

Sarah Smith
Kirklees Council

By email only

14 February 2022

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Dear Sarah

Planning Application Reference 2021/62/92528/E
Development of Foodstore and Retail Unit, with Associated Car Parking, Servicing and Access at Bankwood Way, Birstall

Introduction

We write further to our Appraisal of Retail Policy Issues ('the Appraisal'), dated September 2021, in respect of the above application.

The principal purpose of this note is to respond to matters raised in correspondence from MRPP dated 16th November 2021, submitted on behalf of Tesco Stores Limited.

We also provide commentary in respect of Lichfields' Addendum to Planning and Retail Statement, dated December 2021. Lichfields' Addendum specifically seeks to address the matters raised by MRPP in their November 2021 objection.

In this regard, MRPP's response relates to four principal policy matters:

1. The lack of an up-to-date healthcheck of relevant defined centres;
2. The consideration of disaggregation in the application of the sequential test;
3. The adopted catchment area for the purposes of the sequential test; and
4. The lack of a robust assessment of the Local Plan Priority Employment Area Policy.

This letter concentrates on items 1 to 3 above, and we understand the remaining planning policy matter will be dealt with by the local authority as part of its wider considerations in determining the application.

At the outset however, it is important to note that we are also instructed to appraise the updated submissions made by ID Planning in respect of a proposed discount foodstore at the former Cleckheaton Mills site located on Bradford Road in Cleckheaton (reference 2020/62/91821/E). ID Planning's submissions include an updated retail impact assessment, based on a new household survey which was commissioned

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by the applicant undertaken between September and October 2021. The Study Area used for the purposes of the household survey commissioned by ID Planning also includes the area covered by the Primary Catchment Area adopted in respect of the planning application at Bankwood Way. As such, it is of direct relevance to this application in providing an up-to-date position in respect of the existing turnover of retail destinations in proximity to the application site at Bankwood Way.

Given the relevance of the Cleckheaton Mills application proposal and the associated retail evidence, we recognise that there is a need to consider the cumulative impacts that would arise should proposed development at Bankwood Way and at Cleckheaton Mills both come forward in practice. Furthermore, this exercise must also account for additional committed development in the broad locality of the application site.

In order to assess all relevant schemes in an objective manner, Nexus Planning has undertaken an independent cumulative impact assessment taking account of this proposal, the similar proposal in Cleckheaton (reference 2020/62/91821/E), and other committed schemes. We comment on this cumulative assessment and later in this letter.

We begin by summarising our previous conclusions reached in respect of the Bankwood Way proposal in our September 2021 Appraisal.

Previous Conclusions Reached

Nexus' previous Retail Policy Appraisal concluded the following in respect of the retail policy tests.

1. In respect of the sequential approach to development, we have reviewed all the sites identified by the applicant and do not believe that any are both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility. We are unaware of any other sequential sites offering realistic potential to accommodate the proposal¹ and, as such, find that it accords with the requirements of the development plan and paragraphs 87 and 88 of the NPPF.
2. With regard to the first part of the impact test, we do not believe that the grant of planning permission for the proposed foodstore would lead to a significantly adverse impact in respect of any existing, committed and planned public and private sector investment.
3. In terms of the second part of the impact test, and having regard to the assumptions applied by the applicant, we do not consider that any of the impacts on existing centres within the catchment area would be at a level which could be considered significant adverse.

We return to matter 3 when discussing the cumulative impact assessment undertaken by Nexus Planning to inform the Council's consideration of both the Bankwood Way and Cleckheaton Mills proposals.

In the above context, this correspondence responds to further information subsequently provided by Lichfields in support of the application proposal.

Response to MRPP's November 2021 Correspondence

We provide commentary in turn below in respect of each of the matters raised by MRPP.

¹ Whether these be located in centre, edge of centre, or in well-connected out of centre locations.

The Existing Performance of the Centres

MRPP's November 2021 objection raises concerns that the consideration of impact assessment and the potential implications of the proposal has been undertaken on the basis of out of date healthcheck information.

MRPP refer to Lichfields' original assessment of the current health of centres, which was based on data provided by the Council, supplemented by desk-top based research. MRPP's concerns relate to the potential for the composition and overarching health of the centres to have altered since 2019, and therefore the associated implications in determining the proposal's acceptability in terms of the impact on the centres. The key centres of relevance to the impact assessment are Batley town centre and Birstall district centre. Additionally, Lichfields refer to Cleckheaton and Heckmondwike centres.

Subsequent to MRPP's submissions, Lichfields have also undertaken updated healthchecks of Batley and Birstall centres, which are provided at Appendix 3 of their December 2021 Addendum. Nexus has also undertaken updated healthchecks of the centres on 23 November 2021. A summary of the composition of units within the four key centres as assessed by Nexus is provided below.

Table 1: Composition of Key Centres (November 2021)

Centre	Comparison		Convenience		Financial		Leisure		Retail Service		Vacant	
	Units	%	Units	%	Units	%	Units	%	Units	%	Units	%
Batley	26	19.7	15	11.4	5	3.8	36	27.3	28	21.2	22	16.7
Birstall	11	18.6	6	10.2	5	8.5	15	25.4	16	27.1	6	10.2
Cleckheaton	36	23.5	15	9.8	17	11.1	35	22.9	34	22.2	16	10.5
Heckmondwike	25	21.9	12	10.5	7	6.1	26	22.8	32	28.1	12	10.5

The latest composition data indicates that Birstall, Cleckheaton and Heckmondwike each have below average proportions of vacant units (14.1% at January 2022, as defined by Goad), and that the centres have a good mix of retail, leisure and service operators which meet the day-to-day needs of their catchments.

In respect of Birstall, Lichfields' assessment identifies just one vacant unit within the centre as of December 2021, which does not reflect our own land use survey of the centre. In any event, the six vacant units identified by Nexus do not give significant cause for concern. Birstall's convenience offer is relatively limited, principally comprising the Tesco Express and Co-operative stores, with a range of independent operators focused more on meeting residents' top-up shopping needs. The wider offer is focused around smaller service and leisure needs, generally meeting the day-to-day requirements of the local catchment. It is considered that Birstall is a vital and viable centre, which meets the needs of residents from a top-up convenience shopping, other retail, leisure and service perspective.

The proportion of commercial units in Batley that are vacant is above national average level. We identified 22 vacant units, which is five more than Lichfields. Vacant units are spread throughout the centre and are of varying sizes. However, there are positive signs of recent reoccupation of units, including a new operator German Donnor Kebab taking a prime unit on Commercial Street and new operators on Alfreds Way all identified in our visit to the centre in November 2021.

As set out in our initial Appraisal, Batley Plaza, which is located in the centre of Batley, has recently undergone a refurbishment and the owner confirms that 22 of the 24 units within the main part of the centre have already been let to operators².

Batley town centre is anchored by three large format convenience operators: Tesco; Asda and Aldi. There are also additional convenience operators scattered throughout the town including Heron Foods and Iceland. The proportion of service uses and the dominance of these uses in the centre also further supports our previous conclusions made in respect of the propensity of shoppers to continue to visit the centre to meet their wider day-to-day needs to visit a pharmacy, a bank, a hairdresser, estate agent and visiting a café or restaurant. Outside of the centre boundary to the south east is the Mill Outlet and Garden Centre and to the west is the new Blakeridge Mills commercial and residential development, which includes the B&M Store. Although the proportion of vacant units is considered to be high, and above the national average of 14.1%, the centre is considered to be relatively vital and viable, particularly when considering the current investment into the Plaza and the overarching offer.

Turning to Cleckheaton, many of the units in the centre are of a small scale and are occupied by independent operators. However, the Tesco superstore off Northgate provides a very substantial main food shopping destination with the defined primary shopping area. The Tesco is particularly well located to help anchor the centre and it is clearly a very popular store. This day-to-day large format offer is supplemented by the Home Bargains store, which opened in February 2017 and is also located off Northgate. Whilst these two stores have a very important role in meeting needs in the town, the centre is lacking in terms of a wider choice of main food shopping destinations.

On the day of our visit, the centre benefitted from a moderate level of footfall which was focused around Northgate and Bradford Road. Our land use survey identified a total of 16 vacant units, which equates to 10.5% of the stock of all commercial units. Whilst we are aware that the vacancy rate has increased in recent years, it remains comfortably below the national average figure of 14.1% .

The centre is characterful and, whilst some units would benefit from further investment, is a generally attractive place to visit. We believe that Cleckheaton is a vital and viable centre, and recognise the ongoing importance of the Tesco store in underpinning the good health of the centre.

In a similar manner, Heckmondwike is anchored by the Morrisons foodstore, alongside a smaller Lidl store to the north, located adjacent to a Poundstretcher and McDonald's. The wider offer of the centre principally located around Market Street, Market Place and Westgate, comprises a range of primarily independent operators, with some national multiples including Superdrug, Greggs and Fulton Foods.

Whilst the attractiveness of the centre is to some degree impacted by its location on Market Street, the volume of traffic also helps to bring activity to the centre. Footfall is also boosted by the presence of Lidl and Poundstretcher to the north of the centre (which lie within the defined primary shopping area), and the Morrisons at Union Street to the south (which lies outside the primary shopping area, but within the wider town centre boundary).

The Morrisons store was busy at the time of our visit on 23 November 2021, with a good level of activity within the car park and the store itself. We visited the Lidl store at Northgate on this date, and also returned on 19 January 2022 to review the amount of custom in the store across an extended period. On both visits

² <https://www.dewsburyreporter.co.uk/news/people/owner-of-new-batley-plaza-shopping-arcade-reveals-planned-opening-date-3435042>

we observed a good level of activity in the Lidl store. During the extended second visit (undertaken at late lunchtime), the car park was more than half full, around 30 shoppers were observed in the store at the same time, and there were queues at the two tills that were operational. Our observations on site suggest that the store currently appears to trade in a satisfactory manner.

The vacancy rate within Heckmondwike town centre equates to 10.5% of all units, and is therefore identical to that in Cleckheaton and well below national average. Whilst commercial units within the centre have variable levels of maintenance and attractiveness, the centre overall appears to be relatively vital and viable. The Morrisons and Lidl foodstores are of importance in underpinning the centre, and we noted some footfall between the Lidl store and the remainder of the town centre. In this regard, the Lidl is well located to cater for those travelling by bus to and from the centre.

As we set out in our June 2021 Appraisal, our conclusions have also been reached having regard to the general impact of the COVID-19 pandemic. The nature of the defined centres, as set out above, is for providing day-to-day retail needs and services, which means that they are generally well placed to recover from any temporary loss of trade as Covid-related trading restrictions are lifted. This could help bring the vacancy rates down. Many operators servicing day-to-day needs within both centres may also benefit if there is any longer-term shift to 'working from home', as is widely anticipated.

In advising on the application in June 2021, we found that the trade diversion impact associated with the proposal from defined centres would not be of a significant adverse magnitude (this being the threshold that could ordinarily merit refusal of the application on impact grounds). This conclusion was reached having regard not only to the evidence provided by Lichfields in their Planning and Retail Statement, but also our own research and consideration of the overarching health of the defined centres based on the latest data provided by the Council. Consideration was also given to the level of diversion likely to be felt on Morley town centre, and it was concluded that due to the distance of the centre from the site and the low levels of diversion, a full updated healthcheck of the centre would not be required.

MRPP states that: **'It would seem inappropriate to make judgements on the application's trading impact when the essential starting point – to 'establish the state of existing centres' has not yet been adequately undertaken.'**

Our up to date overview of the health of all relevant centres directly responds to this comment in order to inform the Council's consideration of the application.

Disaggregation and the Sequential Test

MRPP state that: **'the scope for disaggregating the proposed elements of the scheme into their constituent parts, in order to undertake sequential site assessment, has not been considered in the Officer's Report.'** They then go on to state that there is no functional or commercial relationship between the two proposed retail units, and that the only element which links the two is a joint servicing area to the rear of the unit.

There are three key Secretary of State decisions that collectively confirm there is no default national policy requirement to disaggregate constituent elements of an application proposal on every occasion.

The first decision relates to the grant of planning permission for an out of centre shopping centre at Rushden Lakes in Northamptonshire (PINS reference APP/G2815/V/12/2190175) by the Secretary of State. With specific regard to disaggregation, paragraph 8.47 of the Inspector's report states that:

'There is no longer any such requirement stated in the NPPF... Had the Government intended to retain disaggregation as a requirement it would and should have explicitly stated this in the NPPF. If it had been intended to carry on with the requirement then all that would have been required is the addition of the word "disaggregation" at the end of NPPF [24].'

The Inspector's approach in respect of disaggregation is validated by paragraph 15 of the Secretary of State's decision letter.

There has been some discussion as to whether the Inspector's conclusions on disaggregation apply specifically at Rushden Lakes or more generally, and the subsequent Braintree Secretary of State decision (PINS reference APP/Z1510/A/14/2219101) provides clarification on the matter.

The Braintree decision relates to a proposed new Sainsbury's superstore with additional employment uses. Paragraph 449 of the Braintree Inspector's report identifies that the view of the Secretary of State at Rushden Lakes:

'...was not qualified in any way other than by reference to the two report paragraphs from which it derived. While one of these paragraphs dealt with specific aspects of the proposal, the other dealt with the intention of national policy in paragraph 24 of the Framework following the demise of PPS4. And that paragraph was not specific to the site or to the proposal in any way.'

Paragraph 450 goes on to state that:

'If the Secretary of State had wanted to qualify his statement on disaggregation in any way, that could have been achieved very simply by the addition of words such as 'in this case'. Indeed, the variety of uses in the RL [Rushden Lakes] proposal and the fact that the proposal included retail units, rather than one large retail unit, would have afforded more rather than less opportunity for some disaggregation if that had been an aim.' (Our emphasis.)

The Secretary of State confirms at paragraph 9 of the Braintree decision letter that **'...he agrees with the Inspector's assessment regarding the sequential test at paragraph 24 of the Framework (IR443-467).'**

Whilst the above two decisions relate to the March 2012 iteration of the NPPF, the current version does not provide any additional policy clarification which impacts on the relevance of the above interpretations. As such, we do not believe that there is any general default national planning policy requirement that means that an applicant *must always* disaggregate elements of its proposal in order that it can fit on alternative sites.

Notwithstanding this, a further Secretary of State decision indicates that disaggregation may be appropriate dependent on the circumstances of relevance to the subject application.

The Inspector's report in respect of the recovered appeal for a proposal to provide large-scale main town centre uses at Tollgate in Stanway, Essex (PINS reference APP/A1530/W/16/3147039) suggests that, in particular circumstances, there may be a need to consider the matter of disaggregation as part of the sequential test.

Paragraph 12.3.11 of the Tollgate Inspector's report indicates that:

'In this case there is no evidence that the proposed format is necessary or fundamental to the proposal. Whilst the proposal is in outline, not a single retailer has been identified, and the size and location of units within the site has not been established and there is no defined timescale or phasing. It is difficult to conceive of a more open ended proposal. The parameters established by plans show a greater level of gross floor space than

permission has been sought for. Most importantly the Appellants have themselves disaggregated within the appeal site with three distinct zones. DZ1 and DZ3 are some distance apart. In these circumstances disaggregation within the sequential test would be justified.'

In reviewing the issue of whether the disaggregation of application proposals may be appropriate in certain circumstances, we noted the principles established by the Courts in relation to a retail-led mixed-use planning application³ at an edge of centre site in Peterlee, Country Durham.

In the case at Peterlee, the grant of planning permission for the proposed development was the subject of a legal challenge by the owner of the adjacent town centre shopping mall, with one of the grounds being that the determining authority did not give proper consideration to the prospect of disaggregation of component uses in applying the sequential test.

In the High Court Judgment⁴ that considered the claimant's application for permission to proceed with its judicial review claim, HHJ Klein effectively finds at paragraph 23 that whether or not disaggregation has a role in the application of the sequential test at Peterlee is a matter of planning judgment.

The position was subsequently tested in the Court of Appeal⁵, with Lewison LJ's Order⁶ identifying that the Officer's report for the Peterlee application:

'...set out two propositions (a) that there was no general requirement for disaggregation and (b) there was no persuasive argument for disaggregating the particular scheme. The first proposition was a correct summary of the policy. The second was an exercise of planning judgment.'

Lewison LJ finds this to be an appropriate procedural approach.

Given all of the above, we find that:

- there is no default national planning policy requirement to disaggregate proposals in all cases;
- it is appropriate to determine whether disaggregation is appropriate with reference to the prevailing circumstances relevant to each case; and
- this approach is supported as a matter of planning law by the Courts with reference to the legal challenge at Peterlee.

In this regard, the broad type of retail development proposed provides for occupation of the unit by a discount foodstore operator (Lidl), and a discount variety operator with an element of convenience sales floorspace (to be occupied by Home Bargains). In our view, it is clear that the application has not been submitted on a speculative basis and has been applied for using defined unit sizes and confirmed operators, and there is no intended phased approach to deliver the scheme. The proposal comprises a single scheme and we believe that the developer intends to implement it as such.

We therefore consider that there is no requirement to consider the disaggregation of the elements of the scheme.

³ Local planning authority reference DM/18/03002/FPA.

⁴ *Salford Estates v Durham County Council & Anor* [2019], Claim No: CO/1664/2019.

⁵ *Salford Estates v Durham Council & Anor* [2019], Claim No: C1/2019/1847.

⁶ The Order denies permission to appeal against the refusal of the High Court to grant permission to apply for judicial review.

In any event, Lichfields has sought to address MRPP's comments by providing additional commentary on potential sequential alternatives in Birstall and Batley centres, to understand if units or sites could accommodate either of the proposed units should the scheme be disaggregated.

In terms of Birstall district centre, no sites or units were identified which would be of a suitable size to accommodate either of the proposed units.

Looking at Batley town centre, Lichfields has updated their analysis in respect of the three sites identified comprising the Former Batley Working Men's Club, Blakeridge Mill and Victoria Works. In respect of the second two sites, these have now been redeveloped and neither have vacant units which would be suitable to accommodate the proposal. In terms of the Former Batley Working Men's Club, measuring 0.2ha, this is significantly smaller than the units proposed at Bankwood Way and would therefore not be suitable.

Finally, Lichfields has also reviewed the originally assessed opportunities in Morley town centre in terms of their suitability to accommodate the units proposed. In terms of the site at Rod Mills Lane, we agree with Lichfields that due to the site's constraints and location, and wider site characteristics, that it is not suitable for the proposed development.

Turning to Scatcherd Works, we are of the view that, given its lack of visibility/frontage and its restricted access for vehicles due to surrounding land uses, it would not be suitable for the redevelopment for large format retail units. Furthermore, the site benefits from an extant planning approval (ref. 19/07611/FU) for the demolition of the existing industrial building and construction of nine dwellings. This approval indicates that the site is likely to come forward for residential development, and as such is not considered to be available to accommodate the development proposals.

In light of the above, we are satisfied that the proposal satisfies the policy requirements of the sequential approach as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.

The Catchment Area

Finally, MRPP states that: **'A number of centres, including Gomersal and Drighlington, sit within a short, and less than 5-minute drive time from the application site ie consistent with the area of sequential search frequently adopted by the discount foodstore operators elsewhere. The applicant's sequential assessment is thus flawed in that it does not consider any potential opportunities within these centres, that might be 'more accessible' or 'better connected' than the application site in line with NPPF paragraph 88. A more widely cast assessment should be provided.'**

Lichfields provides details of the catchment area at Appendix 1 of the Planning and Retail Statement. The justification states that, given the location of the application site, the proposed development would draw the most significant proportion of its trade from the north-eastern part of the Borough which broadly reflects Zone 9. As such, they have adopted Zone 9 as the Primary Catchment Area.

They then go on to acknowledge that as the site lies in proximity to a wide range of commercial facilities at Birstall Shopping Park, and its location in the context of the M62, the scheme may also draw trade from a wider area as people combine their trips to the proposed development with the wider commercial area. We consider this likely to be the case.

This analysis was set out in full to the Council in providing our initial advice. In doing so, it was acknowledged that there are smaller defined centres located within the Primary Catchment Area and that we were unaware of any units or sites which could be considered to be available and suitable to accommodate the proposed development.

Within Lichfields' December 2021 Addendum, they state at paragraph 4.21 that they have visited the local centres of Gomersal and Drighlington. Lichfields state that they have not identified any sites which could be considered available and suitable to accommodate the proposal.

In this regard, Lichfields refer to three sites, all of which are allocated for housing within the adopted local plan for Leeds. In each case, the sites are considered unsuitable due to their size, character and lack of clear frontages. We are satisfied that there are no sites within or on the edge of the local centres which could be considered available and suitable to accommodate the proposed development.

The above further supports our conclusions reached in respect of the proposal's compliance with the sequential test.

Updated Impact Assessment

Lichfields' updated impact assessment is provided at Appendices 1 (convenience impact) and 2 (comparison impact) of their December 2021 Addendum. The principal purpose of the updated impact assessment was to take account of the latest published average company sales density figures by Global Data in December 2021. We are satisfied that Lichfields' approach in utilising these company average sales figures is appropriate.

However, ID Planning has also submitted a further assessment of retail impact to assess the impact of the proposed store in Cleckheaton, that relies on a new household survey⁷ to establish the baseline position in respect of up to date shopping patterns. ID Planning's Retail Addendum also utilises current Experian population and expenditure data, and the growth forecasts provided by Experian Retail Planner Briefing Note 18 (published October 2020), in undertaking its impact assessment. ID Planning has also considered the current health of Cleckheaton and Heckmondwike town centres in its submission.

Each of these elements is of assistance in forming an up to date view on the acceptability of the impact arising from the application proposals. We provide an assessment of the appropriateness of the detail of ID Planning's methodology separately within our Supplementary Report in respect of the Cleckheaton planning application. Our Supplementary Report also sets out a step by step approach in respect of our own cumulative impact assessment, the key considerations of which we summarise below, before returning to our overarching conclusions in respect of the assessment.

Our cumulative impact assessment has three principal stages which we summarise below, and the detailed assessment is appended to this correspondence.

- Firstly, we use the retail impact assessment provided at Table 5 of Appendix 4 of ID Planning's Retail Addendum of November 2021 to establish the 'pre-impact turnover' of relevant foodstore destinations prior to relevant development being implemented. Our assessment focuses on the key centres which we believe are of concern, these being Cleckheaton and Heckmondwike in respect of

⁷ Undertaken by NEMS Market Research in August 2021.

the Cleckheaton Mills application, and additionally Birstall and Batley in respect of the Bankwood Way proposal.

- Secondly, we account for committed development at the Swan Inn and Kenmore Caravan sites in Mirfield, and at the Rishworth Centre in Dewsbury. In doing so, we *broadly* replicate the patterns of trade diversion suggested by the applicant and accepted by the Council in considering each of these respective applications. We make some revisions to these assumptions, as necessary, to reflect the particular patterns of convenience goods expenditure identified by the new ID Planning household survey of August 2021.
- Thirdly, we provide our own independent assessment of the likely patterns of trade diversion that would occur as a consequence of the proposed Lidl and Home Bargains at Bankwood Way in Birstall, and the proposed Aldi at Cleckheaton Mills. We have undertaken this exercise with reference to the findings of the ID Planning household survey, and we have visited relevant application sites and key destinations to appropriately understand the relative accessibility and attractiveness of competing stores in the catchment area.

Full details in respect of our assumptions and consideration of the acceptability of the proposals are provided at Section 2 of our February 2022 Cleckheaton Mills Supplementary Report, which we recommend is read alongside this advice.

In particular, our report provides consideration in respect of the post-impact turnovers of key stores relative benchmark performance levels, and whether the combined impact of the proposals will result in material changes in the function of stores, particularly in respect of those stores located within and on the edge of the defined centres within the catchment.

In considering impact, we also refer to Kirklees Local Plan Policy LP13. The policy indicates that a 'town centre' in Kirklees will serve two main functions, these being to:

- provide for the shopping needs of residents across Kirklees mainly in the convenience goods (food) sector; and
- be the focus for the local provision of financial services; offices; entertainment and leisure facilities; arts, culture and tourism facilities; further education; and health services.

In our view, the district and town centres of Birstall, Batley, Cleckheaton and Heckmondwike will continue to perform an important role in meeting convenience goods needs, and there should be no material impact in respect of the wider second and third functions identified by Policy LP13.

In summary, our cumulative impact assessment finds that:

- the Tesco store at Cleckheaton would continue to perform very strongly and the Morrisons store at Heckmondwike would perform satisfactorily, subsequent to the implementation of the Bankwood Way and Cleckheaton Mills proposals and other relevant commitments;
- the post-impact performance of the Lidl at Heckmondwike town centre is of greater concern, but note that Lidl continues to pursue its own scheme at the application site at Bankwood Way (which would also trade against its Heckmondwike store) and we believe that it would likely also continue to trade from Heckmondwike in practice;

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- the wider offer at Cleckheaton and Heckmondwike town centres in particular but also Birstall and Batley centres, would not be subject to a significant adverse impact, as the centres would retain the same important role and function in meeting day to day retail and service needs; and
- any impact arising elsewhere would not have a material impact on the ongoing role, function and operation of defined centres.

We therefore find that the proposal complies with the second strand of the NPPF impact test.

Summary and Conclusions

The purpose of this correspondence is to provide updated considerations in respect of the application of the retail policy test of impact following the submission of additional representations by MRPP on behalf of Tesco. Our response also takes account of Lichfields' Addendum Planning and Retail Statement dated December 2021, and the additional submissions made by ID Planning in respect of the Cleckheaton Mills discount foodstore proposal.

We are satisfied that the application submission appropriately addresses the matters raised by MRPP, and that in particular:

- the assessment of impact has been undertaken having regard to an up-to-date position in respect of the existing health of the defined centres within the catchment;
- the consideration of disaggregation has been satisfactorily addressed in the application of the sequential test; and
- that the catchment area adopted by Lichfields is appropriate.

In addition to the above, we have reviewed all of the sites and locations considered by the applicant in its original and subsequent submissions, and do not believe that any one is both available and suitable to accommodate the application proposal. We therefore find that the application proposal conforms to the requirements of the sequential test as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.

As we set out in our original Appraisal, we are unaware of any town centre investment that would likely be prejudiced as a consequence of the application proposal, which we find accords with the requirements of the first part of the NPPF impact test.

In terms of the second part of the test, we believe that the trade diversion impacts arising at defined centres are acceptable and that no centre would be the subject of a significant adverse impact. We have reached this conclusion with reference to our own cumulative retail impact assessment, site visits, and having reviewed all relevant representations submitted by interested parties.

Our conclusion has also been reached independently from the wider consideration in respect of the 'fallback' position, which we referenced in further detail in our September 2021 Appraisal. The above impact considerations have not taken account of the fallback position, and we consider the proposal to be wholly policy compliant in the absence of the extant consent.

Should the Council be minded to grant planning permission, we recommend that conditions are attached to ensure that the store trades in the manner suggested by the applicant in practice. Such conditions will

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relate to the gross and net floorspace of the foodstore, and the split between convenience and comparison goods sales.

We trust that the above appropriately responds to the matters raised by MRPP but please do not hesitate to contact us should you have any further queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H. Lindley-Clapp', written in a cursive style.

Heather Lindley-Clapp
Director

Appendix 1 – Nexus Cumulative Impact Assessment

Table 1a: Estimated Turnover of Swan Inn Commitment

	Gross Internal Area (sq.m)	Net Sales Floorspace (sq.m)	Net Convenience Floorspace (sq.m)	Sales Density at 2019	Sales Density at 2026	Turnover at 2026
Convenience Floorspace Main Unit	360	189	151	8,729	8,823	1.3
Convenience Floorspace Other Unit	100	70	70	3,500	3,538	0.2
Total	360	189	221			1.6

Notes

- Floorspace and assumed sales density of main unit derived from November 2019 Retail Planning Statement submitted in support of planning application reference 2019/62/94003/E
- Nexus Planning assumes that one of the additional units proposed will be occupied by a further convenience goods operator with a sales density of circa £3,500 at 2019. Net sales assumed to be 70% of gross floorspace
- Allowance made for changes in sales efficiencies in accordance with Figure 4a and 4b of Experian Retail Planner Briefing Note 19

Table 1b: Estimated Turnover of Kenmore Caravans Discount Foodstore

	Gross Internal Area (sq.m)	Net Sales Floorspace (sq.m)	Net Convenience Floorspace (sq.m)	Sales Density at 2021	Sales Density at 2026	Turnover at 2026
Convenience Floorspace	1,837	1,254	1,003	9,994	10,460	10.5
Comparison Floorspace			251	6,464	7,567	1.9
Total	1,873	1,254	1,254			12.4

Notes

- Floorspace of Kenmore Caravans foodstore derived from July 2020 Planning and Retail Statement Addendum submitted in support of planning application reference 2019/60/92221/E
- Sales density represents average between Aldi and Lidl as identified by Globaldata Convenience and Comparison Goods Sales Densities of Major Grocers 2021e dataset
- Allowance made for changes in sales efficiencies in accordance with Figure 4a and 4b of Experian Retail Planner Briefing Note 19

Table 1c: Estimated Turnover of Rishworth Centre Aldi

	Gross Internal Area (sq.m)	Net Sales Floorspace (sq.m)	Net Convenience Floorspace (sq.m)	Sales Density at 2021	Sales Density at 2026	Turnover at 2026
Convenience Floorspace	1,792	1,315	1,052	11,147	11,666	12.3
Comparison Floorspace			263	8,039	9,411	2.5
Total	1,792	1,315	1,315			14.7

Notes

- Floorspace of Rishworth Centre Aldi derived from July 2020 Planning and Retail Statement Addendum submitted in support of planning application reference 2020/62/92384/E
- Sales density for Aldi as identified by Globaldata Convenience and Comparison Goods Sales Densities of Major Grocers 2021e dataset
- Allowance made for changes in sales efficiencies in accordance with Figure 4a and 4b of Experian Retail Planner Briefing Note 19

Table 1d: Estimated Turnover of Bankwood Way, Birstall Lidl

	Gross Internal Area (sq.m)	Net Sales Floorspace (sq.m)	Net Convenience Floorspace (sq.m)	Sales Density at 2021	Sales Density at 2026	Turnover at 2026
Convenience Floorspace	2,231	1,414	1,131	8,841	9,253	10.5
Comparison Floorspace			283	4,888	5,722	1.6
Total	2,231	1,414	1,414			12.1

Notes

- Floorspace of Bankwood Way Lidl derived from May 2021 Planning and Retail Statement submitted in support of planning application reference 2021/62/92528/E
- Sales density for Lidl as identified by Globaldata Convenience and Comparison Goods Sales Densities of Major Grocers 2021e dataset
- Allowance made for changes in sales efficiencies in accordance with Figure 4a and 4b of Experian Retail Planner Briefing Note 19

Table 1e: Estimated Turnover of Bankwood Way, Birstall Home Bargains

	Gross Internal Area (sq.m)	Net Sales Floorspace (sq.m)	Net Convenience Floorspace (sq.m)	Sales Density at 2021	Sales Density at 2026	Turnover at 2026
Convenience Floorspace	2,280	2,014	906	4,205	4,401	4.0
Comparison Floorspace			1,108	4,205	4,923	5.5
Total	2,280	2,014	2,014			9.4

Notes

- Floorspace and sales density for Bankwood Way Home Bargains derived from July 2020 Planning and Retail Statement submitted in support of planning application reference 2021/62/92528/E
- Allowance made for changes in sales efficiencies in accordance with Figure 4a and 4b of Experian Retail Planner Briefing Note 19

Table 1f: Estimated Turnover of Cleckheaton Mills, Cleckheaton Aldi

	Gross Internal Area (sq.m)	Net Sales Floorspace (sq.m)	Net Convenience Floorspace (sq.m)	Sales Density at 2021	Sales Density at 2026	Turnover at 2026
Convenience Floorspace	1,785	1,315	1,052	11,147	11,666	12.3
Comparison Floorspace			263	8,039	9,411	2.5
Total	1,785	1,315	1,315			14.7

Notes

- Floorspace of Cleckheaton Mills Aldi derived from November 2021 Retail Addendum submitted in support of planning application reference 2020/62/91821/E
- Sales density for Aldi as identified by Globaldata Convenience and Comparison Goods Sales Densities of Major Grocers 2021e dataset
- Allowance made for changes in sales efficiencies in accordance with Figure 4a and 4b of Experian Retail Planner Briefing Note 19

2019 prices

Table 2: Estimated Convenience Goods Cumulative Trade Diversion at 2026

Destination	Pre-Development T/O (£m)	Trade Diversion to Swan Inn		Post Swan Inn T/O (£m)		Trade Diversion to Kenmore Caravans		Post Kenmore Caravans T/O (£m)		Trade Diversion to Rishworth Centre, Dewsbury		Post Rishworth Centre T/O (£m)		Trade Diversion to Bankwood Way, Birstall		Post Bankwood Way T/O (£m)		Solus Impact Bankwood Way (%)	Trade Diversion to Cleckheaton Mills		Post Cleckheaton Mills T/O (£m)	Solus Impact Cleckheaton Mills (%)	Cumulative Impact (%)
		%	£m	%	£m	%	£m	%	£m	%	£m	%	£m	%	£m								
Zone 1																							
Cleckheaton In Centre																							
Tesco Superstore, Northgate, Cleckheaton	33.32	0.0%	0.0	33.32	0.0%	0.00	33.32	0.0%	0.00	33.32	5.0%	0.72	32.60	2.2%	40.0%	4.91	27.69	15.1%	16.9%				
Fulton Foods, Central Arcade	0.71	0.0%	0.0	0.71	0.0%	0.00	0.71	0.0%	0.00	0.71	0.1%	0.01	0.70	2.0%	0.5%	0.06	0.63	8.8%	10.7%				
Local Shops, Cleckheaton	0.72	0.0%	0.0	0.72	0.0%	0.00	0.72	0.0%	0.00	0.72	0.0%	0.00	0.72	0.0%	0.3%	0.04	0.68	5.1%	5.1%				
Cleckheaton Edge and Out of Centre																							
Home Bargains, Northgate, Cleckheaton	1.26	0.0%	0.0	1.26	0.0%	0.00	1.26	0.0%	0.00	1.26	0.1%	0.01	1.25	1.1%	0.5%	0.06	1.18	4.9%	6.0%				
Other stores, Cleckheaton	0.69	0.0%	0.0	0.69	0.0%	0.00	0.69	0.0%	0.00	0.69	0.0%	0.00	0.69	0.0%	0.3%	0.04	0.65	5.3%	5.3%				
Heckmondwike In Centre																							
Lidl, Northgate, Heckmondwike	6.82	0.0%	0.0	6.82	3.0%	0.31	6.51	3.5%	0.43	6.08	3.0%	0.43	5.64	7.1%	6.0%	0.74	4.91	13.1%	28.1%				
Fulton Foods, Market Street, Heckmondwike	0.91	0.0%	0.0	0.91	0.0%	0.00	0.91	0.0%	0.00	0.91	0.0%	0.01	0.90	1.1%	0.0%	0.00	0.90	0.0%	1.1%				
Local Shops, Heckmondwike	2.10	0.0%	0.0	2.10	0.0%	0.00	2.10	0.0%	0.00	2.10	0.0%	0.00	2.10	0.0%	0.0%	0.00	2.10	0.0%	0.0%				
Heckmondwike Edge and Out of Centre																							
Morrisons, Union Street, Heckmondwike	36.91	5.0%	0.1	36.83	10.0%	1.05	35.78	3.5%	0.43	35.35	6.0%	0.87	34.48	2.5%	14.0%	1.72	32.77	5.0%	11.2%				
Other stores, Heckmondwike	0.53	0.0%	0.0	0.53	0.0%	0.00	0.53	0.0%	0.00	0.53	0.0%	0.00	0.53	0.0%	0.0%	0.00	0.53	0.0%	0.0%				
Elsewhere Zone 1																							
Co-op, Oxford Road, Gomersal	7.76	0.0%	0.0	7.76	0.0%	0.00	7.76	0.0%	0.00	7.76	0.0%	0.00	7.76	0.0%	2.0%	0.25	7.51	3.2%	3.2%				
Co-op, Westfield Lane, Scholes	2.32	0.0%	0.0	2.32	0.0%	0.00	2.32	0.0%	0.00	2.32	0.0%	0.00	2.32	0.0%	0.5%	0.06	2.26	2.6%	2.6%				
Sainsbury's Local, Fountain Court, Roberttown	0.47	0.0%	0.0	0.47	0.0%	0.00	0.47	0.0%	0.00	0.47	0.0%	0.00	0.47	0.0%	0.1%	0.01	0.46	2.6%	2.6%				
Zone 5																							
Batley In Centre																							
Tesco Extra, Bradford Road, Batley	50.06	0.0%	0.0	50.06	0.0%	0.00	50.06	10.0%	1.23	48.83	15.0%	2.17	46.66	4.4%	5.0%	0.61	46.05	1.3%	8.0%				
Asda, Alfred Street, Batley	2.23	0.0%	0.0	2.23	0.0%	0.00	2.23	1.0%	0.12	2.11	0.3%	0.04	2.07	1.7%	0.0%	0.00	2.07	0.0%	7.1%				
Fultons Food, Commercial Street, Batley	0.35	0.0%	0.0	0.35	0.0%	0.00	0.35	0.0%	0.00	0.35	0.0%	0.00	0.35	0.0%	0.0%	0.00	0.35	0.0%	0.0%				
Local shops, Batley	1.06	0.0%	0.0	1.06	0.0%	0.00	1.06	0.0%	0.00	1.06	0.1%	0.02	1.04	1.7%	0.0%	0.00	1.04	0.0%	1.7%				
Batley Edge and Out of Centre																							
Aldi, Branch Road, Batley	24.40	0.0%	0.0	24.40	0.0%	0.00	24.40	15.0%	1.84	22.56	12.0%	1.73	20.82	7.7%	6.0%	0.74	20.09	3.5%	17.7%				
Tesco Express, Smithies Lane, Batley	3.66	0.0%	0.0	3.66	0.0%	0.00	3.66	0.0%	0.00	3.66	0.0%	0.00	3.66	0.0%	0.0%	0.00	3.66	0.0%	0.0%				
Costcutter, Dudley Avenue, Birstall, Batley	0.17	0.0%	0.0	0.17	0.0%	0.00	0.17	0.0%	0.00	0.17	0.0%	0.00	0.17	0.0%	0.0%	0.00	0.17	0.0%	0.0%				
Other Stores, Batley	0.93	0.0%	0.0	0.93	0.0%	0.00	0.93	0.0%	0.00	0.93	0.0%	0.00	0.93	0.0%	0.0%	0.00	0.93	0.0%	0.0%				
Elsewhere Zone 1																							
<i>Bankwood Way, Birstall Development</i>													14.46	-	8.0%	0.98	13.47	6.8%	6.8%				
Other Elsewhere																							
Other	-	95.0%	1.5	-	87.0%	9.13	-	67.0%	8.22	-	58.4%	8.45	-	16.8%	2.06	-	-	-	-				
Total	-	100.0%	1.6	-	100.0%	10.49	-	100.0%	12.27	-	100.0%	14.46	-	100.0%	100.0%	12.27	-	-	-				

Notes

- Estimated convenience goods turnovers for various developments as set out at Table 1 of this cumulative assessment
- Broad pattern of trade diversion for Swan Inn based on supporting submission for Kenmore Caravans application (reference 2019/60/92221/E)
- Patterns of trade diversion for Kenmore Caravans proposal, as identified by application submission reference 2019/60/92221/E supporting documents, have been adjusted to take into consideration the trading performance of stores as identified by the new ID Planning survey
- Patterns of trade diversion for Rishworth Centre (application reference 2020/62/92384/E) based on Nexus Planning judgement with reference to the new ID Planning survey
- Patterns of trade diversion for Bankwood Way, Birstall (application reference 2021/62/92528/E) based on Nexus Planning judgement with reference to the new ID Planning survey
- Pattern of trade diversion for Cleckheaton Mills (application reference 2020/62/91821/E) based on Nexus Planning judgement with reference to the new ID Planning survey

2019 prices

Table 3: Convenience Goods Benchmark Turnovers at 2026

Destination	Gross Floorspace (sq.m)	Net Floorspace (sq.m)	Net Convenience Goods Floorspace (sq.)	Company Convenience Goods Sales Density (£/sq.m)	Estimated Benchmark Turnover (£m)	Post-Impact Turnover (£m)	Post-Impact Turnover as Percentage of Benchmark (%)
Zone 1							
<u>Cleckheaton In Centre</u>							
Tesco Superstore, Northgate, Cleckheaton	2,431	1,413	924	14,352	13.26	27.69	209%
<u>Heckmondwike In Centre</u>							
Lidl, Northgate, Heckmondwike	1,298	900	720	8,912	6.42	4.91	76%
<u>Heckmondwike Edge of Centre</u>							
Morrisons, Union Street, Heckmondwike	6,729	3,762	2,806	13,197	37.03	32.77	88%
Zone 5							
<u>Batley In Centre</u>							
Tesco Extra, Bradford Road, Batley	11,783	7,069	4,625	14,352	66.38	46.05	69%
Asda, Alfred Street, Batley	1,325	997	535	14,528	7.77	2.07	27%
<u>Batley Edge and Out of Centre</u>							
Aldi, Branch Road, Batley	1,135	736	589	11,236	6.62	20.09	304%

Notes

- a. Floorspace figures derived from Table 5 of the Kirklees Retail Capacity Study 2016, with the exception of Lidl at Northgate where overall net floorspace is derived from Lichfields' letter of 18 January 2022
- b. Sales densities derived from Globaldata Convenience and Comparison Goods Sales Densities of Major Grocers 2021e dataset (revised to 2019 prices and with account made to forecast changes in sales efficiency to 2026)
- c. Post-impact turnover of foodstore derived from Table 2

2019 prices