Planning Condition block on retail relocation upheld in Court of Appeal

The owners of a Skelmersdale shopping mall have lost their claim that a planning condition imposed on a new town centre retail scheme fails to ensure that their tenants would be prevented from relocating there.

The condition was that for five years from when the new scheme was first occupied, no floor space should be occupied by any retailer who had occupied more than 250 square metres of retail space at the date when permission was granted or within the 12 months immediately before occupation. Existing retailers opening premises at the new site would have to commit to retaining their presence in the existing mall for at least five years following their first occupation in the new development.

The Court of Appeal agreed the terms of the condition were perfectly intelligible, effective and enforceable in its purpose of maintaining the vitality and viability of the