

Kirklees Local Plan Examination

Stage 3 – Policy hearings

MATTERS, ISSUES AND QUESTIONS (MIQs)

Council Response

Matter 18 – Retailing and town centre policies

- 1.1 This statement sets out the council's responses in relation to the Inspector's matters and issues Matter 18 – Retailing and town centre policies. All the documents referred to in this statement are referenced within the main body of the statement.
- 1.2 The modifications proposed in this document have been provided to assist with the discussions at the hearings for this matter and have not been subject to sustainability appraisal testing or public consultation. Should it be necessary to make any of the modifications these will be added to the full schedule of modifications to the Local Plan which will be made available for comment and subject to sustainability appraisal at a later stage of the Examination in Public, subject to the delegated powers agreed by the council's Cabinet.

Issue – Does the Plan set out positively prepared policies for protecting and enhancing town centres and supporting retail growth, which are justified, effective and consistent with national policy?

[Policies PLP 13 (sections B and C), 14, 15, 16]

- a) **Paragraph 4.2.15 in the Council's Retailing and Town Centres Technical Paper (BP15) indicates that the boundaries of the Local Centres are not mapped. Does this have implications for the application of the sequential test and impact test as set out in Policy PLP 13?**
- 1.3 The list of local centres with the centre reference and location (easting/northing) is set out in the Town Centre Proposals section of the Kirklees Publication Draft Local Plan – Allocations and Designations document SD2, page 204. The geographical centre point for each local centre has been identified on the policies map by a blue circle. As currently written the blue circle is the starting point for the sequential test and impact assessment.
- 1.4 As set out in policy PLP 13, applicants should discuss and agree the scope of any sequential test and impact assessment with the council. As part of this discussion, the council would provide the study boundaries for the relevant local centres which it uses for monitoring as part of the Town Centre Audit Programme (BP15, paragraphs 3.6 to 3.9). Council knowledge on the latest vacant outlets and land where appropriate would also be provided. National Planning Practice Guidance (NPPG) (NE2), Ensuring the vitality of town centres advocates this approach stating that 'Wherever possible, the local planning authority should support the applicant in undertaking the sequential test, including sharing any relevant information (paragraph 010)'.
- 1.5 However, for clarity and uniformity in decision making, the council is proposing to publish and include within the local plan itself the study boundaries for designated Local Centres as a modification to the Allocations and Designations document SD2.

It is proposed that the boundaries use dashed lines and do not follow features or curtilages hence retention of the term study boundary.

Table 1: Proposed modification:

Page	Para/table/box	Tracked change	Reason for change
SD2 206	6.8	Insert maps of local centre study boundaries	Clarification

b) Are the requirements relating to development proposals in out of centre locations, as set out in the bullet points in section B of Policy PLP 13, justified and in line with national policy and guidance?

1.6 Section B of Policy PLP 13 including the bullet points, is justified and in line with national policy namely chapter 2 (Ensuring the vitality of town centres) of the NPPF (NE1), and the guidance within the section on Ensuring the vitality of town centres in the NPPG (NE2). NPPF paragraph 23 states local planning authorities should set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres. The intention of the bullet points is to set out standard evidence that would be considered through the sequential test on the basis of local experience with planning applications within Kirklees. On reflection the guidance that these bullet points aimed to provide may be better served within the supporting text of policy PLP 13. For clarification, these are not policy criteria but points for guidance. The policy requirement for a sequential test is adequately addressed through the two final sentences of section B. The following modification is therefore proposed for clarity of approach:

Table 2: Proposed modification:

Page	Para/table/box	Tracked change	Reason for change
SD1 77	PLP 13 (Part B)	<p>Delete text:</p> <p><i>“B. Sequential Test - Proposals which come forward for main town centre uses, which are located outside of the defined centre boundaries, will require the submission of a Sequential Test. For retail proposals the boundary shall form the Primary Shopping Area; for all other main town centre uses this shall be the extent of the centre boundary. Main town centre uses shall be first located in the defined centres, then edge of centre locations, and only if there are no suitable sites shall out of centre locations be considered. For offices and small scale proposals in non urban areas*, the sequential approach will not be required for proposals of 150 square metres and under.</i></p> <p><i>All proposals in out of centre locations shall demonstrate:</i></p> <ul style="list-style-type: none"> • <i>the business model for the development and appropriate catchment that the business would seek to serve in accordance with the Shopping Centre Hierarchy Table shown above.</i> • <i>an extensive audit trail of any sequentially preferable sites that have been discounted and robust justification given.</i> 	Clarification

		<ul style="list-style-type: none"> • any regeneration or economic benefits brought forward by the development; • appropriate access/improvements to access by all travel modes, in particular by public transport, safe and convenient pedestrian and cycling routes, and provision of an appropriate level of vehicular and cycle parking; • and connectivity to surrounding defined centres, and appropriate enhancements to these linkages. <p>The scope and content of any Sequential Test shall be agreed with the council and shall be reflective of the scale, role and function of the proposal.</p> <p>Proposals which fail to pass the sequential test will not be supported.”</p>	
SD1 78	Para 9.11	<p>Insert text:</p> <p><i>“When suitable sites are not available within defined centres, the policy sets out the requirements for the sequential approach to ensure that main town centre uses are located in appropriate locations across the district. The scope of the sequential test should be agreed with the council being reflective of the scale, role and function of the proposal, and will be expected to provide evidence on: the business model for the development and appropriate catchment that the business would seek to serve in accordance with the Shopping Centre Hierarchy Table, and an appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification. The local requirements for an impact assessment are defined, a tiered approach has been taken to ensure that an appropriate assessment is made in relation to the size of the development, and its distance from defined centres.”</i></p>	Clarification

c) Is the threshold and approach to small-scale proposals in non-urban areas, as set out in section B in Policy PLP 13, clearly defined, justified and in line with paragraph 25 in the National Planning Policy Framework (NPPF)?

1.7 The threshold and approach set out in PLP 13 section B is in line with the NPPF (NE1). In reference to the sequential test for planning applications for main town centre uses, paragraph 25 of the NPPF states that *“this sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.”*

1.8 No guidance is provided in the NPPF (NE1) or NPPG (NE2) as to what constitutes small scale rural development. However, the introduction of permitted development rights which allows the conversion of agricultural buildings below 150 sq m to flexible use including main town centre uses in Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class C1 (hotels) and Class D2 (assembly and leisure) without the need for a planning application or prior notification subject to other considerations, is considered

appropriate for the Kirklees District (Retailing and Town Centres technical paper (BP 15) section 4.5, paragraphs 4.5.1 to 4.5.6).

1.9 Local evidence demonstrates that proposals within the Kirklees green belt for B1a office development, farm shop and garden centre extensions and leisure and tourist facilities as shown in Appendix A of this MIQ response have been predominately below the 150 sq m threshold permitting the change of use of agricultural buildings to other uses including main town centre uses. Those proposals under 150 sq m are considered to small scale for the Kirklees District.

d) Are the Impact Assessment thresholds in Policy PLP 13 (section C) justified and based on local evidence?

1.10 The Impact Assessment thresholds in Policy PLP 13 (section C) are justified and in line with paragraph 26 of the NPPF (NE1) setting out Kirklees specific thresholds that are proportionate and based on local evidence. The Retail Capacity Study 2014 (LE33) sets out the thresholds and supporting justification in paragraphs 5.72 to 5.81. This is supplemented by the evidence set out in Appendix B of this MIQ response.

e) Policy PLP 13 states that proposals which fail to pass the sequential test or would have a significant adverse impact on surrounding centres will not be supported. Is this approach in line with national policy and guidance?

1.11 Policy PLP 13 is in accordance with national policy and guidance within the NPPF (NE1) as paragraph 27 states “...where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused”. National guidance in the NPPG (Paragraph: 010 Reference ID: 2b-010-20140306) states “*In line with paragraph 26¹ of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused. Compliance with the sequential and impact tests does not guarantee that permission is granted – local planning authorities will have to consider all material considerations in reaching a decision.*” (Paragraph: 001 Reference ID: 2b-001-20140306) further states “the impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy)” This clearly demonstrates that the wording of PLP 13 is in line with both national policy and guidance.

f) Policy PLP 14 establishes the approach to retail development in core areas of town and district centres. What is Council’s approach to retail development and proposals for change of use from retail in Local Centres?

1.12 Town Centre Uses policy PLP 13 (SD1) directs retail development to the most appropriate level of centre dependant on the scale and nature of use proposed. Local centres predominately provide top-up shopping facilities such as convenience stores, small supermarkets, bakers and confectioners, newsagents alongside hairdressers, health and beauty salons and hot food takeaways. New proposals of an appropriate scale and use are directed to Local Centres within their proposed catchment through application of the policy.

1.13 In Part A of policy PLP 13, it states that “*proposals that have a significant adverse impact on the vitality and viability of a centre, or compromise the role and function of*

¹ NPPG reference should be to paragraph 27 of the NPPF

a centre will not be supported". It goes on to say that "centres shall provide a mix of uses to serve the local community, businesses and visitors to the district. The uses shall complement each other whilst retaining a strong retail core. Centres in Kirklees shall aim to provide a range of uses to support the daytime and evening economy."

This refers to all centres within Kirklees including Local Centres. Therefore proposals which would undermine the role and function of Local Centres as set out in the Delivery of Services table within PLP 13 will not be supported.

- 1.14 The Town Centre Audit Programme (Retailing and Town Centres technical paper (BP 15), paragraph 3.6 to 3.9) monitors the health of Local Centres on a bi-annual basis recording shop unit occupancy rates, usage and gross ground floor floorspace within defined Local Centre study boundaries. This provides information of the mix of main town centre uses within Local Centres including those which meet day to day needs alongside data from the council's Land and Property Gazetteer (LPPG). This information provides the basis for the consideration of the impact of a proposal on the mix of uses in a centre.
- 1.15 In addition, Local Centres have services that meet day to day needs and they serve the local community. The Local Plan Community facilities and services policy PLP 48 sets out criteria for proposals that involve the loss of community facilities including shops which is of relevance to proposals for changes of use from retail in Local Centres.

g) Does 'retail' development/use, as defined in Policy PLP 14, relate to units in Use Class A1 to A5 and AA, or just A1?

- 1.16 Retail development/use in Policy PLP 14 relates to units in Use Class A1 only. This is based on the definition of primary frontages in the glossary at annex 2 of the NPPF (NE1) which states that 'Primary frontages are likely to include a high proportion of retail uses which may include food, drinks, clothing and household goods'. It is considered that the differentiation between 'goods' and 'services' is implied in this definition by the reference to 'food, drinks, clothing and household goods' (Retail and Town Centres Technical Paper (BP15) paragraphs 4.2.20, 4.2.21). For clarity of approach, it is proposed add additional wording to paragraph 9.13 of the policy justification.

Table 3: Proposed modification:

Page	Para/table/box	Tracked change	Reason for change
SD1 80	Para 9.13	<p>Insert text:</p> <p><i>"Retail represents a key main town centre use, and such uses add to the vibrancy, vitality and viability of centres across the district. Retail uses can range from convenience store provision of varying scale, through larger national retail stores in the comparison goods sector found both in town centres such as Huddersfield, and out of centre retail parks. Such uses form principal reasons for people to visit centres of all sizes across the district to meet day to day requirements, but also make larger purchases and enjoy leisure time. <u>Retail uses for the application of this policy are defined as Use Class A1 only.</u>"</i></p>	Clarification

h) Does Policy PLP 14 provide sufficient clarity for applicants regarding the extent of non-retail uses that may be permitted in Primary Shopping Frontages and Secondary Frontages?

- 1.17 Policy PLP 14 sets out criteria of what will be assessed for proposals for non-retail uses within defined primary and secondary shopping frontages.
- 1.18 In criteria a for primary shopping frontages, it states that retail will remain the predominant use in terms of length of frontage and/or the number of units. Primary shopping frontages have been defined on the basis that a minimum 60% to 70% of frontages will typically be in A1 retail use at ground floor level with rental levels and pedestrian flow also being key considerations. Therefore predominant retail use is considered to be over 60% in a particular frontage to maintain a strong a retail core.
- 1.19 Consideration will also be given to the number, proximity, and distribution of uses other than retail, the level of vacancy of ground floor units, and the duration of vacancy on a particular frontage and the location and prominence of the unit within the primary shopping frontage. Where a change of use will detract from the primary shopping nature of the frontage it will not be supported. For clarification, a modification is proposed to paragraph 9.16 of the policy justification and to revise the policy wording PLP14 Primary Frontages criteria (a).
- 1.20 For secondary shopping frontages proposals for retail and other main town centre uses will be acceptable provided they meet criteria a to c set out in policy PLP 14. Criteria a states “*whether a proposal would lead to a dominance of non-retail uses in a particular frontage which would undermine the retail core and function of the Primary Shopping Area*”. Secondary shopping frontages have been defined on the basis that at least 40% of frontages will typically be in A1 retail use at ground floor level with rental levels and pedestrian flow also being key considerations. Therefore a dominance of non-retail uses is considered to be over 60% of a particular frontage. For clarification, a modification is proposed to paragraph 9.17 of the policy justification.

Table 4: Proposed modification:

Page	Para/table/box	Tracked change	Reason for change
SD1 80	Policy PLP 14 Primary Frontages Criteria a.	<p>Insert and delete text: Primary Shopping Frontage – frontages within the Primary Shopping Area in Principal and Town Centres that contain predominately retail uses and where further retail uses will be focused.</p> <p>Within the Primary Shopping Frontages as defined on the Town Centre Maps, at street level, proposals should seek to continue retail uses in order to retain vitality and viability within the Centre and the strong retail core. <u>Retail will remain the predominant use on each primary shopping frontage.</u> Other main town centre uses may <u>will</u> be acceptable, subject to an assessment of the following criteria where the frontage remains predominately in retail use subject to:</p> <p>a) the existing proportion of retail uses within the defined primary shopping frontage, the number, proximity, and distribution of uses other than retail and the level of vacancy of ground floor units, and the duration of</p>	Clarification

		<p>vacancy. Retail will remain the predominant use in terms of length of frontage and/or the number of units within Primary Shopping Frontages. Changes of use shall also take account of the location and prominence of the unit within the primary shopping frontages. Changes of use which detract from the primary shopping nature of the frontage will not be supported.</p> <p>b) <u>The location and prominence of the unit within the primary shopping frontage</u></p> <p>b. c) the nature of the proposed use, the associated level of activity, hours of operation whether a shop front would be incorporated and whether it would complement neighbouring uses; and</p> <p>€ d) in all cases proposals including changes of use shall seek to either retain, enhance or replace to improve shop front design and layout.</p>	
SD1 81	Paragraph 9.16	<p>Insert text:</p> <p><u>“Primary shopping frontages have been defined on the basis that a minimum 60% to 70% of frontages will typically be in A1 retail use at ground floor level with rental levels and pedestrian flow also being key considerations. Therefore predominant retail use is considered to be over 60% of units with consideration also given to the subdivision of the length into the individual units of a particular frontage to maintain a strong a retail core.</u></p> <p><u>The policy sets out additional criteria to assess proposals for non-retail uses in Primary Shopping Frontages on a case by case basis to support active primary shopping frontages. The policy provides for a degree of flexibility depending on the success or otherwise of a particular centre, the desirability of a particular unit for a retail function, the scale of the unit, its position in the frontage, and how any proposed use would impact on the adjacent or neighbouring uses.”</u></p>	Clarification
SD1 81	Paragraph 9.17	<p>Insert text:</p> <p><u>“Secondary shopping frontages have been defined on the basis that at least 40% of frontages will typically be in A1 retail use at ground floor level with rental levels and pedestrian flow also being key considerations. Therefore a dominance of non-retail uses is considered to be over 60% of the units with consideration also given to the subdivision of the length into the individual units of a particular frontage.</u></p> <p><u>The a policy for secondary frontages is included as these support supports the wider function of the Primary Shopping Area, but allows for a greater diversity of uses. The policy provides a more flexible approach to non-retail uses in these areas,</u></p>	Clarification

		<i>but still ensures an appropriate assessment is carried out, and space for retail uses are provided in the area.”</i>	
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i) Is the requirement that residential proposals should only be permitted on upper floors, as set out in criterion a in Policy PLP 15, justified and effective?

1.21 The approach in PLP 15 criteria a, is justified to maintain a strong active frontage within the Primary Shopping Area. The boundaries for the Primary Shopping Areas and the Primary and Secondary Frontages have been defined in accordance with the methodology set out in the Retail and Town Centres Technical Paper (BP15 paragraphs 4.2.16 – 4.2.26). The boundaries have been defined using a tight strong defensible boundary, with wider town centre boundaries being defined for principal and town centres. This allows the opportunity for a greater range of main town centre uses as defined in the glossary of the NPPF (NE1) to support the vitality of the town centre, whilst also recognising the role that residential development can play in ensuring the vitality of centres (NPPF paragraph 23 – bullet 9).

1.22 It is, however, recognised that on some occasions there are instances when the nature of individual buildings and their position within the primary shopping area, means that their use for residential on the ground floor may be appropriate. This may be to facilitate access to the wider upper and lower floors of properties, including small entrances with limited active frontage. In addition, there may be instances where consideration can be given to the viability of the redevelopment of older properties that are no longer suited to modern day business needs within the primary shopping area. Therefore the following modifications are proposed:

Table 5: Proposed modification:

Page	Para/table/box	Tracked change	Reason for change
SD1 82	PLP15 (criteria a)	<p>Insert text:</p> <p><i>“Proposals for residential uses (including student accommodation) within the defined town centres as set out on the Policies Map will be supported subject to:</i></p> <p><i>a. the protection of primary shopping areas, primary and secondary shopping frontages, and space for other main town centre uses within the defined centre. Residential proposals in these areas shall <u>normally</u> only be permitted on upper floors, and shall not prejudice existing established uses;”</i></p>	Clarification
SD1 82/83	9.22	<p>Insert text:</p> <p><i>“The principle for the provision of residential accommodation in town centres is supported provided it does not lead to an adverse impact on the operation of the town’s retail core, or would reduce space for other main town centre uses if outside of the primary shopping area. It is important that consideration is given to the loss of space for main town centres uses to ensure that centres across the district can meet the needs of the market, and that a scheme does not lead to a detrimental impact to adjacent established uses.</i></p>	Clarification

		<p><i>It is recognised that on some occasions there are instances when the nature of individual buildings and their position within the primary shopping area, means that their use for residential on the ground floor may be appropriate. This may be to facilitate access to the wider upper and lower floors of properties, including small entrances with limited active frontage. In addition there may be instances where consideration can be given to the viability of the redevelopment of older properties that are no longer suited to modern day business needs within the primary shopping area. However, It is acknowledged that there is a lot of space within existing centres which is underutilised; this can be because it is of an insufficient quality to meet the needs of the market.”</i></p>	
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j) Where food and drink and licensed entertainment uses are proposed, how will harm to the character, function and vitality and viability of a centre will be assessed (as set out in Policy PLP 16)?

1.23 The Town Centre Audit Programme (Retailing and Town Centres technical paper (BP 15) paragraphs 3.6 to 3.9) monitors shop unit occupancy and use within Principal Town, Town and District Centres on an annual basis and in Local Centres on a bi annual basis. The occupancy data recorded provides details on the number and type of main town centre uses within a centre and the location of those uses. Therefore the concentration and the relationship of uses to each other are considered when new proposals for food and drink and licensed entertainment uses are proposed in relation to the individual characteristics of each centre. A concentration of non-retail uses could lead to inactive shopping frontages during the day which can have a negative impact on the vitality and viability of centres.

1.24 Through the development management process, consultation with Council Environmental Services, Highways, Public Health, Licensing and the Police Architectural Liaison Officer will provide up to date information on criteria a to f at the time an application is made. Subject to comments received from these consultees this allows a judgement to be made in accordance with the policy with each application being considered on its merits.

k) What form of anti-social behaviour does criterion b in Policy PLP 16 seek to address, and how would it be mitigated?

1.25 Policy PLP 16 sets out criteria a to f to assess the potential harm of food and drink and licensed entertainment proposals on a centre. Criteria b states “*the potential for anti-social behaviour to arise from development, having regard to the effectiveness of available measures to manage potential harm through the use of planning conditions and / or obligations.*”

1.26 Antisocial behaviour is defined as “*behaviour by a person which causes, or is likely to cause, harassment, alarm or distress to one or more persons not of the same household as the person*” (Antisocial Behaviour Act 2003 and Police Reform and Social Responsibility Act 2011).

1.27 Antisocial behaviour can be in many different forms, but in terms of “Food and drink uses, and the evening economy”, the following are potentially relevant examples:

- Rowdy or inconsiderate behaviour (of many types)
- Public disorder
- Alcohol related rowdy or inconsiderate behaviour
- Drugs related rowdy or inconsiderate behaviour
- Littering or drugs paraphernalia
- Street drinking
- Noise nuisance
- Begging / vagrancy
- Prostitution related activity

1.28 The Council's Police Architectural Liaison Officer takes into account a number of different matters including design and layout of development, surveillance, security, lighting, CCTV coverage, management of the premises and mix of complementary uses rather than saturation of one or two specific types of licensed premises and food outlets. They also gather other police intelligence through liaison with other police departments including the local policing team covering the area concerned.

1.29 Mitigation measures that could be used to make development acceptable through applying the appropriate conditions dependant on circumstances of the particular scheme include the following:

- Changes to the design/layout to remove 'pinch points' e.g. narrow passageways and stairwells and ensuring no hiding places are created or are available
- Changes to external layout such as gating off alleyways to prevent loitering and inappropriate behaviour
- Security standards of doors and windows
- Improvement or introduction of exterior lighting
- CCTV coverage for inside and to the immediate exterior of the premises
- Management of the premises such as opening hours and/or having supervisory staff

I) Does Policy PLP 16 provide a clear framework for assessing proposals for food and drink uses and licensed entertainment uses outside defined centres?

1.30 It is intended that the second part of criteria a which states that "*the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas*" and criteria b to f will be applied to proposals for food and drink uses and licensed entertainment uses outside defined centres. To clarify this approach the following modification is proposed:

Table 6: Proposed modification:

Page	Para/table/box	Tracked change	Reason for change
SD1 84	Policy PLP 16	<p><i>“Food and drink uses and the evening economy</i> <i>Proposals for food and drink, licensed entertainment uses and associated proposals will be supported, provided they are located within a defined centre, and subject to:</i></p> <ul style="list-style-type: none"> • <i>ensuring the concentration of food and drink and licensed entertainment uses are not located in a particular centre or part of a centre, where they would result in harm to the character, function,</i> 	Clarification

		<p><i>vitality and viability of the centre, either individually or cumulatively.</i></p> <p><i>In order to assess the potential harm of food and drink and licensed entertainment proposals on a centre, the following criteria will be considered with a planning application:</i></p> <p><i>a. the number, distribution and proximity of other food and drink uses, including those with unimplemented planning permission in a particular centre;</i></p> <p><i>b the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas;</i></p> <p><i>b. c. the potential for anti-social behaviour to arise from the development, having regard to the effectiveness of available measures to manage potential harm through the use of planning conditions and / or obligations;</i></p> <p><i>e.d. the availability of public transport, parking and servicing;</i></p> <p><i>d e. highway safety;</i></p> <p><i>e f. the provision of refuse storage and collection;</i></p> <p><i>and</i></p> <p><i>f g. the appearance of any associated extensions, flues and installations.</i></p> <p><i>Proposals for food and drink uses and licensed entertainment uses located outside of defined centres <u>will be subject to criteria b to g set out above and also require the submission of a Sequential Test and Impact Assessment.</u></i></p>	
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Appendix A (Matter 18c)

Proposals within the Kirklees green belt for B1a office development, farm shop and garden centre extensions and leisure and tourist facilities

Business type	Location	Proposal	Planning Application number	Date approved	Gross Floorspace
Office B1a	Delph House Farm, Penistone Road High Flatts, Huddersfield	Replacement of existing storage containers with store and office building	2012/93824	26/02/13	16
Office B1a	The Threadmill, Penistone Road Birdsedge Huddersfield	Erection of extension to form office for accountancy practice	2005/94697	26/01/06	212
Office B1a	Lindley Moor Garage, Lindley Moor Road, Lindley Huddersfield	Erection of single storey canteen and store and first floor office	2006/90761	19/04/06	32
Office B1a	T Kirk Forestry Cross Gate Road Holmfirth	Erection of two storey extension to form offices and equipment training room	2009/90315	13/03/09	52
Office B1a	Grace Landscapes Nunbrook Farm 7 Leeds Road Mirfield	Extension to offices	2010/93081	04/01/2011	285
Total					597
Average					100
Farm Shops	Harden Road Farm Bolster Moor Road Golcar Huddersfield	Outline application for erection of single storey extension to existing farm shop (for storage and production)	2012/90748	10/05/2012	220
Farm Shops	Harden Road Farm Bolster Moor Road Golcar Huddersfield	Erection of a single storey extension tea room	2014/91515	02/10/2014	140
Farm Shops	Harden Road Farm Bolster Moor Road Golcar Huddersfield	Erection of external store for tea room	2017/93306	To be determined	36
Farm Shops	Thornccliffe Farm Shop 1	Erection of extension to	2004/90367	04/07/2005	297

Business type	Location	Proposal	Planning Application number	Date approved	Gross Floorspace
	Westfield Lane Emley Moor Huddersfield HD8 9SZ	farm shop and associated café			
Farm Shops	Thorncliffe Farm Shop 1 Westfield Lane Emley Moor Huddersfield HD8 9SZ	Erection of single storey extensions	2012/90413	01/06/2012	144
Farm Shops	Croft Farm Clough Lane Liversedge	Erection of café (as addition to egg shop)	2012/92130	20/12/2012	98
Total					935
Average					156
Garden Centres & nurseries	Totties Nurseries Downshutts Lane Totties Holmfirth	Erection of toilet extension to tearooms	2009/92075	15/09/2009	8
Garden Centres & nurseries	Totties Nurseries Downshutts Lane Totties Holmfirth	erection of a lobby extension to tearoom	2010/90652	05/05/2010	10
Garden Centres & nurseries	Totties Nurseries Downshutts Lane Totties Holmfirth	Erection of single storey extension	2013/93017	19/11/2013	79
Total					98
Average					33
Leisure & Tourism	Holmfirth Vineyard, Woodhouse Farm, Woodhouse Lane, Holmbridge Holmfirth	Extension to existing agricultural building to form wine shop and wine tasting room with formation of new access and additional parking provision.	2009/93461	30/09/2010	190
Leisure & Tourism	Kirklees Light Railway, Shelley Halt Off Copley Lane Shelley, Huddersfield	Erection of toilet and refreshment building	2008/90092	04/03/2008	67
Leisure & Tourism	Kirklees Light Railway, Shelley Halt Off Copley Lane Shelley,	Erection of single storey extension to tea room and erection of	2016/92350	17/11/2016	165

Business type	Location	Proposal	Planning Application number	Date approved	Gross Floorspace
	Huddersfield	multi functional building, demolition of koisk and marquee			
Total					422
Average					141

Kirklees Local Plan Stage 3 – MIQs Impact Threshold Advice – Evidence and Justification November 2017

1.1 Introduction

1.1.1 WYG has been instructed by Kirklees Council (hereby referred to as the Council) to provide further written justification for floorspace thresholds for planning applications for main town centre uses above which an impact assessment is required as set out in the Kirklees Publication Draft Local Plan. These floorspace thresholds were recommended in the Retail Capacity Study 2014 (LE33) paragraph 5.80 and taken forward by the Council. This note, taking into account Paragraph 26 of the National Planning Policy Framework (NPPF) (2012), sets out the analysis and justification for applying locally set thresholds for assessing planning applications for retail and leisure development outside of town centres that are not in accordance with the Local Plan.

1.1.2 Policy PLP 13 of the Kirklees Publication Draft Local Plan – Strategy and Policies, states that an impact assessment will be necessary for proposals (including the formation of mezzanine floors) for/or which include retail, leisure and office developments which are not located within a defined centre where:

- the proposal provides a floorspace greater than 500 sq.m gross; or
- the proposal is located within 800 metres of the boundary of a Town Centre or District Centre and is greater than 300 sq.m gross; or
- the proposal is located within 800 metres of the boundary of a Local Centre and is greater than 200 sq.m gross.

1.1.3 The Policy goes on to state that the scope and content of any impact assessment shall be agreed with the Council and shall be reflective of the scale, role and function of the proposal.

1.2 Context and Policy Background

1.2.1 The NPPF sets out the Government's overarching planning approach to town centres. Within this, it is made clear that planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres in order to ensure their continued vitality and viability (paragraph 23).

1.2.2 Town centres should be recognised as being at the heart of their communities and as such, local planning authorities should require applications for main town centre uses to be located

in town centres, then in edge of centre locations, and only if suitable sites are not available should out-of-centre sites be considered (paragraph 24).

1.2.3 Paragraph 26 of the NPPF states that:

'When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m). This should include assessment of:

- **The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and**
- **The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact should also be assessed up to ten years from the time the application is made.'**

1.2.4 The NPPF provides no further detail regarding local thresholds, however, the National Planning Practice Guidance (NPPG) (2014) does. Paragraph 13 of the 'Ensuring the vitality of town centres' section provides further detail regarding the impact test and states that:

'The purpose of the test is to ensure that the impact over time (up to five years (ten for major schemes)) of certain out of centre and edge of centre proposals on existing town centres is not significantly adverse. The test relates to retail, office and leisure development (not all main town centre uses) which are not in accordance with an up to date Local Plan and outside of existing town centres. It is important that the impact is assessed in relation to all town centres that may be affected, which are not necessarily just those closest to the proposal and may be in neighbouring authority areas.'

1.2.5 Paragraph 16 provides 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; and**
- **Impact on any other planned investment’.**

1.2.6 Policy should advocate a tiered approach whereby the threshold applied to planning applications at edge-of-centre and out-of-centre locations varies in relation to the role and function of the particular centre.

1.2.7 In terms of the hierarchy of centres in Kirklees, Policy PLP 13 (Town Centre Uses) of the Publication Draft Local Plan Strategy defines the following shopping centre hierarchy:

- **Principal Town Centre** – Huddersfield and Dewsbury
- **Town Centre** – Batley, Cleckheaton, Holmfirth and Heckmondwike
- **District Centre** – Almondbury, Birstall, Denby Dale, Honley, Kirkburton, Lindley, Marsden, Marsh, Meltham, Milnsbridge, Mirfield, Moldgreen, Ravensthorpe, Skelmanthorpe and Slaithwaite.
- **Local Centre** – 61 defined local centres

1.3 Methodology and Justification

1.3.1 We do not consider that the imposition of a blanket threshold will be appropriate across all types of centre within an administrative area. For example, a convenience store with a net sales area of 250 sq.m (which could be operated by, for example, Tesco Express or Sainsbury’s Local) would have a significantly greater impact on a small centre than it would on a large town centre. Such stores generally have net sales areas slightly below the 280 sq.m net sales area limit for extended Sunday trading and generally have a gross floorspace approaching 400 sq.m. Whilst of a relatively moderate size, these convenience stores often have a relatively substantial turnover and it is considered necessary for the local planning authority to retain control in respect of the consideration of impacts arising from the implementation of such proposals. Therefore, in implementing a local threshold policy, it is considered more appropriate to apply a range of thresholds in accordance with the type of centre the proposed development is proximate to. The thresholds should not only apply to new floorspace, but also to changes of use and variations of condition to remove or amend restrictions on how units operate or trade in practice.

1.3.2 In terms of comparison goods units, it is often the case that the larger units in defined centres (similarly to the larger convenience goods units) provide space for key retailers which act as an ‘anchor’ to the centre, which attract shoppers in and result in ‘spin-off’ trade to the

rest of the centre. Should one of these anchor units or operators leave the centres, there is a real potential to have a significant detrimental impact on those centres.

- 1.3.3 Where there is genuine potential for an application proposal to divert a material level of expenditure away from a defined centre (i.e. a level which could result in a significant adverse impact on the vitality and viability of a centre), or potentially remove important tenants from that centre, then it will likely be necessary to consider the impacts arising from the proposal in detail. In this instance, we consider that there is a real potential for edge or out of centre comparison and convenience goods retail schemes to have a significant impact on the overall health of Huddersfield and Dewsbury town centres, and, therefore, we believe that a relatively low impact threshold should be applied to ensure that the Council retains appropriate control over such development.
- 1.3.4 We note that there are a relatively limited number of units greater than 500 sq.m in both of the principal town centres (less than 10% of the total stock of commercial units have a greater floorspace than this in Huddersfield and less than 5% in Dewsbury) and we consider that a unit of such a scale could potentially accommodate an operator of importance to the future vitality and viability of the town centres. Such units of this scale could therefore provide space for 'anchor' operators, which provide a key attraction to a centre and draw in shoppers, thus increasing the potential for 'linked-trips'.
- 1.3.5 Anchor units are considered to represent units of 500 sq.m and above in terms of convenience and comparison retailers and leisure uses. There are relatively few units of this size and to lose an occupier of that scale could have a significant adverse impact on the centres.
- 1.3.6 Furthermore, we also note that the threshold applies to individual application proposals and that it could be possible for an applicant to 'circumnavigate' the requirements of the test through the submission of multiple, small-scale applications which together would provide for a larger development. As such, we recommend that the impact threshold of relevance to Huddersfield and Dewsbury town centres is set at 500 sq.m.
- 1.3.7 This recommendation is reflective of the town centres vacancy rates (the proportion of vacant units within both centres but particularly in Dewsbury are above national average and these have increased over the past decade¹) and in particular, the potential for existing nearby out

¹ See pages 14 and 15 of the Annual Monitoring Report 2015-2016

of centre retail destinations to become even stronger in the future at the expense of the protected centres in Policy PLP 13, which needs to be carefully monitored.

- 1.3.8 Schemes such as Leeds Road Retail Park and Great Northern Retail Park offer 18,850 sq.m and 14,530 sq.m respectively, along with Huddersfield Retail Park, The Ringway Centre, Gallagher Retail Park, Phoenix Mills Retail Park and Wakefield Road Retail Park which offer a further 26,904 sq.m. The units within the out of centre retail parks range from 450 sq.m to 3,200 sq.m, with the ability to be sub-divided and provide space for operators which would typically locate in town centres.
- 1.3.9 Therefore, these schemes alone equate to 20% of Huddersfield's total commercial town centre floorspace and over 50% of Dewsbury town centre's commercial floorspace and the floorspace within these destinations provide space for operators which sell goods which are typically sold from town centres. If these destinations expand further or relax their current controls over the use of the floorspace, they could have substantial detrimental implications on all defined centres but particularly the higher order centres such as Huddersfield and Dewsbury, along with the four town centres of Holmfirth, Heckmondwike, Batley and Cleckheaton. The low threshold therefore ensures that applications at these out of centre destinations are appropriately assessed against the relevant impact tests and that the key centres within Kirklees (Huddersfield and Dewsbury) are appropriately protected.
- 1.3.10 Due to the smaller scale of Batley, Cleckheaton, Holmfirth and Heckmondwike town centres, and the relatively modest size of most of their commercial units, we consider it appropriate for a lower impact threshold of 300 sq.m to apply to potential development proximate to this centre. Reviewing the existing stock of units within the centres, less than 17% of units in Batley measure over 300 sq.m, less than 8% in Cleckheaton measure over 300 sq.m, less than 11% in Heckmondwike measure over 300 sq.m and less than 7% in Holmfirth measure over 300 sq.m. This is in keeping with their more localised role and function but demonstrate the potential implications out of centre developments could have on these centres.
- 1.3.11 A policy threshold of 300 sq.m is also considered appropriate for the district centres due to their localised function and overall offer and size of units. Each of the 15 district centres have less than 10% of the existing commercial units measuring 300 sq.m or more, with 12 of the centres comprising of less than 5% of existing units of 300 sq.m or more. Furthermore, the district centres are typically anchored by a national multiple convenience store (typically a Co-op but also other named operators such as Aldi, Lidl, Sainsbury's, Morrisons and Tesco). These operators provide a key role for the district centres, bringing in shoppers and encouraging 'linked-trips'. Should a proposal come forward which could impact on the

performance of these stores, there is a real risk of a significant adverse impact on the overall vitality and viability of the centres and as such, must be protected accordingly. There are relatively few units of this size within the district centres and to lose an occupier of that scale could have a significant adverse impact on the centres.

- 1.3.12 Accordingly, in the local context, 300 sq.m constitutes a substantial sized unit for both the town and district centres. The setting of a lower threshold for the four town centres and 15 district centres will ensure that schemes which have the potential to result in significant adverse impacts are appropriately assessed, in order that appropriate consideration is given to the town centres' vitality and viability in considering the acceptability of future development.
- 1.3.13 For the local centres within Kirklees, it is recommended that a lower policy threshold of 200 sq.m applies. This lower threshold is set at a level which ensures that the impacts arising from proposed convenience stores operated by 'main four' food retailers (which can have a substantial seven-figure turnover) can be appropriately considered. We are aware of recent appeals where Inspectors have found that such convenience stores can have a significant adverse impact on smaller centres². We believe that this type of development has the potential to divert expenditure and potential operators from the District's smaller centres and that the setting of lower thresholds is therefore justified.
- 1.3.14 We believe that the proposed lower thresholds for local centres are appropriate as a consequence of their localised role and function, and the fact the opening of a small format convenience store outside of these smaller centres is likely to directly compete with type of local needs provision typically found within such centres. We therefore believe it is reasonable for applicants proposing developments of 200 sq.m gross floorspace for local centres and above, to demonstrate that their proposal will not have a significant adverse impact on smaller centres sharing part of the same catchment.
- 1.3.15 The proposed thresholds at local centre level are considered to reflect the relatively small size of some of the centres at the lower end of the retail hierarchy and their consequent potential susceptibility to alternative 'out-of-centre' provision. In practice, it is envisaged that a proposal of just greater than 200 sq.m adjacent to a local centre would generally require an impact assessment of proportionate length (i.e. for development of such a scale, impact may on occasion be able to be dealt with as part of the covering letter accompanying the

² Such cases include the appeal against the refusal of planning permission for a Tesco Express at Luton (PINS reference APP/B0230/A/13/2203864) and the appeal against the refusal of planning permission for a Sainsbury's Local (PINS reference APP/e59000/A/14/2217680) at Tower Hamlets

application). Where an application proposal is above the respective stated impact threshold, we would recommend that the applicant discusses and agrees the scope of the retail impact assessment with the Council prior to submission. The lower threshold of 200 sq.m for local centres is considered appropriate due to potential for convenience stores of even a relatively small nature could substantially impact upon the performance of existing operators, due to the potential higher sales densities of such proposals. This would ensure that particular protection of these smaller centres is considered appropriately.

- 1.3.16 We believe that it is appropriate to qualify the area to which each local impact threshold will apply. We recommend that the thresholds of relevance to the four town centres and to the District's district and local centres would be applicable within 800 metres of the boundary of the relevant centre. The distance of 800 metres is considered to be broadly commensurate with the potential walk-in catchments of smaller centres and is identified by Guidelines for Providing for Journeys on Foot (The Institution of Highways & Transportation, 2000) as being the 'preferred maximum' acceptable walking distance to a centre. We consider it to be appropriate for the higher threshold of 500 sq.m to apply District-wide (beyond 800 metres of these centres), due to the reduced probability of significant adverse impacts arising from retail, leisure and office development.
- 1.3.17 In our experience, it will only generally be development of a scale greater than these thresholds which could lead to a 'significant adverse' impact, which could merit the refusal of an application for town centre uses in accordance with the provisions of paragraph 27 of the NPPF.