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Milton Keynes Council  
Plan:MK Examination in Public

Hearing Statement

Matter 6 – Central MK, Retail and Leisure

Prepared by Barton Willmore LLP on behalf of intu Milton Keynes Limited

June 2018

# Milton Keynes Council Plan:MK Examination

## Hearing Statement

### Matter 6 – Central MK, Retail and Leisure

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## 1.0 INTRODUCTION

### Background

- 1.1 We act on behalf of intu Milton Keynes Limited ('intu'). Intu is a key stakeholder and long-term investor in Milton Keynes City Centre and as such has strong interest in the formulation of local planning policy and its implementation. Due to intu's long term interest, they seek to ensure that the Plan protects and supports Central Milton Keynes and retains the policy primacy of the primary shopping area as the key retail and service destination for the local population and visitors.
- 1.2 This Statement relates to the following Policy's set out within Submission of Plan:MK:
- Policy DS4 'Retail and Leisure Development Strategy'
  - Policy SD2 'Central Milton Keynes'
  - Policy ER10 'Character and Function of the Shopping Hierarchy'
- 1.3 In addition to the existing shopping centre, intu has an extant Outline Planning Permission (LPA Ref:15/01074/OUT) granted in July 2017 by the Secretary of State at appeal for the partial demolition and redevelopment of the Boulevard and Oak Court to provide a range of retail, financial and professional and restaurant (Use Classes A1, A2, A3 and A5) and leisure (use class D2), totalling approximately 14,000sq.m, together with public realm and highway works.

### Overview

- 1.4 The adopted Milton Keynes Core Strategy (2013) Policy CS4 clearly defines the Primary Shopping Area, as a regional shopping centre for comparison shopping. Figure 7.1 'Central Milton Keynes Location Plan' clearly defines the adopted Primary Shopping Area ('PSA'), which excludes Xscape Milton Keynes (shown at **Appendix 3**).
- 1.5 The Milton Keynes Plan:MK – Proposed Submission October 2017 Consultation Document proposed to amend the PSA to include the area around Xscape Milton Keynes.
- 1.6 This amendment has been sought to be justified by the Council's retail evidence base which predominantly relates to the Milton Keynes Retail Capacity & Leisure Study. The Study was produced and published by Carter Jonas as a 'Final Draft (for comment)' in October 2017.

- 1.7 The 'Final Draft' Retail Capacity & Leisure Study (October 2017) provides no robust or sound justification for its recommendation on the potential changes to the PSA stating: *"The Primary Shopping Area (PSA) should be expanded to include the Xscape Entertainment Centre. We consider that there is no need to specifically define 'Edge of Centre', and the NPPF definition should apply"* (Paragraph 18.24, Bullet 2).
- 1.8 Barton Willmore, on behalf of intu, submitted representations in relation to the Plan:MK – Proposed Submission October 2017 Consultation Document on 20<sup>th</sup> December 2017 (included at **Appendix 1**). This representation sets out intu's concerns, amongst others, on the provision of no robust or sound justification in relation to the expansion of the PSA to include Xscape.
- 1.9 Following the Submission of Plan:MK for Examination, Carter Jonas published the final version of the Milton Keynes Retail & Leisure Capacity Study (March 2018) Report ('Final Report'). The Final Report contained limited new information in regards to the expansion of the PSA, stating: *"In our judgement, Xscape forms an important element of the centre, and acts as a key attractor. Its offer complements and contributes well to the overall vitality and viability of the PSA, and provides an opportunity for linked trips and expenditure to other shops and businesses in the PSA and wider City Centre area"* (Paragraph 16.27 Bullet 2).
- 1.10 Milton Keynes Council submitted a Schedule of Proposed Modifications to the Inspector in March 2018 (MK/SUB/004). As part of the Schedule, Proposed Modification 25 ('PM25') Milton Keynes Council has added a new paragraph after 5.13 of the Plan:MK to clarify the reasoned justification for expanding the PSA. This justification replicates the new information contained within Paragraph 16.27 Bullet 2 of the Final Report and further adds: *"The Xscape building, with its ski slope, cinema, casino, and food and drink uses is primarily a leisure and entertainment use with ancillary retail. Given its location and the activities in the Xscape building, the Council's preference is for development in the expanded PSA to be for leisure and entertainment use"*.
- 1.11 This further clarification does not represent sound or robust evidence to justify the expansion of the PSA which was further reiterated within Barton Willmore's supplemental representation dated April 2018 (included at **Appendix 2**).
- 1.12 Concerns in relation to the expansion of the PSA still remain.

- 1.13 Section 2 provides our comments in relation to the Inspector's Questions under Matter 6. It then sets out our recommendations for the aforementioned Policies in order that the Plan can be found sound.

## 2.0 EXAMINATION ISSUES & POLICY RECOMMENDATIONS

2.1 Our case in relation to this Matter is consistent with the submissions made on behalf of intu to date.

2.2 The position of intu is set out below under the Inspector's Questions in relation to Matter 6. We then outline recommended amendments to Policy SD2 in order for the Plan to achieve soundness.

***Q6.2 Is the retail and leisure strategy (Policy DS4), as articulated through Policies SD2, SD3 and SD4 for CMK justified and effective? It is broadly consistent with the CMKAP? Has the evidence base for Plan:MK evolved since CMKAP?***

2.3 Intu supports the Council's objectives to *"seek to grow and development the Borough's retail, leisure, entertainment and cultural offer with main town centre uses developed within town centres"* and *"develop the primary shopping area of Central Milton Keynes ('CMK') as a regional shopping centre for comparison shopping"*.

2.4 The retail development strategy of focussing demand of retail, leisure and cultural floorspace in CMK, is considered to be consistent with the town centre first approach and is supported.

2.5 Intu do not consider the expansion of the Primary Shopping Area ('PSA') to include land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street; which includes Xacape Milton Keynes, as set out within Policy SD2 'Central Milton Keynes – Role and Function', is either justified or effective.

2.6 No detailed justification has been provided within either the Plan:MK or the Milton Keynes Retail Capacity & Leisure Study March 2018 to justify this significant policy shift.

2.7 The National Planning Policy Framework ('NPPF') includes a definition of PSA. This reads:

***"Defined area where retail development is concentrated (generally comprising the primary and these secondary frontages which are adjoining and closely related to the primary shopping frontage)."***

2.8 The Government has not sought to amend the description of PSA through the publication of the Draft National Planning Policy Framework (March 2018).

- 2.9 Importantly the Proposed PSA expansion area does not exhibit any of these characteristics. As confirmed by proposed modification PM25 in MK/SUB/004 which states, inter alia *"The Xscape building...with ancillary retail"*, is clearly not an area where retail development is concentrated, and is not adjoining or closely related to the primary shopping frontage, which are correctly shown as including intu MK and thecentre:mk.
- 2.10 Policy DS4 (criterion 2) expressly states that the Council will support the development of the primary shopping area of CMK as a regional shopping centre for comparison shopping. It is therefore unclear why the Xscape site has been included as it clearly serves a leisure-based function. Xscape inclusion within the PSA is considered not to be justified and is not based on proportionate evidence and is not consistent national planning policy as set out within the NPPF. This is explained further below in relation to the Inspector's Q6.3.

***Q6.3 Is the delineation of the CMK boundary and the broad zones within the CMK boundary (Figure 1 of Plan:MK) justified? In particular is the primary shopping area appropriately defined and is the inclusion of the Xscape complex and land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street justified? Would the expansion of the PSA dilute efforts to redevelop sites and develop remaining blocks with the primary area of the City centre given the latest evidence on the capacity for additional non-food retail floorspace?***

- 2.11 As detailed in Question 6.2, the expansion of the PSA to include the Xscape complex and land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street is not justified.
- 2.12 The expansion of the PSA is not appropriately explained within the Plan nor has it been justified within the Milton Keynes Capacity & Leisure Study 2018 Final Report ('MKCRLS'), prepared by Carter Jonas.
- 2.13 The MKCRLS published in March 2018, following the Submission of the Plan:MK for Examination, recommend at Paragraph 16.27 (bullet 2) that changes to the Proposals Map should include changes to the PSA to be *"expanded to include the Xscape Entertainment Centre. In our judgement, Xscape forms an important element to the centre, and acts as a key attractor. Its offer complements and contributes well to the overall vitality and viability of the PSA, and provides an opportunity for linked trips and expenditure to other shops and businesses in the PSA and wider City Centre area"*. The proposed modification PM25 in MK/SUB/004 predominantly replicates this justification.

Paragraph 16.27 (bullet 4) continues to state that *"The Secondary Frontages should cover the Milton Keynes Theatre District, and the Xscape Entertainment Centre"*.

- 2.14 There is no robust justification set out within the MKCRLS that supports the recommendation set out within Paragraph 16.27. On the contrary, the MKCRLS provides a summary of the accessibility of the existing PSA and states, at Paragraph 6.47, that *"...various elements (the shopping centre vs Xscape vs Theatre District) of the PSA were poorly linked together. This would suggest that the various elements of the centre are used in isolation from each other"* (our emphasis).
- 2.15 Whilst MKCRLS incorrectly references Xscape as being included within the adopted PSA, it is poorly linked to the existing PSA, operates as a standalone location and is in an isolated location. It is evident from the existing context of the area that there is a clear separation between Xscape and the adopted PSA, exacerbated by the physical barrier of Avebury Boulevard. Xscape's food and beverage offer is similar to the offer within the adopted PSA, with operators operating from both Xscape and locations within the PSA, highlighting a clear differentiating market between the two locations. It is therefore clear, that Xscape operates in isolation from the PSA as a destination with limited opportunity for linked trips.
- 2.16 Proposed modification PM25 in MK/SUB/004 seeks to insert a new paragraph after 5.13 of the Submission Plan:MK which states, inter alia, *"The Xscape building with its ski slope, cinema, casino, and food and drink uses, is a primarily a leisure and entertainment use with ancillary retail. Given its location and the activities in Xscape building, the Council's preference is for development in the expanded PSA to be for leisure and entertainment uses"*. This supporting text is not effective.
- 2.17 Should the Xscape building be located within the PSA, than by its defined location, the principle of main town centre uses as defined by NPPF Annexe 2 (including Use Class A1) will be acceptable in principle and there will be no requirement for a Planning Application of Use Class A1, of any scale, to be considered under the sequential or impact tests.
- 2.18 As such, the expansion of the PSA to include Xscape complex and land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street is not justified or consistent with the NPPF and should be removed and remain as existing within the adopted Core Strategy.

***Q6.4 Is criterion 5 of Policy DS4 sufficiently clear on the scale of development envisaged at new residential developments? What developments would it apply to and is this clear in the relevant policies for strategic sites?***

2.19 Intu is concerned that the wording associated with criterion 5 of Policy DS4, which seeks to allow the provision of new shops, services and facilities in areas of new residential development, lacks clarity and places no barrier or control on the scale of provision and is therefore not effective in its current form.

2.20 The provision of new shops, services and facilities in areas of new residential development should be small scale and commensurate with servicing the needs of the new resident population rather than a wider area. This needs to be explicitly stated within the criterion with reference to both Policy ER11, in relation to the sequential and impact tests, and ER15 in relation to specific site allocations. This is to ensure that Policy is effective.

***Q6.9 Is the approach to centre in the hierarchy in Policy ER10 soundly based and is Appendix G accurate and up-to-date***

2.21 Intu support the Council's objectives of a town centre first approach and the promotion of the primary shopping area within CMK to function and develop as a regional shopping centre for comparison shopping. However, this is only considered soundly based if the expansion to the PSA (as detailed within Question 6.2 and Question 6.3) is removed and Proposed Modification PM56 in MK/SUB/004 is implemented.

### 3.0 RECOMMENDED POLICY CHANGES

- 3.1 It is clear from the evidence set out in Section 2, that there have been no national policy amendments to the definition of the characteristics of a PSA, nor has there been any physical changes to the area to warrant the proposed policy shift to expand the PSA.
- 3.2 As a major investor within the existing PSA, intu's concerns remain in relation to the inconsistencies of the evidence base set out within the Milton Keynes Retail and Leisure Capacity Study (March 2018) and the lack of justification for the expansion to the PSA to include Xscape Milton Keynes. It is therefore recommended that the following Policy changes occur in order for the Plan to be found sound.

#### Summary of Recommended Changes to Policy SD2

- 3.3 In light of the above, it is recommended that Policy SD2 and Figure 1 of Plan:MK is amended as follows in order for the Plan to be found sound:
- Removal of Xscape complex and land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street from the Primary Shopping Area from Policy SD2.
  - Amendment to Figure 1 of the Plan:MK to replicate the PSA as adopted within the Milton Keynes Core Strategy Figure 7.1 (included at **Appendix 3**).

#### Summary of Recommended Changes to Policy DS4

- 3.4 In light of the above, it is recommended that Policy DS4 Criterion 5 of Plan:MK is amended as follows in order for the Plan to be found sound:
- Specifically reference requirements set out within Policy ER10.

**APPENDIX 1**

**BARTON WILLMORE REPRESENTATION LETTER DATED  
DECEMBER 2017**

Development Plans  
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27899/A5/BS/PN  
20<sup>th</sup> December 2017

**PLAN:MK – PROPOSED SUBMISSION OCTOBER 2017 CONSULTATION  
REPRESENTATIONS BY INTU MILTON KEYNES LIMITED**

**Introduction & Background**

1. We act on behalf of our client Intu Milton Keynes Limited (“Intu”) and have been instructed to submit representations in relation to the Plan:MK – Proposed Submission October 2017 Consultation Document (“the Draft Plan”). This follows previous representations submitted by Deloitte Real Estate by letters dated 6<sup>th</sup> April 2016 and 9<sup>th</sup> June 2017.
2. Intu is a key stakeholder and long term investor in Milton Keynes City Centre and as such has strong interest in the formulation of local planning policy and its implementation. Intu therefore welcomes the opportunity to input into the evolution of the Plan:MK. Due to Intu’s long-term interest, they wish to ensure that the Plan protects and supports the City Centre and retains the policy primacy of the City Centre as the key retail and service destination for the local population and visitors.
3. In accordance with the Council’s requirements, we have submitted as part of this written representation the duly completed Proposed Submission Plan:MK October 2017: PLAN:MK Response Form, which should be read in conjunction with this letter.
4. Having reviewed the Plan and supporting information, we comment on the following:
  - Draft Policy DS4 ‘Retail and Leisure Development Strategy’;
  - Draft Policy SD2 ‘Central Milton Keynes – Role and Function’;
  - Draft Policy SD3 ‘Central Milton Keynes – Growth and Areas of Change’;
  - Draft Policy SD21 ‘The Walnuts, Redhouse Park’;
  - Draft Policy ER10 ‘Character and Function of the Shopping Hierarchy’;

- Draft Policy ER11 'Assessing Edge of Centre and Out of Centre Proposals'; and
  - Draft Policy SC1: 'Sustainable Construction'
5. Reference is also made to the Draft Milton Keynes Retail Capacity & Leisure Study 2017 where appropriate.

## Representations

### *Draft Policy DS4 'Retail and Leisure Development Strategy'*

6. Intu support the Council's objectives to "Seek to grow and develop the Borough's retail, leisure, entertainment and cultural offer with main town centre uses developed within town centres" and "Develop the primary shopping area of Central Milton Keynes ('CMK') as a regional shopping centre for comparison shopping".
7. The retail development strategy of focussing demand of retail, leisure and cultural floorspace in CMK, is considered to be consistent with the town centre first approach and is supported.
8. However, Intu do not support the expansion of the PSA to include land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street; which includes the Xscape Milton Keynes. The extension of the PSA is not explained within the Plan nor within the Milton Keynes Retail Capacity & Leisure Study 2017. No detailed justification is provided within either document to justify this significant policy shift.
9. Further, both the NPPF and the draft Plan:MK (within their respective glossary sections) include a definition of Primary Shopping Area (PSA). This reads:
- "Defined area where retail development is concentrated (generally comprising the primary and those secondary frontages which are adjoining and closely related to the primary shopping frontage)."*
10. Importantly the proposed PSA expansion area does not exhibit any of these characteristics. It is not an area where retail development is concentrated, and it is not adjoining or closely related to the primary shopping frontage, which are correctly shown as including intu MK and thecentre:mk. It does not and clearly cannot function as part of the PSA.
11. Indeed, policy DS4 (criterion 2) expressly states that the Council will support the development of the primary shopping area of CMK as a regional shopping centre for comparison shopping (our emphasis). It is therefore unclear why the Xscape site has been included as it clearly serves a leisure based function and is divorced from the existing primary shopping area and the current existing retail context. Xscapes inclusion within the primary shopping area is considered cause significant adverse impact on the existing PSA and is inconsistent with the NPPF.
12. Intu MK has an extant Outline Planning Permission (LPA Ref: 15/01074/OUT) for the partial demolition and redevelopment of the Boulevard and Oak Court to provide a range of retail, financial and professional, restaurant, and leisure uses together with public realm and highway works. It is considered that the PSA expansion to include Xscape will undermine this investment commitment and could cause decline of the existing PSA through the dilution of the retail offer.
13. On this basis the extension of the PSA is not sound as it has not been justified, is not based on proportionate evidence and is not consistent with national planning policy as set out in the NPPF. As a result the PSA should be redrawn on the Proposals Map to reflect the PSA set out in the adopted Core Strategy (Figure 7.1), and to remove the reference to Secondary Shopping Frontage within the Xscape building itself.

14. Further, at a more detailed level Intu is concerned about the wording of Criterion 5 of the policy which seeks to allow the provision of new shops, services and facilities in areas of new residential development. Whilst Intu accepts the principle of such provision the current wording lacks clarity and places no barrier or control on the scale of provision. We therefore believe, Criterion 5 should be reworded to make it clear that any town centre uses in new residential areas will be small scale and commensurate with servicing the needs of the new resident population rather than a wider area. Proposals should also be subject to the sequential and impact tests as set out in Policy ER11, to ensure that they are appropriately located and would not have a significant adverse impact on existing defined town centres.

*Draft Policy SD2 'Central Milton Keynes – Role and Function'*

15. Intu supports Draft Policy SD2 intentions to continue to promote CMK "as the focus for retail, office, residential, cultural and leisure activity within the context of wider aspiration to provide a high-quality environment and visitor experience". The Policy's aim to improve the overall mix of uses within CMK is also supported as it will ensure the continued vitality and viability of the City Centre.
16. However, as set out above Intu does not support the inclusion of land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street; which includes the Xscape Milton Keynes as part of the PSA. Reference to this land in the second paragraph of Policy SD2 should therefore be deleted.
17. Further, whilst draft Policy SD2 confirms that the retail core constitutes the Primary Shopping Area of the Town Centre, having reviewed the CMK Inset Maps 1 and 2 of the Proposed Submission Plan:MK Policies Map: Schedule of New and Deleted Designations (October 2017), there is no reference to the 'retail core'. Importantly, reference is only made to the Primary Shopping Area. The Primary Shopping Area is an important definition for the purposes of the NPPF (see in particular Appendix 2 Glossary of Terms) as it identifies the preferred in-centre locations for the purposes of the Sequential Test and assessing Impact.
18. Policy SD2 states that "New leisure uses will be promoted within the retail core to support the diversification of Milton Keynes' offer as a visitor destination" (our emphasis). This principle is supported however the use of the wording "retail core" is considered inconsistent with national policy and should be changed to "Primary Shopping Area" as set out within the NPPF and Draft Policy ER10.
19. It is therefore considered that in it's current draft form Policy SD2 is not consistent with national policy. We recommend amendments to Draft Policy SD2 to change reference to the 'retail core' to 'Primary Shopping Area' to ensure consistency with the NPPF and draft Policies ER10 and ER11 of the Draft Plan. The Draft Policy SD2 should be changed to read (changes made in red, deletions struck through):

"... **The Primary Shopping Area** ~~The retail core, as defined on the Policies Map, will continue to be focused around the Primary Shopping Area, defined as the area between Silbury Boulevard, Avebury Boulevard, Saxon Gate and Marlborough Gate and including the area around Xscape building between Avebury Boulevard, Secklow Gate, Child Way and west of Marlborough Street...~~" and "...New leisure uses will be promoted within the ~~retail core~~ **Primary Shopping Area** to support the diversification of Milton Keynes' offer as a visitor destination".

20. These proposed changes are considered to meet the test of consistency with national policy.

*Draft Policy SD3 'Central Milton Keynes – Growth and Areas of Change'*

21. Draft Policy SD3 sets out the significant levels of growth the Council will encourage and support in Central Milton Keynes. It identifies 40,000 sq m of comparison goods floorspace (criterion 3). However, it then goes on to indicate that this growth will be accommodated using a combination

of the redevelopment of vacant land, under used and under-performing sites and the development of the Strategic Reserve Sites at Blocks B4 and F1.2-1 identified in the CMK Alliance Business Neighbourhood Plan 2015. This gives rise to a number of issues.

22. Firstly as the Plan acknowledges the identified capacity for comparison goods floorspace can be accommodated in the defined Primary Shopping Area. Therefore it would not be consistent to allow additional retail development outside the PSA, albeit within Central Milton Keynes as policy SD3 intimates. This should be clarified.
23. Secondly, it is not appropriate to refer to sites 'allocated' in other plans. The reference to the Strategic Reserve Sites at Blocks B4 and F1.2-1 identified in the CMK Alliance Business Neighbourhood Plan 2015 is confusing and requires the reader to defer to another policy document to clarify the intent of Policy SD3. As a result the policy should be reworded so that it refers explicitly to the sites in question, which should in turn be identified on a specific plan. This will provide clarity and transparency to the interpretation and intent of the policy.
24. Without these changes the policy is not consistent with national planning policy set out in the NPPF and as a result is unsound.

*Draft Policy SD21 'The Walnuts, Redhouse Park'*

25. Draft Policy SD21 identifies a strategic development site. It expressly states that retail development could be included in the eastern portion of the site to help as a noise attenuation buffer from the M1 Motorway. The site is out of centre, and no justification is provided for its policy support for retail development. As a result the policy is unsound.
26. In order to address the issue, reference to retail should be removed from the policy and/or it be explicitly noted within the policy that any proposals for retail development must be justified against the sequential and impact tests set out in the NPPF and Policy ER11.

*Draft Policy ER10 'Character and Function of the Shopping Hierarchy'*

27. Intu support the Council's objectives of a town centre first approach set out within Draft Policy ER10 and the promotion of the primary shopping area within CMK to function and develop as a regional shopping centre for comparison shopping (subject to the changes to the PSA detailed above).
28. We note and agree with the Hierarchy Recommendation set out within Paragraph 18.15 of the draft Milton Keynes Retail Capacity & Leisure Study 2017, prepared by Carter Jonas, which states that "*we recommend that the Council, as part of the emerging Plan:MK, clearly defines the Local Centres in line with paragraph 23 of the NPPF*".
29. Table 6.2 'Retail Hierarchy of Town Centres within the Borough of Milton Keynes' of the Draft Plan has not clearly defined the Local Centres and as such this is considered to not meet the test of consistency with national policy, specifically paragraph 23 of the NPPF. The Local Centres should be defined as part of the Draft Plan.
30. Draft Policy ER10 states that "*Planning permission will be granted for retail and service uses to serve new areas of residential development. The scale of retail and service provision provided within new areas of residential development will be determined in Development Frameworks for those areas*". This wording is considered to be ambiguous and could lead to significant adverse impact on vitality and viability of the Centres defined within the Retail Hierarchy. As per our comments in relation to Policy DS4, the scale of provision should be commensurate with servicing the new resident population day to day shopping needs and not drawing trade from a wider area.
31. This part of Draft Policy ER10 should be reworded to be more effective to include further justification of what constitutes an appropriate scale of retail development. The Policy should also

reinforce the town centre first approach and the requirement to meet sequential and impact assessments.

32. These changes are considered to be appropriate and provide a more effective and consistent Policy.

*Draft Policy ER11 'Assessing Edge of Centre and Out of Centre Proposals'*

33. Intu support the requirement for proposals to be assessed against both the Sequential and Impact tests when they are located outside of defined Town Centre Areas.
34. It is, however, considered that Draft Policy ER11, in its current form, does not represent a sound Policy and does not provide the appropriate protection to the City Centre, which is at the top of the retail hierarchy as confirmed by Table 6.2 of the Draft Plan. Draft Policy ER11 does not meet the effective and justified tests as set out within Paragraph 182 of the NPPF and is unsound.
35. Draft Policy ER11(2) states that "*Applications for main town centre uses outside of the city centre which exceed 2,500 sq.m (gross) floorspace will be required to undertake and provide an impact assessment in accordance with national planning policy. An impact assessment will also be required to assess the impact of proposals for main town centre uses over 350 sq.m (gross) outside town, district, local centres within the Borough and;...".*
36. Whilst Intu support the introduction of a local threshold for the requirement of an Impact Assessment, no justification has been provided within either the Draft Plan or the Draft Milton Keynes Retail Capacity & Leisure Study to demonstrate why this local threshold should not apply to retail development outside of the City Centre, which is at the top of the Retail Hierarchy and should be afforded the most protection.
37. The Policy allows up to 2,499 sq. m (gross) of retail floorspace in edge or out-of-centre locations to not assess their impact on the City Centre. The cumulation of several schemes at the higher end of this scale, within edge or out-of-centre locations closest to the City Centre could have a significant adverse impact on it's vitality and viability and should therefore reasonably be tested at the application stage particularly given the lack of capacity identified in the Retail Capacity & Leisure Study 2017 in the early part of the Plan period.
38. It is therefore suggested that the local threshold considers the impact of retail schemes on the City Centre to ensure the Policy is effective in protecting its retail primacy. Intu seek further clarification and justification on this Policy approach as part of the consultation process.

*Draft Policy SC1: 'Sustainable Construction'*

39. Draft Policy SC1 sets out a number of requirements to ensure the development is sustainable. For non-residential development over 1,000 sq m proposals must meet the standards as set out in Sections A, B, C and D of the policy (with the exception of Section B.4.b/c/e) unless they achieve a BREEAM Outstanding rating.
40. Whilst Intu supports the provision of sustainable development and sustainable buildings it is important that sustainability requirements do not unduly burden the delivery of otherwise acceptable and beneficial schemes, to the extent that they are not delivered and the potential benefits lost. It is therefore important that Policy SC1 includes acknowledgement that meeting the required standard will not always be possible (for a number of reasons).
41. Such an approach would be consistent with the NPPF which acknowledges that investment should not be over burdened by combined requirements of policy expectations (Paragraph 21) and that pursuing sustainable development requires careful attention to viability (paragraph 173). Importantly plans (and their policies) need to be deliverable.

## Summary and Conclusions

42. Against this background, on behalf of Intu, we make the following conclusions and recommendations:

- (i) **Draft Policy DS4 – Retail and Leisure Development Strategy:** the retail development strategy is generally supported by Intu. However the PSA should be redrawn to exclude land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street; which includes the Xscape Milton Keynes. In addition, further clarification is required in relation to the scale of town centre uses to serve new residential areas.
- (ii) **Draft Policy SD2 – Central Milton Keynes – Role and Function:** the promotion of CMK as the focus for retail, office, residential, cultural, leisure activity is supported by Intu. However, the PSA needs to be redrawn as detailed above and the proposed Policy should be amended to correctly change references to the 'retail core' to the 'Primary Shopping Area' to ensure consistency with the NPPF.
- (iii) **Draft Policy SD3 – Central Milton Keynes – Growth and Areas of Change:** the level of comparison floorspace identified should be noted as being capable of being accommodated within the PCA and the Strategic Reserve Sites should be identified.
- (iv) **Draft Policy SD21 – The Walnuts, Redhouse Park:** the promotion of retail development as part of this allocation should be deleted.
- (v) **Draft Policy ER10 – Character and Function of the Shopping Hierarchy:** Local Centres should be clearly defined within Table 6.2 of the Draft Plan, as recommended by the Draft Retail Capacity and Leisure Study. Further amendments to the Policy wording is required in relation to the acceptance of proposed retail and service uses serving new residential areas to ensure the Policy is effective and consistent with national policy in relation to a town centre first approach.
- (vi) **Draft Policy ER11 – Assessing Edge of Centre and Out of Centre Proposals:** the requirement for retail proposals, outside of identified centres within the Retail Hierarchy, against both the sequential and impact tests is supported by Intu. The proposals for the local threshold impact requirement to only apply to retail development outside town, district, local centres and not the City Centre is unjustified and does not represent a Policy that provides effective protection of the vitality and viability of the City Centre. As such, the local threshold should include the City Centre to ensure the Policy is effective and justified.
- (vii) **Draft Policy SC1 – Sustainable Construction:** should include an acknowledgment that developments may not always be able to meet the set sustainability targets albeit still deliver sustainable and beneficial development.

43. We look forward to receiving acknowledgment of this representation and being notified of Plan's progress in due course. All correspondence should be marked for the attention of Paul Newton or Ben Shaw at this office.

Kind Regards



**BARTON WILLMORE LLP, 20<sup>th</sup> DECEMBER 2017**

**APPENDIX 2**

**BARTON WILLMORE SUPPLEMENTAL REPRESENTATION  
LETTER DATED MARCH 2018**

Development Plans  
Growth, Economy and Culture  
Milton Keynes Council  
Civic Offices  
1 Saxon Gate East  
Central Milton Keynes  
MK9 3EJ

**SENT BY EMAIL ([planmk@milton-keynes.gov.uk](mailto:planmk@milton-keynes.gov.uk))**

27899/A5/BS/PN  
16<sup>th</sup> April 2018

**MILTON KEYNES RETAIL CAPACITY & LEISURE STUDY MARCH 2018**  
**REPRESENTATIONS BY INTU MILTON KEYNES LIMITED**

**Introduction & Background**

1. We act on behalf of our client Intu Milton Keynes Limited ("Intu") and have been instructed to submit representations in relation to the recently published Milton Keynes Retail Capacity & Leisure Study 2018 Final Report, prepared by Carter Jonas. This follows previous representations submitted in December 2017 in relation to the Plan:MK – Proposed Submission October 2017 Consultation Document ("the Draft Plan") and should be read in conjunction with this representation.
2. Intu is a key stakeholder and long-term investor in Milton Keynes City Centre and as such has strong interest in the formulation of local planning policy and its implementation. Due to Intu's long-term interest, they wish to ensure that the Plan protects and supports the City Centre and retains the policy primacy of the City Centre as the key retail and service destination for the local population and visitors.
3. Intu have appropriately raised concerns over the content of the Proposed Submission Plan:MK and considers that it is not sound, has not been justified, and is not consistent with national planning policy currently set out in the NPPF.
4. One of Intu's concerns relates to Draft Policy D4 'Retail and Leisure Development Strategy', which at present seeks the expansion of the Primary Shopping Area ('PSA') to include land bounded by Avebury Boulevard, Secklow Gate, Childs Way and Marlborough Street; which includes the Xscape Milton Keynes.
5. The extension of the PSA is not explained within the Plan nor has it been justified within the Milton Keynes Retail Capacity & Leisure Study 2018 Final Report ('the Final Report').
6. The Milton Keynes Retail Capacity & Leisure Study 2018 Final Report, prepared by Carter Jonas, supersedes the 'Final Draft' document which was published in October 2017 and formed part of the evidence base of the Plan:MK.

7. The 'Final Draft' document provided no justification for its recommendation on the potential changes to the current Proposals Map boundary, which stated: "*The Primary Shopping Area (PSA) should be expanded to include the Xscape Entertainment Centre. We consider that there is no need to specifically define 'Edge of Centre', and the NPPF definition should apply*" (Bullet 2 Paragraph 18.24).
8. The 'Final Report' published in March 2018, recommends at Paragraph 16.27 (bullet 2) that changes to the Proposals Map should include changes to the PSA to be "*expanded to include the Xscape Entertainment Centre. In our judgement, Xscape forms an important element of the centre, and acts at a key attractor. Its offer complements and contributes well to the overall vitality and viability of the PSA, and provides an opportunity for linked trips and expenditure to other shops and businesses in the PSA and wider City Centre area*". Paragraph 16.27 (bullet 4) continues to state that "*The Secondary Shopping Frontages should cover the Milton Keynes Theatre District, and the Xscape Entertainment Centre*".
9. There is no robust justification set out within the 'Final Report' evidence base that supports the above recommendations to extend the PSA.
10. The 'Final Report' provides a summary of the accessibility of the existing PSA and states, at Paragraph 6.47, that "*...the various elements (the shopping centre vs Xscape vs Theatre District) of the PSA were poorly linked together. This would suggest that the various elements of the centre are used in isolation from each other*" (our emphasis). It is clear, that although the "Final Report" incorrectly references Xscape to be included within the existing PSA, it is poorly linked to the existing PSA and is used in isolation. It is therefore clear that Xscape, does not "*provide an opportunity for linked trips and expenditure to other shops and businesses in the PSA*".
11. Furthermore, Both the NPPF and the draft Plan:MK (within their respective glossary sections) include a definition of Primary Shopping Area (PSA). This reads:

*"Defined area where retail development is concentrated (generally comprising the primary and those secondary frontages which are adjoining and closely related to the primary shopping frontage)."*
12. Importantly the proposed PSA expansion area does not exhibit any of these characteristics. It is not an area where retail development is concentrated, and it is not adjoining or closely related to the primary shopping frontage, which are correctly shown as including intu MK and thecentre:mk. It does not and clearly cannot function as part of the PSA.
13. Indeed, policy DS4 (criterion 2) expressly states that the Council will support the development of the primary shopping area of CMK as a regional shopping centre for comparison shopping (our emphasis). It is therefore unclear why the Xscape site has been included as it clearly serves a leisure based function and is divorced from the existing primary shopping area and the current existing retail context. Its inclusion within the primary shopping area is inconsistent with the NPPF.
14. On this basis the extension of the PSA is not sound as it has not been justified, is not based on proportionate evidence and is not consistent with national planning policy as set out in the NPPF. As a result, the PSA should be redrawn on the Proposals Map to reflect the PSA set out in the adopted Core Strategy (Figure 7.1), and to remove the reference to Secondary Shopping Frontage within the Xscape building itself.
15. We look forward to receiving acknowledgment of this representation and being notified of Plan's progress in due course. All correspondence should be marked for the attention of Paul Newton or Ben Shaw at this office.

Kind Regards

A handwritten signature in blue ink, appearing to read "Barton Willmore", with a long, sweeping underline that extends to the right.

**BARTON WILLMORE LLP, 16<sup>th</sup> MARCH 2018**

## **APPENDIX 3**

### **ADOPTED PSA AS SHOWN IN FIGURE 7.1 OF MILTON KEYNES CORE STRATEGY**

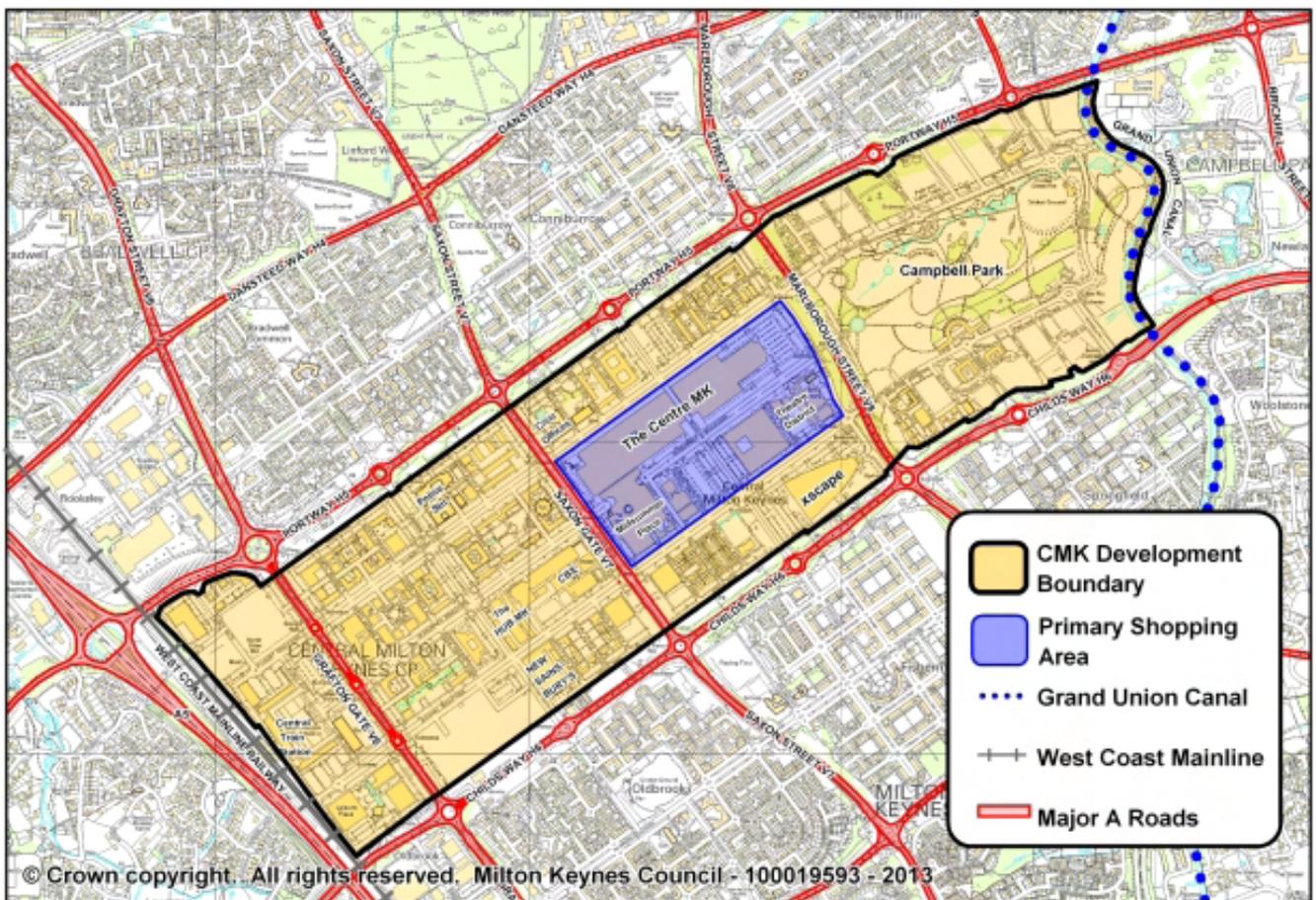
## 7. Central Milton Keynes

### 7 Central Milton Keynes

**7.1** Given the high standards of the original 'Master Plan' design, Central Milton Keynes is unique. It is already the main location in the city for retail, office and leisure development with the largest concentration of jobs and this should continue into the future. Central Milton Keynes<sup>(47)</sup> should also become the focus for more hotel accommodation. It

serves both as a regional centre (for example, for shopping and transport) and as a local centre (for example, for day-to-day shopping needs) for the immediate catchment population. Although much of Central Milton Keynes has already been completed, or is committed for development, there is still potential on undeveloped sites<sup>(48)</sup>, or through the redevelopment of buildings that have become obsolete.

**Figure 7.1 Central Milton Keynes Location Plan**



**7.2** Important to both the local economy and the local identity, Central Milton Keynes (CMK) should continue to be well used by all of the community including all of the existing surrounding estates (now and as the Borough continues to grow). CMK should grow as a regional centre in balance with the investments needed in other centres identified in the Borough. Part of the success of CMK is its accessibility

and this must be maintained and improved. This could include visitors staying longer in CMK with consequences for how people travel to the centre.

**7.3** Central Milton Keynes will be the focus for office (including financial and business services) and high value and technology jobs, with new floorspace mainly at Campbell Park, next to the railway station

47 Central Milton Keynes is defined as the area between the railway line, the Grand Union Canal, Portway (H5) and Childs Way (H6) including Campbell Park. See Figure 7.1 'Central Milton Keynes Location Plan'

48 Sites awaiting development in CMK can be found within the eight 'Quarters' defined in the Local Plan (2005).