

Our Ref: 2995/MR/LT202601XX

19 January 2026

Wendy Lane
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MRPP
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PLANNING PRACTICE

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Dear Wendy,

**ITEM 6b PLANNING COMMITTEE THURSDAY 22nd JANUARY 2026
PROPOSED OUT OF CENTRE FOODSTORE (LIDL), WESTOVER RETAIL PARK,
CASTLE LANE WEST, BOURNEMOUTH, BH9 3JS. REFERENCE: P/25/02224/FUL**

As you are aware, we act on behalf of Tesco Stores Limited in respect of the above application. We have previously made representations dated 26th November 2025 and to the earlier application which the Council refused in January 2025.

The January 2025 application was refused contrary to the recommendation set out by Officers. The Local Planning Authority resolved to refuse the application including for the reason that *“The scheme would fail to make efficient use of land by not bringing forward a mixed use scheme and is therefore contrary to Paragraph 11 and Chapter 11 of the National Planning Policy Framework”*.

The previous decision relying upon Chapter 11 of the NPPF was therefore a situation where members came to a different position compared with their officer. The relevant part of Chapter 11 supported the LPA’s decision. In making that decision it must remain a highly important matter for the LPA to continue to have regard to only twelve months later. This was not a decision that has since been before the Secretary of State or the Courts where the approach taken by the LPA on this issue, was found to be deficient. It is not therefore for Officers to depart from the recent position of the LPA, unless there were truly convincing reasons for doing so. Neither the applicant nor Officers have adequately demonstrated that this is the case.

In coming to its decision in January 2025, the LPA referred to the relevant NPPF references because it fully supported its decision. The applicant did not appeal the decision nor did it seek to assert through a challenge in the Courts that the decision making was unreasonable or fundamentally flawed.

At that time there was an emerging Local Plan that promoted mixed use development on the site. However, and importantly, the resolution to refuse permission does not refer to that emerging policy including in the context of the proposal failing to make

efficient use of the land. Thus, contrary to the Officer's Report, the withdrawal of the emerging Local Plan makes no difference to the matter as seen by the LPA in January 2025. It had little weight then and was not relied upon.

There can therefore be no proper approach for the officer to now reject the previously resolved position of the LPA being the position that should be held by the LPA and its development management employees on this matter. There has been no change of development plan policy or national guidance that would justify such a rejection of the LPA's position.

Separately we note that the LPA's Planning Policy Officer has maintained the same stance to rely upon the NPPF's policy and decision-making approach to "*making effective use of land*". Paragraph 11 of the NPPF advocates that "*...granting permission unless...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination*". Although footnote 9 refers to a particular paragraph of Chapter 11, this does not remove or exclude the appropriateness of having regard to relevant policy to "*make effective use of land*" in decision-making on other applications. It is relevant to note that the text used in Chapter 11, for example, at paragraphs 124 and 125, refers to 'decisions' in a general sense and of 'development', rather than planning applications when referring to the application of decision-making to promote effective use of land to meet the need for homes.

The applicant's Counsel's Opinion (dated 24th September 2025) seeks to rely upon some case law that has its origins, in part, prior to both the publication of the NPPF and perhaps more particularly the inclusion of material in it requiring decisions to make effective use of land (now in its Chapter 11). And even the judgments relied upon in that Opinion refer to alternative sites being "*normally irrelevant*" rather than rejecting them *in toto*.

Whilst the Officer's report refers to the opinion, the advice given not only misses the point in terms of what the LPA's resolved position is but argues that "*the lack of clear firm policies requiring a residential use on this site ... suggest a refusal on this ground would not be justified*". This fails to appreciate that the Council's resolved position did not rely upon a policy basis other than from the NPPF. It should also be noted that the Officer recognises that "*The opportunity for a scheme that includes housing would certainly help the Council with its housing targets*" (paragraph 52). But it then seems incoherent for the Officer to assert that whilst "*The provision of housing on the site would be beneficial given the policy position this is not considered to be an overriding requirement*". In this context, the policy position should fundamentally relate to the NPPF's paragraph 11 and Chapter 11 as advocated by members in their Resolution a year ago.

It is therefore our considered position that the opinion submitted on behalf of the applicant does not justify the LPA rejecting the application of Chapter 11 of the NPPF to the proposal and thus digressing from its previously resolved position.

If, however, the LPA wishes to place some weight on the applicant's Opinion, it might be prudent for the Council to defer consideration of the application in order for it to obtain its own legal advice.

Finally, we note that the applicant has not taken up Officer's suggestion to demonstrate that residential development over their retail scheme is not viable here. Deferral could also then permit such an assessment to be provided.

Yours sincerely,

Martin Robeson