

**Proposed Mixed Use Scheme,
Land off Lindley Moor Road,
Huddersfield**

Appraisal of Retail and Town Centre Issues

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1. Introduction

Instruction

- 1.1 Kirklees Council (hereafter referred to as ‘the Council’) has instructed Nexus Planning to provide retail planning advice in respect of planning application reference 2022/62/91477/W.
- 1.2 The hybrid application provides for a mixed use development, seeking full permission for the erection of Class E(g)/B2 and B8 units and outline consent for Class E(a), E(b), E(g), B2 and B8 units. Part of the proposed development comprises the erection of ‘main town centre uses’, consisting of a convenience foodstore, restaurant and two coffee shops.
- 1.3 The proposed floorspace of the main town centre uses is as follows:
 - Unit B – 377 sq.m convenience store;
 - Unit C – 908 sq.m restaurant;
 - Unit D – 391 sq.m coffee shop (allowance for some takeaway); and
 - Unit E – 525 sq.m coffee shop (allowance for some takeaway).
- 1.4 The application has been submitted by 2SH Developments Limited and the planning agent is D5 Planning, Town Planning Consultants. The application is accompanied by a number of supporting documents. In respect of retail and town centre matters, the key document is the Sequential and Impact Assessment prepared by ID Planning, dated September 2022.
- 1.5 The purpose of this appraisal report is to consider the application proposal’s compliance with retail and town centre planning policy, as set out by the statutory development plan and by the revised National Planning Policy Framework (‘NPPF’) (published July 2021).

Proposal, Application Site and Context

- 1.6 The application site measures approximately 6.3ha and comprises greenfield land located between Crosland Road and Weatherhill Road. The site is currently used as pasture farming. Directly to the north is the Green Belt and recently developed residential areas are located to the south east and west of the site.
- 1.7 The site forms part of a mixed-use employment and housing allocation in the adopted Local Plan. The relevant allocation Policy MXS3 – ‘Land South of Lindley Moor Road, Lindley, Huddersfield’ allocates the site for approximately 443 dwellings and 41,702 sq.m of employment floorspace.
- 1.8 As set out at paragraph 1.2 above, paragraph 3.5 of the Sequential and Impact Assessment sets out the floorspace associated with the proposal. The proposed retail and food and beverage units would be sited along the frontage of the site, with the proposed main employment units mainly set towards the rear of the site.

Structure of Our Report

- 1.9 In the above context, our appraisal focuses on the proposal’s compliance with retail and town centre planning policy as set out by the statutory development plan and by the NPPF.
- 1.10 We do not comment on the proposal’s compliance with the specific policy allocation of the site, and other general planning policy matters and wider material considerations fall outside the scope of our instruction, and it will be

necessary for the Council to take appropriate account of such matters in its determination of the application.

1.11 Our report is structured as follows:

- Section 2 sets out the retail and town centre planning policy of relevance to the application proposal;
- Section 3 considers the proposal in terms of the sequential approach to development;
- Section 4 considers the acceptability of the likely impacts arising from the proposal; and
- Section 5 sets out our conclusions in respect of the proposal's compliance with retail and town centre planning policy, and the appropriate next steps in progressing the application.

2. Planning Policy Context

2.1 We identify below the principal planning policies of relevance to retail and town centre matters.

National Planning Policy Framework

2.2 The most recent iteration of the NPPF was published in July 2021. It emphasises the Government’s commitment to securing economic growth and building a strong, responsive and competitive economy. With regard to the assessment of proposals for main town centre development, the revised NPPF provides two principal national policy tests relating to the sequential approach to development and to impact.

2.3 In respect of the first of the two tests, paragraph 87 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are neither within an existing centre nor in accordance with an up-to-date plan.

2.4 Paragraph 87 goes on to state that:

‘Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.’

2.5 Paragraph 88 then identifies that:

‘When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.’

2.6 Paragraph 90 of the NPPF sets out a twin impact test, stating that:

‘When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m of gross floorspace). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).’

2.7 Paragraph 91 indicates that, where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused. However, this direction cannot extinguish the requirement set out in statute to first consider development plan policy and then all material considerations in assessing the ‘planning balance’ when making a decision.

Adopted Development Plan

2.8 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:

‘...if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.’

2.9 The statutory development plan in this instance is the Kirklees Local Plan, which was adopted in February 2019.

2.10 The Local Plan Policies Map identifies the site forms part of the wider mixed-use allocation MXS3, allocated under Policy LP67 of the Local Plan Allocations and Designations (which will be for the Council to consider in determining the application proposal's general compliance with planning policy).

2.11 In retail terms, Local Policy LP13 is of particular relevance. Policy LP13 relates to town centre uses and sets out the tests which should be applied to such development. The policy sets out a hierarchy for development (with Lindley district centre positioned in the third tier alongside other district centres in the authority area and Birchencliffe, Salendine Nook and New Hey Road/Acre Street as three of the 61 local centres in the fourth tier), and sets out a sequential test which indicates that:

'Proposals which come forward for main town centre uses, which are located outside of the defined centre boundaries, will require the submission of a Sequential Test. For retail proposals the boundary shall form the Primary Shopping Area; for all other main town centre uses this shall be the extent of the centre boundary. Main town centre uses shall be first located in the defined centres, then edge of centre locations, and only if there are no suitable sites shall out of centre locations be considered.'

The scope and content of any Sequential Test shall be agreed with the council and shall be reflective of the scale, role and function of the proposal.

Proposals which fail to pass the sequential test will not be supported.'

2.12 In respect of the matter of impact, Policy LP13 indicates that an impact assessment will be required for all retail proposals across the authority area that provide more than 500 sq.m gross floorspace. Where a proposal is within 800 metres of a defined local centre, the local impact threshold is 200 sq.m gross floorspace. Considering the distance of the application site and the proposed main town centre uses (convenience and leisure units) from the closest defined centre (being further than the 800 metre distance stipulated within the policy), the relevant threshold in this instance is 500 sq.m gross.

2.13 We note ID Planning's commentary at paragraphs 6.5 onwards in respect of the application of the impact policy test, and their assertion that as the proposed convenience floorspace falls below the locally adopted impact threshold, there is no requirement for an impact assessment. However, both local and national policy is clear that the impact test applies to both proposed retail and leisure floorspace. In this case, the total proposed retail and leisure floorspace measures approximately 2,201 sq.m (gross) and, as such, there is clearly a requirement to consider the impacts arising from the application proposal in this instance.

2.14 In terms of impact, Policy LP13 indicates that proposals which have a significant adverse impact on the vitality and viability of a centre or compromise the role and function of a centre will not be supported.

Overview in Respect of Relevant Retail and Town Centre Planning Policy

2.15 Policy LP13 is broadly consistent with national retail planning policy as set out in the NPPF. However, the NPPF provides additional detail in identifying two distinct strands of the impact test. As such, we first consider the application proposal's compliance with the key retail tests as articulated by national planning policy, before then returning to the matter of the proposal's compliance with the relevant retail policies of the development plan in the concluding Section 5 of our report.

3. The Sequential Test

Requirements of the NPPF and Planning Practice Guidance

- 3.1 Paragraph 87 of the NPPF sets out the order of preference in applying the sequential approach. The first preference is for main town centre uses to locate in town centres, followed then by edge of centre locations, and only if no other suitable sites are available should out of centre sites be considered. Paragraph 88 indicates that, when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.
- 3.2 Additional guidance on the application of the sequential approach is provided by the Town Centres and retail PPG, which was last updated on 18 September 2020.
- 3.3 Paragraph 010 of the Town Centres and retail PPG provides a ‘checklist’ for the application of the sequential test in decision taking. It indicates the following considerations:
- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.
 - Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
 - If there are no suitable sequentially preferable locations, the sequential test is passed.
- 3.4 In this instance, the application site is located approximately 0.8km from Birchencliffe local centre, 1km from Lindley district centre and 1.2km from Salendine Nook local centre. Accordingly, there is a need to consider in-centre, edge of centre sites, and (potentially) well-located out of centre sites in applying the sequential test.
- 3.5 In order to establish the context for the consideration of alternative sites, we first summarise how the Courts and the Secretary of State have considered the matter of flexibility in applying the sequential test, before then reviewing the appropriateness of the site search parameters identified by the applicant.

Disaggregation, Suitability and Flexibility

- 3.6 Case law has emphasised that the ‘suitability’ of sequential alternatives must be considered with reference to the subject application proposal and whether the proposal (or a variant thereof, allowing for some flexibility in respect of its format) could be accommodated at a sequentially preferable location.
- 3.7 In particular, it is appropriate to take into account the *Tesco Stores Limited v Dundee City Council [2012] UKSC 13* Supreme Court judgment which gave specific consideration to the meaning of ‘suitable’ in respect of the application of the test.
- 3.8 Paragraph 38 of the Dundee judgment states that:

‘The issue of suitability is directed to the developer’s proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the

developer’s assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism...they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest in doing so.’ (Our emphasis.)

3.9 The Supreme Court has jurisdiction over England and, whilst there is clearly need to consider its findings in the appropriate local policy context, both the Courts and the SoS have found the direction to apply the test ‘in the real world’ to be of some relevance to the English planning system. This is demonstrated by the ‘call in’ decision in respect of an application by LXB RP (Rushden) Limited to provide for large-scale retail-led development at land adjacent to Skew Bridge Ski Slope at Rushden Lakes¹.

3.10 Paragraph 8.46 of the Rushden Lakes Inspector’s Report states that:

‘It is important to bear in mind that the sequential test as set out in NPPF require applications for main town centre uses to be located in town centres and it then runs through the sequence, edge and then out-of-centre. This makes good the very simple point that what the sequential test seeks is to see whether *the application* i.e. what is proposed, can be accommodated on a town centre site. There is no suggestion here that the sequential test means to refer to anything other than the application proposal. So Dundee clearly applies to the NPPF.’ (Inspector’s emphasis.)

3.11 Paragraph 15 of the SoS’s decision letter endorses the Inspector’s conclusions in this regard.

3.12 It is helpful to further qualify the direction provided by the above cases by also acknowledging that the Courts have found that an individual operator’s particular requirements are not generally of relevance in applying the sequential test. In considering proposals for a discount foodstore in Mansfield (*Aldergate v Mansfield District Council & Anor [2016] EWHC 1670 (Admin)*), Ouseley J concludes (at paragraph 35 of the Judgment) that:

‘In my judgment, “suitable” and “available” generally mean “suitable” and “available” for the broad type of development which is proposed in the application by approximate size, type, and range of goods. This incorporates the requirement for flexibility in [24] NPPF, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer. The area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content.’

3.13 In considering the above position, we recognise that the NPPF is silent on the matter of ‘disaggregation’ and, as such, it helpful to consider how the Secretary of State has considered the issue in determining ‘called in’ applications.

3.14 In this regard, we note that:

- Disaggregation was considered by the Inspector in his report commending the grant of planning permission for proposed retail development at Rushden Lakes (PINS reference APP/G2815/V/12/2190175) to 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].’

¹ Planning Inspectorate reference APP/G2815/V/12/2190175.

- There has been discussion in some quarters as to whether this conclusion is specific to Rushden Lakes or whether it can be applied more generally, and the subsequent Braintree Secretary of State decision (PINS reference APP/Z1510/A/14/2219101) provides clarification on the matter.
- The Inspector at paragraph 449 of the Braintree decision reports 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).’

3.15 Given the above, we do not believe that there is any *general default requirement* which means that an applicant is always obliged to disaggregate elements of its proposal in order that it can fit on alternative sites.

3.16 In summary, whilst it is necessary for applicants to demonstrate ‘flexibility’ on issues such as format and scale when applying the sequential test, it is clear that there is no requirement to consider ‘disaggregation’ nor to explore changes that would materially alter the application proposal such that it no longer meets commercial requirements (i.e. a material reduction in size). These matters have been considered as part of a call-in decision which post-dates the publication of the NPPF and in which the SoS clearly agreed with the appointed Planning Inspector on the interpretation of each of these matters.

3.17 The above three cases are widely referred to in applying the sequential test. Whilst the exact requirements with regard to flexibility will depend on the prevailing circumstances for each proposal, we believe it to be clear that:

- sequential alternative sites should be able to accommodate a broadly similar form of development as the application proposal (allowing for flexibility in respect of format and scale) in the ‘real world’ in which developers operate;
- that there is no general default requirement which means that an applicant is always obliged to disaggregate elements of its proposal; and that
- operators’ distinct models are not generally of direct relevance to the test, and as such sequential alternatives should not be discounted because of individual operator preferences or due to sites not being available to a particular retailer.

Site Search Parameters

3.18 Section 5 of the applicant’s Sequential and Impact Report sets out its case in terms of the parameters of relevance to the application proposal that inform the consideration of sequential alternative sites.

3.19 ID Planning firstly seek to summarise the specific identified business model for the proposed development. ID Planning’s consideration can be summarised as follows:

- The proposed development is located on a busy connecting road which links two motorway junctions on the M62 and leading to access to the wider area. ID Planning state that the site is '**...strategically located proximate to the motorway network and, in addition, Lindley Moor Road is a busy route along the northern edge of the wider Huddersfield area resulting in a significant element of traffic passing the site**'.
- The proposed business model seeks to provide a mix of food and beverage uses to serve and provide three main functions as follows:
 - Roadside services and facilities to passing traffic;
 - Services and facilities to serve the existing and growing employment; and
 - Services and facilities to serve the new residential areas.

3.20 ID Planning then provide details of the adopted catchment area for the purposes of the sequential assessment from paragraphs 5.32 to 5.57 of the Report.

3.21 ID Planning state that a convenience store of the nature proposed will tend to serve a very local catchment which is typically taken to comprise a ten minute walk-in catchment area, or 800 metre walking distance, as based on the guidance provided by the Institute for Highways and Transportation. The defined walking distance therefore focuses on the residential areas off Crosland Road and Weatherhill Road, extending down the hill to West Street.

3.22 Overall, ID Planning consider that the primary catchment area of the proposed development would be focused on the north western part of Huddersfield and that it would not extend north beyond the M62 into Calderdale district. In this regard, ID Planning consider that the larger residential mass of Holywell Green will continue to look north and east towards Elland and Halifax for their retail and food and beverage requirements.

3.23 In light of the above, ID Planning concentrate their search for sequential alternative sites on Lindley and Marsh district centres, and Birchencliffe, Salendine Nook, and New Hey Road local centres.

3.24 There is a slight contradiction in respect of ID Planning's commentary made with regard to the catchment areas, in that they state the proposal, including both the retail and leisure elements, will not only serve the local walk-in catchment area (both residential and employment footfall) but also provide facilities to serve the passing traffic (see paragraph 3.19 above for reference).

3.25 Nexus has considered the likely catchment of the proposed development, comprising both the retail and leisure elements of the proposal and having regard to the local context and surrounding land uses. We are of the view that there is the potential for the proposal to draw some of its trade from an area wider than the 800 metre walking distance catchment provided by ID Planning. This is of particular relevance to the proposed leisure uses, which we consider could have a wider draw than the convenience store.

3.26 However, we do agree with ID Planning that the principal catchment from which the trade will be drawn to the proposed convenience and leisure units, will be the proximate walk-in catchment surrounding the site, which includes both an element of the local residential areas, but also the existing and proposed employment uses.

3.27 As such, having considered ID Planning's analysis and taking account of the nature of the proposal and the context of the application site, the area of search is found to be appropriate. We therefore consider that although ID Planning has undertaken a search for potential sequential sites within Marsh district centre, it is unlikely that locating the development in or on the edge of Marsh would meet the same broad requirements as the proposal. If ID Planning consider Marsh district centre to be a suitable alternative location to meet broadly the same catchment, then we would query why Elland town centre to the north, located in the Calderdale authority area, would not meet the same requirements, despite the positioning of the application site in the context of the M62.

- 3.28 As such, we include below an assessment in respect of Marsh district centre in any event, and provide additional commentary in respect of Elland town centre for completeness.
- 3.29 In terms of the site search criteria, ID Planning acknowledge at paragraph 5.73 that it is appropriate to disaggregate the 'main town centre uses' from the remainder of the development for the purposes of the sequential test. In this regard, the four retail and leisure units proposed (which comprise the main town centre uses) would occupy a site area of approximately 1.3ha and we are of the view that there is no requirement to disaggregate the units in this case. We are therefore satisfied with ID Planning's approach in this regard.
- 3.30 ID Planning state that in order to demonstrate a sufficient degree of flexibility, they have adopted a site search threshold of 10% below and above the 1.3ha site area, or between 1.2 and 1.5ha. Nexus is satisfied with the approach adopted by ID Planning overall.

Consideration of Sequential Alternative Sites

- 3.31 ID Planning provides an analysis of each of the identified centres within the adopted catchment at Section 5 of their Report. In doing so, they provide a review of vacant units and potential development opportunities within and on the edge of the five defined centres. We comment on each of the five centres below.

Birchcliffe Local Centre

- 3.32 ID Planning identifies one undeveloped area to the east of the centre, which is currently partly used for recreation purposes, including the provision of goalposts for a football pitch. The site identified by ID Planning forms part of a wider Urban Greenspace allocation within the adopted local plan. As such, ID Planning conclude that although the site would be suitable in respect of its size, given the current and adopted use within the Local Plan, it would not be suitable to redevelop the site for alternative uses.
- 3.33 Nexus agrees with ID Planning, in that the site is not a suitable alternative to accommodate the proposal. We are also unaware of any alternative site within or on the edge of the local centre.

Salendine Nook Local Centre

- 3.34 ID Planning does not identify any units or sites within or on the edge of Salendine Nook which would be suitable to accommodate the proposal. ID Planning does acknowledge that the former Spotted Cow Public House site could be considered suitable but in light of the recent approval for a new foodstore on this site, it is no longer considered to be available.
- 3.35 We agree with ID Planning that there are no available and suitable sites within or on the edge of Salendine Nook local centre to accommodate the proposal.

New Hey Road Local Centre

- 3.36 ID Planning identifies three small vacant units within the centre which they consider would be too small to accommodate the proposed development. Nexus has also reviewed opportunities within the centre and agree that there are none within or on the edge of the centre which would be both available and suitable to accommodate the proposal.

Lindley District Centre

- 3.37 ID Planning identifies and assesses four sites within and on the edge of the district centre for the purposes of the sequential assessment. The first two consisting of Daisy Lea Recreation Ground and the land associated with Church of St Stephen, are both designated as urban greenspaces within the adopted Local Plan and are therefore not considered to be suitable to accommodate commercial uses.
- 3.38 The third, the site north of Brian Street is situated to the west of the district centre, in an edge of centre location. The site measures approximately 0.3ha and although is brownfield land, is considered to be too small to accommodate the proposal, even when applying a sufficient degree of flexibility.
- 3.39 Finally, the fourth site identified by ID Planning which is situated to the west of Lidget Street, measures approximately 0.8ha and is allocated for housing development within the adopted Local Plan. As ID Planning identify, although the site is situated in an edge of centre location, it is a back land site and is not of a sufficient size to accommodate the proposal.
- 3.40 We are therefore satisfied that there are no units or sites within or on the edge of Lindley district centre which would be available and suitable to accommodate the proposal.

Marsh District Centre

- 3.41 In terms of Marsh district centre, as ID Planning identifies, the only units available within the centre are considered to be too small to be considered suitable to accommodate the proposal.
- 3.42 Given the above, we are also satisfied that there are no units within or on the edge of Marsh district centre which could be considered to be available and suitable to accommodate the proposal.

Elland Town Centre

- 3.43 As set out above, ID Planning has not included a review of potential sequential alternatives within Elland town centre, even though the centre is closer to the application site. For completeness therefore, we have undertaken our own review of potential sequential sites within the town centre.
- 3.44 The largest vacant unit located within the town centre is a former office at 39-43 Southgate. The unit is being actively marketed and is therefore considered to be available. However, at 259 sq.m, the unit is not considered to be of a suitable size to accommodate the proposed development.
- 3.45 Turning to edge or better connected out of centre sites, we note that Unit 6 at Riverside Mills on Saddleworth Road is also being actively marketed and is considered to be available. The unit measures approximately 444 sq.m, and even when taking account of the adjacent car parking, it is not of a sufficient scale to accommodate the proposal. In any event, the site is situated off a B-road and is not therefore sufficiently prominent to suitably accommodate the proposed development, which will rely to some degree on pass-by traffic and custom from the local walk in catchment.
- 3.46 Finally, we are also aware of the vacant B1/B2/B8 commercial premise located within the Rosemount Estate (Bay 1) which is also being actively marketed. The ground floor of the unit measures approximately 1,709 sq.m and is situated in an edge of centre location in planning policy terms. The site forms part of a wider, well-established industrial estate and is one part of a larger commercial building.

- 3.47 We are satisfied that in light of the nature of the building and the likely limited opportunities to redevelop the site without significant wider implications to the overall estate, that the site is not considered to be a suitable alternative to accommodate the proposed development. Furthermore, the site does not benefit from prominent and direct road frontage, and would therefore be unlikely to attract the pass-by traffic as identified above.
- 3.48 We are therefore satisfied that there are no sites which can be considered to be both available and suitable to accommodate the proposed development within or on the edge of Elland town centre.

Conclusion in Respect of the Sequential Test

- 3.49 We have reviewed all of the sites and locations considered by the applicant in its submission.
- 3.50 It is accepted that none of the centres identified include potential sequential sites which could be considered to be both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility in respect of format and scale. We are unaware of any other site in a sequentially preferable location which could support the proposal.
- 3.51 As a consequence, we conclude that the application proposal accords with the requirements of the sequential test as articulated at Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.

4. The Impact Test

Requirements of the NPPF and the Town Centres and Retail PPG

4.1 Paragraphs 90 and 91 of the NPPF indicate that application proposals for retail and leisure development should be refused planning permission where a significant adverse impact is likely to arise from development.

4.2 In assessing the significance of impacts arising from development, it is necessary to reflect upon the advice set out in the Town Centres and Retail PPG. In this regard, paragraph 018 states that:

'A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.' (Our emphasis.)

4.3 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition and innovation. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a 'significant adverse' impact.

4.4 Paragraph 015 of the Town Centres and Retail PPG is also of some relevance in considering how the impact test should be applied. It states that:

'As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities.'

4.5 The two key impact tests identified by paragraph 90 of the NPPF are considered below. The tests relate to:

- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).

4.6 The compliance of the proposal with each of the two strands of the test is set out below.

Impact of the Proposal on Public and Private Sector Investment

4.7 ID Planning does not appear to directly address the matter of town centre investment in its Sequential and Impact Report. There is however more general commentary provided in respect of the health and offer of the defined centres, which is useful to understand in the context of the proposal.

4.8 In any event, we are not aware of any existing or planned town centre investment which could be impacted upon as a result of the proposal. We are therefore satisfied that the proposal complies with the first part of the impact test.

Impact of the Proposal on Town Centre Vitality and Viability

4.9 ID Planning's assessment of the impact of the proposal is provided at Section 6 of the Sequential and Impact Report. ID Planning usefully utilise the latest cumulative assessment prepared by Lichfields and updated by Nexus

in our Retail Policy Appraisal in respect of the now approved Lidl foodstore at New Hey Road (application reference 2021/94029). We comment on the baseline position in further detail below.

- 4.10 It is firstly useful to consider the existing health of the relevant defined centres in order to be in a position to fully account for the potential implications of the proposal. In order to assess the potential impact a proposal may have on a town centre, the applicant should firstly assess the existing performance and overall health of the defined centres within the catchment.
- 4.11 A 'health check' of the vitality and viability of the defined centres within the identified catchment is a good basis upon which to assess the potential retail impact of a development. It can be the case that if a centre is in a poor state, (i.e. vacancy levels are above average, numbers of national multiple retailers are below average, footfall is low, and the overall environment within the town centre is poor), then impacts can be accentuated. Any impacts, even on a seemingly 'healthy' centre, need to be carefully assessed on a case by case basis.
- 4.12 The impact on a centre is not measured solely by the level of quantitative trade diversion of a proposal in monetary terms. Whilst a quantitatively based trade diversion assessment is important to understand the likely impact of a proposal on a town centre, it is also important to look beyond this and to consider the potential impact of a proposal in respect of its ability to adversely affect trade, to diminish footfall across a town centre, or to attract current or potential future tenants away from the town centre.
- 4.13 ID Planning provides a review of the health of the centres from paragraphs 6.50 to 6.108 of the Sequential and Impact Report. Nexus has also visited the key centres of relevance to the impact assessment, being those from which we considered could be the subject of the highest trade diversion, and we provide our own consideration of the current health of the three relevant centres below.

Birchencliffe Local Centre

- 4.14 Birchencliffe is a small local centre located along the A629 Halifax Road and is anchored by a Tesco Express and a Co-op Food convenience store. The centre benefits from a considerable volume of passing traffic along Halifax Road, a key arterial route into Huddersfield town centre.
- 4.15 Beyond the relatively strong convenience goods offer, the centre has a relatively limited offer, partially due to the limited size of the centre. Operators also include a hotel, Briar Court, and two restaurants. These operators are considered likely to draw from a relatively broad catchment but are also thought likely to benefit from the location of the centre, on a key route in close proximity to Junction 24 of the M62.
- 4.16 Overall, although the offer is not substantially diverse, the centre performs an important role in principally providing a convenience retail offer for the local catchment.

Salendine Nook Local Centre

- 4.17 Focused around the Salendine Shopping Centre, with a few additional units located along New Hey Road, Salendine Nook local centre is anchored by a Sainsbury's Local convenience store. Alongside this, there are a range of services and operators which are considered suitable to serve the needs of the local community, including a Post Office, Pharmacy and doctors surgery, and a number of linked trips were observed between these uses at the time of our visit.
- 4.18 Although a little tired in appearance, the shopping centre is functional and the standard of appearance is considered acceptable, although a little basic. It is also worth noting that the single vacant unit at Salendine Nook

was in the process of being fitted out, with a sign advising that it would shortly be opening. Given this, there is the very real likelihood that there will be no additional vacancies in the near future.

- 4.19 By virtue of this, Salendine Nook is considered to be a vital and viable centre, that performs a strong role in serving the needs of the local community, and those passing on the A640 New Hey Road.

Lindley District Centre

- 4.20 Lindley district centre is located in an established residential area in the north of Huddersfield, located along Lidget Street. The centre comprises a diverse range of comparison goods and service operators, with a particularly strong food and drink offer. The centre has a more limited range of convenience goods operators, with these including a Sainsbury's Local convenience store, a butcher, a baker and a deli.

- 4.21 The centre is situated in an attractive part of Huddersfield, with substantial areas of planting and attractive buildings defining the centre, although relatively significant and constant traffic movements were observed at the time of our visit. These are considered likely to limit the ease of pedestrian movement through the centre.

- 4.22 Our survey recorded a total of two vacant units in the centre, a figure substantially lower than the current national average. As such, Lindley is considered to be a highly vital and viable centre, which serves both a local and, by virtue of the strong service offer, likely a wider catchment area.

- 4.23 We use the above healthcheck analysis and that provided by ID Planning to undertake the remainder of the retail impact appraisal below, and on which to base our overarching impact recommendations.

Assessment Period

- 4.24 The applicant undertakes an impact assessment based on a test year 2025. Paragraph 017 of the Town Centres and Retail PPG specifically directs that the design year for impact testing should be the year that the proposal has achieved a 'mature' trading pattern.

- 4.25 It states that this is conventionally taken to be the second full calendar year of trading after the opening of a new retail development. Given the proposed development is submitted in hybrid form and is speculative in nature, we do not consider that 2025 would be the year that the scheme will have reached a mature trading pattern. In this regard, we consider that a development of this nature would likely commence trading in 2024 or 2025 and, on this basis, 2027 could well equate to the second full calendar year of trading.

- 4.26 However, in light of the limited forecasted growth in terms of available retail expenditure particularly in the short term, we do not consider that altering the test year to 2027 would result in a material change in respect of the impact considerations in any event.

- 4.27 Given the above, we are satisfied with the applicant's approach in respect of the adopted test year.

Baseline Position

- 4.28 ID Planning has adopted a baseline position using the findings from the household survey undertaken in 2021 to support the proposed Lidl foodstore development at New Hey Road (permission reference 2021/94029). Usefully, ID Planning's starting position for the assessment has been taken directly from Nexus' July 2022 Retail Policy Appraisal produce to appraise the New Hey Road scheme.

- 4.29 As such, the first eight columns of the table provided at Appendix 1 directly reflect the figures provided by Nexus within our own assessment of the cumulative impact position of the New Hey Road scheme. Nexus welcomes this approach and are satisfied with the cumulative position up until the assessment of the current proposal at Lindley Moor Road.
- 4.30 In light of the above, the key consideration is the level of diversion to the proposal at Lindley Moor Road, and the cumulative impact position on the defined centres taking account of all permitted and proposed schemes.

Turnover of the Application Proposal

- 4.31 Paragraph 6.22 of the Report provides the detail of how ID Planning has calculated the turnover of the proposed convenience store. In this regard, ID Planning has adopted the 377 sq.m gross floorspace and assumed that of this, 320 sq.m or 85% will be used for the sale of convenience and comparison goods. ID Planning then assumes that 90% of the total net sales area will be used for the sale of convenience goods. We are satisfied with the assumed breakdown of floorspace.
- 4.32 ID Planning has adopted an average sales density of approximately £10,070 per sq.m, which is stated to reflect the average sales density of eight convenience retailers at 2020 Prices. It is not clear where ID Planning has sourced the average sales densities, but we agree that the average figure adopted is reasonable. The resultant turnover of the convenience floorspace is therefore calculated to be £2.9m at 2025.
- 4.33 We therefore consider ID Planning's approach in respect of the turnover of the application proposal to be appropriate in the above context.

Patterns of Convenience Goods Trade Diversion

- 4.34 ID Planning provides analysis in respect of the trade diversion of the proposed convenience store from paragraphs 6.29 to 6.48 of the Report and within the table at Appendix 1.
- 4.35 ID Planning consider that the highest proportion of trade will be from destinations grouped together as 'elsewhere', from which they consider 24.5% of trade will be diverted, followed by destinations grouped together as 'elsewhere in Huddersfield Area' from which they consider 16.0% will be diverted. As such, overall, ID Planning consider a total of 40.5% of trade will be diverted from unspecified convenience destinations.
- 4.36 Although we note that a proportion of trade to the proposal will be drawn from residents outside of the immediate catchment in light of its location in respect of the highways network and proximity to the employment uses, we consider the level of diversion assumed to come from 'other destinations' to be on the higher side of what could happen in practice. We consider that a diversion from 'other destinations' could be around 30%, instead of the 40.5% figure utilised by ID Planning.
- 4.37 In addition to the above, ID Planning assume that 18.5% of the proposal's turnover will be diverted from Lindley district centre (which includes the Sainsbury's Local), followed by 12.0% from the Sainsbury's at Salendine Nook local centre and 9.5% from Birchencliffe local centre, which includes both a Tesco Express and a Co-op. ID Planning assume that a further 10% will be diverted from the committed Aldi at Oakes Mill.
- 4.38 We consider that the levels of diversion from Lindley, Salendine Nook and Birchencliffe centres could be higher than that which is presented by ID Planning.

4.39 As such, we have sought to redistribute the trade diversion assumptions to take account of our comments above, and we present a revised cumulative impact position below. We have only presented the key destinations of particular relevance to the assessment in Table 4.1 below.

Table 4.1: Nexus' Trade Diversion Assessment – Principal Destinations

	Turnover at 2025	Diversion to Commitments	Turnover at 2025 post commitments diversion	Diversion to Proposal (%)	Diversion to Proposal (£m)	Solus Impact	Cumulative Impact
Lindley District Centre	5.8	0.3	5.5	17.5%	0.5	8.8%	13.9%
Sainsbury's, Salendine Nook Local Centre	9.1	1.5	7.6	22.5%	0.7	7.2%	23.7%
Birchcliffe Local Centre	1.7	0.02	1.68	15.0%	0.4	25.6%	26.8%
Co-op, Marsh DC	6.9	1.2	5.7	10.0%	0.3	4.2%	21.6%
Other stores, Marsh DC	1.2	0.1	1.1	0.0%	0.0	0.0%	8.3%
Tesco Express, New Hey Road	3.5	0.4	3.1	5.0%	0.1	4.1%	15.6%

Notes: Pre and post commitment turnovers taken from ID Planning's Quantitative Assessment (which itself is based on Nexus' review of the proposed Lidl foodstore at New Hey Road). Assumptions of trade diversion to the proposal are based on nexus' professional judgement, having regard to the proximity of the scheme to the centres and the likely trade draw.

4.40 Table 4.1 indicates that when adopting Nexus' trade diversion assumptions, the highest cumulative impact would be on Birchcliffe local centre, followed by Salendine Nook local centre. It is therefore important to consider the potential implications of this level of trade diversion from the respective centres.

4.41 Turning firstly to Birchcliffe local centre, although the cumulative impact appears to be high, this is on the basis that the calculated turnover of the centre being significantly below benchmark average. In this regard, the centre includes a Tesco Express and a Co-op as part of the petrol filling station, and it is therefore highly likely that the centre is trading at a higher level than that which is identified by the household survey.

4.42 Although there will likely be an element of diversion from the existing convenience provision in the centre, we do not consider this to be at a level which could have a significant adverse impact on the future vitality and viability and that the existing operators would continue to trade viably post-development. In particular, we are of the view that the operators at Birchcliffe will be appropriately served by the local residential catchment, and by pass-by trips travelling up Halifax Road towards the motorway junction.

4.43 Turning secondly to Salendine Nook local centre, the highest proportion of diversion is likely to be felt on the Sainsbury's store. In this regard, although the cumulative impact is considered to be high, the diversion to the application proposal alone is relatively limited. Furthermore, the Sainsbury's is still expected to be trading well post-impact, and as such, we do not consider there to be any risk that the store could close as a result of the proposal.

4.44 Looking at Marsh district centre, we assume that approximately 10.0% of the proposal's turnover will be diverted from the Co-op or £0.3m, resulting in a solus impact on the Co-op of approximately -4.2%. When considered alongside the commitments, the impact on the Co-op increases to approximately -21.6%, and that the post-development turnover would be approximately £5.4m at 2025.

- 4.45 In assessing the potential implications of the level of trade diversion, we note that although the Co-op is of importance in underpinning the vitality and viability of the district centre, it is important to note that the high level of trade diversion would occur as a result of the commitments which are already approved. The diversion associated with the proposal alone is relatively limited. It is our view that local residents to the district centre would still need to visit the wider offer of the centre to secure a range of day to day goods and services should the proposal at Lindley Moor Road come forward.
- 4.46 Furthermore, as set out in Table 4.1 above, the impact arising at any other retailer within the district centre would be limited. We therefore do not consider that the quantum of trade diversion identified from the proposal and the commitments would be at a level which would result in a significant adverse impact on Marsh district centre.
- 4.47 Finally, in terms of Lindley district centre, we again consider that the identified post development turnover to be at a level which would be reflective of a healthy centre. In this regard, we note that the principal convenience destination within the district centre comprises the Sainsbury's Local, which would still be trading around benchmark average post development. We therefore do not consider there to be any concerns in respect of the future performance of the Sainsbury's, or indeed the wider centre following the assumed cumulative trade diversion of the proposal and the commitments.
- 4.48 We have also considered the potential level of diversion from Elland town centre, located to the north of the M62. In this regard, we consider that any potential diversion from existing stores within Elland would be minimal and certainly not at a level which would have any material impact on the future trading performance. This conclusion has been reached having regard to existing shopping patterns, existing provision within the centre and the distance and accessibility to the centre from the application site. Elland includes an Aldi and Morrisons, with a series of smaller convenience operators. It is unlikely that a high proportion of residents' spend from the catchment surrounding Elland would alter their shopping patterns to visit a small convenience store at the application site. We are therefore satisfied that the proposal would not have a significant adverse impact on Elland town centre.
- 4.49 In any event, the proposed convenience floorspace at Lindley Moor Road will principally serve a localised catchment, meeting primarily top-up needs which would not directly or materially impact on the existing stores within Elland.
- 4.50 In light of the above and in summary, we find that:
- although the post development turnover of Birchencliffe local centre is low, we do not consider that this appropriately reflects how the convenience operators are trading in practice. Giving consideration to the potential implications of the proposal and the commitments in respect of trade diversion, and having regard to the overarching health of the centre, we do not consider that the impact would be significant adverse on the future vitality and viability of the centre;
 - given the nature of the proposal, its location and the wider uses proposed as part of the development, the Sainsbury's at Salendine Nook local centre (and the centre as a whole) would continue to trade well subsequent to the implementation of the proposal and relevant commitments;
 - although the cumulative impact on the Co-op at Marsh district centre appears to be high, this is principally as a result of the committed convenience floorspace already approved. It is our view that local residents to the district centre would still need to visit the wider offer of the centre to secure a range of day to day goods and services should the proposal at Lindley Moor Road come forward;
 - the Sainsbury's at Lindley district centre, and the wider centre as a whole would also continue to trade well subsequent to the implementation of the proposal and commitments;

- any impact arising elsewhere would not have a material impact on the ongoing role, function and operation of defined centres.

Impact of the Proposed Food and Drink Uses

- 4.51 ID Planning also provides some qualitative analysis in respect of the potential impact of the proposed restaurant and coffee shops on the defined centres. We agree with the approach adopted by ID Planning in respect of assessing the impact of the leisure uses, particularly given the inherent difficulties of robustly calculating the turnover of existing and proposed leisure operators.
- 4.52 ID Planning's analysis includes a review of the existing food and drink offer within the defined centres and sets out how the proposed development is qualitatively different to that which is provided within the centres.
- 4.53 Nexus Planning has also visited the key centres of relevance to the assessment and agrees with ID Planning's assessment. In this regard, we agree that the proposed coffee shops and restaurant proposed at the application site would not compete directly with the type of food and drink offer which has been identified within the defined centres.
- 4.54 In this regard, the existing offer within the centres are focused more on small independent cafes and restaurants which are likely to have a dedicated customer base and which will likely form part of a wider linked-trip with other operators within the centres.
- 4.55 Furthermore, the proposed leisure floorspace at the application site will also draw direct trade from the surrounding existing and proposed employment floorspace, where the workers are unlikely to have been visiting the existing cafes, takeaways and restaurants within the surrounding defined centres in any event.
- 4.56 Given the above, we conclude that the proposal complies with the second strand of the NPPF impact test.

Conclusion in Respect of Impact

- 4.57 As we set out above, we are unaware of any town centre investment that would likely be prejudiced by the application proposal, which we find accords with the requirements of the first part of the NPPF impact test.
- 4.58 In terms of the second part of the test, we believe that the trade diversion impacts that would occur at defined centres are of an acceptable magnitude and that no centre would be the subject of a significant adverse impact.
- 4.59 Furthermore, the application proposal would result in some benefit in respect of improved customer choice in the local area.
- 4.60 We find that the application proposal is in accordance with the requirements of Policy LP13 of the adopted Local Plan and the NPPF impact test.

5. Conclusions and Recommendations

- 5.1 The hybrid planning application reference 2022/62/91477/W provides a mixed use development, seeking full permission for the erection of Class E(g)/B2 and B8 units and outline consent for Class E(a), E(b), E(g), B2 and B8 units. Part of the proposed development comprises the erection of 'main town centre uses', consisting of a convenience foodstore, restaurant and two coffee shops. The application site is situated in an out of centre location in planning policy terms.
- 5.2 Paragraph 91 of the NPPF indicates that planning applications for retail uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where they fail to satisfy the requirements of the sequential approach or are likely to result in a significant adverse impact.
- 5.3 In respect of the sequential approach to development, we have reviewed all the sites and centres 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.
- 5.4 We are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 87 and 88 of the NPPF. For the same reasons, the proposal is consistent with the requirements of Local Plan Policy LP13 as it applies to the sequential test.
- 5.5 With regard to the first part of the NPPF impact test, we are not aware of any in centre investment of relevance to the first part of the impact test and therefore do not believe that the grant of planning permission for the proposed development would likely prejudice the implementation of committed and planned public investment projects in any of the defined centres within the catchment.
- 5.6 In terms of the second part of the test (relating to the vitality and viability of town centres), we have given particular attention to the effect of the application proposal on defined centres in close proximity to the application site. Having given consideration to the magnitude of such impacts and the current health and composition of relevant centres, we find that the proposal would not result in a significant adverse impact at any centre.
- 5.7 We are therefore satisfied that the proposal accords with the requirements of Policy LP13 and the NPPF impact test.
- 5.8 Should the Council be minded to grant planning permission for the proposal, we recommend that appropriate conditions are imposed to control the use of the proposed units to accord directly with what has been applied for and what has been tested by Nexus as part of this Appraisal.
- 5.9 We trust that the above appropriately sets out our view at this stage in respect of retail and town centre policy matters but would be happy to provide further clarification should it be required.



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