Matter 2: Soundness of the Local Plan

Issue 8: Is the Local Plan positively prepared, justified and effective in respect of retail?
**Issue 8 Is the Local Plan positively prepared, justified and effective in respect of retail?**

**Q162. Does the Local Plan accurately reflect the position in respect of retail commitments across the District? [paragraphs 6.40, 6.51 and 6.55]**

**Council Response**

162.1 In respect of Paragraph 6.40, the paragraph refers to recent planning permissions that had not come forward. Whilst this is true other permissions have now taken their place and are referred to in other paragraphs of the Publication Local Plan.

162.2 Planning permission for a Lidl supermarket in Shirebrook is referred to in paragraph 6.37 and a new planning permission in Bolsover Town is referred to in paragraph 6.51 as amended by Proposed Modification 30 (ED 5), which also proposes the deletion of paragraph 6.55. A Statement of Common Ground has been agreed between ODL and Rothstone Estates on the basis of PM 30, which will be submitted when signed.

**Q163. Is the Council’s approach to the assessment of quantitative and qualitative need for retail floorspace sound? [Policy WC5]**

**Council Response**

163.1 Paragraph 161 of the original NPPF requires Councils to assess the needs for land or floorspace including quantitative and qualitative needs for all foreseeable economic activity including for retail and leisure development. The Council’s evidence that meets this requirement is the Retail and Centres Study (2018) (EB 15).

163.2 The 2012 NPPF refers to the importance of using a proportionate evidence base. Para 158 states that

   “Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals”

163.3 The study utilises a robust and well established methodology that is widely accepted across the industry. The methodology has been used elsewhere in a number of Retail evidence bases for various local authorities all of which are in different stages of Local Plan preparation such as, Ashfield, South Downs, Chilterns and South Bucks, Northampton and Tunbridge Wells, Huntingdonshire and Bassetlaw.
163.4 Fundamentally, it is the purpose of a Retail Study to forecast both quantitative and qualitative need into the future, based on known and projected scenarios. This is a very difficult requirement within what is currently a volatile and unknown time for the retail market. We believe our assessment to be robust, without being unduly negative. Our detailed methodology, for example, provides a range of potential sales densities for future floorspace, thereby providing a range of potential floorspace capacities. The purpose of doing so is to enable both an ‘optimistic’ and ‘pessimistic’ scenario. Elsewhere, we utilise a series of industry standard data sources – Experian and Verdict to name two – to forecast retail expenditure, expenditure growth, special forms of trading, sales densities and sales efficiencies – the basis for which are readily accepted by Local Plan Inspectors.

163.5 A developer (Rep 8322) eager to promote an out of town retail development has made representations seeking to undermine the study. They have pointed to a number of background assumptions which they perceived to be ‘conservative’. Whilst our view is that the assumptions are balanced and were applied by expert consultants as part of a neutral study on the Council’s behalf to identify actual need, it is accepted that they will be more ‘conservative’ than approaches based on seeking to identify a positive requirement.

163.6 Given the current volatile changes in the retail world and the NPPF’s emphasis on a Town centre first approach (Section 2 Ensuring the Vitality of Town centres), it is considered that the Council’s approach is right in terms of ensuring a robust approach.

163.7 There have been significant concerns over our High Streets, first highlighted by the Portas Review in 2011. Our study recognises the continuing structural changes on our high streets over the past 5 years which have completely changed the way we begin to view our high streets, much of which has depressed the demand for bricks and mortar space, and so we think that it is correct to err on the side of caution where it comes to constructing new floorspace.

163.8 Addressing the specific methodological points raised by the respondent they clearly raise the following issues:

   a. “It is also noted that the RCS treats the retail uses on the Wincobank Farm site as a 'commitment' within the quantitative exercise. In other words, for retail modelling purposes, the RCS is assuming the development has planning permission (whereas in fact it does not). This alone is likely to be sufficient to change the outputs from a negative need to a positive.

   b. Retaining Bolsover's 2017 market share of 5.4% as constant in 2033 would appear to be inconsistent with the Council's aspirations elsewhere to
reduce expenditure 'leakage', and would be inconsistent with the delivery of some £35.5 million of commitments by 2033 (Table 26s, Appendix D of the RCS), some of which would be expected to retain more expenditure locally.”

163.9 Paragraph 8.11 of the Retail and Town Centres Study clearly states in relation to the Retail application at Wincobank Farm “However, we go on to exclude this proposal when calculating available capacity, as the application is yet to be determined and therefore should not be taken into account”. The correct table to consider is Table 26u of Appendix D, where commitments which are unlikely to emerge have been stripped out (such as the application at Wincobank Farm). The net comparison turnover for commitments in this Table is £24.9m for Bolsover. In a closed model, the realisation of these commitments would serve to increase market share. However, the model is not closed, as there will also be developments coming forward in nearby authority areas which will exert a pull on Bolsover residents to shop elsewhere. It is considered that the ‘constant market share approach’ is the correct approach in this instance. Notably, the empirical evidence shows residents in Bolsover trip to the likes of Sheffield, Mansfield and Nottingham where, by way of example, a large town centre redevelopment, the Intu Broadmarsh shopping centre, is currently underway. Equally, the West Bar Square development in Sheffield City Centre and the Town Hall development in Mansfield will further add to the attraction of centres farther afield. It is estimated that the combination of these developments, together with others in the system, will combine to equal out the positive market share impacts of committed developments. This is not least because the vast majority of the committed development in Bolsover (£20.4m of £24.9m) is an extension scheme at Unit F of Brook Park in Shirebrook. It is not considered that this out-of-centre development will fundamentally alter existing market shares or the attraction of Bolsover as a whole.

163.10 The Respondents also suggest:

The RCS makes no allowance for inflow expenditure to Bolsover - either in the 2017 base year, or in future forecast years. The approach would not account for spending to the East Midlands Designer Outlet within Bolsover, which is expected to draw a considerable proportion of its turnover as inflow into the area. It also would not account for new inflow to the commitments modelled, which is also expected to draw more trade into the area (the RCS expects 80% of the Wincobank Farm site would come from outside the study area).”

163.11 It is agreed that it would be appropriate to forecast inflow to the East Midlands Designer Outlet Centre. Whilst the Study Area is extensive, and we doubt that residents in the areas to the south (which centre around major centres in Derby and Nottingham) would be as attracted to the Designer Outlet Centre, an adjustment to our analysis to allow for some degree of inflow could be made. Assuming an inflow of 50% of the Study Area derived turnover, then this
would produce an inflow turnover of £11.3m (total turnover of £33.9m). An addendum to the study could be produced. Importantly though, the net result is that there is no significant change to the overall result of the Study. The capacity figures at Table 26v would change from ‘-3,700 to -5,900 m² at 2026’ to ‘-3,600 to -5,600 m²’. The equivalent figures for 2033 are ‘-2,600 to -4,100 m²’ to ‘-2,300 to -3,600 m²’. This does not result in any changes to the key conclusions (and would have no material impact on the acceptability of the Berristow Farm / Wincobank Farm proposals or otherwise), and in light of having a proportionate evidence base, the Council does not consider that having an addendum making slight adjustments to the figures to be necessary.

163.12 The respondents raise the issue that:

“The RCS uses the forecasts within the Experian Retailer Planner Note 14 (November 2016), which assumes the existing retailers can improve their turnover year on year by over 2% per year. Whilst this is a reason assumption at a wider sub-regional level, given the type of existing retailers within Bolsover District and the quality of stock they occupy (i.e. size of unit and configuration), this level of increase may well not be achieved.”

163.13 It is industry standard practice to utilise Experian Retail Planner rates across all parts of the UK. Neither Nexus, nor we assume Q+A, have any evidence that there are robust regional figures. We note that Q+A do not present any such evidence. Moreover, the very latest Retail Planner (December 2018, Table 4b) suggests that efficiencies have actually increased to 2.3% per annum for the period 2026-2037.

163.14 Regarding the point in Paragraph 6.36 about needing to demolish floorspace in order to provide capacity for new floorspace. Demolition is one way in which capacity might arise, but more commonly, it can arise through market share changes from new development or population growth through new housing development. The Council is therefore proposing to put forward a modification to the plan, subject to the agreement of the Council to change the wording of paragraph 6.36 as follows.

“Para 6.36 - The floorspace requirements range for comparison goods are negative figures because the amount already developed within the study period has exceeded the need identified. In essence, in quantitative modelling terms, the District has too much comparison floorspace, and effectively would need to lose at least 3,087 m² before any new Comparison goods floorspace is needed. This is mainly due to the 4,669 m² Retail store granted permission and has been completed nearly complete (December 2017) at Brook Park, Shirebrook. There is therefore insufficient capacity in the system for additional comparison goods floorspace, right through until the end of the plan period. “
Q164. Does the Local Plan define a hierarchy of town and local centres that is resilient to anticipated future economic changes? [Policy WC5]

Council Response

164.1 Yes. The Local plan defines a hierarchy including 4 town centres, each of the 4 town centres allocate land on the edge of the town centre that could accommodate new retail development. Smaller opportunities exist within local centres where new development can come forward through changes of use from sometimes vacant units of from other uses.

164.2 The spatial strategy shows the following numbers of dwellings allocated to the four towns Bolsover (1,769), Shirebrook (786), South Normanton (380), and Clowne (1,494),and the following numbers of dwellings allocated to the 4 Local Centres; Creswell (289), Whitwell (218), Pinxton (65), and Tibshelf (306). The increased population from these new dwellings will help to strengthen the resilience of each centre.

Q165. Is Policy WC5 positively prepared and consistent with national policy in respect of the requirement that retail development must demonstrate that it is appropriate in scale and function to its location and the thresholds for Retail Impact Assessments for edge of centre or out of centre developments?

Council Response

165.1 In respect of the requirement that retail development must demonstrate that it is appropriate in scale and function to its location, it is acknowledged that there is no such requirement in the NPPF for proposals within town centres, therefore a modification is proposed to delete Criterion A from Policy WC 5 subject to the agreement of the Council.

165.2 In respect of the thresholds for Retail Impact Assessments for edge of centre or out of centre developments both the original NPPF paragraph 26 and the new NPPF paragraph 89, refer to locally set floorspace thresholds in respect of the Impact Test. The Retail and Centres Study (2018) sets locally set thresholds. The Council has no reason to believe the thresholds set are not a sound approach.

Q166. What evidence is there to support the requirement in Policy WC9 that hot food takeaways should not be located within 400m of any school or college?

Council Response
166.1 As noted within the policy, the 400m distance is based on a general recognition of a 10 minute walking time which is considered a suitable way of restricting access to school or College pupils at lunch times.

166.2 Para 6.70 to 6.77 simply states the Council’s case and support for this policy and provides a proportional justification and reference to evidence that justifies the policy.

166.3 The policy is positively prepared as it recognises a national, regional and local significant health concern and seeks to take action to limit the growth of what national evidence sees as a major contributor to that problem.

166.4 In this case the effectiveness of the policy is unclear as many hot food takeaway units already exist within a 400m catchment area of Schools and colleges and whether there will be a future demand for even more is uncertain. However, the Council believe that the weight of evidence linking such establishments to the obesity epidemic means that it is better to apply the policy and monitor the outcome than ignore the problem.

166.5 The fact that two representatives of the industry have seen fit to try to remove the policy from the Plan, suggests that there is a view that such policies would be effective.

166.6 Para 171 of the NPPF states that Local planning authorities should work with public health leads and health organisations to understand and take account of the health status and needs of the local population. This Policy has come forward because of that very work with our partners in public health.

Q167. Should the Local Plan include a policy or policies in respect of shopfronts, advertisements and security grilles/shutters in order to safeguard the historic character of settlements?

Council Response

167.1 The Council considers that no specific policy is required in respect of shopfronts, advertisements and security grilles / shutters in order to safeguard the historic character of settlements. There is no requirement in national policy to have such policies, and a policy related to shop fronts would apply regardless of the nature of the area where the shop is located.

167.2 It is the Council’s view that the existing policies within the Plan are suitable and robust to consider these issues, although it should be noted that Advertisements have to be viewed differently from the other issues.

167.3 In relation to Shop fronts, security grills and shutters, the following policies would be considered in relation to any application for Planning permission

   a. Policy SC2: Sustainable Design and Construction, criterion i); requiring development to protect and enhance the distinctiveness, character,
Council’s Response to MIQs
– Matter 2, Issue 8 (Q162-171) – Retail

townscape and setting of settlements, and criterion j); requiring development to conserve and enhance heritage assets and their setting.
b. Policy SC3: High Quality Design, requires development to: Criteria a) create good quality, attractive, durable and well-connected places through well designed locally distinctive development that will integrate into its setting; respond positively to the context and contribute to local identity and heritage in terms of height, scale, massing, density, layout and materials, and; accord with and respond to the established character and local distinctiveness of the surrounding landscape.

167.4 In addition to these policies, the Plan contains policies SC16: Development Within or Impacting upon Conservation Areas, SC17: Development affecting Listed Buildings and their Setting and SC 21 Non-Designated Local Heritage assets. All of these policies add specific protection to Conservation Areas and heritage assets, including their settings, to ensure they are appropriately safeguarded from development such as shopfronts, security grills and shutters that may have an adverse impact on the appearance or character of the asset or area.

167.5 The issue of Advertisements is slightly different in so far as they are covered separately by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Section 3 of the Act states:

3.—(1) A local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account —
   (a) the provisions of the development plan, so far as they are material; and
   (b) any other relevant factors

167.6 Therefore, whilst the decision has to be based specifically on the issues of amenity and public safety, the provisions of the development plan, so far as they are material, must be taken into account. Therefore, the policies listed above come into play to protect the appearance or character of the asset or area from any adverse impact.

167.7 On the basis it is considered that the policies within the Local Plan are sufficient to safeguard the historic character of settlements. It should be noted that Historic England have accepted that this approach is valid and they have signed a Statement of Common Ground agreeing that no further change is required.

Edge of Town Centre Allocations

Bolsover Edge of Town Centre Allocation [Policy WC6]

Q168. Is Policy WC6, as drafted, sound – in particular, with regards to its reference to the site as ‘edge of town centre’; the requirement for its development to be guided by a Masterplan; the provision of a 2-way vehicular access road; and the preparation of an SPD?

Council Response
168.1 It is considered that Policy WC6 was sound as drafted and on the basis of the evidence and information available at that time. Within the 2000 Adopted Local Plan, the site was clearly outside but on the edge of the Town centre and no physical development has occurred to change that view.

168.2 Planning permission for a Morrisons Supermarket was granted on the site, (application ref: 12/00324/FULMAJ), but this was never implemented.

168.3 The Policy WC6 within the Publication Local Plan for the site reflected the Council’s aspirations and expectations for the site at the time of drafting, however the situation evolved with the submission of a Planning application for the erection of a food store and retail terrace with associated car parking (17/00615/FUL).

168.4 Despite being contrary to the emerging policy, permission was granted for the development proposed on 26th September 2018. This in turn has led to the proposed modifications (PM30 ED 5). The modifications reflect the permission that has been granted and in essence exists as a fall-back position, in case the development does not proceed and alternative schemes for the site come forward.

168.5 There is no longer proposed to be a requirement for a Masterplan, a two way vehicular access road or for the preparation of a SPD.

168.6 In relation to PM 30, the Council is in discussions about a Statement of Common Ground to be agreed with ODL and Rothstone Estates. If agreed it will appear in the examination library.

**Q169. Should the policy be amended to include a requirement for a Heritage Impact Assessment to be undertaken?**

**Council Response**

169.1 As outlined above, the policy has been amended to reflect the situation that currently exists. The Planning permission granted does not require an additional Heritage Impact assessment over and above what has already been done as part of the planning application.

169.2 Agreement has been reached in relation to this issue with English Heritage, the details of which are within the relevant SOCG (ED 22).

**Shirebrook Edge of Town Centre Allocations [Policy WC7]**

**Q170. Is Policy WC7, as drafted, sound – in particular, with regards to the repetition of criteria b) and d); and the requirement to provide a replacement play area and provide a commuted sum?**

**Council Response**

170.1 The repeated criterion is an error and will be removed. See PM 32 (ED 5).
170.2 Representation 8449 also refers to a planning permission that was approved in 2012 (11/00262/FULMAJ). However, this is no longer relevant as part of the site has been separately developed which prevents the implementation of that earlier permission.

170.3 The Council also propose a further modification to policy WC 7 which no longer requires both a replacement play area and a commuted sum. See PM 32 (ED 5)

170.4 The Council has approached the objector to ask if they wish to agree a Statement of Common Ground agreeing to these modifications but have not yet received a response.

South Normanton Edge of Town Centre Allocations [Policy WC8]

Q171. Should Policy WC8 include a reference to any proposed development also complying with Policy WC4, given the site’s proximity to the Rough Close Works?

Council Response

171.1 The Council agree that it should include a reference to Policy WC 4, and have proposed a modification PM 33 to this effect (ED 5).

171.2 Based on this Proposed Modification, Leith planning have agreed to withdraw this representation in a Statement of Common Ground (ED 29).