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Planning Development

Retail Sequential Assessment (Revised December 2018): Land off Westgate, Heckmondwike

The proposed retail (A1) and drive-thru restaurant (A3) uses fall within the definition of 'main town centre uses' in accordance with the National Planning Policy Framework and the town centre planning policy.¹

As such Paragraphs 86 and 87 of the National Planning Policy Framework states the following:

Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing town centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Paragraph 010 of the Planning Practice Guidance² states that "the application of the test should be proportionate and appropriate for the given proposal."

The proposed occupier

The proposed development will be occupied by B&M following long-running discussions with the applicant's commercial agents. This is demonstrated by the layout and scale of the proposed development (with the appended garden centre), which is unique to the B&M Bargains business, and which offers a predominantly non-food discount offer. B&M offer a range of goods including everyday household goods and garden products.

It is noted that in accepting the recent retail proposals at Blakeridge Mills in Batley, the rationale for excluding certain centres from the sequential search areas was based on an acceptance by the Council and White Young Green that Unit 1 would be occupied by B&M Bargains. The applicant can confirm that the same principle applies in relation to these current proposals.

¹ NPPF Annex 2: Glossary

² Ensuring the viability of town centres

Sequential test catchment area

The proposal site on Westgate is a previously developed brownfield site. Westgate itself is a main 'A' road leading in and out of Heckmondwike (A638). The site is located approximately 285m away from the Primary Shopping Area and as such is classified as an Edge of Centre site.³

In defining the sequential test catchment area, it is important to remember that it is alternative centres which are the focus of a sequential assessment, as opposed to the (for retail impact) the likely area the proposed store(s) will draw its trade from.

In defining the sequential area of search, regard has been had to:

- i) the proximity of other centres (are they within the zone of shopping influence for the intended store location having regard to the retail impact catchment area);
- ii) whether or not similar offerings exist or are committed within those centres;
- iii) and where the particular centres sit in the retail hierarchy.

Furthermore, given established case law regarding the need for consistency in decision making, reference is made to the recent application for a B&M store in Batley.

The proposals for the sequential search area are therefore as follows:

- 1) The catchment area for retail impact assessment includes the centres of Heckmondwike, Cleckheaton, Mirfield, Liversedge, Gomersal & Hightown.⁴
- 2) There are similar offers from the B&M / Home Bargains chains⁵ in Dewsbury, Batley⁶ & Cleckheaton. Replicating a B&M within these centres: (a) would not meet the needs of Heckmondwike shoppers; (b) would simply replicate existing offers in these centres and would not consequently widen consumer choice to any significant extent⁷; and (c) would not help Heckmondwike recapture comparison goods trade currently being lost from the centre as a result of the majority of available expenditure going outside the zone.⁸

It is noted that in approving the recent B&M Bargains store in Batley, the Council accepted the applicant's sequential test search area excluded centres with similar offerings. Paragraph 5.19 of the applicant's Retail Statement said:

There is an existing discount offer within the nearby towns of Dewsbury and Cleckheaton and it is therefore considered that the proposed development will principally meet the needs of residents of Batley rather than drawing significant levels of trade from further afield. The core catchment area of the proposed retail units will therefore be Batley and the sequential site assessment will focus on potential alternative sites within Batley Town Centre.

³ NPPF Annex 2: Glossary

⁴ See Retail Impact Assessment for further details

⁵ Essentially the very similar discount retail offerings

⁶ Committed B&M development approved under application ref: 2017/93925

⁷ It's also worth noting that B&M and Home Bargains have traditionally not located in the same centres together in North Kirklees.

⁸ Refer to Retail Impact Assessment for further details.

Case law ⁹ has determined a need for consistency in decision making and there are no valid reasons why in this case, the Council would need to depart from the rationale recently accepted for the Batley proposal, for an identical retailer in a centre in the same position within the retail hierarchy as Heckmondwike.

- 3) The retail hierarchy adopted by the Council through its own retail studies and local Plan work has concluded that Heckmondwike is a second tier 'town centre'. As per the sequential test guidance in draft Policy PLP13, the applicant's business model (involving a large discount store of 2,800 sq.m net retail floor area) is aimed at the higher order 'town centre' level in the retail hierarchy and would therefore serve more than a simply localised, small scale catchment, as also demonstrated in the recent application / commitment to Batley (also a 'town centre' in the retail hierarchy). As such the business model and scale of development would not be appropriate for lower order centres in the area, such as Mirfield and Ravensthorpe. Cleckheaton is also a 'town centre', however this is not included in the sequential search area for the reasons set out above.

NOTE: Gomersal, Hightown and Liversedge are also discounted from the search area as they are further down the retail hierarchy and classed as Local Centres, earmarked for top-up shopping only.

It is therefore considered that reasonably available sites should be located in Heckmondwike – i.e. within 300m of the Primary Shopping Area. Any site should also ideally be located on or just off a main 'A' road. This would make the site more accessible, well connected to the town centre and would be more likely to attract passing trade. The location is therefore of paramount importance for the future success of the development.

In conclusion, only the centre of Heckmondwike forms the basis for the sequential search area in this case, with regard specifically to in-centre and edge-of-centre sites only, given the edge-of-centre location of the proposal.

NOTE: although a discussion was held between the agent and planning officers on the 6th December and the inclusion of Cleckheaton in the search area was discussed, it has been discounted for the reasons set out above. Notwithstanding this, if hypothetically edge-of-centre and in-centre sites *were* to be assessed in Cleckheaton, it would be concluded that: there are no available or suitable sites around the 1.5ha size (see below for site size justification):

- 1) Land north-east of Serpentine Road was earmarked for an expanded Tesco store but has now been committed for retirement housing / care provision under application ref: 2017/91677.
- 2) Land off Northgate / Horncastle Street was vacant for a long time but has since been developed for a Netto (now Home Bargains) store.
- 3) Prospect Mill off Prospect Street is committed for residential development, but is of insufficient size anyway (as has the former Whitcliffe hotel site off Prospect Road).

Size of alternative site required

Whilst the issue of considering flexibility in terms of format and scale is acknowledged to be a requirement of NPPF paragraph 24, the Secretary of State decision at Rushden Lakes, Northampton (APP/G2815/V/12/2190175), confirmed that the requirement for applicants to consider 'disaggregation' as part of the sequential test is no longer a retail planning policy requirement.

⁹ *Mid-Counties Co-operative and Forest of Dean vs Aldi Stores Ltd* [2017] EWHC 2056 (Admin)

Paragraph 8.47 of the SoS decision stated:

“A related submission concerns the differences between national policy as now stated in the NPPF and as previously stated in PPS4. The last sentence of NPPF [24] states that: Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.” This contrasts strikingly with what was said previously in PPS4 in policy EC15.1 at (d) (IV) and 15.2 which contained an explicit requirement for disaggregation. There is no longer any such requirement stated in the NPPF. It is no answer to this to refer to the words “such as” in the last sentence of NPPF [24]. These words cannot be read so as to imply that a major, and extremely controversial, part of previously stated national policy lives on by implication in the NPPF. Had the Government intended to retain disaggregation as a requirement it would and should have explicitly stated this in the NPPF. If it had been intended to carry on with the requirement then all that would have been required is the addition of the word “disaggregation” at the end of NPPF.

It is noted that nothing in subsequent guidance or case law (i.e. National Planning Practice Guidance) has changed the Rushden Lakes position.

As such, the proposals should not be the subject of disaggregation and in considering a degree of parking requirement, an alternative site would need to be in the region of 1.5 hectares to accommodate the proposed development (whilst demonstrating any necessary flexibility as required by NPPF paragraph 87).

Sequentially preferable site search

A survey of Heckmondwike town centre and the surrounding area was undertaken in June 2018 to look at any redundant, derelict or available buildings or land. The survey identified that there are a number of vacant retail premises available in and around Heckmondwike Town Centre. However, these premises all fall extremely short of the floorspace required for the proposed development and as such are unsuitable for the intended uses. Available on-site parking is also limited or unavailable.

In terms of land, no available or suitable sites were identified in the areas directly north, east and west of Heckmondwike Town Centre. The existing commercial premises all appear to be currently occupied and the remaining land consists of residential, school sites and urban greenspaces in the form of playing fields, parks and a cemetery.

Roads included in the search are as follows: Northgate, Greenside, Union Road, Beck Lane, Wormald Street, and Westgate. Appendix A includes photographs of some of these unavailable sites.

In the area directly south of Heckmondwike Town Centre, a site off Station Lane has been identified (see photograph below). The site was available at the time of the survey and covers an area of 1.5 hectares which would therefore make it potentially suitable in size for the proposed development.

However, Station Lane is not a main ‘A’ or ‘B’ road and is located in a more predominantly industrial/business area rather than within the retail/town centre area of Heckmondwike. It is considered that this site is less accessible and less well connected to Heckmondwike Town Centre than the application site. It would also be in a relatively inconspicuous location with low levels of footfall, thereby providing a commercially unrealistic and unviable location for retail / town centre development.

Although the site is about the same distance away from the Primary Shopping Area as the crow flies as the application site, when measuring the distance by road it is further away (approx. 335m). The site then falls within an out of town location which is sequentially less preferable. For these reasons, it is therefore considered that this site is a less viable option for the proposed development.

It is therefore concluded to be less sequentially preferable than the application site.



Site on Station Lane, Heckmondwike

There appears to be no other available land or buildings in the area directly south of Heckmondwike Town Centre.

Given the above, it is considered that there are no suitable, available or viable sites capable of accommodating the proposed development.

It is therefore submitted that the sequential test is passed in this case, in accordance with NPPF paragraph 86, meaning that the principle of the proposed 'main town centre' uses should be considered acceptable.

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Appendix A



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