
Report of the Head of Planning and Development**STRATEGIC PLANNING COMMITTEE****Date: 26-Aug-2020**

Subject: Planning Application 2019/92221 Outline application for demolition of existing buildings and erection of Class A1 retail unit, access, car parking, servicing, landscaping and associated works (all matters reserved other than access) Kenmore Caravans Ltd, 119, Huddersfield Road, Mirfield, WF14 9DA

APPLICANT

Keith Nutter, Morbaine
Ltd

DATE VALID

02-Jul-2019

TARGET DATE

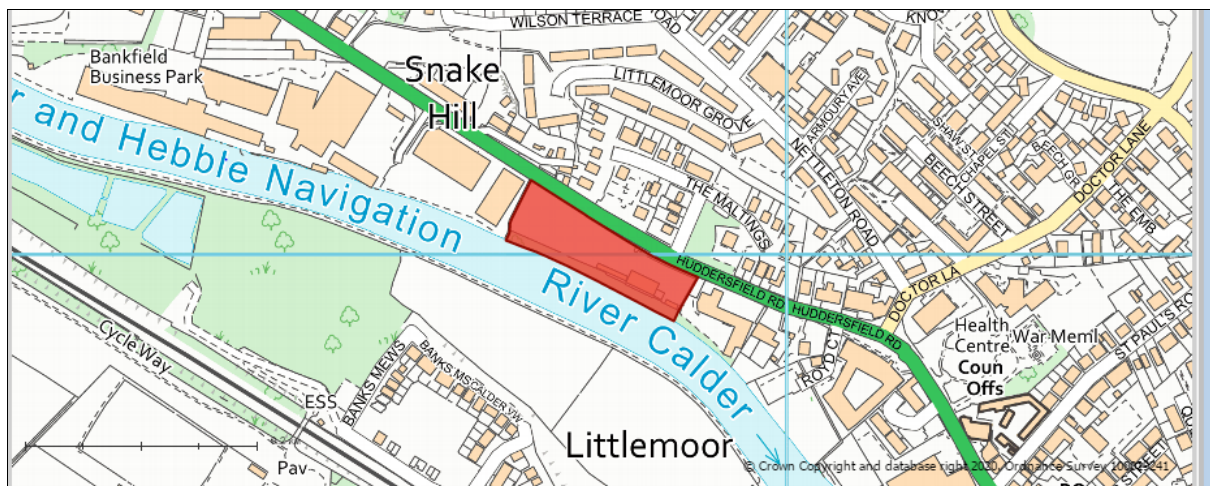
01-Oct-2019

EXTENSION EXPIRY DATE

30-Apr-2020

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<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral wards affected: Mirfield

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. £8,400 contribution towards blue-tooth detectors at the Huddersfield Road/Station Road traffic signalled junction
2. £23,000 contribution towards the upgrade of bus stop numbers 15150 and 15152 on Huddersfield Road
3. Travel Plan monitoring fee (£10,000)

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 The application was deferred by the Strategic Planning Committee at its virtual meeting on 03/06/2020 so that further justification could be provided for the traffic assessment including right turn movements into and out of the site, as well as a reassessment of the options for pedestrian crossing facilities. The committee also requested that the Retail Assessment was reviewed for accuracy, having regard to any material change in circumstances since it was first submitted.
- 1.2 Since the committee meeting the applicant has provided a Highways Supplementary Note and a Planning and Retail Statement Addendum which seek to address the reasons for the deferral.
- 1.3 The Highways Supplementary Note focusses on the traffic survey data, the effects of the proposed development and the pedestrian crossing facilities. Highways Development Management officers have reassessed the application and the additional information provided. In summary officers consider that the junction modelling undertaken is acceptable, right turn movements can be safely accommodated, and the proposed pedestrian refuges are the most appropriate solution.

- 1.4 The addendum to the Retail Statement updates the sequential test and the impact assessment and provides commentary on the impact of the proposal on stores in Mirfield District Centre. It also responds to previous issues raised within a representation made on behalf of the Co-operative food store in Mirfield.
- 1.5 Officers have assessed the updated retail information and have concluded that is appropriate for the scale of development proposed, follows published Planning Practice Guidance, and accords with the requirements set out in Local Plan policy LP13. It therefore remains the case that the impact of the proposal on stores within Mirfield District Centre is not considered to be significantly adverse.

2.0 SITE AND SURROUNDINGS:

- 2.1 The Kenmore Caravans site, Huddersfield Road, Mirfield is a broadly rectangular piece of land on the southern side of Huddersfield Road. It is currently in use as a caravan dealership. There are a collection of buildings in the south eastern part of the site with a large area of hardstanding to the northwest of the buildings where caravans are displayed.
- 2.2 To the north of the site is residential development. To the southeast is a car showroom and to the northwest are commercial units. The River Calder bounds the site to the south.

3.0 PROPOSAL:

- 3.1 Outline application for demolition of existing buildings and erection of Class A1 retail unit, access, car parking, servicing, landscaping and associated works.
- 3.2 The application is submitted in outline form with access the only matter that has been applied for. The layout, scale, appearance and landscaping of the site are reserved for future approval.
- 3.3 A single point of access is proposed to serve the site off Huddersfield Road.
- 3.4 An indicative site layout plan has been provided which shows the proposed retail unit in the north-western part of the site with parking to the remainder and soft landscaping to the majority of the site's perimeter. The application is also supported by a proposed parameters plan that specifies a maximum gross internal area of 1,890 square metres and a maximum building height of 9.40m. An indicative section shows the building being highest adjacent to Huddersfield Road and then sloping down towards the river.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 A pre-application enquiry was submitted which provided advice on technical matters and the requirements for the submission of an application.
- 4.2 There is no planning application history that is directly relevant to this proposal.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 Negotiations have been undertaken in respect of the highways assessment. As a result, the applicant has submitted a plan which shows a dedicated right turn lane into the site on Huddersfield Road. The plan also shows a pedestrian crossing island to each side of the access.
- 5.2 The applicant has also carried out junction capacity analysis of the site access/egress, Doctor Lane and Stocks Bank Road junction and the Huddersfield Road and Station Road signalised junction.
- 5.3 The applicant was requested to provide a response to a representation that was submitted by an existing food store within the locality which objected on the grounds of the retail impact.
- 5.4 Additional ecological information has been provided in the form of species survey reports (bats and otters).

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

6.2 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development
LP3 – Location of new development
LP7 – Efficient and effective use of land and buildings
LP13 – Town centre uses
LP19 – Strategic transport infrastructure
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP24 – Design
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality

6.3 Supplementary Planning Guidance / Documents:

Highway Design Guide Supplementary Planning Document

6.4 National Planning Guidance:

Chapter 2 – Achieving sustainable development
Chapter 7 – Ensuring the viability of town centres
Chapter 12 – Achieving well-designed places
Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
Chapter 15 – Conserving and enhancing the natural environment

6.5 Climate change

- 6.6 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 **PUBLIC/LOCAL RESPONSE:**

- 7.1 The application was initially publicised by site notices, neighbour letters and press advert. In response a total of twenty objections were received with one representation in support and one representation making a neutral comment. A summary of the representations received is provided as follows:

Against

Retail/town centre impact

- A detailed representation has been submitted by Pegasus Group on behalf of the Co-operative food store in Mirfield which critiques the applicant's retail assessment. The main points raised are:
 - The significance of the sequential test undertaken by the applicant is questionable because there is no named operator for the proposal and so it is based on a number of assumptions.
 - The applicant's retail impact assessment is based on an out-of-date household survey that pre-dates the development of a larger, replacement store for Lidl at Station Road on the edge of the District Centre.
 - The survey data is also of limited value because it was designed for a strategic retail capacity study covering the whole borough and the results are not sufficiently detailed (or up-to-date) to inform a retail impact assessment.
 - The consequences of using unsuitable survey data are that inaccurate assessments have been made of the market shares and turnovers of existing stores and misleading conclusions have been drawn about shopping patterns including the roles of existing shops within the Mirfield District Centre.
 - Concerns raised with the applicant's assessment of trade diversion and the implied impacts on the District Centre.
 - The proposal would pose a severe challenge to the continuing vitality and viability of the District Centre.
- It has been separately suggested that the proposal would lead to a saturation of food stores in this area and that Mirfield does not need another store of this size. No demand for this proposal.

- If the Co-op in Mirfield were to close as a result then it would negate any new job creation and result in a large empty building in the centre of Mirfield and harm the vitality of the centre as a whole.

Highways

- Development will add to traffic congestion on an already busy road.
- The additional traffic will increase the likelihood of road traffic accidents and would be detrimental to the flow of traffic on the road network.
- Right turning vehicles into the site will impede traffic flow on 40mph road.
- Right turning vehicles out of the site will have difficulty getting onto Huddersfield Road and will cause gridlock in the car park.
- The fact that Huddersfield Road is used by emergency vehicles needs to be taken into account.
- The staggered junction with The Maltings will be difficult to negotiate and the separation distance is inadequate. There are already issues with the use of The Maltings/Huddersfield Road junction.
- Existing on-street parking obscures visibility and blocks the cycle lane.
- History of accidents and near misses associated with the existing access.
- Development may result in additional on-street parking on The Maltings which will be detrimental to highway safety. Cars already park on The Maltings in connection with the existing nearby commercial uses.
- Construction vehicles parking on the highway will cause highway safety problems.
- Access to the site is dangerous for pedestrians; no indication that this will be improved.

Amenity/health

- Additional traffic/congestion will impact on air quality and noise pollution.
- Concerned about noise from demolition of existing unit.
- Increase in activity associated with the proposal as compared to the existing use - longer hours and more noise.
- Concerns if there are to be deliveries through the night which would cause disturbance.
- Increase in light pollution.
- Illuminated signage may reflect towards nearby properties.
- Impact on privacy of The Maltings and loss of light.
- Impact on views and house prices of The Maltings.

Character/visual amenity

- A supermarket will change the character of the site as there is currently no activity in the evenings.
- Scale and location of building will be prominent and out of keeping with the character of the area.
- A brightly coloured supermarket will be an eyesore.
- Will existing boundary treatment be retained?

Flood risk/drainage

- The site was flooded in 2015. What strategy is in place to prevent flooding?

Other matters

- Proposal is likely to increase anti-social behaviour in this area. For example, through young people congregating around the store which happens elsewhere in Mirfield and cars racing into/out of the site at all hours.
- Question what security measures will be put in place.
- Food is likely to attract vermin.
- Mirfield needs facilities that will attract visitors, not another food store.

In support:

- Fully support and welcome the application. Electric vehicle recharging points should be provided.

Neutral:

- A pedestrian crossing should be put in if the development goes ahead.

7.2 Since the committee meeting on 03/06/2020 an additional representation has been received. This has been submitted by Pegasus Group on behalf of the Co-operative food store in Mirfield and responds to the updated Retail Assessment. The main comments are summarised as follows:

- The retail assessment continues to rely on the 2013 household survey; the use of seven-year-old survey data requires justification and a critical approach to its data.
- The impact on the vitality and viability of Mirfield District Centre have not been properly considered.
- The sequential test undertaken is trivial because there is not a named retailer and the proposal is therefore speculative.
- The “health check” on Mirfield District Centre is not supported by quantitative data.
- The impact of the Covid-19 pandemic cannot be properly evaluated at this stage; a precautionary approach to new retail development should be applied to protect established centres.

7.3 Officers have considered the aforementioned representation and a detailed response is provided within the appraisal section.

7.4 Mirfield Town Council commented as follows:

“MTC recognises that Kenmore Caravans business remit has changed, requiring smaller premises. However, MTC has concerns for the following and reserves final comment until it has received answers from Kirklees on these points. MTC has concerns on the impact to highways, especially the locality of the application from Doctor Lane and the right turn on to Huddersfield Road. Also, MTC are concerned on the right turn exit from the development on to Huddersfield Road due to the amount of traffic that passes along this

highway. MTC has concerns for residents accessing the site as there is limited crossing facilities along this stretch of road with a vast amount of elderly residents and young children living locally, MTC feels that any development would benefit from Pelican Crossing. MTC also has concerns regarding the locality of the River Calder and any pollution from the development and also air pollution from additional vehicles during construction. MTC would have liked to have seen a Master Plan of the site with possibility of dual use i.e. small office space and the impact the development will have on the neighbouring residential properties. Finally, MTC would like to see electric car charging points within any retail development in Mirfield."

- 7.5 A written response to Mirfield Town Council's comments was provided.
- 7.6 The additional highways information that was submitted during the course of the application was publicised by letters to neighbours and interested parties. Mirfield Town Council were also notified. In response to this further round of publicity eight representations have been received. A summary of the comments received is provided below.

Highways

- Residents of The Maltings already experience disruption from supermarket deliveries in Mirfield; HGVs park on the road and use it as a turning area which causes highway safety issues. A new supermarket would only increase this disruption.
- The pedestrian islands will subject users to unacceptable danger.
- Visitors to Kenmore Caravans and Prestige Cars prefer to park on The Maltings and often block driveways.
- Unsuitable siting of pedestrian islands.
- Development will cause additional road safety issues.
- Highway surveys were undertaken during Christmas/New Year period when traffic is lighter; this will affect the accuracy of the results.
- Huddersfield Road cannot support any additional traffic, especially considering new developments that are going ahead in the area and issues that arise when the motorway is closed.
- Already congestion problems in this area.
- Access in and out of the existing site is already difficult as well as from The Maltings.
- Impact of construction traffic and store deliveries on road network.
- When car park is full people will park on adjacent roads causing problems.

Amenity

- Another supermarket will have a negative impact on the quality of life for local residents.
- Proposal will be an eyesore.

Town centres/retail issues

- Detrimental impact on Mirfield town centre. Proposal encourages people to drive to shop and not support independent traders in the town centre which threatens their future existence.
- Mirfield already has 4 supermarkets and another is not needed.

Environmental

- Use of un-environmental bricks and mortar.
- Impact on air quality from slow moving road traffic.
- The nature and location of the proposal are such that there will be unacceptable extra air pollution from vehicles. Anti-idling signage should be put in place along Huddersfield Road.
- Increased noise and light pollution.

Flood risk

- Partially building on a flood plain.

Ecology

- Impact on wildlife.

Other matters

- Devalue property.

- 7.7 Cllr Bolt has commented on the application. He has raised the issue of air quality and also questioned the clarity of the description of development because it does not explicitly say that access is the only matter being considered at this stage. The description of development has subsequently been amended to clarify that access is the only matter being considered. Air quality is addressed within the appraisal section of this report.

Councillor Bolt has also asked whether the application has been considered against the Highways Design Guide Supplementary Planning Document (SPD) and the hierarchy of use because the proposal does not show the creation of a facility for cycling on the highway and creates pinch points on the highway.

Councillor Bolt further states that *"It should be incumbent on developers to provide infrastructure even if it means them losing land, otherwise we see dubious provision as Kirklees have done on the A62 in Mirfield with unclear instructions, route obstructions, poor sight lines and a blatant contravention of the SPD."*

This development should also be cross referenced with the WYCA/Kirklees M2D2L scheme which is providing mandatory cycle lanes in places so advisory ones should not feature in new developments, rather Kirklees should be seeking to offer consistency and where there has not been provision in the past it should be added as a condition to extend the network, after all Kirklees has signed up to an increase of 300% cycle trips, which I hope planning are aware of, support and deliver."

- 7.8 Mirfield Town Council Suggested that a moss wall be incorporated to absorb emissions/fumes. The Council asks what Kirklees are doing to mitigate the fumes from traffic.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection subject to conditions and financial contributions towards blue-tooth journey time detectors and bus stop improvements within the vicinity of the site.

KC Lead Local Flood Authority – No objections subject to conditions.

Environment Agency – No objection.

8.2 Non-statutory:

KC Planning Policy – No objection on retail impact grounds.

KC Environmental Health – No objection subject to conditions.

KC Ecology Unit – No objection subject to conditions.

Yorkshire Water – No objection subject to conditions. The site layout as shown for indicative purposes is however likely to be unacceptable to Yorkshire Water because it appears to be located over the line of two sewers; this will need addressing at reserved matters stage when layout is considered.

Police Architectural Liaison Officer – Recommend a condition for detailed crime prevention measures to be incorporated into the development.

9.0 MAIN ISSUES

- Principle of development
- Retail assessment
- Urban design issues
- Residential amenity
- Highway issues
- Flood risk and drainage issues
- Ecology
- Representations
- Air quality
- Planning obligations
- Climate change
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated in the Local Plan and has an established commercial use. The principle of the development is therefore considered to be acceptable subject to the considerations set out in the remainder of this appraisal, including the following retail impact assessment.

Retail assessment

- 10.2 Since the committee meeting of 03/06/2020 Nexus Planning have provided a written response to address matters raised by the Strategic Planning Committee and the objection by Pegasus on behalf of the Co-op. They have updated the sequential test, impact assessment and provided commentary on the impact of the proposal on stores in Mirfield District Centre.

Sequential Test update

- 10.3 Nexus Planning revisited Mirfield in June 2020 to review the sites considered in 2019 and to search for any other potentially suitable sites.
- 10.4 In 2019, the search by Nexus for sequentially preferable sites in the catchment area of the proposal identified three sites, none of which were available or suitable to accommodate the proposal. Revisiting the sites, Nexus have confirmed the following:
- The Thirsty Man Pub is now occupied by a new Indian restaurant. The site is no longer available;
 - Land to the north of 47 to 69 Old Bank Road has an outline planning application for residential development which is being progressed therefore it is unavailable; and
 - Foldheld Mills, off Newgate – the part of the site that was available in 2014 is narrow and cannot accommodate the application proposal.
- 10.5 No additional sequentially preferable sites or units have been identified and the council is not aware of any that could accommodate the proposal within the catchment. Therefore, it is concluded that there are no sites within or on the edge of defined centres within the catchment that are available and suitable for the proposed development.

Retail Impact Assessment update

- 10.6 National Planning Practice Guidance (NPPG), Town Centre and Retail highlights in paragraph 17 that “the impact test will need to be undertaken in a proportionate and locally appropriate way, drawing on existing information where possible”.
- 10.7 Nexus Planning have undertaken a health check of Mirfield District Centre as part of their site visit in June 2020, updated the quantitative impact assessment with the latest available data and addressed comments made by the Co-op in terms of performance of the Mirfield Store, trade diversion assumptions and the robustness of the evidence base.

Mirfield District Centre Health Check

- 10.8 Nexus highlight the following:
- The number of vacant units in the centre has not notably changed since June 2019. There were a number of essential and non-essential operators open and trading.
 - Pedestrian footfall was busy around the Co-op and around the Lidl store.

- The Co-op store has an adjacent car park and appeared busy around midday. The majority of visitors were undertaking “basket shops” which supports the findings of the household survey.
- A number of people were also outside the Tesco Express.
- Lidl on the edge of Mirfield District Centre remains the largest convenience store where people in the area undertake their main food shop.
- The centre has a variety of retail, leisure, service and community uses providing a range of facilities to meet resident’s needs. These uses are integral to the overall vitality and viability of the centre which was clear on the days visited.
- The environmental quality is good. The centre is served by regular bus services linking to Leeds and Dewsbury and the nearby railway station connects the centre to Leeds, Huddersfield and further afield to London.

10.9 Nexus conclude that “Mirfield District Centre is considered to be a vital and viable centre with a below average vacancy rate and good mix of retail, service and leisure facilities”.

10.10 The Local Planning Authority’s occupancy survey of Mirfield District Centre undertaken on 27/07/2020 shows that of the 99 units surveyed within the defined boundary, 88 of those are main town centre uses. The centre has a good range of food (convenience) and non-food goods (comparison).

10.11 There are financial and business services including Halifax bank and estate agents, retail services such as opticians, hairdressers and a number of leisure services. Only one vacant unit was recorded at the time of the survey. It is considered that Mirfield is a healthy, viable district centre.

Quantitative Impact Assessment

10.12 The quantitative impact assessment set out in the Planning and Retail Statement (June 2019) has been updated taking account of the planning permission for the erection of a petrol filling station, kiosk/convenience store, and commercial retail units at the former Swan Inn (2019/94003) and with the latest data available on population, expenditure, convenience goods expenditure growth and store turnover from Experian reports (February 2020).

10.13 Nexus Planning highlight that:

- The household shopper survey undertaken in February 2013 is the latest evidence base of shopping habits in the catchment area of the proposal and has been used to inform the original impact assessment and this addendum.
- Planning Practice Guidance on Town Centres and Retail Planning states that “the impact test will need to be undertaken in a proportionate and locally appropriate way drawing on existing information where possible”.
- The only significant change in convenience goods provision since the household survey was undertaken is the relocation of the Lidl store to larger premises approximately 100 metres to the south of its previous location. No other substantial changes have been made and the trading performance of the new Lidl store has been accounted for in

accordance with accepted practice. The convenience shopping patterns in Mirfield have been relatively stable in recent years justifying the use of the existing evidence base.

- They have visited Mirfield, twice in April and once in June of this year and on each occasion “found Mirfield to be the subject of a good level of pedestrian footfall, with the co-op apparently benefitting from a significant amount of trade”.

10.14 The table below sets out a summary of the convenience goods impact of trade diversion to the Swan Inn and the proposed development at 2023.

10.15 Nexus Planning highlight that the table shows that “Mirfield residents’ choice at present for grocery shopping provision is essentially between the Co-op (which provides a basic range of grocery goods with particular emphasis on branded products, snacks and drink) and Lidl (which provides a format and product range which is more directly comparable to that of the proposed foodstore”. As such those Mirfield shoppers which find discount foodstores attractive will already be visiting the Lidl store and the purpose of the proposed development is to compete in the same market as Lidl.

10.16 They highlight that the like-for-like principle is set out in paragraph 015 of the Town Centres and Retail Planning Practice guidance and is widely accepted in reviewing retail proposals.

Table 3.1: Estimated Convenience Goods Impact Summary Table at 2023

Destination	Estimated Convenience Goods Turnover Pre Development (£m)	Trade Diversion to Swan Inn Commitment (£m)	Trade Diversion to Proposal Foodstore (£m)	Post-Impact Turnover (£m)	Cumulative Impact (%)
Mirfield In Centre					
Co-operative Food, Huddersfield Road, Mirfield	3.20	0.10	0.15	2.95	-7.8%
Tesco Express, Huddersfield Road, Mirfield	1.03	0.04	0.05	0.94	-8.9%
Local Shops, Mirfield District Centre	4.19	0.02	0.10	4.07	-2.8%
Mirfield Edge of Centre					
Lidl, Station Road, Mirfield	13.07	0.24	5.12	7.71	-41.0%
Mirfield Outside Centre					
Co-operative Food, Nab Lane, Mirfield	1.58	0.08	0.05	1.45	-8.2%
Co-operative Food, Old Bank Road, Mirfield	2.15	0.08	0.05	2.02	-6.1%
Heckmondwike In Centre					
Morrisons, Union Street, Heckmondwike	70.24	0.08	2.05	68.11	-3.0%
Local Shops, Heckmondwike Town Centre	1.40	0.00	0.00	1.40	0.0%
Indoor Market - Heckmondwike	1.15	0.00	0.00	1.15	0.0%
Heckmondwike Edge of Centre					
Lidl, Northgate, Heckmondwike	4.58	0.00	0.51	4.07	-11.2%

Note: Extract from Table 8 of Appendix B; 2018 prices

10.17 The updated table shows that the Lidl store, Station Road, Mirfield would see the greatest level of trade diversion due to the comparable nature of the proposal resulting in an impact of approximately – 41.0%. Whilst this is a slight increase from -39.2% in the original assessment, it is considered that the store would not close as a result of new development. However, as previously stated, the store is edge-of-centre and therefore not afforded any policy protection.

- 10.18 The updated figures show that approximately £0.05m would be diverted from Tesco Express, £0.15m from the Co-op and £0.1m from other local shops within Mirfield District Centre, and cumulative impact has risen to -8.9%, -7.8% and -2.8% respectively accounting for the Swan Inn commitment and updated data as highlighted above. Despite the rise, it remains the case that the impact of the proposal on stores within Mirfield District Centre is not considered to be significantly adverse.
- 10.19 The Pegasus Group have submitted an objection and comments on the Planning and Retail Statement Addendum by Nexus Planning on behalf of the Co-operative Group Ltd.
- 10.20 Pegasus state that the updated retail impact assessment still relies on data from the 2013 household survey and its use requires justification and a critical approach. They state that “it may be true that *‘there has been very limited change in local grocery retail provision in the Mirfield area since the undertaking of the household survey (principally relating to Lidl’s move to extended premises)’* but that does not mean there have been no significant changes to shopping behaviour”.
- 10.21 Recent research into convenience shoppers’ behaviour shows that because of coronavirus, people have been shopping locally and they are keen to support local businesses and it is suggested that this trend will continue. The occupancy survey undertaken in July 2020 of Mirfield District Centre recorded only one vacant unit in the centre, suggesting that this is indeed happening in Mirfield.
- 10.22 Pegasus highlight that the implied turnover of the Co-op store is not consistent with the claims in the addendum that, based on site visits by Nexus, the store appears to trade well. However, Pegasus have not provided any quantitative data to demonstrate the actual current trading performance of the Co-op. They state that Nexus are not correct to say that the underestimation of turnovers for smaller supermarkets in the established centres means that their retail impact assessment “*may well be indicative of a worst case scenario*”, and that the opposite is true.
- 10.23 It is the case that if the turnover of stores is higher, trade draw will be higher. However, if stores are trading better than that shown by the household survey then they are likely to be more viable.

Sequential Assessment

- 10.24 Pegasus highlight that the proposal is not related to a named operator and therefore “based on a number of assumptions about the trading characteristics of the proposed development that are necessarily speculative at this time and cannot realistically demonstrate *‘flexibility on issues such as format and scale’* or other requirements of the sequential test”.
- 10.25 The sequential test should be based on an approximate size, type and range of goods, in this case a supermarket and not that of a specific operator. Pegasus have not provided information on any sites that are suitable and available and are sequentially preferable to that of the proposal.

Retail Impact Assessment

- 10.26 Pegasus refer to the updated health check undertaken and state that it comprises subjective judgements and there is no quantitative data. While Nexus do not provide any figures on occupancy, the council's own independent survey shows that Mirfield District Centre at the time of the July 2020 survey was healthy and viable.
- 10.27 They reaffirm that the changing patterns of food shopping are making the distinction between "main" and "top-up" food shopping increasing irrelevant and dispute that Lidl is "*the sole destination able to appropriately meet main food shopping needs arising in the local area*". A major shift to towards online shopping and home deliveries as a result of Covid-19 is also highlighted, however, as they also state at paragraph 3.4 "it will be some time before the impacts of the lockdown can be evaluated".
- 10.28 Online shopping is taken account of through special forms of trading in the retail impact assessment (RIA Addendum). Lidl is the largest supermarket which serves the needs of shoppers in the Mirfield area. There is no other supermarket of that scale.
- 10.29 Pegasus reaffirm that as the updated RIA relies on the same household survey and applies the same estimates of market shares it produces similar forecast of trade diversion. The main assumptions are that trade diversion will be drawn from Lidl in Mirfield, Morrisons in Heckmondwike, Aldi in Huddersfield, Lidl in Heckmondwike and are wholly unrealistic. Too much weight is given to store size and too little weight to location and proximity to the proposed store. Trade diversion from shops in the district centre are far too low underestimating market share.
- 10.30 As highlighted previously, if market share is underestimated then shops turnover is underestimated and trade diversion is also underestimated. However, if a shop's turnover is higher then it is likely to be more viable. Town Centres and Retail Planning Practice Guidance paragraph 015, updated 22/07/2019, sets out that "impact should be assessed on a like-for-like basis in respect of that particular sector" which is the principle that has been used by Nexus.
- 10.31 Pegasus highlight that the estimated trade diversion from shops in Mirfield District Centre to the proposal is less than double that of the Swan Inn which is closer to Ravensthorpe, reflecting general unreliability of judgements made about trade diversion in the RIA. However, this seems reasonable given that stores of a similar nature trade off each other – the like-for-like principle as highlighted above.
- 10.32 Pegasus conclude that "we believe that the applicant has failed to provide a credible impact assessment". Nevertheless, officers consider that the updated Retail Impact Assessment by Nexus Planning has been undertaken in accordance with relevant Planning Practice Guidance (Town Centres and Retail section) and that the use of the household survey 2013 is locally appropriate in the case of this application.

Conclusion on retail matters

- 10.33 Nexus Planning have updated the Planning and Retail Statement to address the comments made by Strategic Committee on the 03/06/2020 and the objection by Pegasus on behalf of the Co-op. Pegasus have submitted an objection to the update on behalf of the Co-op.
- 10.34 No sequentially preferable sites have been identified that are suitable for the proposal, the council is not aware of any sequentially preferable sites that should have been considered and none have been put forward by Pegasus. Therefore, the sequential test has been passed.
- 10.35 Nexus Planning undertook a health check of Mirfield District Centre in June 2020 and concluded that the centre “is considered to be a vital and viable centre with a below average vacancy rate and good mix of retail, service and leisure facilities”. The council's own survey in July 2020 accords with those findings.
- 10.36 The quantitative assessment has been updated using the latest data available on population, expenditure, convenience goods expenditure growth and store turnover from Experian reports (February 2020) and takes account of the planning permission for the erection of a petrol filling station, kiosk/convenience store, and commercial retail units at the former Swan Inn (2019/94003).
- 10.37 The household shopper survey undertaken in February 2013 is the latest evidence base of shopping habits in the catchment area of the proposal, and has been used to inform the original impact assessment and the update. There have been no significant changes to convenience provision in the catchment since the household survey, other than the relocation of Lidl to the edge of Mirfield District Centre and its increase in size which has been taken account of justifying the use of the survey.
- 10.38 Pegasus state that this does not mean there have been no significant changes to shopping behaviour. The approach by Nexus is justified in this case as there has been no other new supermarkets of a similar scale built in the catchment since the household survey. This is supported by National Planning Practice Guidance in that the impact assessment should be undertaken in a proportionate and locally appropriate way, drawing on existing information where possible.
- 10.39 The updated impact assessment shows that the Lidl store, Station Road, Mirfield would see the greatest level of trade diversion due to the comparable nature of the proposal resulting in an impact of approximately -41.0%. The updated figures show that approximately £0.05m would be diverted from Tesco Express, £0.15m from the Co-op and £0.1m from other local shops within Mirfield District Centre, and cumulative impact has risen to -8.9%, -7.8% and -2.8% respectively accounting for the Swan Inn commitment and updated data.
- 10.40 In terms of trade diversion, Pegasus highlight that too much weight is given to store size and too little weight to location and proximity to the proposed store. Town centres and retail planning practice guidance paragraph 015, updated 22/07/ 2019 sets out that “impact should be assessed on a like-for-like basis in respect of that particular sector” which is the principle that has been used by Nexus.

10.41 It is considered that the update undertaken by Nexus Planning is appropriate for the scale of development proposed, and follows Planning Practice Guidance (Town Centres and Retail section) and accords with the requirements set out in Local Plan policy LP13.

10.42 It remains the case that the impact of the proposal on stores within Mirfield District Centre is not considered to be significantly adverse and as such the proposal is in accordance with Local plan policy LP13 of the Local Plan.

Urban design issues

10.43 The site is an established caravan dealership and contains a series of buildings in the south eastern part with caravan storage in the north-western part. There are other commercial developments immediately adjacent to the application site, with a car showroom to the southeast and an extensive array of commercial units and uses extending some distance to the northwest. The character of this side of Huddersfield Road is therefore commercial in nature and so the presence of a food store would not be out of keeping with the overall character of the area.

10.44 The scale, layout, appearance and landscaping of the site are reserved however an indicative layout plan and a proposed parameters plan have been provided. These show the proposed store building in the northwestern part of the site with parking to the remainder and soft landscaping to the majority of the site's perimeter. A maximum building height of 9.40m is specified and an indicative section shows the building as being highest adjacent to Huddersfield Road and then sloping down towards the river to the south. The building would be set down slightly from Huddersfield Road.

10.45 The existing commercial buildings along this part of Huddersfield Road are generally low rise and/or set back from the roadside. Officers have some reservations with a building of 9.40m in height very close up to the boundary with Huddersfield Road and how this would sit within the streetscene. Nevertheless, the scale, layout and appearance of the building are reserved for future approval and overall officers are satisfied that suitable details could be agreed that ensured that the proposed store was not out of keeping with the site's context.

Residential amenity

10.46 The nearest residential properties are on the opposite side of Huddersfield Road and include properties forming part of The Maltings. Most of these properties are on higher ground than the application site and are generally side-on to Huddersfield Road.

10.47 The application is supported by a noise report which assesses potential noise from three sources: mechanical services plant, deliveries and customer car parking.

10.48 The proposed opening hours of the store are 07:00 to 22:00 Monday to Saturday and any six hours between 09:00 and 18:00 on Sundays.

10.49 The proposed hours for servicing/deliveries are 07:00 to 23:00 Monday to Saturday and 08:00 to 22:00 on Sundays.

- 10.50 Environmental Services have assessed the proposals and consider the above hours of use to be acceptable. The hours of use can be conditioned along with details of any mechanical plant to be installed (which would address potential noise and odour issues) plus details of external lighting to address any potential nuisance arising from glare/light spill.
- 10.51 The separation distances between the site and the dwellings to the north combined with the orientation of these neighbouring dwellings and the topography of the area mean that officers are satisfied that acceptable details under scale and layout can be agreed at reserved matters stage that would not unduly harm the living conditions of nearby occupiers.

Highway issues

- 10.52 The application is seeking approval of the means of access to the site. It is proposed to have a single point of access onto Huddersfield Road.
- 10.53 Information was submitted during the life of the application to inform the highways assessment. This included junction capacity analysis of the Doctor Lane and Stocks Bank Road junctions and the Huddersfield Road and Station Road signalised junction.
- 10.51 Proposals for the provision of a right-turn lane into the development have also been submitted together with proposed improvements to the pedestrian facilities along Huddersfield Road. The extent of the 30mph speed limit along this section of Huddersfield Road is proposed to be extended to include the access to the proposed store (the visibility requirements on to Huddersfield Road are shown based on the reduced speed limit). "No Waiting at Any Time" restrictions are proposed to both sides of Huddersfield Road to the full frontage of the site. The application is supported by an independent Road Safety Audit.
- 10.52 Since the committee meeting of 03/06/2020 the applicant has provided a supplementary note which is intended to address the issues raised by the committee. This focusses on the traffic survey data, the effects of the proposed development and the pedestrian crossing facilities.

Junction modelling

- 10.53 The supplementary note confirms that the junction modelling was based on up-to-date information not affected by the Covid-19 lockdown. The junction traffic counts were undertaken at the Stocks Bank Road, Doctor Lane and Station Road junctions with Huddersfield Road in February 2020, before traffic started becoming affected by the Covid-19 lockdown. The Station Road junction was also surveyed as part of the Lidl planning application in 2015. The junction assessments were undertaken in the Friday and Saturday peak hours for the proposed store.
- 10.54 Officers have reassessed the junction modelling and remain satisfied that the Doctor Lane and Stocks Bank Road junctions and the Huddersfield Road and Station Road signalised junction are within operational capacity and would continue to be so following completion of this development. The impact of the development on the efficiency of these junctions is therefore considered to be acceptable.

Right-turn movements

- 10.55 The proposed right-turn lane into the site has been designed in accordance with Design Manual for Roads and Bridges standards.
- 10.56 As a wide load route, a minimum clearance of 4.2m is required between kerbs. The proposed access, which includes a right-turn lane and two pedestrian refuge islands, would maintain a lane width of 4.2m between kerbs through the junction in both directions. This is considered sufficient width to enable most of the traffic to comfortably pass a cyclist, without creating an unacceptable pinch point.
- 10.57 Huddersfield Road eastbound incorporates a 1.2m advisory cycle lane. This would be maintained through the junction together with a 3m wide traffic running lane. A 2m wide footway is proposed to the full site frontage. Acceptable visibility is proposed at the junction with Huddersfield Road and “No Waiting at Any Time” restrictions would be provided to both sides of Huddersfield Road to restrict on-street parking.
- 10.58 The speed limit along the site frontage is currently 40mph which changes to 30mph a short distance to the east of the site. It is proposed to extend the 30mph speed limit in a westerly direction so that the section of Huddersfield Road along the site frontage would be reduced to 30mph.
- 10.59 In terms of right-turn movements out of the site, officers are of the opinion that traffic flows along Huddersfield Road are such that there would be sufficient gaps to enable vehicles to safely exit in the direction of Mirfield.

Pedestrian refuges

- 10.60 The level of pedestrian movements associated with the development is unlikely to justify a signalled crossing. The applicants have been provided with the council’s criteria for pedestrian crossings and confirm that the score is below that required for considering a light-controlled facility, although it is within the range where other measures should be considered, such as the proposed pedestrian refuges.
- 10.61 Bearing in mind the requisite zig zag markings, a signalled facility has a large footprint and in this case may necessitate the removal / displacement of some or all of the on-street parking which currently takes place on the eastbound lane between the site and Doctor Lane. The locality is already busy due to the nearby health centre and shops, and any displaced parking may lead to problematic on-street parking for example on Doctor Lane and Nettleton Road.
- 10.62 Pedestrian refuges can be underestimated in terms of effectiveness. They allow pedestrians to cross a single lane at a time through gaps in traffic with relative ease and represent a very good solution where pedestrian numbers are below the requirements for a controlled crossing facility.
- 10.63 The council’s Highway Safety section consider that the proposed pedestrian refuges either side of the site access provide the most appropriate solution.

- 10.64 A condition requiring a detailed scheme for the right-turn lane and pedestrian refuges is recommended, and the detailed design would ensure that running lane widths do not create pinch points along the highway. Acceptable swept paths for a 16.5m articulated vehicle have been provided.
- 10.65 There is an existing 1.2m wide cycle lane to the northern side of Huddersfield Road which would be retained. Consideration has been given to whether a cycle lane should be created on the southern side of Huddersfield Road, having regard to the Highway Design Guide SPD as well as comments made by Cllr Bolt.
- 10.66 There are practical challenges to widening the highway along the site frontage in order to provide a cycle lane because much of the site lies below the level of the adjacent carriageway. As such officers have concluded that on balance the provision of a cycle lane is not feasible on this application.
- 10.67 Whilst layout is a reserved matter, the indicative car park plan which shows 97 spaces (including accessible spaces and parent and child spaces) along with motorcycling parking and cycle facilities is considered to be acceptable in terms of parking standards. Electric charging facilities would also need to be provided and could be secured by condition.
- 10.68 A contribution towards blue-tooth journey time detectors is recommended at this site to allow better assessment of the journey time situation in Mirfield. Four detectors are considered necessary at the Huddersfield Road/Station Road traffic signalled junction, at a cost of £8,400. This could be secured via a Section 106 agreement.
- 10.69 The West Yorkshire Combined Authority have been consulted on the application and have recommended that a shelter is provided at the nearest bus stop on Huddersfield Road. This would be at a cost of £13,000 to the developer. In addition, it has been recommended that a Real Time Information display is provided at another nearby bus stop at a cost of £10,000. Such measures would improve the public transport offer in this location and the contributions are considered to meet the relevant tests for planning obligations.
- 10.70 A condition for a full Travel Plan for the development to promote sustainable transport measures is recommended. A fee for the monitoring of the Travel Plan would also be necessary (£2,000 per year for five years, totalling £10,000).

Flood risk and drainage issues

- 10.71 The proposed development is mostly located within Flood Zone 1, with the south/south-west boundary that is adjacent to the River Calder located in Flood Zones 2 and 3.
- 10.72 The Environment Agency has been consulted and have raised no objections to the application on flood risk grounds. They have, however, advised that the applicant will be required to separately obtain an Environmental Permit for any activities within 8m of the river.

- 10.73 The Lead Local Flood Authority (LLFA) also raises no objection to the application. Conditions are recommended for detailed drainage design, including consideration of flow routing for surface water as part of the future layout of the development.
- 10.74 There are two public sewers that cross the site and Yorkshire Water have commented that these will need to be taken into account when layout is considered at reserved matters stage. A condition imposing specific stand-off distances from any new building to the sewers has been recommended. Yorkshire Water note that the indicative site layout would contravene such a condition. This is a matter for the developer to address when designing their scheme, including any potential sewer diversion.

Ecology

- 10.75 The application is supported by ecological survey information. This is accepted by the council's Ecology Unit and a condition is recommended requiring a detailed scheme for ecological mitigation and enhancement. Subject to this condition it is considered that the application accords with Policy LP30 of the Local Plan and guidance in the NPPF.

Representations

- 10.76 Highways concerns have formed the main thrust of the objections. The applicant was required to provide additional information during the course of the application including trip generation data, junction capacity modelling and proposals for works to Huddersfield Road. Highways Development Management officers have carried out a detailed assessment of the application and do not consider that the proposals would have a significant adverse effect on highway safety.
- 10.77 It is noted that particular concerns have been raised by residents of The Maltings, especially in relation to parking on this road. The layout of the site is a reserved matter but the indicative car park layout provides an acceptable level of parking for a development of this type and scale and as such it is difficult to substantiate these concerns. Specific concerns have also been raised around the impact of construction traffic. A condition is recommended for a construction management plan which would help to alleviate the impact of construction activities so far as reasonably practicable.
- 10.78 Retail issues, including the impact on Mirfield town centre, have been addressed in detail within this assessment. A number of the representations suggest that an additional supermarket is not needed however the need for a retail store is not a material planning consideration.
- 10.79 In response to the concerns raised with the impact on visual and residential amenity, the scale and design of the building are reserved for future approval and any signage for the retail store would require separate advertisement consent. Environmental Services have not raised any objections on amenity grounds subject to conditions, including restrictions on operating hours.
- 10.80 Concerns have been raised in relation to the proposal increasing anti-social behaviour. New developments are required to address safety so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. To this end a condition is recommended requiring details of security measures to be incorporated into the development.

10.81 Flood risk, ecology and air quality issues have been addressed separately within this report.

Air Quality

10.82 Environmental Services have recommended a number of conditions to address air quality issues associated with the development. These include:

- The provision of electric vehicle recharging points;
- The production of a Travel Plan (including mechanisms for discouraging high emission vehicle use and encouraging modal shift (i.e. public transport, cycling and walking) as well as the uptake of low emission fuels and technologies; and
- A full Air Quality Impact Assessment including calculating the monetary damages from the development. The monetary value of the damages should be reflected in money spent on low emission mitigation measures.

10.83 Concerns have been raised within representations regarding fine particulate matter associated with vehicle emissions. This would be addressed as part of the Air Quality Impact Assessment and damage costing. The developer will then be required to provide relevant mitigation that reflects the damage costs. If they are unable to satisfy the Council of this, officers would request a financial contribution to be spent on capital air quality projects within the locality of the development site.

10.84 Representations have made reference to idling vehicles and the impact on air quality. Currently no Air Quality Management Areas (AQMA) have been declared as a result of idling vehicles and officers would not anticipate this to be the primary emission issue associated with a retail development such as this.

10.85 Mirfield Town Council have asked whether a moss wall could be incorporated into the design of the building to mitigate the impact of vehicle emissions. A moss wall on the proposed retail store would form part of the details of the “appearance” of the building which is reserved for future approval. The applicant can be advised of the desire to include a moss wall on the building.

Planning obligations

10.86 Highway and sustainable travel contributions are required as set out at paragraphs 10.68-10.70 of this report.

Climate change

10.87 The proposal involves the reuse of previously developed land which represents an efficient use of resources, and helps to limit the proposed development’s impact on climate change. Conditions are recommended requiring a Travel Plan and electric vehicle charging points which would promote low carbon forms of transport which will help to mitigate the impact of the development on climate change.

Other Matters

10.88 Conditions are recommended to address land contamination issues.

11.0 CONCLUSION

- 11.1 The applicant's retail assessment has been updated and officers remain of the opinion that the development would not result in any significant harm to the vitality of Mirfield town centre.
- 11.2 The application has been reassessed from a highway safety perspective, specifically with regard to the local junction modelling, right turn movements into and out of the site and the suitability of the proposed pedestrian refuges. The conclusion of officers is that the application remains acceptable in highway terms.
- 11.3 The presence of a food store in this location would not be out of keeping with the character of the area and subject to conditions the amenity of nearby residential properties would be preserved.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development and Master Planning)

- 1. Details of the scale, layout, appearance and the landscaping of the site to be approved before any development commences.
- 2. Development in accordance with the approved plans
- 3. Application for approval of the reserved matters within three years of the date of the outline permission
- 4. Development to be begun within two years of the approval of the reserved matters (or in the case of approval on different dates the final approval of the last such matter).
- 5. The net sales area of the store hereby permitted shall not exceed 1,254sqm, and the floor space devoted to the sale of comparison goods within this net sales area shall not exceed 20% of the net sales area.
- 6. Detailed design for the proposed works to Huddersfield Road (including right turn lane and pedestrian refuges).
- 7. Detailed parking layout at reserved matters stage.
- 8. Details of scheme for provision of electric vehicle charging points.
- 9. Travel Plan.
- 10. Construction management plan.
- 11. Contaminated land conditions (Phase 2 report, remediation strategy, validation report).
- 12. Details of security measures to be incorporated into the development.
- 13. Air Quality Impact Assessment including calculating the monetary damages from the development.
- 14. Detailed scheme for ecological mitigation and enhancement.

15. Detailed drainage design.
16. Details of flow routing for surface water as part of the proposed layout at reserved matters.
17. Restriction on stand-off distances from any new building to the sewers within the site, in line with Yorkshire Water recommendation.
18. Restriction on opening hours to 07:00 to 22:00 Monday to Saturday and any six hours between 09:00 and 18:00 on Sundays.
19. Restriction on servicing/deliveries to 07:00 to 23:00 Monday to Saturday and 08:00 to 22:00 on Sundays.
20. Details of mechanical plant to be installed.
21. Details of external lighting to be installed.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92221>

Certificate of Ownership – Certificate B signed.