

Planning Department  
Kirklees Council  
Civic Centre  
Market Street  
Huddersfield  
HD1 2JR

**Manchester**  
Eastgate  
2 Castle Street  
Castlefield  
Manchester M3 4LZ

[nexusplanning.co.uk](http://nexusplanning.co.uk)

For the attention of Adam Walker

Date: 6 December 2019  
Ref: 32962

Dear Sir/Madam

**Outline Planning Application Reference 2019/60/92221/E, Proposed Class A1 Foodstore, Huddersfield Road, Mirfield, WF14 9DA**

**Response to Pegasus Group Submission on Behalf of Co-operative Group Limited**

Introduction

We write on behalf of our client, Morbaine Limited, with regard to the proposed redevelopment of the Kenmore Caravans site at Huddersfield Road in Mirfield and with specific reference to Pegasus Group's submission on behalf of Co-operative Group Limited (hereafter referred to as 'the Co-op').

Whilst the submission runs to 19 pages, in practice it identifies only a limited number of issues where there is any material difference between our client's position and that of the Co-op. We address these in turn below. At the outset, we note that the Co-op's submission finds that there is no sequentially preferential site to accommodate the application proposal, which means that the focus of its response is the application of the retail impact test.

As such, we first consider the methodological matters raised in the submission before then considering their relevance to the principal issue, i.e. would any significant adverse impact likely arise as a consequence of the proposed development?

### Matter 1: The Household Survey and the Turnover of Existing Stores

Paragraph 3.5 of the submission notes that household shopper surveys tend to overestimate expenditure at large shops and underestimate expenditure at smaller shops, as they rely on the recall of respondents during a telephone interview. We do not disagree with this observation, and would also add that in asking respondents to recall the destinations that they last visited to undertake 'main' and 'top up' shopping some types of food shopping may not be fully identified.

The Co-op also raises this matter at paragraph 3.7 of its submission, which states that:

**'It is important to treat with some caution the distinction between main food shopping and top-up shopping which is used in the 2013 household survey. It is now widely recognised that people are shopping more frequently for food and becoming more flexible in their shopping patterns: using convenience stores, limited range discounters and supermarkets interchangeably for similar kinds of shopping trip. With the decline in weekly shopping trips in large supermarkets people are topping up with food shopping more frequently during the week at a variety of stores, especially for fresh or chilled foods or prepared meals.'**

The corollary of the above is that there is a possibility that the household survey may overstate the performance of large food superstores somewhat, but understate the turnover of smaller supermarkets (such as the Co-op) which perform an 'intermediate' role catering for day-to-day shopping needs that often take the form of a basket shop.

Two matters are of direct consequence to the above.

Firstly, the Co-op's submission effectively suggests that smaller foodstores and supermarkets (of the type found within Mirfield district centre) may trade more strongly than the household survey suggest. If this is the case, the impacts identified in the submitted retail impact assessment may well be indicative of a 'worst case scenario' given that retailers in Mirfield would benefit from existing higher turnovers and, therefore, be better positioned to trade alongside additional competition. We have visited Mirfield on numerous occasions in recent months and believe the Co-op store at Huddersfield Road to be a popular destination, with queues often apparent in its car park.

Secondly, given that relying on the existing household survey does not provide the applicant with any advantage in demonstrating compliance with the impact test, its use is entirely consistent with paragraph 017 of the Town Centres and Retail Planning Practice Guidance which indicates that the NPPF impact test should be applied in a **'...proportionate and locally appropriate way, drawing on existing information where possible.'**

### Matter 2: The Extension to the Lidl Store

Paragraph 6.14 of the Co-op submission suggests that there is a discrepancy in our approach, given that the applicant's retail impact assessment deals with the relocation and extension of the Mirfield Lidl store by adding the uplift in turnover (calculated with reference to the estimated benchmark performance of additional floorspace) to the turnover claimed by the existing store.

This approach is often used in calculating the turnover of extended and relocated stores, and is appropriate in this case given that the Lidl store has moved just across the road.

Notwithstanding the above, we also note that paragraph 6.14 of the submission erroneously suggests that the consequence of our approach is that the convenience goods turnover of the Lidl is £7.3m at 2023. However, as is evident from Table 9 of the submitted Planning and Retail Statement this figure actually relates to the uplift in turnover and we estimated that the Lidl will have a total turnover of circa £13.0m at 2023, prior to the implementation of our client's proposed development.

This matter is of fundamental importance in understanding our retail impact assessment, given that the application proposal seeks to provide direct competition to the Lidl store and would undoubtedly divert a large proportion of its turnover from it.

### Matter 3: Patterns of Trade Diversion

Paragraph 6.17 and 6.18 of the Co-op submission suggest that the submitted retail impact assessment diverts too much trade from main food shopping destinations and not enough from smaller convenience stores. However, as noted above, the Co-op's submission is predicated on a misunderstanding in respect of the estimated turnover of the Lidl store. If the likely turnover of the Lidl is underrepresented, then so too will any assumptions made by the Co-op in respect of the likely quantum of turnover that would be diverted from this store.

We believe that our estimated turnover for the Lidl store is realistic (and is less than the turnover of some other similar Lidl stores in comparable locations). We also believe it to be very clear that the application proposal would compete principally against this store and other stores used for main food shopping.

We believe that this is entirely logical and reflective of the established principle (referred to in paragraph 015 of the Town Centre and Retail PPG) that like competes with like. In this instance, whilst some trade will be diverted from smaller stores, the vast majority will be diverted from the Lidl store and other destinations able to support larger food shopping trips.

In this regard, our approach is also broadly consistent with that accepted by the Council in considering the likely impacts arising from the replacement Lidl store (planning permission reference 2015/94112).

### Implications in Respect of Retail Impact

As outlined above, we believe that the principal matters raised by the Co-op in respect of our approach in estimating retail impact either fail to demonstrate that the actual impacts arising from the proposal would be greater than those identified in the submitted Planning and Retail Statement, or are based on an inaccurate interpretation of the submitted retail impact tables. We do not believe that any part of the submission demonstrates that our approach is incorrect or provides any information which suggests that the ongoing vitality and viability of Mirfield district centre could be prejudiced as a consequence of the application proposal.

In considering impact, we remain of the view that Mirfield is a vital and viable centre, and believe that the Co-op store is well used and able to trade successfully alongside discount food retail provision.

### Other Matters

In addition to the above, we are aware that there is a Post Office counter within the Co-op store. Whilst we believe that there will be no material impact on the viability of the Co-op and Post Office counter as a consequence of the proposed development, we note that a recent court judgment<sup>1</sup> has confirmed that consideration may need to be given by the determining authority to the implications of a proposal on community facilities in accordance with the provisions of paragraph 92 of the NPPF.

Paragraph 92 fails to provide a clear policy test but indicates that planning decisions should plan positively for the provision of community facilities and services, and guard against the unnecessary loss of valued facilities and services.

In this case, the application proposal would have no impact on the ongoing operation of the Post Office

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<sup>1</sup> R (Patel) v Dacorum Borough Council [2019] EWHC 1234 (Admin)

counter and we ask the Council appropriately accounts for this fact in the Officer's report and in determining the application.

### Conclusions

We note that the Co-op submission confirms that there is no sequentially available site to accommodate the application proposal.

In respect of impact, we believe that the matters raised by the submission either demonstrate that the trading position of convenience goods retailers in Mirfield may well be stronger than that assumed by Nexus Planning in undertaking the retail impact assessment (making it likely more resilient in respect of any impact) or are based on an erroneous interpretation of the submitted impact tables.


We have visited Mirfield on numerous occasions in advising on this planning application and on each visit the Co-op at Huddersfield Road has been well used (with the car park being at capacity on some occasions). We believe that it would be the subject of a relatively limited trade diversion impact and would continue to trade successfully subsequent to the implementation of the application proposal. We do not believe that any part of the Co-op's submission provides evidence which could lead to the Council forming a contrary view.

As such, we remain of the opinion that the application proposal would be consistent with all relevant national and local planning policy, and that it would increase local consumer choice and support local jobs.

In accordance with paragraph 38 of the NPPF, which commends decision-makers to approve applications for sustainable development wherever possible, we ask that planning permission be granted for this important development.

We trust that the above is helpful to the Council in finalising its view on the application, but we would be happy to provide additional information in respect of the above matters should this be of assistance.

Yours faithfully



**Richard Shepherd**  
Director