Rapleys

Commercial Property & Planning Consultants

DBJ/806/4/2

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Dear Stephen

RE: RETAIL IMPACT CRITIQUE –PLANNING APPLICATION 2014/384
NEW HALL HEY, RAWTENSTALL

I refer to your email instructions to my colleague Tim Cropper dated 21 November 2014 requesting that a review be undertaken of the Planning and Retail Statement (August 2014) prepared by NJL Consulting in support of the above planning application.

In accordance with our brief, the critique has specifically focused on impact evidence relating to the following:

- The updated Retail Capacity Assessment projected figures;
- The turnover projections for the New Hall Hey Retail Park;
- The trade diversion projections/assumptions (convenience and comparison), particularly for Rawtenstall and the Valley Centre, and other centres, and
- Advice on whether the impact assessment is sound.

Matters relating to the proposal's compliance with local planning policy together with national retail planning guidance, including the sequential approach to site section, are not addressed in this correspondence. These matters will be considered by the Council in the determination of the proposal.

Full regard has been had to the National Planning Practice Guidance 'Ensuring the vitality of town centres' in the preparation of this critique, together with the requirements of paragraph 26 of the NPPF.

Background

The current application (ref: 2014/384) relates to units at the New Hall Hey Retail Park, which we understand has been vacant since its construction in August 2010. The consent (ref: 2007/090) allowed for three units (Units 1A, 2A and 3A), with floorspace of 1,412 sq. m, 1,412 sq. m and

3,358 sq. m respectively. A number of relevant conditions were imposed to limit the sales of goods from the units as follows:

- Condition 3 – units 1A and 1B to be used for the sale of home improvement and garden related products, furniture, floor coverings, soft furnishings, electrical products, household goods, pets, pet food and pet supplies and other goods ancillary to or directly associated with these goods.

- Condition 4 – unit 4A shall not be used for the sale of clothing (other than items normally associated with DIY tasks or sold by a catalogue retailer) or for the sale of food or drink for human consumption (other than for the consumption on the premises as an ancillary use).

The current application seeks a variation to the conditions attached to planning permission 2007/090, in order to:

- Allow for the sale of Class A1 goods (Open A1 consent) from Unit A1 (1,162 sq. m gross)

- Allow for the sale of unrestricted Class A1 comparison goods from Units A2, B and C, totalling 5,026 sq. m (comprised of 2,655 sq. at ground floor level and 2,371 sq. m at mezzanine level). We note at Table 18 of Appendix 5 that the following split of gross floorspace by unit is provided: Units A2 (2,235.5 sq. m), Unit B (1,297.5 sq. m) and Unit C (1,493 sq. m).

The total gross floorspace of the proposal is 6,188 sq. m. We understand this is broadly the same as that sought under planning application 2007/090 (6,180 sq. m gross).

NJL state that the case for the proposal reflects the need to maximise opportunities for potential occupiers of the units, which despite active marketing, have remained vacant for over four years. At paragraph 3.11 of the Retail Statement, NJL state that the letting agents '*..have secured genuine interest from an anchor tenant and three further retailers........The retailers that have confirmed interest are national multiple retailers...*'. We note at NJL paragraph 7.12 together with the NJL Table 18 of Appendix 5 that M&S Simply Food and/or Waitrose (Unit A1), TKMaxx (Unit A2), Pets at Home (Unit B) and Currys/PC World (Unit C) are identified as the potential national multiple occupiers. We consider this to be a realistic mix although we appreciate the Council may have further details of intended occupiers.

The issue relates to the proposed extension to the range of goods as opposed to any material increase in retail floorspace.

At the outset, we note that two of the potential occupiers could lawfully trade under the existing range of goods (i.e. electrical products, and pets/pet food and supplies). We therefore question why an open comparison range of goods is sought (or necessary) for a number of the vacant units.

Retail Impact Assessment

NJL provide a retail impact assessment at Section 7 of their Statement which is supported by statistical tables at Appendix 5.

Baseline Assumptions

We note that NJL have adopted a price base of 2012, a base year of 2014 and a design year of 2019 for the impact assessment. This is considered acceptable. Whilst it could be argued that the base year be changed to 2015 (given the delay in potential opening) with a resultant change to 2020 for the design year, this would not change our overall conclusions.

We are aware that the methodology (including the catchment area) for the retail assessment was scoped and agreed with the Council at pre-application stage, and further note that the Council's most up to date retail evidence base, the Rossendale Town Centre and Retail Study (RTRS) albeit dating from 2009, has been adopted for the purposes of the assessment. It is recognised by NJL that this evidence base is dated, including the even older date of the telephone household survey which informed the RTRS. However in the absence of any more recent data, the use of this existing information is appropriate, and accords with the advice of paragraph 15 of the NPPG.

As the only town centre in Rossendale and proximity to the subject site, we consider the focus should be on Rawtenstall but with consideration of the other smaller centres.

Changes in Retail Provision since the RTRS

NJL have identified the major changes in retail (convenience and comparison) provision that have occurred since the publication of the RTRS, both inside and outside of the catchment area. This is important given that it will have implications for shopping patterns in the catchment area and to this extent, NJL have sought to factor this into the RTRS base data to provide an updated assessment of turnover and shopping patterns in the catchment area. We understand that the changes in local provision have been agreed with the Council.

The majority of changes relate to convenience provision, which locally in Rawtenstall, include Lidl, and to a lesser extent, given its limited convenience range, Family Bargains. Both are out of centre in retail planning terms. Morrisons now operate in the district centre at Bacup whilst another discounter - Aldi has opened in Ramsbottom. Outside of the catchment area, Tesco at Accrington has opened whilst planning permission for an Asda at Burnley Road in Todmorden was approved in May 2014. In terms of changes in comparison provision, aside from the out of centre Family Bargains, the main change locally has been the demolition of the Valley Centre in the town centre. We discuss this later. Other changes include The Rock in Bury, a major retail and leisure scheme, anchored by Debenhams and M&S, together with the comparison floorspace associated with the aforementioned Tesco, and the Asda commitment. Overall, the changes at the local level have focused principally on the discount sector whilst further afield and outside of the catchment, a number of large convenience and comparison schemes have opened. In light of these changes, the broad conclusions adopted by NJL at paragraph 7.17 are considered reasonable.

Population and Expenditure Forecasts

The assessment has correctly sought to update the baseline population and expenditure (convenience and comparison) projections of the RTRS over the period 2014 and 2019. This has utilised data from Experian (2012) together with expenditure growth forecasts, assumptions for special forms of trading and floorspace efficiencies, as taken from Retail Planner Briefing Note 11 (October 2013). This is considered acceptable and summarised in Tables 1, 2a/2b, 3a/3b of Appendix 5 of the NJL statement.

Overall, this confirms a growth in convenience expenditure in the overall catchment area of £13.3M over the period 2014-19, and a larger growth of £63.1M over the same period for comparison expenditure.

Shopping Penetration Rates
NJL have adopted the evidence of shopping patterns derived from the household survey of the 2009 RTRS and applied this to the convenience and comparison expenditure projections for the four catchment zones for 2014 and 2019 (see NJL Tables 4,5,7, 11, 12 and 14, Appendix 5). In the absence of an updated household survey to factor in the changes in patterns arising from the new retail provision outlined above, the implications of these changes is addressed in Tables 6,8,13 and 19. This exercise is reliant on the use of previous assumptions from comparable schemes and appears relatively robust, particularly in recognising the implications for Asda and Tesco in Rawtenstall arising from the opening of the Morrisons in Bacup and Lidl (Rawtenstall). Overall, this approach is considered acceptable.

Turnover of Existing Facilities
NJL Tables 9 and 16 identify the benchmark turnover for centres in terms of convenience and comparison floorspace at 2014 and 2019 respectively. The assumptions are acceptable and supported by comprehensive footnotes. This indicates Rawtenstall town centre to have a benchmark convenience turnover of £2.6M and a benchmark comparison turnover of £16.9M in 2014.

NJL have compared the benchmark turnover of centres to the updated survey derived turnover. This is summarised at Tables 10 and 17 of Appendix 5.

Turnover of the Proposed Development
The turnover of the proposal is set out at NJL paragraph 7.18. This confirms a total gross floorspace of 6,188 sq. m (4,950 sq, m net), arranged in four units of varying size, ranging from 1,162 sq. m gross to 2,235 sq. m gross.

A different sales density has been adopted for each unit to reflect the potential end occupier, namely TK Maxx, Pets At Home and Currys/PC World, which are identified as 'similar' to those that have expressed an interest. With regard to the food operator for Unit A1, we understand this is stated as a 'high end retailer', which adopts an average sales density for M&S Simply Food and Waitrose. The source of the sales density data for the convenience operator is taken from Verdict (2013) whilst the information for the comparison floorspace is from Mintel (2013), We note that although NJL state at paragraph 3.1 that the proposal seeks an open Class A1 use (of unit A1), the impact assessment considers it only in the context of convenience goods. This is the basis on which we have assessed the proposal.

The total turnover of the proposal is identified as £23.6M in 2014, with over £11M attributed to the convenience led occupier (of Unit A1).

Whilst both sources are industry accepted data sources, we consider that NJL should have adopted the 2014 editions for each. In regard to the 2014 Mintel data for example, this has the effect of increasing the sales density of TK Maxx and PC World/Currys, resulting in an increase of circa £3M in total overall turnover. This however must be balanced against the use of a relatively high sales density for the food occupier, which could be slightly lower. The applicant may wish to provide the Council with an updated turnover estimate to address this point.

It is further relevant to consider the 'fall back' position given that the subject site benefits from planning permission for a broadly similar quantum of floorspace to that currently sought. Indeed, as NJL acknowledge at paragraph 7.13, the floorspace could lawfully trade in accordance with its current primarily bulky goods restriction, which, we estimate could (on the basis of an average sales density of £3,000/sq. m), generate a 'typical' turnover of £14.8M. Under such situations, the 'uplift' in turnover over and above that permitted would be assessed. However, we acknowledge, that NJL have adopted a 'worst case' scenario for impact assessment purposes by assessing the entire level of new turnover. We consider this to be robust.

Although NJL have adopted a 'typical' range of potential occupiers representative of the interest received, it is important to recognise that the nature of the open comparison goods range sought (combined with the open retail on Unit A1), has the potential to generate a significantly higher level of potential turnover. Comparison operators such as Sports Direct, Next and Boots typically achieve a significant higher level of sales density (e.g. £8,000/sq. m) which would significantly increase the turnover of the scheme. To address this issue, NJL could have adopted an 'average' comparison sales density to better reflect the open range of operators that could be accommodated. In this context, it could be argued that the turnover of the proposal has been underestimated for the comparison units. It would be helpful for NJL to clarify this issue. By contrast, the convenience turnover is considered acceptable.

Retail Capacity
The consideration of capacity/need is no longer a test of the NPPF, and is only relevant in the consideration of impact.

Notwithstanding this, NJL have focused on the headline issues of a surplus of convenience, and particularly comparison expenditure in the overall catchment area, when comparing total generated expenditure and the survey derived turnover of existing facilities. It has also identified growth in convenience and comparison expenditure in the catchment area over the period 2014 to 2019 as a positive consideration in accommodating the proposal turnover.

We accept that a significant level of comparison expenditure is lost to facilities outside the catchment area; only £66M of the £320M comparison retail expenditure was spent in the catchment area in 2014. This is a loss of over 79% (£253M). NJL argue the current proposal will therefore help to claw back an element of this loss which is a reasonable assumption. The high level of comparison outflow is unsurprising given the relatively small centres in the catchment area and its proximity to large higher order centres, ranging from Burnley, Accrington and Blackburn to the north, to Bolton, Bury and Rochdale to the south. Manchester and the Trafford Centre are also within easy travel distance.

In regard to convenience expenditure, when assessed on a catchment wide basis, a clear leakage of expenditure is identified, with 28% (£53.9M) being spent outside of the catchment area. Given the essential need for convenience goods, shoppers tend to use facilities in close proximity to home, which accounts for a far higher retention rate. It is however reasonable to assume that an element of claw back would be expected.

Whilst this is a useful exercise, it is not a requirement in national policy terms. It does however indicate at a theoretical level, that relatively high levels of expenditure leakage exist which is directed to facilities outside of the catchment area, particularly for comparison goods. As a result, it is reasonable to conclude that the current proposal would help claw back an element of expenditure leakage.

Trade Diversion

NJL have correctly concluded their retail assessment with an analysis of trade diversion (refer to NJL Tables 19 and 20). This helps to establish the estimated impact of the proposal on existing facilities.

It is an accepted principle in retail planning that 'like competes with like'. This is acknowledged at NPPG paragraph 16 which states that 'Retail uses tend to compete with their most comparable competitive facilities'.

Convenience Impact

In convenience terms, it is reasonable to assume that a 'higher end' national multiple (such as M&S Simply Food or Waitrose), would divert the majority of trade from competitor facilities. In Rawtenstall, Asda and Tesco are identified as the two stores subject to highest trade diversion (and impact). As the two main convenience facilities in the town, this is unsurprising and considered appropriate. It is however noted that in policy terms, given the out of centre status of both stores, they are not afforded policy protection and is not a planning consideration.

We do however consider that NJL have underestimated the level of trade diversion from within the catchment area, particularly in regard to Rawtenstall, including the town centre. NJL estimate that 22% (£2.42M) of the convenience proposal turnover will be drawn from Rawtenstall (13% from Asda, 8% from Tesco and 1% from the town centre). The assumption for the town centre is considered particularly low (£0.11M), given that for comparative purposes, the RTRS Study identified a penetration rate of 5% for Zone 2 (Rawtenstall). We consider that NJL should be invited to provide a justification for this approach. In our opinion, a higher figure comparable to the RTRS should be adopted as a more realistic trade diversion from the town centre, particularly given the independent and specialist nature of convenience retailers in the centre (as per NJL paragraph 5.7) which could be expected to have an element of overlap with a high end convenience national multiple. This would result in a higher level of trade diversion and greater level of impact to that currently identified. However, this is not to say that it would constitute a significant adverse level of impact.

In addition, we consider a marginally higher level of trade diversion could be expected from Asda and Tesco, again reflecting the dominance of local facilities when food shopping. When combined with a higher level of town centre trade diversion, we consider a higher level of trade diversion from Rawtenstall beyond the 22% identified by NJL.

The overall effect of these changes would reduce the level of expenditure which is attributed to claw back from outside the catchment area. As currently presented, NJL estimate that 34% (£3.75M) of convenience trade diversion is from the catchment area, and 66% (£7.27M) from outside the catchment area. Accrington is estimated to account for the highest level of trade diversion, by virtue of the presence of a comparable M&S facility, together with Tesco. It is reasonable to assume that the current proposal would divert some expenditure from these facilities, but in our opinion the level of claw back from outside the catchment area is overstated.

We do not question that a strong case for claw back exists and that this would help to increase the retention level of convenience expenditure in Rawtenstall, but consider the assumptions should be refined in light of the above comments.

Comparison Impact

The capacity exercise confirmed the extremely high level of comparison expenditure leakage which exists in the catchment area and the resultant low retention rate (circa 20%). This is accepted in light of the limited and independent focus of the comparison offer in Rawtenstall and the other centres of the catchment area. In this context, we agree with NJL paragraphs 7.32 and 7.34.

It is noted that the total survey comparison turnover of Rawtenstall (town centre and other facilities including Tesco and Asda) is identified to be £57.36M in 2014. It would have been helpful for NJL to have separated the comparison turnover of the town centre and the out of centre superstores. This is considered of relevance given that Tesco and Asda both sell a significant range of non food products, including discount clothing and electrical goods. In many ways we consider the trade diversion from Rawtenstall would comprise a significant level of trade diversion from these out of centre stores given the direct overlap with the national multiples outlined in the retail assessment. By contrast, the dominance of independent retailers in the town centre, focused on small units, effectively ensures that there is considered to be a very limited direct product overlap with the comparison national multiple retailers identified by NJL –i.e. discount clothing, electricals and pets/products and supplies.

Whilst we note that NJL consider only a 10% (£1.26M) trade diversion from Rawtenstall, and an additional 3% trade diversion from the remainder of the catchment area, the majority of trade diversion (87% - £10.98M) is attributed from claw back from outside the catchment – the majority from Bury. Again, although we consider the level of claw back has been overestimated, it is reasonable to conclude that the nature of the retail park occupiers, will compete with other retail parks (outside of the catchment), higher order centres, and to a lesser extent, but of relevance at the local level, the main superstores that sell a range of retail park type comparison goods. Given the small scale and nature of a limited independent led comparison offer elsewhere within the catchment area, we do not consider the comparison offer (as based on the example in the NJL statement) would result in a significant adverse level of impact.

NJL have correctly assessed the impact on the Valley Centre although impact can only be considered in 2019 given that the scheme has not been built. Our best understanding is that the scheme will be dominated by twelve small units (typically in the range 140 - 325 sq. m) together with one anchor store of 930 sq. m. Whilst we comment on the scheme in more detail in regard to impact on investment, and without known details of delivery or end occupiers, we would expect a higher level of trade draw to that identified by NJL (currently 3%), if only that we would envisage the scheme could offer, certainly in the case of the anchor tenant, direct overlap with comparison uses at New Hall Hey Retail Park. As the only 'new' comparison led scheme in Rawtenstall town centre, the progression of the Valley Centre is the top priority for the enhancement of the town centre. It is essential that out of centre development does not prejudice the delivery of this planned investment.

Overall, we are broadly comfortable with the conclusions on impact related to the proposed comparison floorspace.

Impact on Vitality and Viability

We accept that the role and function of the retail warehouse units at New Hall Hay Retail Park fundamentally differ to those of the town centre. These facilities relate to very different market segments and target markets, which with the exception of the planned Valley Centre, must be compared to existing units in the town centre which are small and constrained by the nature of the traditional high street. The Council will have a good understanding of the nature of the retail offer in Rawtenstall although we understand that the New Hall Hay Retail Park, as a retail park, would serve to complement the town centre, and offers a range, choice and type of goods that cannot be accommodated in small town centre units, together with appropriate servicing from HGV's and adjacent surface level parking. As discussed in the context of the impact analysis, there is considered to be a limited overlap with the town centre (subject to the imposition of suitable conditions).

We note at Section 5 of the NJL statement that a brief health check of the vitality and viability of Rawtenstall is provided. This concludes that the centre shows a 'strong vitality and viability', including below average vacancy rates, strong independent retail offer and planned investment (the Valley Centre). The Council will be in a position to verify the health of the centre although it would have been helpful for NJL to have provided a more comprehensive health check, drawing on the indicators set out in paragraph 5 of the NPPG.

In qualitative terms, we agree that the retail park will help to enhance the range and choice of goods for local residents, which will improve the retail offer in the town and wider catchment area.

Impact on Investment

The planned Valley Centre scheme represents the main consideration.

Advice at NPPG paragraph 16 outlines the key considerations for assessing the impact of a proposal on town centre developments/investments. These include the policy status of the investment, the progress of the investment, and the extent to which a proposal is likely to undermine planned development/investment based on the effects on current/forecast turnovers, operator demand and investor confidence.

The Valley Centre site is allocated under Policy 12 of the adopted Core Strategy (2011), which Identifies the regeneration of the Valley Centre and adjacent buildings as of strategic importance. The site is considered complementary to existing shops, and as a retail led scheme, is considered necessary to address the town centres' absence of multiple retailers. The policy case for the investment is therefore established. In terms of progress, we understand that public consultation has recently concluded in relation to the plans and masterplan for the scheme, known as Spinning Point. The Council will be familiar with project timescales although we consider the project is at an advanced stage.

In terms of impact, we have commented on the trade diversion/impact assumptions adopted by NJL and concentrate on operator demand and investor confidence. In regard to the latter, we understand that the developers for the current proposal and the Valley Centre are the same – Barnfield Construction. It is therefore reasonable to conclude that the developer would not seek to jeopardise the delivery of either scheme, and as such the impact on investor confidence is not questioned.

With regard to operator demand, whilst we accept that the majority of the Spinning Point scheme seeks to deliver small units, an underlying policy objective of the redevelopment is to address the absence of multiple retailers in the town centre given the absence of suitable units. This is particularly relevant for the largest unit (930 sq. m), which could be expected to accommodate a national multiple anchor. It is therefore imperative that the Council are mindful of the need to ensure operator demand for this policy led town centre regeneration scheme is not adversely affected by an unrestricted range of goods at out of centre locations, such as the application site, which could reasonably be expected to compete for the same prospective occupiers as the town centre.

We consider the imposition of a suitable condition controlling the range of goods at the application site would help ensure the impact on the planned town centre scheme is mitigated.

Conclusion

Overall we consider that the impact assessment provided by NJL is broadly robust, when assessed on the basis of the information (including potential 'interested' retailers) outlined in the submitted retail assessment. We have however identified a number of areas for clarification and further information, particularly relating to the convenience trade draw (and impact) assumptions for Rawtenstall. This should be investigated.

Given the scale of the current proposal relative to the town centre, we consider it appropriate and necessary that the Council consider the imposition of suitable conditions to control the range of goods sold at this out of centre location. In our opinion, an unrestricted sale of goods from an out of centre location could be a threat to the vitality and viability of Rawtenstall town centre depending on the nature of the end occupiers. It is therefore considered necessary to protect the vitality and viability of the town centre and to ensure the policy led regeneration of the Valley Centre is not threated or prejudiced.

Further, we question why an 'open' comparison range of goods is sought, when electrical products and pets/pet foods and supplies associated with potential retail occupiers, are already permitted by virtue of the existing range of goods condition.

Notwithstanding this, and in order to ensure compliance with the applicant's retail assessment, against which this critique has been undertaken and the application assessed, assuming that the Council is minded to grant planning permission, we would recommend that the Council consider the imposition of the following tone of conditions. This would help secure occupiers of the type identified in the retail assessment for this long term vacant floorspace.

- Unit A1 as shown on drawing (TBC) shall be used for the sale of convenience goods (from no more than 1,162 sq. m gross within Unit A1). For the purpose of this condition, convenience goods are defined as those essential everyday items including food, drinks, newspapers/magazines and confectionary.

- Unit A2, B and C as shown on drawing (TBC) shall be used for the sale of home improvement and garden related products, furniture, floor coverings, soft furnishings, electrical products, household goods, pets, pet food and pet supplies, and clothing (only if sold by a discount retailer), and other goods ancillary to or directly associated with these goods.

- The maximum gross floor area within the development shall not exceed 6,188 sq. m gross (comprising Units A1 A2, B and C).

We appreciate that the Council may wish to consider other conditions although in our opinion there should be control over the quantum of floorspace, and the range of goods sold at this out of centre location.

We trust this will assist the Council in its determination of the planning application.

Yours sincerely

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