site Area (Ha)	Sequential preference	FZ3 Area	FZ2 Area	FZ1 Area	FZ3 %	FZ2%	FZ2 and FZ3 combined%	FZ1 %
R&J Supplies	0.581	1	0.000	0.000	0.581	0.0%	0.0%	0.0%	100%
Hayle RFC <sup>1</sup>	4.031	2	0.000	0.005	4.026	0.0%	0 %	0%	100%
Jewsons	1.63	3	0.000	0.111	1.180	0.0%	6.8%	6.8%	72.4%
Marsh Lane <sup>2</sup>	4.16	4	0.002	0.591	3.573	0.0%	14.2%	14.2%	85.8%
Loggan's Moor	4.952	5	0.514	1.240	3.198	10.4%	25.0%	35.4%	64.6%
North Quay	6.755	6	1.154	0.314	5.287	17.1%	4.6%	21.7%	78.3%
South Quay & Jewsons	4.77	7	0.861	0.647	2.774	18.1%	13.6%	30.7%	64.8%
South Quay	3.14	8	0.861	0.536	1.594	27.4%	17.1%	44.5%	50.8%

Sources:

**EA Detailed Flood Map, Jan 2010:** Jewsons, R&J Supplies, Hayle RFC, Loggan's Moor

**Buro Happold FRA, South Quay, Nov 2009:** South Quay, North Quay

**H2OK/RMA FRA, Dec 2009:** Marsh Lane

<sup>1</sup> Includes works to A30 roundabout to facilitate scheme

<sup>2</sup> Includes the proposed highway works for robustness. However, excluding the highway does not change the order of sequential sites.



## PPS25: Sequential Test

### 8.5 Proposed Development Site (Marsh Lane)

8.5.1 Table 1 shows that the majority of the site is located in Flood Zone 1 (85.8%), 14.2% of the site is located in Flood Zone 2 and less than 0.1% is located in Flood Zone 3.

### 8.6 Sequential Sites at a Greater Risk of Flooding than the Application Site

8.6.1 Table 1 demonstrates that South Quay, South Quay and Jewson combined, North Quay and Loggans Moor are not sequentially preferable in flood risk terms, since a higher proportion of each site is located in Flood Risk Zone 3 and a higher proportion of each site is located in Flood Zones 2 and 3 combined. These three sites are not therefore sequentially preferable to the application site in this respect and can be ruled out of the ongoing assessment.

8.6.2 The remaining sites (Jewson, R&J Supplies and Hayle Rugby Club) are sequentially preferable in flood risk terms and require consideration in terms of their availability, suitability and viability to accommodate the development proposed.

#### *Sites within a Lesser Flood Zone*

8.6.3 The sequentially preferable sites are listed below and appear in order of flood risk classification (the lowest first) and preference for locating the development.

1. R&J Supplies and Hayle Rugby Club (Flood Zone 1)
2. Hayle Rugby Club (Flood Zones 1 and 2)
3. Jewson (Flood Zones 1 and 2)
- 4. Marsh Lane (Flood Zones 1, 2 and 3a) – the application site**



*R & J Supplies*

R & J Supplies		
<b>Description</b>	Location	The site is situated to the east of Copperhouse in an edge of centre location (as defined by PPS4).
	Planning Policy	The site is allocated in the adopted Local Plan for residential development and is within a Conservation Area. The site is identified in the abandoned draft Hayle AAP as a Potential Development Site (H4) which envisages a mixed use development on the site to complement the growth of Copperhouse town centre. The PRS envisages residential development.
	Size	The site extends to about 0.6 ha.
	Configuration	The site is long and narrow with very limited road frontage.
	Neighbouring Uses	The site is surrounded by housing.
	Access	There is an existing access to Market Square via a residential street.
<b>Availability</b>	Policy pre-conditions	Notwithstanding the allocation of the site for residential development, there are no planning policy pre-conditions that would prevent the site becoming available within a reasonable timescale for retail development.
	Site ownership	It is assumed that the site is available for development.
<b>Suitability</b>	Location	It is a sequentially preferable location in terms of PPS25 requirements as it is in an area of lower flood risk. It is in an edge of centre location as defined by PPS4.
	Planning Policy Restrictions	The site is allocated for residential development; a retail development would be contrary to the Development Plan. The abandoned draft AAP envisages a mixed use development while the PRS assumes that residential development will come forward. The Conservation Area provides a major but on its own not insurmountable constraint to foodstore development.
	Physical Problems or Limitations	<p>The site extends to circa 0.6ha. Even after building-in flexibility to the proposed development, the minimum site area required is 2.3 ha and therefore R &amp; J Supplies is too small to accommodate the proposed development.</p> <p>Notwithstanding the size of the site, it is also too narrow to accommodate the proposed development which requires a regularly shaped site. The site configuration is not favourable for a medium to large foodstore development with associated car parking, servicing and petrol filling station.</p> <p>It may be possible to provide a suitable access, but this is not certain.</p>

**PPS25: Sequential Test**



	Potential Impacts	<p>Housing abuts all flanks of the site, which could lead to a conflict of uses, particularly in terms of potential amenity impact.</p> <p>Even if a foodstore could be developed on the site, taking into account the physical and other constraints identified above, it would be likely to be a relatively small scale store and one that would <b>probably function as a 'top up' shopping destination</b> rather than a main food shopping destination. The PRS identifies need for a foodstore large enough to function as a main food shopping destination.</p>		
	Environmental Conditions	<p>The site is previously developed and currently hosts industrial buildings. Contamination is likely to be found on the site.</p>		
<b>Viability</b>	Market factors	<p>Land price is likely to reflect the residential allocation of the site in the Local Plan.</p> <p>The size and configuration of the site and the absence of retail frontage is likely to significantly affect the trading capability of a foodstore. Therefore, this factor alone is likely to significantly diminish the viability of the site for retail uses.</p>		
	Cost factors	<p>Contamination mitigation is likely to be required.</p>		
	Delivery factors	<p>Section 106 contributions are likely to be required. Constraints are likely on commercial operations in order to safeguard residential amenity.</p>		
<b>Conclusions</b>		<p>The Council has accepted that R&amp;J Supplies is not a sequentially preferable site for a foodstore development. It is considered unsuitable for foodstore development on the basis of its size and configuration. There would also be significant uncertainty as to whether such a development on the site would be viable, particularly considering the lack of retail frontage.</p>		
<b>Summary</b>		<p><b>Available</b></p> <p><b>Yes</b></p>	<p><b>Suitable</b></p> <p><b>No</b></p>	<p><b>Viable</b></p> <p><b>No</b></p>



Hayle Rugby Club

Hayle Rugby Club		
<b>Description</b>	Location	The site is situated to the south of West Cornwall Shopping Park adjoining the A30 in an out-of-centre location.
	Planning Policy	<p>The site is not allocated for development in the Local Plan. However, saved Local Plan (Policy R-3) resists the development of sports pitches unless an alternative and qualitatively improved facility can be secured through an obligation. It states:</p> <p><i>"POLICY R-3: Proposals for development which would result in the loss of existing or proposed open areas in formal or informal recreational use will not be permitted unless:-</i></p> <p><i>(i) enhanced sports and recreational facilities would result from the development of a small part of the site; or</i></p> <p><i>(ii) equivalent alternative provision which would be accessible, convenient and attractive can be secured"</i></p> <p>PPG17 (paragraph 13) reiterates the same requirements.</p> <p>The site is allocated as a Potential Development Site in the abandoned draft AAP (site H32) which concludes that due to its out-of-centre location, it is not a preferred location for retail development.</p>
	Size	The site extends to circa 4.0 ha
	Configuration	The site is rectangular in shape and currently occupied by the club house in the north east corner with the remainder being a flat playing area.
	Neighbouring Uses	A mix of employment and other commercial uses lie to the east. WCSP lies to the north.
	Access	There is an existing vehicle access from Marsh Lane.
<b>Availability</b>	Policy pre-conditions	<b>Part of the site selection criteria for Sainsbury's at paragraph 6.1.5 sets out a requirement for a site to be available in the short term to meet the existing need for a foodstore in Hayle identified by the PRS.</b>
		<p>The key policy-pre-condition which is likely to affect the availability of the site to be redeveloped to meet the existing retail need relates to the requirements of Local Plan policy R3.</p> <p>It is concluded that the rugby club site is not currently available for the development proposed because it is currently occupied by a rugby club and because the requirements of Policy R3 cannot be met at the present time.</p>



	Site ownership	It is understood that a foodstore development is being promoted on the site, even though no application has to date been submitted. However, the site will not be available until alternative facilities have been secured.
<b>Suitability</b>	Location	Only a very small portion of the site is located in Flood Zone 2, the majority of the site is located in Flood Zone 1; in PPS25 terms it is sequentially preferable to the application site.
	Planning Policy Restrictions	<p>The Development Plan (Local Plan policy R3) together with a key material consideration (PPG17) do not support any development on the site until such time <b>that a replacement rugby pitch and facilities have been "secured"</b>. The replacement is required to be equal to or qualitatively better than the existing facility. It is considered that a replacement facility would be secured once the replacement facility has been constructed and handed over to the Rugby Club.</p> <p>There are currently no sites allocated in Hayle for sports pitches that could potentially accommodate a relocated rugby ground with an associated club house, changing facilities floodlighting and car parking. Furthermore, there are no current planning applications or an extant planning consent for a relocated rugby club facility in Hayle.</p> <p>It is understood that a retail operator has recently exhibited a proposal for a new foodstore on the site with a view to submitting a planning application. However, this does not imply that the site is suitable for the proposed retail development and similarly does not imply that planning permission would be granted, particularly given Local Plan policy R3. Indeed, point 10 of the agreed meeting minutes outlines officers acceptance that a suitable replacement rugby club site has not been identified or permitted and therefore the site is not suitable for retail development:</p> <p><i>"JC [CC] does not consider HRC to be 'developable' whilst there is no replacement rugby club."</i></p> <p>Even if a relocation site can be identified for the rugby club in order for it to be secured, planning permission would need to be granted and any Section 106 agreement signed. There are a number of significant planning factors which would need to be addressed by any application for a relocated rugby club including access, the impact of flood lights, the operation as a whole on amenity and the landscape, and the potential to demonstrate that the site can offer qualitative improvements over the previous facility. These factors demonstrate the uncertainty of securing a relocated rugby site until planning permission is granted for it, particularly since even if a relocation site is identified there can be no guarantee planning permission would be granted or the applicants would sign the Section 106.</p> <p>Given that a suitable site is not allocated in the Development Plan or the emerging LDF, (notwithstanding other policy constraints) the existing HRC site is not likely to be developable in the short to medium term and there can be no guarantee that an acceptable alternative site will be found at all.</p>



		<p>These views are generally reinforced by the PRS, which states at page 68 that the timescale for developing the site is medium to long term. The PRS assessment also notes that the existing use provides <i>"...an important facility for Hayle and relocation would be required, and considered acceptable, if redevelopment of this site can occur."</i></p> <p>It is therefore concluded that the rugby club site is not suitable.</p>	
	Physical Problems or Limitations	<p>The site would be large enough to accommodate the proposed foodstore development.</p> <p>The site configuration is likely to be suitable to accommodate the proposed foodstore development.</p> <p>A suitable access is likely to be achievable</p>	
	Potential Impacts	The neighbouring uses are likely to be compatible with a foodstore development.	
	Environmental Conditions	The site is defined as a greenfield site. No significant environmental constraints would be anticipated.	
<b>Viability</b>	Market factors	Nothing significant would be anticipated.	
	Cost factors	Costs associated with land acquisition, relocating the rugby club and constructing a foodstore.	
	Delivery factors	The viability of developing a foodstore on the site is dependant upon the costs related to the relocation of the rugby club. It has not been possible to identify a suitable relocation site or establish other delivery costs and as such it is not possible to make a firm conclusion on viability.	
<b>Conclusions</b>	The site is not considered available or suitable for a foodstore development and there must be considerable doubt that it would become available in planning policy terms within a reasonable period of time given the need to relocate the rugby club.		
<b>Summary</b>	<b>Available</b> <b>No</b>	<b>Suitable</b> <b>No</b>	<b>Viable</b> <b>Not known</b>



Jewson

Jewson		
<b>Description</b>	Location	The site is in an edge-of-centre location. <b>Although the EA's indicative</b> flood maps indicate that part of the site is located within flood zone 3, the EA's <b>Detailed Flood Map</b> (Jan 2010) shows that the site is located in flood zones 1 and 2. It is therefore sequentially preferable to the application site in terms of PPS25.
	Planning Policy	<p>The site is allocated for mixed use development under Policy TV-D of the Penwith Local Plan.</p> <p>The site is within a Conservation Area, a World Heritage Site and hosts a grade II listed building. An assessment of the implications of associated planning policies and designations and the listed building in relation to development is provided at <b>Appendix G</b> of this Assessment.</p> <p>It is identified in the abandoned draft Hayle AAP as a Potential Development Site (H1) for <u>mixed use development</u>.</p>
	Size	The site extends to about 1.6 ha.
	Configuration	The site is currently occupied by Jewson (a <b>builder's</b> merchant) a yard area, car parking and a historic timber drying store which is grade II listed.
	Neighbouring Uses	The site borders the estuary in the north, open land and residential development to the west and South Quay to the east and the public highway in the south.
	Access	There is an existing access from Carnsew Road to the south.
<b>Availability</b>	Policy pre-conditions	Other than the relocation requirements of Jewson, there are not likely to be any significant planning policy pre-conditions affecting the availability of the site.
	Site ownership	Actoris Ltd is promoting a foodstore (Morrison named as the operator) on the site and on this basis it is considered that the site is likely to be available. However, the site is not identified as available for development in any policy-based documents (specifically the PRS) which also casts doubt on the site owner(s) commitment to selling the site. The PRS states <b>"Redevelopment will depend on the willingness of the present occupier to relocate."</b> This situation is reflected by the fact that the site is not part of the Hayle Harbour Masterplan for redevelopment despite being allocated for the redevelopment in the Local Plan.
<b>Suitability</b>	Location	A small portion of the site is located in Flood Zone 2 but the majority is located in Flood Zone 1; in PPS25 terms it is sequentially preferable to the application site.



	Planning Policy Restrictions	<p>The site is allocated in the adopted Local Plan under Policy TV-D for mixed use development as part of a wider comprehensive redevelopment of Hayle Harbourside.</p> <p>The Heritage Impact Assessment of a foodstore development on the site (<b>Appendix G</b>) demonstrates that a foodstore and ancillary development of the type currently being promoted by Actoris Ltd would harm the OUV and would be unacceptable in terms of its impact on other heritage elements such as the listed building and conservation area.</p>
	Physical Problems or Limitations	<p>The site extends to 1.6 ha and is therefore too small to accommodate the proposed development (2.0 ha). A foodstore development would result in traffic congestion and road safety problems.</p>
	Potential Impacts	<p>If the proposal were able to be accommodated on the site, it would result in a series of significant negative impacts on the setting of the listed building, the Conservation and the OUV of the World Heritage Site. Significant adverse impacts on the local highway network would arise from a foodstore development on Jewson (refer to Retail Assessment).</p>
	Environmental Conditions	<p>The site is likely to be contaminated and in need of remediation.</p>
<b>Viability</b>	Market factors	<p>Actoris Ltd is promoting a foodstore on the site, although this does not prove conclusively that food store development is viable on the site.</p>
	Cost factors	<p>It is understood that the Jewson site is contaminated and there is also likely to be a requirement for significant access and transportation improvements as part of any development of the site. Given the flood risk across the site there is also likely to be a requirement to raise site levels. There are also likely to be requirements to include heritage benefits in the scheme, such as amendments to enable the slipways to be retained and repairs to the Harbour walls. These exceptional development costs are likely to impact on the viability of any foodstore development on the site.</p>
	Delivery factors	<p>Even if the site were able to accommodate the proposed development, before any development could occur Jewson would require a relocation site. Since a relocation site is not identified in the Development Plan there are no guarantees that a suitable site could be identified, secured or if planning consent would be forthcoming. This process is likely to impact upon delivery timescales. It is considered that the site size acts as a significant constraint to securing a viable foodstore development. The now withdrawn foodstore application on South Quay stated that only a 35,000 sq ft net store would be viable on that site. This is a reasonable indicator that the proposed Morrisons would not be viable.</p>
<b>Conclusions</b>		<p>The site is considered to be wholly unsuitable for foodstore development because of the impact on the historic environment and because the site is physically too small to accommodate the proposed development.</p> <p>The viability of the proposed development on Jewson is uncertain because a foodstore development would require the relocation of the existing use, extensive ground remediation and re-grading coupled with off site highway and heritage works.</p>



## PPS25: Sequential Test

	The site is likely to be available.		
<b>Summary</b>	<b>Available</b> <b>Yes</b>	<b>Suitable</b> <b>No</b>	<b>Viable</b> <b>Not known</b>

### 8.7 Summary of the Assessment of Sequential Sites

8.7.1 The Sequential Site Assessment above demonstrates that R & J Supplies is not suitable or viable for the proposed development (a conclusion accepted by CC), Hayle Rugby Club is not suitable or available and Jewson is not suitable and unlikely to be viable. These sites are therefore discounted. The application site is therefore considered to be sequentially preferable in PPS4 and PPS25 terms.



## PPS25: Sequential Test

### 9.0 Location of Built Development within the Site

#### 9.1 Introduction

9.1.1 PPS25 requires applicants to undertake an intra-site sequential test, which seeks to ensure that the most vulnerable parts of the development are located in the areas within the site of lowest flood risk.

#### 9.2 Requirements of PPS25

9.2.1 Paragraph 8 of PPS25 states:

*"LPAs should in determining planning applications apply the sequential approach (see paras. 14–17) at a site level to minimise risk by directing the most vulnerable development to areas of lowest flood risk, matching vulnerability of land use to flood risk;"*

#### 9.3 Meeting the Requirements of PPS25

9.3.1 PPS25 therefore requires that the site layout be designed to reduce flood risk by matching the land use, which is defined by PPS25 as having the highest vulnerability to flood risk, with the area least likely to flood. In this case, the predominant land uses are the food store building, the PFS and the ancillary car park (Class A1).

9.3.2 PPS25, Table D2 identifies five classes of flood risk vulnerability on a sliding scale: essential infrastructure, highly vulnerable, more vulnerable, less vulnerable and water-compatible respectively. All the elements of the proposal fall within Class A1, which is defined by PPS25 as "less vulnerable," the second least vulnerable land use to flooding. Since all of the proposed development falls within this category and is classified as "appropriate development" within flood zones 1, 2 and 3a (PPS25 Table D3), the development layout would meet the requirements of PPS25 as proposed.

#### 9.4 Reducing Flood Risk beyond the Requirements of PPS25

9.4.1 It is acknowledged that no matter how the foodstore development is configured within the foodstore site, it would meet the requirements of PPS25 (since all elements of the proposal are "less



## PPS25: Sequential Test

vulnerable” development). However, we have considered opportunities to minimise the effects of flooding within the site through the development layout for completeness.

- 9.4.2 The map at **Appendix C** shows that the foodstore is within Flood Zone 1, a small part of the car park and the PFS kiosk are within Flood Zone 2 (14.2%) and a small part of the proposed footpath linking foodstore to the bus stop and the works to the highway are within Flood Zone 3a (less than 0.1%).
- 9.4.3 It is considered that the respective parts of the development are appropriately matched with the respective Flood Risk zones. Moreover, even if rerouted away from the pedestrian desire line (which raises its own issues) part of the footpath would remain in Flood Zone 3a. It has been informally agreed with the EA at the pre-application stage that the current route of the footpath is acceptable in flood risk terms.
- 9.4.4 On the basis of the land vulnerability classifications set out in PPS25, the retail development should be deemed appropriate in planning policy terms in its proposed location.



## PPS25: Sequential Test

# 10.0 Conclusions

## 10.1 The Need for the Sequential and Exception Tests.

- 10.1.1 PPS25 and updated Practice Guidance require the application of the sequential test to all proposed development on sites outside of Flood Zone 1. The majority of the proposed development falls within Flood Zone 1; however, small areas of the proposal fall in to Flood Zone 2 and 3a. PPS25 therefore requires the application of the Sequential Test in this instance.
- 10.1.2 **The proposed development is defined as use class A1 (retail) and is classified by PPS25 as "less vulnerable development" which is "appropriate" within the Flood Zones 1, 2 and 3a.** On this basis PPS25 does not require the application of the Exception Test in this instance.

## 10.2 Proposed Development

- 10.2.1 PPS25 and updated Practice Guidance requires the Sequential Test to be applied to the *"development that is proposed"* and does not require the developer to demonstrate any flexibility in the scale, form or layout of the proposed development when assessing whether other sequentially preferable sites would be capable of accommodating the proposed development.
- 10.2.2 The applicant has nevertheless introduced **significant flexibility into the 'proposed development'** beyond the requirements of planning policy, **on a without 'prejudice basis'**. For the purposes of assessing whether the proposal can be accommodated on other sequentially preferable sites the applicant has excluded the extensive ecology enhancement works and the highway works; this has the effect of significantly **reducing the size of the site required for the 'proposed development' from 13.89 ha to 2.3 ha for the 'proposed development' to be accommodated** within other sequentially preferable sites and makes the Assessment very robust.
- 10.2.3 **However, it is acknowledged that introducing flexibility to the 'proposed development' in this respect** impacts upon the flood risk classification of the site. Therefore (and as agreed with the EA and CC) **the highway works are included within the definition of the 'proposed development' for the purposes** of calculating the flood risk classification of the site (as part of the highway works are located in Flood Zone 2).



## PPS25: Sequential Test

### 10.3 Area of Search

10.3.1 The proposed development aims to meet an identified retail need in Hayle and must therefore be located in Hayle. An AOS which covers Hayle and its surroundings is therefore adopted and has been agreed with CC and the EA.

### 10.4 Sequential Sites

10.4.1 A list of seven potential sequential sites within the AOS was provided by Cornwall Council. The proportions of each site within the three flood zone classifications were identified both in terms of overall area and percentage. The sites were then ordered in relation to their flood risk vulnerability, taking specific account of the proportion (%) of each site that is located in Flood Zone 3 and Flood Zone 2 and 3 combined. In order of sequential preference, these sites are R & J Supplies, Hayle Rugby Club and Jewson respectively.

### 10.5 Application of the Sequential Test

10.5.1 PPS25 and updated Practice Guidance fail to provide useable definitions of whether a sequential site may be appropriate for the development proposed. It was therefore agreed with the EA and CC that the Assessment should adopt the definitions provided in PPS4 (Planning for Sustainable Economic Growth) which provides detailed definitions in relation to understanding whether a site is likely to be available, suitable and viable for the development proposed.

10.5.2 The three short listed sites were then considered in terms of their availability, suitability and viability **for the 'proposed development'**.

10.5.3 The assessment does not identify any sites in a lesser flood zone which would be available, suitable and viable to accommodate the proposed development, despite the flexibility shown in the proposals being applied to the sequential sites.

10.5.4 The application site is therefore considered to have satisfied the Sequential Test.



## **PPS25: Sequential Test**

### **10.6 Intra-Site Sequential Test**

10.6.1 Within the site, it is demonstrated that the development proposals are configured so that the potential effects of flooding are minimised, in accordance with and beyond the requirements of PPS25. Thus, the sequential approach as advocated by PPS25 has been adopted in the scheme design.

### **10.7 Overall Conclusions**

10.7.1 It is concluded that the requirements for a Sequential Test in PPS25 have been satisfied.



## **Appendices**



**Appendix A – Cornwall Council letter dated  
11 January 2010 & EA letter dated  
18 January 2010**



**PPS25: Sequential Test**



## **Appendix B – Minutes of meeting dated 18 February 2010**



**PPS25: Sequential Test**



## **Appendix C – Marsh Lane Flood Zone Classification**



**PPS25: Sequential Test**



## **Appendix D – Location Plan**



**PPS25: Sequential Test**



## **Appendix E – Area of Search**



**PPS25: Sequential Test**



## **Appendix F – Map of proposed site excluding highway and ecology works**



**PPS25: Sequential Test**



## **Appendix G – Heritage Impact Assessment**