

# ITEM 17

## APPENDIX 5

### **ADDENDUM TO REPORT REGARDING SCALE OF RETAIL USES AT THE FORMER FRIAR GATE GOODS YARD AND HEATHERTON NEIGHBOURHOOD CENTRE.**

#### **Introduction**

This addendum to the 17 January 2006 Cabinet report relates to objections made on behalf of the South Derbyshire Acute Hospitals NHS Trust. These objections are summarised and responded to in Appendix 2. There is a suggestion in these objections that the Plan may be challenged. As a result, Counsel opinion has been sought as to whether the Plan is vulnerable to a High Court challenge following adoption. Advice is that it is not vulnerable, but he recommends that further justification is provided to Cabinet regarding the scale of proposed retail use introduced by modification at the former Friar Gate Goods Yard and the Heatherton Neighbourhood Centre. This Appendix provides that further justification.

#### **Friar Gate Goods Yard**

In considering an appropriate scale of retail use for this site, it is helpful first to go back to the Inspector's report. In Paragraph 3.3.6, he notes that the Council had accepted an element of retail use on the ground floor of the Bonded Warehouse as long as it related to the needs of the development, akin to a neighbourhood shopping function. However, he considered that restricting the retail function to serve only the proposed development would be too restrictive as it "would rule out any potential to serve adjacent off-site housing." Neither does he accept the objector's view that the policy should simply make unqualified provision for retail use within the ground floor of the listed building. Instead, he takes the view that retail use "should be restricted in scale and nature to ensure that it serves the needs of the immediate locality".

The modified policy reflects the Inspector's recommendation by stating that "planning permission will be granted for convenience retail use on the ground floor of the Bonded Warehouse, related in scale and nature to the needs of the locality, as a means of securing the preservation of the listed building". To clarify the amount of floorspace that this might involve, the Council added the following wording to that recommended by the Inspector to the modified Reasoned Justification. "It is anticipated that some 2,290 m<sup>2</sup> (gross) of convenience retail floorspace can be accommodated on the ground floor of the warehouse". This is the approximate floorspace of the main area within the ground floor of this building and would provide about 1,800 m<sup>2</sup> of net, or sales, floorspace.

The policy does not formally allocate 2,290 m<sup>2</sup> (gross) of retail floorspace at this site. Rather, it makes provision for up to this amount, provided it can be justified in terms of scale and nature to the needs of the locality. However, as a minimum it is envisaged that convenience retail use at this site (together

with that envisaged at the Heatherton Neighbourhood Centre) would make up most if not all of the 2,800 m<sup>2</sup> shortfall identified by the Inspector. As the Inspector notes in Paragraph 1.7 of his addendum report, any remaining shortfall could be legitimately dealt with through Policy S2 which allows retail proposals to be considered on their merits subject to its various criteria.

Evidence to the Inquiry referred to a planning application relating to the Friar Gate site which included provision for 2,290 m<sup>2</sup> (gross) of retail use within the ground floor of the Bonded Warehouse. Although not submitted to the Inquiry, this application was supported by a Planning and Retail report prepared for the applicants by consultants GVA Grimley in 2002 (Appendix 4 of the current Cabinet report). The application, which has yet to be determined, seeks an open A1 permission rather than just convenience shopping use. However, the applicant's justification is based on a local shopping function suggesting a mainly convenience use.

The GVA Grimley report specifically considers the issue of scale. Paragraph 5.16 states that the proposed 2,290 m<sup>2</sup> (gross) retail floorspace is comparable to the smaller Neighbourhood Centres defined in the Local Plan or the larger collections of small shops. It goes on to compare this with the total floorspace of the Friar Gate Neighbourhood Centre, which it gives as some 5,500 m<sup>2</sup> and the Ashbourne Road Neighbourhood Centre which it gives as about 2000 – 2,500 m<sup>2</sup>. This is overall floorspace, although convenience retail floorspace is likely to form a high proportion of overall floorspace in Neighbourhood Centres.

However, the Inspector's recommendation does not in fact restrict the scale and type of retail use to that of a Neighbourhood Centre, but to that which is "related in scale and nature to the needs of the locality". Modified policy R2 does likewise. Some thought, therefore, has been given to what these needs might be.

The GVA Grimley report notes that the two nearest centres to the Friar Gate site are both limited in terms of their retail offer (Paragraph 5.9). The Donaldson's study carried out in 2000 for the City Council noted that the majority of convenience shopping trips are made at larger supermarkets and superstores. Indeed, it is becoming increasingly evident that many, if not most, traditional Neighbourhood Centres provide for little more than very basic top-up shopping. They are unlikely to capture a significant amount of convenience shopping trips from within the locality and provide the basis for a more sustainable pattern of shopping.

The nearest significant convenience outlet to the area is the Marks and Spencer store on St Peter's Street in the City Centre. This is about 800 metres from the site as the crow flies, but lies at the other end of the busy City Centre. It is also due to move to the Westfield Shopping Centre which is a further 200 metres or so from the site. The other nearest larger stores are:

- Sainsbury's City Centre (1,860 m<sup>2</sup> net), - about 1 km away
- Lidl, Normanton Road Linear Centre (1000 m<sup>2</sup>) - about 1.1 km away

- Sainsbury's, Kingsway Retail Park (3,160 m<sup>2</sup>) - about 1.5 km away
- Lidl (currently unoccupied), Kingsway Retail Park (836 m<sup>2</sup>) – about 1.3 km away
- Marks and Spencer Simply Food, Kingsway Retail Park (539 m<sup>2</sup>) - about 1.3 km away

Given the limited retail offer of nearby existing Centres, shoppers are likely to look beyond them to carry out most of their convenience shopping needs. However, the nearest stores that could achieve this are at least 1 km away as the crow flies and almost certainly more than this in terms of real pedestrian routes. This is more than an 800 metre 'comfortable' walk identified in the companion guide to PPG 3 (Better Places to Live By Design).

This does not necessarily justify a single retail operator within the whole of the ground floor of the Bonded Warehouse. Such a proposal would need to be considered carefully in terms of the modified policy. However, it does provide justification for retail use of the ground floor of this building to include larger format stores (for instance those of more than 500 m<sup>2</sup> net floorspace) that can genuinely encourage people in the locality to walk to do their shopping rather than drive to stores further afield. This would be consistent with the sustainability advantages offered by this proposal that helped justify it in my re-assessment of retail strategy (Appendix 3).

Finally, it is also important to note that the Inspector recognised that there might be a balance to be struck between the appropriate scale of retail at this site and securing an appropriate use for the ground floor of the Bonded Warehouse (Paragraph 3.3.6). In Paragraph 3.3.19, he recognises that the Bonded Warehouse is a 'monumental' building calling for sensitive design and use of internal space. This point adds further weight to the justification for larger format stores within the space.

### **Heatherton Neighbourhood Centre**

In Paragraph 5.23.4 of his report, the Inquiry Inspector acknowledges that the Heatherton Neighbourhood Centre offers scope for top up shopping, but that the two nearest District Centres at Mickleover and Littleover are not within easy walking distance. These centres offer the nearest current opportunities for main shopping trips.

The total floorspace of the Heatherton Neighbourhood Centre is about 750 m<sup>2</sup> within 5 units, not all of which are in A1 retail use. In my view, this is inadequate to serve the existing Heatherton estate and its proposed extension. Added to this, are a number of existing properties in the Havenbalk Lane area and in South Littleover which could potentially look to the Heatherton Centre for local shopping services. The Inspector recognised the sustainability advantages that would arise from an expansion of the Heatherton Neighbourhood Centre and an ability to help secure this was a significant element of his acceptance of the proposed Heatherton extension.

The Inspector's recommendation 5.23.36 (1) b provides for the "expansion of the Heatherton Neighbourhood Centre to provide extended shopping/service/community facilities". I strongly agree with this. In my view, a community of this size needs to be served by a larger shopping centre than a typical small Neighbourhood Centre. Heatherton needs to offer more than just top-up shopping opportunities in the interests of sustainability and an expanded Centre is needed to achieve this.

Neither the Inspector's recommendation, nor the policy, impose any particular restriction on the size of this expansion. Some guidance was therefore provided by my recommendation for a modification to the Reasoned Justification to refer to the provision of 1,000 m<sup>2</sup> of convenience floorspace being expected. This is, however, an approximate 'guideline' figure rather than a precise amount. The policy itself would allow for more, provided this can be justified in terms of Policy S2.

In my view, the 1000 m<sup>2</sup> (net) convenience retail floorspace is the minimum amount of additional floorspace that is needed to serve this new and growing community. It is, for instance, about the size of a larger Lidl or Aldi which would be needed to encourage significant levels of shopping trips to be made locally by foot. In practice, more floorspace may be justified on sustainability grounds, but this would need to be assessed against the criteria of Policy S2.

## **Conclusion**

The Inspector recommended that the Council reconsider its strategy on how to meet a 2,800 m<sup>2</sup> (net) shortfall in convenience retail floorspace throughout the City. Elsewhere, he recommended that provision be made for retail use is made at the Friar Gate Goods Yard site and through an expansion of the Heatherton Neighbourhood Centre. He did not specify any floorspace figures for these sites, but recommended that retail use at the Friar Gate site is restricted to a scale and nature to meet the needs of the locality. In his addendum report, he advises that if these recommendations are accepted, a substantial part of the identified need will be capable of being met and any remaining shortfall could be met through Policy S2.

Modified Policy R2 (former Friar Gate Goods Yard) therefore makes provision for convenience retail use within the ground floor of the Bonded Warehouse, related in scale and nature to the locality. The Reasoned Justification identifies that some 2,290 m<sup>2</sup> (gross) floorspace could be accommodated within the ground floor of this building. This is in effect a maximum figure based on the approximate area of the main internal space of this part of the building. It equates to some 1,800 m<sup>2</sup> of sales floorspace contributing to the identified shortfall. However, the precise scale and format of retail use in this area will need to be considered in terms of how well related it is to the shopping needs of the locality. Having said this, it is considered that a format involving larger stores, perhaps including stores such as Lidl or Aldi, will provide a local shopping function in a sustainable manner.

Modified Policy H13 (Heatherton extension) includes provision for an extension to the Heatherton Neighbourhood Centre. The policy does not specify an actual figure, but the Reasoned Justification refers to approximately 1,000 m<sup>2</sup> of additional convenience shopping floorspace. The existing Heatherton estate and the proposed extension to it is becoming a major residential suburb. Yet, the existing Neighbourhood Centre consists of only 5 units comprising 750 m<sup>2</sup> of floorspace. In my view, this is inadequate to provide a proper shopping function in the interests of sustainable development. The 1,000 m<sup>2</sup> referred to in the supporting text of the policy is, in my view, the minimum needed to address this deficiency.