Proposed Retail Development Bankwood Way, Birstall

Addendum to Planning and Retail Statement

Lidl GB Ltd

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1.0 Background

1.1 This Addendum has been prepared by Lichfields on behalf of Lidl GB Ltd ("Lidl"). It accompanies a full planning application for the redevelopment of land off Bankwood Way, Birstall, for a new Lidl foodstore and Home Bargains store. The description of development is as follows:

"Erection of retail development, with associated parking, servicing areas and landscaping"

1.2 The application (reference: 2021/62/92528/E) was submitted in June 2021 and was accompanied by Planning and Retail Statement prepared by Lichfields. This considered all relevant planning policy matters and other material considerations. In terms of retail planning policy is considered the application proposals in the context of the sequential approach to site selection and addressed the potential impact of the proposed development upon existing centres. The methodology adopted in assessing the subject application proposals in terms of the sequential and impact tests were discussed and agreed with both Council Officers and the Council's retail advisors (Nexus Planning) prior to submission of this planning application.

1.3 Throughout the determination period, Lidl has continued to liaise with Council Officers and statutory consultees. In September 2021, Nexus Planning undertook an appraisal of the assessment work submitted with the application. In line with the findings of the Lichfields Planning and Retail Statement, this appraisal concluded that:

1 There are no sequentially preferable sites which are suitable and available to accommodate the proposed development, even after allowing appropriate flexibility;

2 The proposed development would not lead to an adverse impact in respect of any existing committed and planned public and private sector investment in centres; and

3 Any impacts upon existing centres in the catchment area would not be at a significantly adverse level.

1.4 The application was due to be considered at the Kirklees Strategic Planning Committee on 18 November 2021 and the original recommendation by Council Officers was to delegate approval of the application to the Head of Development Management.

1.5 However, on 16 November 2021 an objection was received to the application by Martin Robeson Planning Practice (MRPP) on behalf of Tesco Stores Limited (Tesco), who operate a store in nearby Batley. Their letter set out a number of matters which, in their view, required further consideration before the application should be determined. These included the following:

1 The unavailability of important background documents (including the appraisal by Nexus Planning);

2 Lack of an up-to-date health check of town centres;

3 The scope for disaggregating the proposed elements of the scheme into their constituent parts, as part of the assessment of sequentially preferable sites;

4 The need to extend the catchment area for the purposes of sequential testing; and

5 The lack of robust assessment of the Local Plan Priority Employment Areas policy.

1.6 Consequently, an updated recommendation was made, to defer the application to enable Officers to undertake further assessment of the retail impacts of the proposed development. Members supported this recommendation and deferred the application at the Committee on 18 November 2021.

1.7 In order to assist Officers in their determination of the application, this Addendum addresses the above points 2-5 raised by MRPP/Tesco. In doing so, and whilst not a matter raised by the Tesco objection, it also includes an update to the retail impact assessment submitted with the original Planning and Retail Statement, in order to take into account the latest company average turnover data for Lidl and other national multiple retailers, published by Global Data in December 2021.

2.0 Updated Retail Impact

2.1 Since the application was submitted to the Council in June 2021, new information on the company average turnover of national food retailers (including Lidl) was been provided by Global Data (in December 2021). As part of this response to the issues raised by Tesco in their late objection to the application proposals, the convenience and comparison goods retail impact assessments have therefore been updated to use the new information. No changes have been made to any of the wider assumptions on trade diversion from those utilised previously. No further additional commitments have been identified that require assessing on a cumulative basis than those previously identified. These updated assessments are included at **Appendices 1 and 2** to this report.

2.2 Table 6 (a) in **Appendices 1 and 2** illustrate that the forecast convenience and comparison goods turnover of committed developments (around £12.9m and £8.7m respectively) remain broadly the same as the previously submitted assessment. However, as set out in Table 8 (a), the turnover of the proposed development at Bankwood Way is now lower for both convenience and comparison goods (around £13.8m and £6.0m respectively, as opposed to £16.7m/£6.5m previously). This reflects the use of the new (and lower) company average turnover to floorspace ratios for Lidl provided by Global Data in their December 2021 release.

2.3 As a result of the above change, the impacts forecast as a result of the proposed development (both individually and cumulatively, with committed developments) are also lower than previously forecast. In relation to convenience goods in particular, as shown in Table 11 at **Appendix 1**:

- the forecast impacts upon both Birstall District Centre and the M&S at Birstall Shopping Park have has reduced to around 3.0% (from 3.7% and 3.3% respectively previously);
- those forecast upon the Aldi and Tesco store in Batley District Centre, as well as other stores in that centre, have reduced to 5.8%, 3.7% and 3.2% respectively (or 7.7%, 4.7% and 3.5% when considered cumulatively with committed schemes). This is compared to 7.1%, 4.4% and 3.9% (or 9.0%, 5.5% and 4.3% cumulatively) previously;
- the impacts upon the existing Lidl stores in Heckmondwike and Dewsbury have reduced to 8.0% and 3.7% (11.2% and 5.5% cumulatively), as opposed to 9.9% and 4.6% (13.1% and 6.4% cumulatively) previously;
- all other impacts forecast as a result of the proposed Lidl would be below 2%.

2.4 In relation to the updated comparison goods assessment:

- the forecast impacts upon Batley Town Centre and Birstall District Centre have reduced slightly to 1.0% and 0.6% respectively (as opposed to 1.,1% and 0.7% previously); and
- all other forecast impacts, including those upon Cleckheaton, Heckmondwike, Dewsbury and Morley Town Centres, as well as Mirfield District Centre, are below 1%.

2.5 As is clear from the above, both the convenience and comparison goods impacts forecast as a result of the proposed development are lower than previously forecast. Furthermore, the trade diversion arising from the development would be spread across a range of stores and centres in the wider area, many of which would not be in direct competition with the proposed new Lidl and Home Bargains.

2.6 The forecast impacts of the proposed comparison goods floorspace are negligible and, whilst the convenience goods impacts are not of such a level that they would threaten the viability of any existing store or centre. The forecast impact upon Birstall District Centre (3%), in particular,

reflects the fact that facilities there are focused upon meeting day to day, top-up food shopping needs, as opposed to main/weekly trips, which would be catered for by the proposed new Lidl.

2.7 In relation to the existing Tesco and Aldi stores in Batley Town Centre, the former is estimated to be achieving a level of turnover which is broadly in line with the company average, where the latter is performing significantly above the company average (by around two thirds). Neither store is considered vulnerable to the threat of new competition in the form of a new Lidl and Home Bargains, particularly given the relatively modest levels of trade diversion forecast (6% and 4%).

2.8 In this context, given that the trade diversions are even lower than forecast previously - and taking into account the conclusions of the June 2021 Planning and Retail Statement and indeed those reached by Nexus Planning in their appraisal of the proposals - it is clear that the proposed development at Bankwood Way would not have any significant adverse impact upon the vitality and viability of existing centres, particularly in the context of the updated assessment of the health of key defined centres as considered in Section 3 below.

3.0 Town Centre Health Checks

3.1 The objection by MRPP on behalf of Tesco Stores states that a robust health check of existing town centres has not been undertaken, on the basis that the assessments included in the June 2021 Planning and Retail Statement were based on surveys undertaken by the Council prior to the onset of the Covid-19 pandemic.

3.2 As explained in the above statement, it was not possible to visit existing centres to undertake survey of uses there when preparing the original statement, due to restrictions imposed as a result Covid-19 pandemic. Whilst this was also raised by the Council's retail planning advisors (Nexus), it was agreed with them that updated heath checks should not be necessary, given both the very low levels of impact forecast upon existing centres as a result of the proposals and the fact that the site already has permission for a significant quantum of retail floorspace.

3.3 Notwithstanding this, however, in order to assist in the determination of the application, Lichfields has undertaken new visits to Batley Town Centre and Birstall District Centre and in order to inform updated reviews of the vitality and viability of these centres. The updated health checks are included in full at **Appendix 3** and briefly summarised below. As these are the only larger centres included within the PCA , as agreed with the Council/Nexus it was not considered necessary to undertake health checks of other lower order centres. Both Gomersal and Drighlington are (a) located beyond the PCA and (b) defined as local centres in the adopted development plans for Kirklees and Leeds respectively and are not anticipated to experience any noticeable levels of trade diversion. Both centres perform a localised role and function, meeting the day to day needs of their respective settlements. Whilst Morley, is identified as a Town Centre in the Leeds Core Strategy Settlement Hierarchy, it is also outside of the PCA and only very limited levels of trade is forecast from this centre.

Batley Town Centre

3.4 The updated survey confirmed that the number of convenience goods retail uses in Batley Town Centre has remained constant since the Council's previous surveys (16 units or 9.9%). Since the previous survey, Fulton Foods has closed and reopened as Poundland, and Cooplands Bakery has opened in a formerly vacant unit. There has been a slight increase in comparison goods retail units from 30 to 31 units.

3.5 This has contributed towards a noticeable reduction in the unit vacancy rate in the centre, down from 22 units (16%) to 17 units (10.6% of the total), which is now well below the national average (circa 15%). Although there remains a cluster of empty properties on Commercial Street, a number of vacant units are located within the Batley Plaza, which has recently been undergoing refurbishment. This refurbishment is in itself an indication of investment and confidence in the centre. Some of the units in the centre have already re-opened as takeaways and restaurants, and it is understood from local press reports that the remaining units have all been let, with the shopping centre due to re-open in January 2022. It is therefore likely that the vacancy rate in the centre will reduce further in the early part of 2021.

3.6 Overall, the update health check confirms that the centre is performing well at the current time, notwithstanding the recent Covid-19 pandemic and its health has improved since the date of the previous survey. This is reflected in the centre's vacancy rate, which has noticeably decreased since the Council's previous survey – which is likely to reduce further in the new year, following the refurbishment of the Batley Plaza – and the new retailers which have taken space elsewhere in the centre. On this basis, given that both the existing Tesco and Aldi stores in the centre appear to be trading well, and that the centre benefits from good levels of footfall generally, is

not considered in any way vulnerable to the level of trade diversion that is forecast to arise from the new retail floorspace on the application site at Bankwood Way.

3.7 A more detailed assessment of the health of this centre is contained at **Appendix 3**.

Birstall District Centre

3.8 The new survey undertaken in December 2021 has confirmed that, whilst the number of convenience retail uses in Birstall (5 no. uses, representing 7.5% of the total) has not changed, the number of comparison uses has increased slightly, from 12 to 13 units (or from 18% to 19.4% of the total). Furthermore, there is now just one vacant unit within the centre (1.5% of the total), which is a reduction from three vacant units in the Council's 2019 survey (5%), and reflects the fact that two of these three units have since been occupied by new health and beauty uses.

3.9 The updated assessment confirms that centre continues to perform well in its role in meeting the day to day needs of local residents in the immediate surrounding areas. Whilst the centre has limited significant beyond this immediate catchment, the low vacancy rate and small-scale (and primarily independent) nature of these uses within a well maintained setting mean that the centre should be able to comfortably withstand the impacts forecast as a result of the proposed development.

3.10 A more detailed assessment of the health of this centre is contained at **Appendix 3**.

Summary

3.11 Overall, the updated surveys of both Batley Town Centre and Birstall District Centre do not change the previously reached conclusions that they remain healthy centres, which are capable of withstanding the limited levels of forecast impact arising from the proposals at Bankwood Way. Combined with the conclusions reached at Section 2 above, neither would experience significant adverse impact to the ongoing health of their centres.

4.0 Sequential Site Assessments

4.1 The objection on behalf of Tesco Stores Limited set out a number of matters which, in their view, required further consideration before the application should be determined. These included the scope for disaggregating the proposed elements of the scheme into their constituent parts, as part of the sequential site assessment, as well as the potential need to extend the catchment area for the purposes of sequential testing to take account of additional centres.

4.2 Prior to addressing these matters below, it is important to consider that the site already benefits from an extant planning permission for retail development[1], whereby that permission allows development to come forward with a number of retail units of a size that are broadly comparable to both the Lidl and Home Bargain stores.

Disaggregation

4.3 In considering the issue of disaggregation, regard must be had to the Tesco Stores Ltd. vs. Dundee City Council Supreme Court Judgement on 21 March 2012. This judgment confirmed that, in considering potential alternative sites:

- the suitability of such sites should be assessed in terms of their physical capability to accommodate the form of development proposed;
- flexibility and realism must also be demonstrated by both developers and local authorities, however; and
- these criteria are designed for use in the real world in which developers wish to operate, not in some artificial world in which they have no interest in doing so.

4.4 In this judgement, Lord Hope concluded that the whole exercise (i.e. the sequential approach) is directed to what the developer is proposing. The judgement confirms that there is no requirement for the applicants/developer to seek to fundamentally alter the nature of the proposed development when undertaking sequential site analysis.

4.5 More recently, the October 2018 Cribbs Causeway decision confirmed that the findings of other appeal decisions in Hull and at Tollgate Village, that adopted disaggregation, were not specifically endorsed by the Secretary of State. The Inspector at Cribbs Causeway confirmed that:

"….as a general principle, an approach that involves disaggregation does not seem to fit well with the Aldergate Properties or Warners Retail judgments." [Lichfields emphasis]

4.6 It is also relevant that, as explained in our original statement, the new (July 2021) NPPF does not mention disaggregation and only reiterates the need for flexibility in terms of scale and format.

4.7 Notwithstanding this, there are specific commercial and locational reasons that have led to the applicant bringing forward the development proposals in their current form. Due to abnormal costs associated with remediating the ground conditions, the development requires the values generated by both proposed stores for it to become a viable proposition. Furthermore, through co-locating, the two uses (Lidl and Home Bargains) would generate footfall for each other and

[1] Outline permission was granted on the 9th January 2020 at the site for four retail units with associated access, parking and landscaping (planning ref: 2018/92563). Condition 5 attached to the outline permission restricts the gross floorspace of the development to a maximum of 7,896 sqm. Condition 6 states that this gross floorspace should be provided in four separate units (with one unit of up to 2,322 sqm, and three separate units of up to 1,858 sqm each). Condition 7 adds that the sale of convenience goods shall not exceed 30% of the gross floorspace (i.e. 2,368 sqm).

help to ensure that this location is a viable ongoing trading proposition. Indeed, Home Bargains seek, where possible, to locate their stores as part of wider retail developments in order to benefit from linked trips from those other stores. That would certainly be the case in this instance.

4.8 It is also essential that the development provides sufficient directly accessible surface parking and satisfactory servicing arrangements, along with pedestrian/cycle links and other hard and soft landscaping, in order to meet wider planning objectives. Parking and servicing requirements are particularly important to both Lidl and Home Bargains, and will help to ensure it is commercially attractive.

4.9 Notwithstanding the above, Lichfields has also revisited the conclusions of the assessment of sequentially preferable sites in Birstall and Batley, summarised in the original Planning and Retail Statement, in the context of the MRPP/Tesco objection, to consider whether there are sites available that could accommodate either of the proposed units on a disaggregated basis. This has included revisiting those centres to consider the availability of new sites that may have become available since the earlier assessment and to factor in the potential for disaggregation. To accommodate either the proposed Lidl store, or Home Bargains store in isolation together with an appropriate level of car parking and servicing arrangements, it is considered that a minimum site size of 0.6ha would be required.

4.10 In relation to **Birstall District Centre**, the original research undertaken in February/March 2021 did not identify any potential alternative sites of any significance either within or on the edge of the centre. Furthermore, no new potential alternative sites were identified within, or on the edge of this centre as part of our more recent surveys in December 2021. This included the disaggregated site size requirements as referenced above.

4.11 In relation to **Batley Town Centre**, the original research identified three potential alternative sites. Having re-visited these sites in December 2021, the position can be summarised as follows:

- **Former Batley Working Men's Club, Wellington Street** – whilst this site remains undeveloped, given its size (0.2ha), it would clearly not be suitable for to accommodate either of the proposed Lidl or Home Bargains stores;
- **Blakeridge Mill, Mayman Lane** – this site has now been built out and is occupied by a retail development incorporating a B&M store and a Mullaco supermarket. This site is therefore not available for either the development as a whole or the two proposed retail uses if considered separately (assuming it is possible to disaggregate, which is not required by planning policy);
- **Victoria Works, 444-446 Bradford Road, Batley** – at the time of the new centre surveys, this site was being redeveloped/converted to provide a granite interiors showroom, and it is therefore unavailable for the proposed retail uses.

4.12 In addition, the updated surveys confirmed that the former Batley Police Station, at Market Square, is currently vacant. This comprises a stone-built property, providing around 640 sqm floorspace over two floors, with some on-street parking to the front, and is situated within the Batley Conservation Area.

4.13 Given the scale of floorspace provided, the building would not be able to accommodate new Lidl and/or Home Bargains stores of approaching the size proposed at Bankwood Way, even if the building was suitable for conversion. It also does not benefit from dedicated off-street surface car parking, nor is there space on the site for suitable servicing arrangements. It is clear therefore not suitable for the proposed development.

4.14 In relation to **Morley Town Centre**, the following sites were considered as part of the original assessment, and have been reviewed again here:

- **Land at Rod Mills Lane –** this site is allocated for new housing development and there are two Grade II listed buildings on the site which, along with a large number of mature trees, the existing vehicular access, and limited frontage to Fountain Street, would significantly constrain any new development which comes forward and its attractiveness to retail operators; and
- **Scatcherd Works, Scatcherd Lane –** this site has planning permission for new residential development (ref. 19/07611/FU) and comprises just 0.5 ha, which falls just below the minimum site size threshold identified above and is therefore not large enough to accommodate either of the proposed retail uses, along with associated car parking and servicing arrangements. On this basis, and given that the access is unlikely to be suitable for service vehicles, it is not suitable for either of the new retail uses proposed. Whilst it appears not to be available on account of the recent permission for residential development, as an out-of-centre location, the site is also not sequentially preferable to the application site.

4.15 As with the original assessment, consideration has also been given to the potential of currently vacant units within each of the above centres to accommodate the proposed development, based on the site visits undertaken in December 2021. As set out above, however, a number of the vacant units in Batley are currently being refurbished and are likely to be re-occupied in the new year. Furthermore, those other units which are being marketed in these centres are all small scale (i.e. circa 100 sqm or below), with limited scope for amalgamation, and not of sufficient size to accommodate the new retail uses proposed at Bankwood Way.

4.16 Taking into account the above, it is clear from both our original analysis and more recent site visits that there are no sites which are both suitable and available to accommodate the proposed development, irrespective of whether it is possible to disaggregate the two retail uses.

The Need to Extend the Catchment area for the Purposes of Sequential Testing

4.17 It is argued in the Tesco objection that flexibility over the extent of the catchment that would serve the proposed development must reasonably be a matter that is caught by the requirement set out in the NPPF to demonstrated flexibility on issues such as format and scale when addressing the sequential test. It is also argued that a number of centres, including Gomersal and Drighlington, sit within a short drive from the application site, and are consistent with the area of sequential search frequently adopted by the discount foodstore operators elsewhere.

4.18 Firstly, it should be noted that the extent of the area of search for the assessment of sequentially preferable alternative opportunities to accommodate the proposed development was agreed in advance of submission of the planning application with Kirklees Council and their retail planning advisors (Nexus) and is based on the geography of the area, the location of existing facilities and the areas where the proposed stores would generate the majority of their trade. Given the extent of the Primary Catchment Area (PCA) (which was also agreed with the Council/Nexus) this included sites within/on the edge of both Batley Town Centre and Birstall District Centre. Although located out with both the PCA and Kirklees Borough, given its proximity to the site, the assessment also considered sites in relation to Morley Town Centre, in Leeds.

4.19 Whilst there are also a small number of local centres within the PCA, as explained in the earlier Planning and Retail Statement, they perform a localised role and function. As such, new retail development there would not be able to serve the same catchment as the proposed Lidl and

Home Bargains stores on the application site. As both Gomersal and Drighlington are (a) located beyond the PCA and (b) defined as local centres in the adopted development plans for Kirklees and Leeds respectively it would clearly not be appropriate to include them as part of the sequential site assessment for these proposals.

4.20 It would also appear that the Tesco objection has misconstrued the NPPF and Planning Practice Guidance (PPG) on this issue. When demonstrating flexibility over issues such as format and scale, it does not suggest that this amounts to extending the area of search for an assessment of sequentially preferable sites. Reference to flexibility in this context clearly means in relation to the scale and nature of the development itself and there is nothing with within the NPPF or PPG which would substantiate this assertion by Tesco.

4.21 In any event, having visited both Gomersal and Drighlington as part of the preparation of this note, it has been confirmed that the nature and scale of existing uses in these centres – including convenience and comparison retail facilities – mean that they perform only a localised role and function, meeting the day to day needs of local residents. It would clearly not be appropriate to seek to locate a development of a similar scale and nature to that proposed at Bankwood Way within or on the edge of these centres – even after demonstrating flexibility over the scale and format of the development. This is reflected in the methodology originally agreed with the Council/Nexus.

4.22 Notwithstanding this, however, in order to assist the Council in a robust and comprehensive consideration of the subject application, a review of potential alternative site has been undertaken in both Gomersal and Drighlington. Those sites which were identified as part of the recent site visits are summarised below.

Gomersal

Land at 7 Church Lane

4.23 This site comprises of a residential property and the garden of another adjacent house, both immediately to the north of Church Lane, as well as open space to the rear of these properties. The site comprises around 0.7 ha, is allocated for housing within the Kirklees Local Plan. At around 50m walking distance from the local centre boundary, it is edge of centre in retail policy terms.

4.24 The residential property on the front of the site appears to still be occupied and, along with the adjacent garden, means that it is unlikely to be possible at the current time to achieve a suitable access to the site. In same context, the site currently lacks the visual prominence required by retailers of the type proposed and, along with the irregular shape of the site, there are number of mature trees on the site which would constrain the form of development which comes forward.

4.25 On this basis, the site is considered neither suitable nor available for either of the proposed retail uses. As Gomersal is located outside of the Primary Catchment Area for the proposed development, and also serves a localised role and function, meeting the day to day needs of local residents, any new retail development here would also not serve the same catchment area.

Drighlington

Land at King Street/Spring Gardens

4.26 This site comprises 10.8 ha and lies to the east of King Street, accessed from Winterfell Road. The site is located approximately 50m walking distance from the local centre boundary and therefore would be considered edge of centre, albeit it is set back from the main commercial area along King Street and lacks the visual prominence that would make it an attractive site for

retail development. The site is allocated for housing in the Leeds Core Strategy (ref. HG2-143) and is currently being developed by Miller Homes for such use, with a number of properties have been completed. The site is therefore not available to accommodate the proposals. In addition, as mentioned above, Drighlington is outside of the PCA for the proposed development, with a localised catchment area of its own. It is clearly therefore neither suitable nor available for the proposed development.

Land off Whitehall Road

4.27 This site comprises around 1.6 ha and is located to the south-east (and to the rear) of Whitehall Road, behind existing residential properties. The site is approximately 600m walking distance from the local centre boundary and therefore is considered to be out of centre, indeed the site is set back off the A58 Whitehall Road within a primarily residential area. The site comprises of vacant (previously developed) land and existing industrial units, and is allocated for housing in the Leeds Core Strategy (ref. HG2-142).

4.28 It is constrained by housing and industrial uses on all sides, being narrow and irregularly shaped. For the same reasons, it is likely to be difficult to achieve a suitable access for customer and service vehicles, and the site lacks visual prominence necessary, which is essential in commercial terms for the proposed retail uses. On this basis, and given that the site lies beyond the PCA, and Drighlington meets only local, day to day needs and it, the site is not suitable for the retail uses proposed, and is considered more likely to come forward for residential development, in line with its allocation. Being an out-of-centre location, it is also not sequentially preferable to the Bankwood Way site in any event.

Summary

4.29 As explained above, Gomersal and Drighlington Local Centres are located out with the PCA, and both centres perform a localised role and function, meeting the day to day needs of their respective settlements. On this basis, new retail development in/on the edge of these centres would not be able to serve the same catchment area as that of the proposed new Lidl and Home Bargains stores at Bankwood Way. Notwithstanding this, however, it has also been demonstrated that those sites which have been identified in relation to these centres are not suitable and available for the proposed development.

5.0 Assessment of the Kirklees Local Plan Priority Employment Areas Policy LP8

5.1 The letter on behalf of Tesco Stores sets out whilst they agree with Officers that in principle retail could be considered an "employment generating use", the Officer's Report does not reach a conclusion as to whether the proposal satisfies the test against the first limb of Policy LP8. This provides that *"proposals for development or re-development for employment generating uses in Priority Employment Areas will be supported where there is no conflict with the established employment uses*".

5.2 A comprehensive assessment of the proposals against all aspects of this policy was set out in the earlier Planning and Retail Statemen.t which accompanied the application and also addressed the Officer's report to committee.

5.3 As set out in the earlier Statement, the Local Plan Policies Map shows that the site is within a designated Priority Employment Area (PEA) (ref: PEA46). Policy LP8 (Safeguarding Employment Land and Premises) states that proposals for development for employment generating uses in such areas will be supported where there is no conflict with the established employment uses in the area. The Local Plan Glossary states that enterprises which provide jobs, for example, retail, hotel, assembly and leisure are to be considered as employment generating uses. Therefore, it is clear that the Council consider retail to be an employment generating use. Indeed, the proposed development will provide a source of employment for the surrounding areas, creating 110 additional full time and part time jobs (75 FTE jobs) across both stores with a range of roles available.

5.4 The site has lain vacant for a considerable period of time and no other form of employment use has come forward for the site beyond retail development. Its development for retail development and specifically the proposed Lidl and Home Bargains store would in no way result in conflict with other established employment uses in the area, or compromise the ability for other sites in this area to come forward. Indeed, many of the immediate surrounding uses are other retail and leisure developments, that the proposed Lidl and Home Bargains store would complement.

5.5 The proposal is therefore fully consistent with all aspects of Policy LP8.

5.6 Furthermore, the extant outline permission established that retail development on this site has therefore already established the principle of retail development as an employment generating use in accordance with Policy LP8. The committee report for that earlier (extant) permission states:

"As the proposed retail development is an employment generating use as defined in the Local Plan then it is appropriate in a priority employment area and is in accordance with policy LP8."

5.7 Therefore, the acceptability of retail development against the requirements of Policy LP8 is established. The development of this site for retail uses would therefore not prejudice the wider Priority Employment Area or hinder the Council's ability to meet employment requirements.

6.0 Conclusions

6.1 This Addendum has been prepared to accompany a current application (reference: 2021/62/92528/E) for the redevelopment of land off Bankwood Way, Birstall, for new Lidl and Home Bargains stores. It addresses the various points raised by MRPP/Tesco, in their objection to the scheme, in order to assist Officers in their determination of the application. This Addendum also includes an update to the convenience and comparison goods retail impact assessments submitted with the original Planning and Retail Statement, in order to take into account of the latest turnover data for Lidl and other national multiple retailers, published by Global Data in December 2021.

6.2 The updated assessments confirm that, whilst the forecast convenience and comparison goods turnover of committed developments remains broadly the same as the previously submitted assessment, that of the proposed development is now lower for both convenience and comparison goods. This reflects the use of the new (and lower) company average turnover to floorspace ratios for Lidl provided by Global Data.

6.3 As a result of the above, the impacts forecast as a result of the proposed development (both individually and cumulatively, with committed developments) are also lower than previously forecast. On this basis, and taking into account the conclusions of the June 2021 Planning and Retail Statement that have already been deemed to be acceptable by Nexus Planning in their role advising the Council on retail policy matters, it is clear that the proposed development at Bankwood Way would not have any significant adverse impact upon the vitality and viability of existing centres.

6.4 As part of this Addendum, Lichfields undertook new surveys of Batley Town Centre and Birstall District Centre in December 2021, in order to inform updated reviews of the vitality and viability of these centres. These surveys indicated that the unit vacancy rates have gone down in both centres, from 16% and 5% to 11% and 2% respectively and both well below the national average. That in relation to Batley is also likely to fall further in the early part of 2022, as the remaining vacant units in the Batley Plaza Shopping Centre – currently being refurbished – are re-occupied.

6.5 The updated health checks confirm that both centres are performing well at the current time, notwithstanding the challenges presented by the recent Covid-19 pandemic. Given that both the existing Tesco and Aldi stores in Batley Town Centre appear to be trading well, and that the centre benefits from good levels of footfall generally, is not considered in any way vulnerable to the potential threat of new retail floorspace on the application site at Bankwood Way. Similarly, Birstall District continues to perform well in its role in meeting the day to day needs of local residents in the immediate surrounding areas, and should be able to comfortably withstand the impacts forecast as a result of the proposed development.

6.6 There is no requirement for the applicants/developer to seek to fundamentally alter the nature of the proposed development when undertaking assessments of sequentially preferable sites. Notwithstanding this, in order to assist the Council in the determination of the subject application, Lichfields have also reviewed and updated the conclusions of the assessment of sequentially preferable sites in Birstall, Batley and Morley, summarised in the original Planning and Retail Statement, in the context of the MRPP/Tesco objection. It is clear from both the original analysis and more recent site visits that there are no sequentially preferable sites which are both suitable and available to accommodate the proposed development, irrespective of whether it is possible to disaggregate the two retail uses.

6.7 The requirement to demonstrate flexibility in the application of the sequential approach, as set out in the NPPF, applies to the format and scale of the proposed development, and does not extend to the area of search, as suggested in the MRPP/Tesco objection. Furthermore, having visited both Gomersal and Drighlington Local Centres, both centres perform a localised role and function, meeting the day to day needs of their respective settlements. On this basis, and given both are located out with the PCA, new retail development in/on the edge of these centres would not be able to serve the same catchment area as that of the proposed new Lidl and Home Bargains stores at Bankwood Way. Notwithstanding this - and the fact it was agreed with the Council/Nexus that it would not be necessary to cover these centres – these visits have also confirmed that there are not suitable and available sites within/on the edge of Gomersal and Drighlington Local Centres.

6.8 In respect of MRPP/Tesco's comments that the Officer's Report does not reach a conclusion as to whether the proposal satisfies the first limb of Policy LP8, there comments ignore the fact that the principle of retail development on this site has already been established by the extant planning permission. The committee report for this application (reflecting the Local Plan Glossary) also confirms that retail is an employment generating use as defined in the Local Plan and is therefore appropriate in a Priority Employment Area, in accordance with Policy LP8. Therefore, it is clear that the Council consider retail to be an employment generating use.

6.9 The objection also ignores the fact that the site is part of an established retail/commercial destination and the proposed development will bring a vacant and run-down site back into active use. Therefore, development of this site for retail uses would therefore not prejudice the wider Priority Employment Area or hinder the Council's ability to meet employment requirements.

6.10 Overall, and taking into account the above, the concerns raised on behalf of Tesco have all been fully addressed, and the conclusions of the original Planning and Retail Statement – in relation to relevant national and local planning policy – remain.

6.11 In overall conclusion, given that the application proposals satisfy the sequential and impact tests, and is in full accordance with Policy LP8 of the Kirklees Local Plan, it is considered that the application should be determined without delay and that in line with the previous conclusion and recommendation reached in the original report to planning committee in November 2021, the application should be approved.

Appendix 1 Updated Retail Impact Assessment Tables – Convenience Goods

Appendix 2 Updated Retail Impact Assessment Tables – Comparison Goods

Appendix 3 Updated Health Checks

Batley Town Centre

3.1 Batley Town Centre is located around 3 km to the south of the application site and serves residents of the town itself and the surrounding areas in the north-eastern part of the Borough. The centre is focused upon Commercial Street, Branch Road and Cambridge Street, although the newly refurbished indoor Batley Plaza (to the north of Commercial Street) also contains a number of retailers and cafes/takeaways and is due to open in January 2022.

3.2 The table below shows the mix of uses in the centre, based on a survey undertaken by Lichfields in December 2021.

Table 6.1 Mix of Uses in Batley Town Centre

Use Type	Number of Uses	Proportion of Uses
Convenience	16	9.9%
Comparison	31	19.3%
Financial & Business Services	7	4.3%
Leisure Services	40	24.8%
Office	6	3.7%
Other	16	9.9%
Retail Service	28	17.4%
Vacant Outlets	17	10.6%
Total	**161**	**100.0%**

Source: Lichfields Survey December 2021

6.12 As set out above, based on the latest survey, there are 16 convenience retail uses in Batley Town Centre (representing 9.9% of the total number of ground floor uses). These include a Tesco Extra superstore of around 7,100 sqm net floorspace, as well as an Aldi of c. 800 sqm net – which trades at a level significantly the company average based on the Council's most recent retail study - and Asda and Iceland supermarkets in the Batley Shopping Centre (c. 1,000 sqm net and 500 sqm net respectively). There are also a number of other smaller, specialist and generally independent, stores in the centre, including Cooplands, who have opened since the Council's previous survey was undertaken.

6.13 Around 19.3% of the uses in the centre are comparison retail operators. Whilst the vast majority of these are independent traders, including florists, pharmacies, jewellers and clothes shops, there are also units occupied by 02, Savers, Poundland and Card Factory. The majority of uses in the centre are therefore services – which include a selection of banks, hair and beauty salons, cafes/restaurants, bookmakers and hot food takeaways. There is also a market held every Friday in Batley in Market Place, as well as a library, health centre, nursery and two dentists.

6.14 Based on the 2021 survey, 17 units in the centre were vacant, representing 10.6% of the total, which is below the national average (circa 15%). Although there was also a cluster of empty properties on Commercial Street, a significant number of these units were located on Alfreds Way (within the Batley Plaza). The indoor shopping centre has been undergoing refurbishment and it is understood from press reports that itis due to re-open in January 2022 following a re-design (https://www.dewsburyreporter.co.uk/news/people/owner-of-new-batley-plaza-shopping-arcade-reveals-planned-opening-date-3435042 and https://www.thetelegraphandargus.co.uk/news/19655216.take-look-latest-renovations-inside-batley-plaza/). This is a clear indicator of investor confidence in the centre and it is therefore

likely that the vacancy rate in that part of the centre will be lower in the coming months. Indeed, some of the units which were vacant in the 2019 survey have since been occupied and are already open, these include a number of takeaways and restaurants along Alfreds Way.

6.15 In addition to the vacant retail units, at the time of the Lichfields survey (December 2021), the former Batley Police Station situated on Market Place was also empty. However, the majority of remaining vacant units in the wider centre are small in scale, at below 200 sqm gross floorspace.

6.16 Whilst the design of many of the properties along Commercial Street is more functional, the refurbished Batley Plaza is modern and attractive, furthermore parts of the town centre, including around Market Place/Cambridge Street, are located within a Conservation Area. Batley Bus Station is located to the north-west of the shopping centre and there are also bus stops located along Commercial Street, which help to ensure that the centre is conveniently accessible by public transport. A large car park is provided adjacent to Tesco, with parking also being available by the Aldi foodstore and to the east of the bus station.

6.17 Overall, the centre contains a range of uses which meet the day to day needs of residents of Batley and the immediate surrounding area, including Tesco and Aldi foodstores, both of which are trading well. Whilst the comparison goods retail function of the centre is focused upon smaller and/or independent/specialist traders, with only a limited number of national multiples, there are also a range of service and other commercial uses which help to reinforce its role in the community. The unit vacancy rate was below the national average at the time of the Lichfields survey, having fallen over the last two years, and this is likely to reduce even further in the coming months following the refurbishment of the Batley Plaza.

6.18 Overall, Batley remain a healthy centre with a reducing level of vacant units and is benefiting from recent investment in the Batley Plaza indoor shopping centre.

Birstall District Centre

6.19 Birstall District Centre is located just over 1.5 km to the south-west of the application site at Bankwood Way. Based on the Council's most recent survey, undertaken in September 2020, it contains 67 different commercial and community uses, the majority of which are located along Low Lane/Nelson Street – which runs from east to west through the centre – and Market Street. The centre primarily meets the day to day shopping and service needs of residents of Birstall itself.

6.20 The table below shows the mix of uses in the centre, based on a survey undertaken by Lichfields in December 2021.

Table 6.2 Mix of Uses in Birstall District Centre

Use Type	Number of Uses	Proportion of Uses
Convenience	5	7.5%
Comparison	13	19.4%
Financial & Business Services	5	7.5%
Leisure Services	18	26.9 %
Office	2	3.0%
Other	5	7.5%
Retail Service	18	26.9%
Vacant Outlets	1	1.5%
Total	**67**	**100.0%**

Source: Lichfields Survey December 2021

6.21 As illustrated in the table above, there are just five convenience retail uses in Birstall District Centre (7.5% of the total). These include Tesco Express and Co-op convenience stores of around 250-300 sqm net respectively, as well as a butcher, bakery and a further independent convenience store, all of which are focused upon specialist and top-up shopping needs.

6.22 There are thirteen comparison retail uses (19.4% of the total), all of which are small, independent traders, including a florist, pharmacy and a card/gift shop. The most significant proportion of uses in the centre are leisure and retail services (26.9% of the total uses each), which include various hair/beauty salons, cafes/restaurants, takeaways, dry cleaners/laundrettes and a post office. Other uses include a physiotherapist, dental practice and library.

6.23 Based on Lichfields survey in December 2021, there is just one vacant unit within the centre, which provides less than 100 sqm gross floorspace, representing a vacancy rate of less than 2% (significantly less than the national average of c.15%). The vacancy rate has fallen over the last two years from 4.6% in the Council's latest survey, as a couple of units have since been occupied by comparison/retail services. , Despite the ongoing Covid-19 pandemic, this updated survey nevertheless indicates that the centre is performing well in its role in meeting the day to day needs of local residents.

6.24 All of the defined centre is located within a conservation area and various stone-built properties help to provide an attractive setting for Low Lane/Market Place. There are bus stops located at various points throughout the centre, which is also conveniently accessible on foot from the surrounding residential areas. Although the centre has limited significance beyond its immediate surrounding catchment in Birstall, and the vast majority of existing facilities in the centre are all small in scale, it is performing well in its role of meeting the day to day needs of local residents.

6.1 Overall, Birstall is a healthy District Centre, serving mainly local needs. In particular, it benefits from a very low levels of vacancy and an attractive setting.

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