

our ref: TR/Q30321
your ref: 16O/1043
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Head of Planning
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By Email

Dear Sir,

FORMER RAYWARE SITE, SPEKE BOULEVARD, SPEKE, LIVERPOOL L24 9HZ
PLANNING REFERENCE 16O/1043

We write on behalf of our client, T J Morris Limited (TJM) ('the Applicant'), in respect of the above planning application, to provide a further response to issues raised by B&M Retail Limited ('B&M') (letter dated 6th February 2017).

This response should be read in conjunction with our previous correspondence (letter dated 18th August 2016, 14th December 2016¹ and revised 11th January 2017) and submitted Planning & Retail Assessment (April 2016). Reference also needs to be given to recent advice provided by GL Hearn (dated January 2017) on behalf of Liverpool City Council (LCC).

In their correspondence, B&M raise seven points. Whilst we believe that the issues raised have been fully addressed in our recent correspondence, we deal with each matter in turn below.

a) Trade draw from the City Centre

The level of trade diversion to the proposal from existing facilities in the City Centre continues to be questioned by B&M.

Trading data on the catchment of existing Home Bargains stores in Liverpool, including data on frequency of shop and amount of spend as being requested by B&M is not available. However, such data is not required to demonstrate that the approach adopted in estimating trade draw from the City Centre is appropriate – as has already been accepted by GL Hearn.

¹ Correspondence from B&M refers to a letter dated 15 December, which we assume is a typographical error



Empirical evidence demonstrates that the City Centre is identified to be the most popular comparison goods destination for residents within the defined catchment. Therefore, it is reasonable to assume that a notable level of trade will be diverted from the City Centre.

Despite the strength of the City Centre as a comparison retail destination, the revised assessment undertaken as part of our previous correspondence has reduced the level of trade comparison goods trade derived from the City Centre (from 37.5% set out in the submitted Planning & Retail Assessment to 22.5%). The fact that this additional assessment has been undertaken does not appear to be fully recognised by B&M.

This revised level of trade diversion from the City Centre, is less than that identified to be derived from New Mersey Shopping Park (25.0%) and a comparable level of trade from Speke district centre (20.0%). This is despite both these retail destinations achieving notably lower comparison market shares within the defined catchment than the City Centre. Indeed, in the case of Speke district centre, this centre is identified to achieve a comparison goods market share (18%) that is almost half that identified for the City Centre (35%). Despite this, a comparable level of trade draw from the two destinations has been assumed. This underlines the robustness of the approach undertaken.

Furthermore, by accounting for the retail commitments, the level of trade diversion from the City Centre reduces to less than 15%.

Against this background, we maintain that the level of trade from the City Centre is wholly realistic. Indeed, B&M acknowledges that the City Centre is located approximately 30 minutes from the application site. This further supports the principle that improved provision locally (as proposed) has the potential to reduce the level of expenditure directed to the City Centre and destinations further afield and encourage more sustainable shopping patterns.

For these reasons, and the reasons set out in our earlier correspondence, we firmly maintain that the level of trade to be derived from the City Centre is realistic and appropriate. No further evidence is needed on this matter in order to justify the approach. Indeed, GL Hearn, on behalf of LCC, confirm (para. 17) that the level of diversion from the city centre is *“reasonable given the proposal and the existing shopping patterns within the local area.”*

b) Trade Draw from Tesco, Park Road

B&M consider that a higher level of convenience trade will be derived from Speke district centre than destinations further afield, such as Tesco at Park Road, than has been assumed.

In making this criticism, again it appears that B&M has failed to acknowledge the further analysis that has been undertaken. This assumes a lower proportion of trade will be derived from Tesco at Park Road than Speke district centre. B&M is incorrect in stating that our assessment assumes that the proposal will derive a higher proportion of trade from Tesco, Park Road than Speke district. In fact the opposite is true.

Based on applying these revised assumptions the impact on existing centres continues to be limited and not significant adverse – as acknowledged by GL Hearn.

c) Trade Draw from Aldi, Cressington House

Further criticism is made by B&M to the level of trade diversion assumed to be derived from the new Aldi at Cressington House to the proposal. In particular, B&M suggests that an approach that discount foodstores compete with comparable facilities is dated and does not reflect the that discount foodstores are increasing their market share at the expense of the big four supermarket operators.

In considering this specific issue, it is important to note that this increase in market share is largely as a consequence of discount retailers being introduced to an area where they are not currently represented. Discount retailers already serve the resident catchment population. As a consequence of a further discounter potentially trading from the application site, we would question whether this would have such a great impact on shopping patterns directed to non-discounters. Local residents who wish to shop at a discounter already have the ability to do so at existing facilities (such as Aldi at Halewood) or the new Aldi at Cressington House. As such, it is realistic to assume that a new discounter will have a greater impact on shoppers currently using comparable facilities rather than larger-format destinations. A high proportion of shoppers will have already switched from a big four supermarket operator to a discounter.

For these reasons, together with those set out in our previous correspondence, we maintain that the level of diversion assumed to be derived from the Aldi at Cressington House is reasonable. However, as part of the further assessment submitted in December, we have reduced the level of trade diversion to the proposal from the Aldi at Cressington House (from 12.5% to 5.0%). Again, this further analysis is not fully recognised by B&M.

Furthermore, B&M fails to recognise that the impact of the proposal on Garston district centre (including the existing Asda) is limited (c. 1% by 2021). Even adopting the unrealistic assumption that no trade will be diverted from the new Aldi at Cressington House and is simply redistributed on a *pro rata* basis to facilities elsewhere, the impact on the centre as a result of the proposal remains limited (at c. 1%).

d) Sequential Approach to Site Selection

Further criticisms are raised by B&M with regard to the application of the sequential approach and the need to consider alternative sites outside the defined catchment. In particular, it is suggested that locations within the City Centre will meet the same objectives as the proposal as the City Centre already attracts shoppers from the catchment. As result, it is being suggested that alternative locations must be considered in the City Centre as part of the sequential approach to site selection.

Such an approach is not supported by established practice. Instead, as we have assumed, the requirement is to only consider alternative sites within the catchment of the proposal. Such an approach is entirely consistent with LCC's approach when considering retail planning applications elsewhere in the City (including applications to enable B&M to trade in Liverpool) and is well-established. Indeed, the guidance that first accompanied national policy that was published in 2009 recognised that it is only necessary to identify alternative sites within a defined catchment. This approach continues to guide the application of the sequential approach and was reflected in the Retail Statement prepared on behalf of B&M for their recent proposals at their Hunts Cross store (LPA ref. 12F/1706). This Statement highlighted (para. 4.1) that in applying the sequential approach:

“The NPPF advocates that a sequential approach to site selection be adopted. In respect of planning applications for new retail floorspace in an out-of-centre location, this involves examining whether there are more central sites within the catchment area that the development seeks to serve that are suitable for the proposed development.” (our emphasis)

This approach is entirely consistent with that undertaken in support of the proposal at Speke Boulevard. B&M are therefore critical of an approach that they themselves have advocated elsewhere.

In addition, the current Planning Practice Guidance² advises that the sequential test should be proportionate and appropriate for the given proposal and the potential suitability of alternative sites should be discussed between the developer and the local planning authority.

Reflecting this, the extent of the catchment area was agreed with LCC and GL Hearn has recently concluded (para. 12) that *“it is reasonable to discount Liverpool city centre as a location for sequentially preferable sites”*. There is nothing in the evidence provided by B&M that means this position should now differ.

The approach advocated by B&M seems to suggest that any centre where the proposal potentially draws trade from should be subject to the sequential approach regardless as to whether they fall within or outside the defined catchment. Such an approach cannot be correct and is not supported by the High Court decision at Mansfield referred to by B&M. This decision relates to the sequential approach and the importance of this not being influenced by specific business operations of an individual retailer. This is not the case at the former Rayware site. Instead, sites have not been dismissed in the City Centre as being unsuitable for a specific retailer, but due to the reason that such sites fall outside the catchment area of the proposal. As has been established, Liverpool City Centre is located approximately 30 minutes from the application site. In contrast, in the case of Mansfield, the town centre is located less than four kilometres (c. six minutes’ drive) from the application site.

We therefore continue to question the logic of locating the proposal in such a location given that it would fail to meet the same need as the proposal is intended to serve (i.e. improve the retail offer within the defined catchment). The suggestion that the approach should be revised so that no trade should be derived from the City Centre if sites in the City Centre are not to be considered is illogical; it does not reflect existing shopping patterns or established planning practice. There is absolutely no basis for such an approach to be adopted. The issues raised in the Mansfield High Court decisions fundamentally differ to this planning application and have no relevance in supporting B&M’s position that centres outside the catchment area of the proposal should be considered. Their application at Hunts Cross supports our approach.

It is also significant to note that the highest single proportion of the proposal’s trade will not be derived from Liverpool city centre, as suggested by B&M. The vast majority of the proposal’s turnover is identified to be derived from facilities within the defined catchment – ranging from between 63% and 72% dependent upon which scenario is adopted, with greater trade being derived from Speke district centre and Hunts Cross shopping park than the City Centre. The trade diversion from local facilities increases further when

² Paragraph 010, Reference ID:2b-010-20140306

commitments are included. B&M is incorrect and misleading in saying that the highest level of trade draw to the proposal is from the City Centre.

e) Delivery of employment development

As set out in our 18th August 2016 correspondence, the applicant is willing to accept a pre-commencement condition that requires the demolition and remediation of the entire site. This has also been by Jane Hayward, LCC Principal Planning Officer (email dated 9th June 2016). It is also agreed that access and services will be brought into the business element of the site. These are important measures to deliver the employment element of the scheme.

f) Policy GEN5 of the UDP

B&M continue to make the case that Hunts Cross shopping centre is protected by local planning policy and any impact on such locations is a planning consideration. There is no planning policy at the national or local level that supports this position.

As highlighted in our earlier correspondence, it is clear from emerging planning policy (Draft Liverpool Local Plan) that Hunts Cross shopping park comprises an out of centre retail destination. Such locations are not protected by planning policy. Specifically, the Draft Liverpool Local Plan (para. 9.43), which was recently subject to consultation and is being progressed by LCC, states that existing shopping parks are not 'town centres' for the purposes of the NPPF. Emerging Policy SP1 of the Draft Liverpool Local Plan does not include Hunt Cross shopping centre within the defined hierarchy. Against this background, it is clear that such locations are not protected by planning policy.

Consistency of local planning policy with the NPPF (as suggested by B&M) is not the issue in this respect. Instead, it is simply that the impact on Hunt Cross shopping centre and other out of centre locations are not a material planning consideration. This position is supported by the advice of GL Hearn, who state (para. 32) that *"the impact on Hunts Cross Shopping Centre does not need to be considered."*

g) Impact on Garston District Centre

As outlined in our previous correspondence, the Council has accepted some impact on Garston district centre by granting consent for a number of retail schemes in the local area. In terms of the impact of the application proposal, this is acknowledged to be limited. Indeed, GL Hearn conclude (para. 56) that the level of impact resulting from the proposal on the district centre *"cannot be considered significant"*.

B&M highlights that that no assessment of the District Centre's vitality and viability has been undertaken by the applicant. However, whilst there is no requirement in the NPPF or the Planning Practice Guidance for applicants to provide a formal 'health check' of existing centres, we can re-iterate that the health of the centre together with its role and function were considered in concluding that the impact of the proposal would not lead to a significant adverse impact. Critically, this conclusion was shared by GL Hearn on behalf of LCC, who are the same authors of the Council's latest retail evidence base ('Retail and Leisure Study' (September 2016)). This latest evidence base included a health check of Garston district centre. Against this background, GL Hearn, historic advisors to LCC, are well positioned to understand the impact of the proposal on Garston district centre. In this respect, GL Hearn concluded that the impact will not be significant adverse.

B&M argue that the solus impact on Garston district centre has been underestimated, and that a higher level of trade diversion to the proposal would be more realistic. In suggesting a revised figure no workings has been provided by B&M. We also dispute that Garston is underpinned by convenience shopping as put forward by B&M. The health check undertaken for the recently completed Retail and Leisure Study (2016) identifies that only 8% of units within the district centre fall within the convenience retail sector, which is below national average.

Nevertheless, for the reasons outlined above, we maintain that our approach with regard to the trade diversion from Garston district centre is realistic and has been acceptable by GL Hearn on behalf of LCC. There is no justification for any further revisions to the assessment undertaken. Furthermore, when considering whether the impact is significant, it is also important to note that the impact of up to -1.1% is based on applying the very high sales densities for the proposal, which are not likely to be reflective of the anticipated trading performance of the proposal. By applying more realistic sales densities the impact on all centres will be markedly lower. It is therefore in this context that the impact on Garston district centre and all centres needs to be considered.

h) Summary

Overall, the issues raised within the further correspondence from B&M do not alter the robustness of the assessment undertaken. It remains the case that the proposal is not likely to lead to a significant adverse impact and no sequential preferable sites exist. Consequently, the conclusions reached by GL Hearn in their ongoing advice to LCC remains applicable.

The points raised have already been addressed in detail in our previous correspondence. Instead, the further correspondence from B&M fails to fully recognise the additional analysis that has been undertaken (and accepted by GL Hearn).

We trust this additional information and clarification provided is of assistance in the local authority's determination of the application. However, should you wish to discuss any matter further please do not hesitate to contact us.

Yours faithfully,



Tim Rainbird
Director