

## **MATTER 5 - TOWN CENTRE AND RETAIL**

### **Issue 5: Has the Plan been positively prepared and is it justified, effective and consistent with national policy in respect of its policies and proposals for town centres and retail development in Leicester?**

#### **Retail Floorspace Needs**

249. **In order to be positively prepared and consistent with national policy in paragraph 86d) of the NPPF, should the Town Centre and Retail policies set out a clear strategy for how the City will meet the convenience and comparison retail floorspace needs of Leicester, as identified in the Retail and Leisure Study [EB/TC/1], looking at least 10 years ahead?**

The council is of the opinion that the submission Local Plan is positively prepared and consistent with paragraph 86d) of the NPPF and sets out a clear strategy for how the city will meet the convenience and comparison retail floorspace needs of Leicester over the next 10 years, as identified in the Retail and Leisure Study [EB/TC/1].

#### Need for convenience floorspace

In respect of convenience floorspace the Retail and Leisure Study 2021 is up to date and identified no requirement for additional convenience goods floorspace in the short term. However, the capacity for additional convenience floorspaces rises to between 1,900 sqm and 2,600sqm at 2031 and then between 3,800 and 5,200sqm at the end of the reporting period in 2036.

In addition, to the quantitative need for new convenience floorspace the Retail and Leisure study also considers the qualitative aspect of convenience provision. Paragraph 8.26 states that "in terms of the spatial distribution of convenience goods facilities, we believe that existing large-scale main food shopping facilities are generally sited in a sustainable manner across the authority area and there are no "gaps" in terms of provision which need to be planned for."

The Retail and Leisure study did not identify any substantial short term quantitative need for additional convenience goods floorspace but in the longer term indicates that there may be capacity for some floorspace across the authority area. The study states that "any identified capacity would be easily absorbed by future convenience retail schemes which will likely come forward within the authority area, based on current retailer requirements and ad-hoc developments.

In this regard, additional convenience floorspace is also likely to be delivered over the plan period in the form of small-scale convenience stores and petrol filling station kiosks which meet localised needs and through the extension of existing stores."

The recommendation in the retail study was that there was no need to allocate any sites as part of the Local Plan process for additional retail

floorspace.

#### Need for comparison floorspace

In respect of comparison floorspace the Retail and Leisure Study identified nil requirement of additional floorspace up until 2031. At 2031 there is a very limited level of surplus expenditure (between 300sqm and 400sqm) to accommodate additional comparison floorspace. This only rises to and between 6,300 and 9,900sqm at 2036.

The retail study is very clear in that the council's first priority should be to reoccupy existing vacant floorspace within defined centres. In practice, it is evident that a significant amount of the identified comparison goods capacity in the longer term could be accommodated through the reuse, refurbishment or redevelopment of vacant floorspace in the authority area. The recommendation was that there was not a need to allocate sites for additional floorspace within the new Local Plan.

The identified capacity for additional comparison floorspace is right at the end of the Local Plan period. It is worth noting that upon adoption of the Submission Local Plan the Council would immediately start a review of the Local Plan. This would include commissioning new retail evidence to inform the next Local Plan. Any new retail evidence would reconsider the capacity for new comparison floorspace in light of the retail environment at the time. If there is still a need and the retail environment and vacancy levels improve, the Council would consider a possible allocation as part of the next Local Plan review.

The Council considers that the application of the sequential assessment and prioritising town centre locations in the city, is the strategy for policies in the town centre and retail chapter of the Submission Local Plan. The whole chapter is set up to support this principle, reflecting the advice in the retail and Leisure Study [EB/TC/1] and the requirements of paragraph 86d) of the NPPF.

For instance, Policy TCR01 sets out the retail hierarchy in the city and supports the application of the sequential approach. TCR 02 (Supporting Sustainable Town Centres – Impact Assessments), considers the application of a locally set threshold for impact assessments. This policy will allow the council to assess which applications could potentially have a harmful effect on the overall vitality and viability of a defined centre. The rest of the policies in the Town centre and retail chapter are aimed at supporting the vitality and viability of shopping centres across the city.

#### **Policy TCR01 - Hierarchy of Town Centres**

250. **Should reference be made in Policy TCR01 to the boundaries of the City, Town, District and Local Centres, as defined on the Policies Map, to ensure clarity for decision makers and applicants on how the sequential test would be applied to**

**proposals for the development of town centre uses on sites on the edge of these centres?**

The council acknowledges that making reference in Policy TCR01 to the boundaries of the City, Town, District and Local Centres, as defined on the Policies Map will provide greater clarity. The council would be willing to consider a main modification to this effect.

**251. Is the sequential test as set out in Policy TCR01 consistent with its expression in national policy in paragraphs 87 and 88 of the NPPF?**

The Council acknowledges that minor amendments to policy TCR01 as drafted in the submission plan could make it more consistent with its expression in national policy in paragraphs 87 and 88 of the NPPF. The Council will consider a minor modification.

**Policy TCR02 - Supporting Sustainable Town Centres – Impact Assessments**

**252. Are the floorspace thresholds for impact assessments for retail and leisure proposals, set out in Policy TCR02, justified as appropriate, based on proportional evidence? Where is that evidence set out in the supporting Retail and Leisure Study 2021 [EB/TC/1]?**

Paragraph 90 of the NPPF states that it is appropriate to identify thresholds for the scale of edge of centre and out of centre retail and leisure development that should be the subject of an impact assessment. Paragraph 15 of the Town Centres Planning Practice Guidance provides specific guidance in relation to floorspace thresholds and states:

*'The impact test only applies to proposals exceeding 2,500 square metres gross of floorspace unless a different locally appropriate threshold is set by the local planning authority. In setting a locally appropriate threshold it will be important to consider the:*

- *scale of proposals relative to town centres*
- *the existing viability and vitality of town centres*
- *cumulative effects of recent developments*
- *whether local town centres are vulnerable*
- *likely effects of development on any town centre strategy*
- *impact on any other planned investment.'*

The Retail and Leisure Study 2021 [EB/TC/1] contains a recommendation for a local threshold policy that applies a range of thresholds in accordance with the type of the centre that the proposed development is close to. The recommendation was based on the consideration of the above national guidance. Whilst the locally set threshold would require the submission of an impact assessment for all edge-of-centre and out-of-centre developments exceeding the thresholds, national guidance states that the impact test should be undertaken in a proportionate and locally appropriate way, commensurate to the scale of development proposed.

The evidence in respect of setting a local threshold for impact assessments is set out in paragraphs 10.33 to 10.51 of the Retail and Leisure Study 2021 [EB/TC/1].

The recommend policy approach for impact assessment thresholds is set out in Paragraph 10.49 of the Retail Study as follows:

*"We are of the view that an impact assessment will be necessary to accompany proposals for retail and leisure uses (including those relating to mezzanine floorspace and the variation of restrictive conditions) which are not located within a defined centre where:*

- *the proposal provides a gross floorspace in excess of 500 sq.m gross;*  
*or*
- *the proposal is located within 800 metres of either; a district centre and is in excess of 300 sq.m gross; or, a local centre and is in excess of 200 sq.m gross".*

The above recommendations have been incorporated in Policy TCR02.

### **Policy TCR03 – City Centre**

#### **253. Is Policy TCR03 clearly written and unambiguous in respect of the requirements of development proposals on sites within the City Centre to safeguard, contribute to and strengthen its role in the retail hierarchy?**

The council is satisfied that policy TCR03 is clear in establishing that new city centre retail development should be located within the central shopping core. This is consistent with the aims of policy TCR01 (retail hierarchy) and TCR04 (Central Shopping Core). Focussing retail development in the central shopping core is a recommendation of the Retail and Leisure Study 2021 [EB/TC/1]. In doing this it will contribute to and strengthen the role of the city centre in the retail hierarchy. Policy TCR03 (city centre) sets out the principle and Policy TCR04 goes into further detail in respect of the expectations for development proposals in the central shopping core.

254. **For clarity and effectiveness, should Policy TCR03 be amended to make clear that the heritage effects of proposals for development within the City Centre boundaries will be determined by reference to Policies HE01 and HE02, in terms of the balance between benefits and harms?**

The Council are of the opinion that the policy should be read in conjunction with policies HE01 and HE02 (Chapter 10: Heritage) in terms of the balance between public benefits and harms, with great weight being given to any designated heritage assets.

However, the council would consider a minor modification to TCR03 to include a cross reference to the policies HE01 and HE02.

#### **Policy TCR04 - Central Shopping Core (Primary Shopping Area)**

255. **Is Policy TCR04 clearly written and unambiguous, so that it will be evident how a decision maker should react to proposals for non-retail uses within the Central Shopping Core (CSC)? In particular:**

**Criterion a) - How would the location and prominence of a unit determine its suitability for a non-retail use?**

The Council acknowledges that minor amendments to policy TCR04 would help to make the policy clearer. The Council will consider a modification to this policy, which may include deletion of this criterion to allow greater flexibility in the application of the policy.

**Criterion b) - What level of activity or footfall would be considered acceptable?**

The Council acknowledges that minor amendments to policy TCR04 would help to make the policy clearer. The Council will consider a modification to this policy, which may include deletion of this criterion to allow greater flexibility in the application of the policy.

**Criterion c) – Should this make clear that for a non-retail use to be acceptable the shop front should be retained?**

Agree. The Council considers that an amendment should be made to criterion c) as suggested to read: "Where a shop front is retained" (DPQ08).

**Criterion d) – Should it be clear that a non-retail use must retain an active ground floor use and street frontage?**

Agree. The Council considers that an amendment should be made to criterion d) as suggested to read: “Where a non-retail use retains or enhances an active ground floor use and street frontage”.

**Criterion f) - How long a unit would need to be vacant before a non- retail use would be considered?**

The Council acknowledges that minor amendments to policy TCR04 would help to make the policy clearer. The Council will consider a modification to this policy, which may include deletion of this criterion to allow greater flexibility in the application of the policy.

**Criterion g) – Would the available alternative units need to be within the CSC or would the search need to extend to other centres?**

The Council acknowledges that minor amendments to policy TCR04 would help to make the policy clearer. The Council will consider a modification to this policy.

**Criterion h) – What scale and size of use that would be acceptable?**

As indicated in criterion h) the acceptability of the scale and size of the proposed non-retail use would be dependent on the character of the area. This could vary from location to location and would need to be assessed in relation to the surroundings.

**Criterion j) – For consistency with national policy should the requirement be that proposals affecting a heritage asset should preserve its heritage significance in the case of a listed building or preserve or enhance its character and appearance in respect of a Conservation Area?**

The Council acknowledges that minor amendments to policy TCR04 would help to make the policy clearer. The Council will consider a modification to this policy.

256. **Is the penultimate paragraph of Policy TCR04 consistent with the provision in criterion b), which allows for consideration to be given to the level activity of a proposed non-retail use in determining its acceptability? Would it be evident how a decision maker should apply these two differing considerations to a non-retail use?**

The Council acknowledges that minor amendments to policy TCR04 would help to make the policy clearer. The Council will consider a modification to this policy.

In response to MIQ 255 the Council proposes deletion of criterion b. In doing so it would provide the clarity needed for the decision maker in respect of the penultimate paragraph.

### **Policy TCR05 - Town Centre Uses in Town/ District and Local Shopping Centres**

257. **To ensure that Policy TCR05 is positively worded and unambiguous, so that it is clear how a decision maker should react to relevant proposals, should the following changes be made:**

- (i). **Amend the second sentence of the policy to make clear that: 'Proposals for main town centre uses will be actively supported within the town, district and local shopping centres, subject to the following criteria:'?**

Agree. Amend the policy wording as suggested.

- (ii). **Reword the criteria accordingly as follows:**

**Criterion a) - 'The proposal would not prejudice the use of upper floors for residential use.'**

Agree. Amend the wording of the criterion as suggested.

**Criterion b) – 'The scale and design would be sympathetic to the size and character of the centre and its role in the hierarchy.'**

Agree. Amend the wording of the criterion as suggested.

**Criterion c) – 'It would not have an unacceptable impact on highway safety'.**

Agree. Amend the wording of the criterion as suggested.

**Criterion d) – ‘It would contribute to a diversity of uses within the centre and not harm its retail function.’**

Agree. Amend the wording of the criterion as suggested.

**Criterion e) – ‘It would maintain and enhance the vitality and viability and character of the shopping area.’**

Agree. Amend the wording of the criterion as suggested.

## **Policy TCR06 - Development for Food and Drink Purposes**

258. **Is Policy TCR06 clearly written and effective in managing the development of proposals for food and drink purposes? In particular:**

- (i). **Should the uses to which the policy applies, be consistently stated as, ‘hot food takeaway and food and drink uses’, including in the title to the policy?**

The council agrees to amending the policy to ensure consistency of wording when referring to ‘hot food takeaway and food and drink uses’.

- (ii). **Should the effect on the vitality and viability of the relevant centre be included as a criterion? (e.g. ‘Proposals will be permitted where: they would not have a significant negative impact, either individually or cumulatively, on the vitality and viability of the centre)’?**

The council is satisfied that as drafted, this wording is within the policy and would therefore be taken into consideration when making decisions. Therefore it is not essential to include it as a criterion.

- (iii). **In criterion a), should the reference to amenities of nearby occupiers be referred to as ‘living conditions’ to distinguish them from ‘visual amenity’?**

The Council is satisfied that the term “residential amenity” or “amenity of nearby occupiers” and are common terms and it is not necessary to distinguish this from visual amenity.

- (iv). **Is it clear what the term ‘visual amenity’ means in this context and should it be defined or an alternative term such as ‘character and appearance’ be used?**

“Visual amenity is a common term in the decision making and



consistent with wording in the Design Chapter.

### **Policy TCR07 - Neighbourhood Parades**

259. **Is criterion c) of Policy TCR07 clearly written and unambiguous in respect of the circumstances in which residential uses will be permitted in Neighbourhood Parades? Should the criterion read as follows:**

**'Changes of use to residential will be on upper floors or to the rear on the ground floor and a satisfactory living environment can be achieved.'**?

Agree. Amend the wording of the criterion as suggested.

### **Policy TCR08 - Main Town Centre Development Outside of Defined Centres**

260. **To ensure criterion c) of Policy TCR08 is consistent with national policy in paragraph 111 of the NPPF, should it require that 'The proposed development would not result in an unacceptable impact on highway safety.'**?

Agree. Amend the wording of criterion c) as suggested.

### **Policy TCR09 - Planning Conditions: Main Town Centre Development and Class E Uses Outside of a Defined Centre**

261. **Is Policy TCR09 consistent with national policy in setting out circumstances for the restriction or removal of certain permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)?**

This policy is important for helping to protect the vitality and viability of town centres, therefore supporting the overall aims of Policy TCR01 (Hierarchy of Town centres). This applies the application of the sequential test and policy TCR02 (Impact assessments) and implements recommendation in the Council's evidence base (Retail and Leisure Study 2021 [EB/TC/1]).

However, the Council would consider a minor modification to add: "Where necessary" after the first criteria.

262. **Are the requirements in criteria a) and c) of Policy TCR09 clear and effective, so that it would be evident to a decision maker**

**how to apply these to development proposals?**

The council is satisfied with the wording of the policy as drafted.