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# Units A&B, Leeds Road Retail Park

Planning & Retail Statement

RI Leeds Road Limited

December 2022

**Units A&B, Leeds Road Retail Park**  
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## EXECUTIVE SUMMARY

1. This Planning & Retail Statement supports proposals which enable the re-occupation of Units A&B at Leeds Road Retail Park as a foodstore.
2. The unit has been designed to meet the requirements of Lidl as the preferred occupier and interested, with final terms to be agreed following the planning process. If occupied by Lidl, this store would be additional to their existing stores in Huddersfield.
3. The relevant planning permission at the retail park (93/62/04925/W2) already allows for a food unit of approximately 1,200sqm (13,500sqft) within the area that includes Units A, B, and C. This sets a clear baseline position and material 'fallback' for this application as a foodstore could operate almost immediately without the need for planning permission for the use.
4. Therefore, in reality only a very modest change to the sale of goods controls is needed to enable the wholly beneficial occupation of the units, which in turn delivers sustainable growth within the Huddersfield urban area.
5. The units are vacant and make no contribution to the local economy, and indeed long-term vacancy detracts from the appearance, vitality, and vibrancy of an area.
6. The Retail Park is an established destination in a sustainable location within the urban area close to nearby residential areas and main public transport links. Hence, development in this location can sustainably meet the needs of the nearby residential and employment areas without affecting existing centres in the local area. Providing retail facilities in an accessible location adds weight to an already compelling case.
7. In this context there are key benefits arising from development:
  - Maximising the use of an existing retail location site which already benefits from planning permission for a foodstore;
  - Meeting demand from an operator who specifically requires an additional store in Huddersfield, thereby not relocating an existing store nor competing with existing investment;
  - Creating significant jobs through construction and operation of development;
  - Investment in what would otherwise be a vacant unit;
  - Maximising a brownfield site in a prominent location;
  - Providing much needed locally accessible retail facilities in an area of need;

- Responding to local requirements for economic growth generating uses; and
  - Creation of a high quality sustainable development in an accessible location.
8. These benefits set the context for consideration of the proposals against the relevant national and local policy.
  9. The proposals have been subject to extensive pre-application discussions with the local planning authority to agree the scope of submission, the principle of the changes, and the approach to assessing town centre uses policies.
  10. The development is in accordance with the Local Plan, particularly LP13 which sets the local plan approach to town centre uses development. There are no sequentially preferable sites, and the proposed use would have no significantly adverse effect on existing centres or planned investment.
  11. In retail impact terms, two scenarios are presented. The first is an assessment of the uplift in food retail sales based on the material fallback of the existing 1,200sqm food retail allowance. The second scenario presents a worse case assessment which sets aside the material fallback. In both scenarios there is no significant adverse impact.
  12. The changes to the consented store opening hours and wider operational hours will have no adverse effect on the amenity of nearby residents, as demonstrated in the submitted noise assessment. The wider operational hours have been agreed during pre-application discussions.
  13. The submitted Transport Statement (including car park survey) demonstrates the proposed development will not adversely affect the safe operation of the highway and that development can be accommodated without offsite works. The retail park car park will continue to operate efficiently and effectively.
  14. The development therefore complies with other various development management policies as set out in the Local Plan.
  15. There are no significant adverse impacts arising from the proposed development that outweigh the extensive range of benefits. Planning permission should be granted.

## 1.0 INTRODUCTION

- 1.1 This Planning & Retail Statement has been prepared on behalf of RI Leeds Road Limited in support of two separate planning applications relating to Units A& B at Leeds Road Retail Park, Huddersfield.
- 1.2 The applications are:
- Submission under Section 73 of the Act for a variation of condition of planning permission 93/62/04925/W2 to:
    - a. Enable the sale of food and non-food goods;
    - b. Widen the store opening and servicing hours; and
  - Detailed planning application for all associated external works.
- 1.3 The proposals have been subject to pre-application discussions with Kirklees Council, in which the principle of development, associated technical details and scope of planning submission were all agreed. The content of the pre-application response is detailed in Section 3 of this report.
- 1.4 The unit has been designed to meet the requirements of Lidl as the preferred occupier, with final terms to be agreed with Lidl following the planning process. If occupied by Lidl, this store would be additional to their existing stores in Huddersfield. Even if the store were not occupied by Lidl it is highly likely it would be occupied by a similar scale food retailer.
- 1.5 The development would create a 2,269sqm (gross internal) food store (1,382sqm net sales). The store would include a limited amount of non-food goods to meet the business model of the intended occupier.
- 1.6 This Statement demonstrates the proposed development is entirely in accordance with local and national planning policy.

### **Submission documents**

#### Section 73

- 1.7 The following documents are submitted in support of the Section 73 application:
- Planning & Retail Statement (Barton Willmore, now Stantec).

- Transport Statement (Vectos).
- Noise Impact Assessment (JPM).
- Site Location Plan (HTC).

Detailed application

1.8 The following documents are submitted in support of the detailed application:

- Planning & Retail Statement (Barton Willmore, now Stantec);
- Transport Statement (Vectos);
- Noise Impact Assessment (JPM);
- Plans Pack (HTC), including:
  - Site Location Plan;
  - Existing Site Plan;
  - Existing Ground Floor Plan;
  - Existing Elevations & Sections;
  - Proposed Site Plan;
  - Proposed Ground Floor Plan;
  - Proposed Elevations;
  - Proposed External Surfacing Plan; and
  - Proposed Boundary Treatments Plan.

## 2.0 FACTUAL BACKGROUND

### The site

- 2.1 Units A and B are positioned at the western end of the southern terrace of retail units at Leeds Road Retail Park. The units adjoin Unit C (B&Q) which is to the east. The main retail park car park is to the north (with further retail terraces beyond). Bradley Mills Road is to the west, with Leeds Road to the north beyond the remainder of the retail park. A site location plan is enclosed at **Appendix 1**.
- 2.2 The retail park extends to approximately 18,000sqm (gross) with existing tenants including B&M, HomeBargains, Wren, and B&Q.
- 2.3 Beyond these immediate boundaries there are residential properties to the west on the western site of Bradley Mills Road. The wider area is largely commercial (including retail, offices and industrial) uses are beyond, particularly to the north and east, albeit with generally terraced residential properties along Leeds Road.
- 2.4 The retail park has two access points from Leeds Road, both of which are signalised junctions which lead on to Bradley Mills Road and the retail park. Leeds Road is a main road in the town and provides suitable access. It is also a main bus route, with bus stops located adjacent the site.
- 2.5 The retail park is in a sustainable location within walking distance of a sizeable residential population and commercial area (where employees could use the unit).

### Designations

- 2.6 The site is largely within Flood Zone 1, with small areas of Flood Zone 2 which also encroach on the western part of the site and other areas of the retail park away from the application site. There are no heritage designations (such as Conservation Areas) covering the site, and no designations nearby nor any listed buildings which would be affected by the development. Planning policy allocations are considered in future sections of this report (where relevant).

### Planning History

- 2.7 Units A and B were delivered in accordance with the original planning permission for the retail park (permission 93/62/04925/W2) (**Appendix 2**). Of note, the permission:
- Includes 13,500sqft of food sales, and has evidently been implemented meaning there is a safeguarded but unused provision for a foodstore.

- Restricts the sale of goods (condition 20) to principally DIY and bulky goods;
- Restricts hours of operation including servicing;
- Does not restrict the amalgamation of units; and
- Does not restrict other development or changes to the development.

2.8 Unit A was subject to a later consent for part change of use to A3 (98/62/93039/W2), although the consent was never implemented. However, it is relevant the change of use enabled the unit to open between 0730 and 0000, and did not restrict servicing.

2.9 The retail park has been subsequently extended and improved, with additional retail and leisure units added and previous consents being altered to allow a wider sale of goods (including food retail). Of note, Unit G has two further consents for food and wider non-food retail:

- Planning permission 2016/62/93905/W (**Appendix 3**) allowed the sale of food (and wider convenience goods) from 1,115sqm of the unit, with a specific but unnamed food retailer in mind. However, the intended occupier withdrew from the prospective letting;
- A further relaxation of goods controls for the remainder of the unit (planning permission 2018/70/91316/W) (**Appendix 4**) allows unrestricted convenience goods retail and up to 20% of general 'comparison' goods to enable occupation by B&M.

2.10 This latter consent for Unit G mirrors the overall requirement which is sought for Units A and B – i.e., an open retail consent.

### **Relevance of the fallback position**

2.11 The retail park benefits from an unused allowance of 13,500sqft of foodsales under planning permission 93/62/04925/W2, which is safeguarded through the specific reference to a food retail unit within the planning permission. This represents a material fallback position for the consideration of this application.

2.12 It is well founded that in order to be a material consideration, a fallback should have "*only more than a merely theoretical prospect*"<sup>1 2</sup> of coming forward. In this instance, there are vacant units which broadly equate to the scale envisaged in the planning permission meaning there a prospect such a use could be introduced.

<sup>1</sup> Samuel Smith Old Brewery (Tadcaster) v The Secretary Of State For Communities & Local Government [2009] EWCA Civ 333

<sup>2</sup> Zurich Assurance v North Lincolnshire Council [2012] EWHC 3708 (Admin) – paragraph 75

### 3.0 Retail context in Huddersfield

3.1 In understanding the context for the proposed development, it is also useful to understand the existing retail position in Huddersfield including the key shopping destinations as this will inform the assessment of the application.

#### **Food retail in the Huddersfield urban area**

3.2 Huddersfield is the largest centre in Kirklees and serves the town and nearby settlements. As would be expected for the main centre in the area, in addition to the provision of retail and leisure uses it provides a range of service and wider commercial in addition to civic and community uses.

3.3 On a Kirklees-wide basis, below Huddersfield in the hierarchy, there are a number of other smaller centres which meet the needs of their respective catchment areas and provide a range of retail, leisure, service, cultural and civic uses. Below this is a range of district, local, and neighbourhood centres which meet local needs. There are then a number of other out of centre stores which complement the overall retail offer.

3.4 The east and north-east of the Huddersfield urban area is relatively underprovided for in terms of retail provision and particularly along the Leeds Road corridor. In part this is due the generally commercial nature of the areas immediately alongside Leeds Road, although areas beyond are typically residential. Aside from Huddersfield, the largest centre (in terms of the hierarchy) within this general area (and the store catchment) is Moldgreen District Centre, although Aspley local centre contains an ASDA and Lidl and in retail terms is arguably larger than Moldgreen, with other smaller day to day retail provision in smaller local centres of Birkby, Far Town Bar, Hillhouse, Long Lane Dalton, and Rawthorpe. These local centres generally perform a localised role in catering for the day to day needs of the surrounding residential areas, as well as some passing trade, and primarily comprise small and/or independent operators.

3.5 The current convenience retail expenditure (in terms of locations) is heavily influenced by the local provision, which means a number of existing medium and large stores located in other parts of Huddersfield take a significant proportion of available expenditure from the area. This includes Tesco, Sainsbury's, Lidl and Aldi stores on the edge of Huddersfield town centre, an out of centre Morrison's store (to the south-east of Huddersfield) and a Lidl store within Aspley local centre.

3.6 In this context, the main food retail destinations for the area of Huddersfield where Leeds Road Retail Park is located are:

- Sainsbury's (Market Street, Huddersfield) (in centre);

- Sainsbury's (Southgate, Huddersfield) (edge of centre);
- Tesco (Viaduct Street, Huddersfield) (edge of centre);
- Morrisons (Waterloo) (out of centre);
- Lidl (Aspley) (in centre);
- ASDA (Aspley) (in centre)
- Lidl (Castlegate, Huddersfield) (edge of centre)
- Aldi (Ringway Centre) (out of centre);
- Aldi (Gallagher Retail Park); and
- ASDA (Longhill Road, Huddersfield) (out of centre).

3.7 The Kirklees Retail Capacity Study Update (2016) (WYG on behalf of Kirklees Council) provides an update of the 2014 study, in respect of the need for new retail floorspace. It is, however, accepted the report is dated and the findings of more limited relevance in terms of shopping habits and destinations. More recent planning applications in the Huddersfield area (for example the proposed redevelopment of the Spotted Cow Public House) have provided a partial update to the retail study inasmuch as these latest applications utilise new household surveys based on the retail study zones.

3.8 The retail study indicated that, cumulatively, convenience goods floorspace across Kirklees was 'over-trading' (i.e. store trading above company average or anticipated benchmark levels). A significant proportion of this overtrading was occurring in Zone 2, which includes the area to the north of Huddersfield town centre. Leeds Road Retail Park is within Zone 1 and close to the boundary with Zone 2, where greater levels of overtrading and a potential floorspace requirement is identified. These findings were broadly carried through to more recent surveys albeit with more marginal capacity for convenience sector growth.

3.9 It is also notable that both Sainsbury's stores, Tesco, and ASDA stores are trading well when 'benchmark' turnover (as a gauge of expected turnover) is compared to the Retail Study and more recent survey derived turnover. Therefore, although 'need' does not comprise a direct retail planning policy test, the retail evidence base supports potential food provision in the general area.

### **Huddersfield town centre**

3.10 Huddersfield Town Centre has a variety of uses within a relatively tightly bound built fabric of historic street patterns in parts, with more modern shopping mall and precinct type areas. The main shopping area in Huddersfield is concentrated along the

pedestrianised routes of New Street and King Street with several indoor shopping centres (Piazza Shopping Centre, the Kingsgate Centre, and the Packhorse Centre) with a concentration of national operators.

- 3.11 Foodstore within the town centre is dominated by a large Sainsbury's store on market street, along with the indoor and outdoor markets, and other smaller convenience stores with a more day to day top-up function. There are two further large superstores on the edge of the town centre (Tesco (Viaduct Street) and Sainsbury's (Southgate)), along with a Lidl store (Castlegate, edge of centre) and Aldi store (out of centre).

#### Investment in Huddersfield

- 3.12 It is recognised that Huddersfield town centre has been affected by the structural changes in the town centre retail market that have impact all centres across the UK, and particularly larger centres with large anchor tenants.
- 3.13 In response, Kirklees Council is implementing the Huddersfield Blueprint to deliver five key objectives: '*A vibrant culture, art, leisure, and nightlife offer, thriving businesses, a great place to live, improved access and enhanced public spaces*'. It focuses on regenerating six key areas: Station Gateway, St Peter's, Kingsgate and King Street, New Street, the Civic Quarter and a new Cultural Heart in Queensgate and Piazza area.
- 3.14 The Blueprint is likely to reduce the quantum of retail floorspace in the town centre, particularly through the demolition of the Piazza Centre, Queensgate (indoor) Market and other associated buildings, with the overall intention of making better use of existing space and creating new areas of high-quality realm as part of the five objectives identified above. A detailed planning application has been submitted for the Cultural Heart project of the Blueprint which will see the Piazza Centre demolished to make way for leisure, cultural and civic uses around new areas of public open space, and the indoor market refurbished to create a new foodhall and indoor space.
- 3.15 Furthermore, in retail terms, planning permission has been granted for a Lidl store on the former Kirklees College Site within the western edge of the wider town centre boundary. Various pre-commencement conditions have been discharged and development is expected to commence in the very near future.

#### **Other centres in the hierarchy**

##### Moldgreen District Centre

- 3.16 Moldgreen District Centre is located 1.5km to the east of Huddersfield town centre and 2.7km south east of the application site. It is a largely linear centre along Wakefield

Road, Old Wakefield Road, and Broad Lane. The majority of the uses within the centre are service led, including a number of takeaways and hairdressers, although there are smaller convenience uses as well as a pharmacy and opticians.

- 3.17 The centre is in an accessible location with a number of bus stops along Wakefield Road and residential areas within walking distance. There is also on and off street car parking which supports the overall accessibility.
- 3.18 Whilst there are vacant units the centre meets local needs and serves the nearby residential areas. The centre appears to be well performing, with good footfall, and also attracts passing trade as a result of its location on Wakefield Road as a main route into Huddersfield from the east and the range of services.

#### Apley Local Centre

- 3.19 Aspley Local Centre is on the edge of Huddersfield town centre and approximately 2km from the application site. The centre extends along both sides of Wakefield Road, albeit Wakefield Road presents a clear barrier to movement giving the feel of two separate centres on each side of the road.
- 3.20 The centre contains Wakefield Road Retail Park (which itself includes a small ASDA, Iceland, and Greggs, in a retail warehouse type unit) set back to the north of Wakefield Road and a Lidl store at the eastern edge of the centre to the South of Wakefield Road. The centre also contains a range of leisure uses including a Premier Inn hotel and adjoining restaurant which face on to the Aspley Basin (marina). Between these large uses is a range of local shops and services.
- 3.21 Of note, the Lidl store is performing significantly above the company average and recent survey data (see recent planning applications in Huddersfield) indicate the ASDA store is similarly well performing. This indicates the centre is attractive for local shoppers and is well performing.
- 3.22 The centre is conveniently accessible by public transport being located close to the town centre and along a main bus route, and residential areas are within walking distance. There is dedicated free surface car parking at both Wakefield Road Retail Park and the Lidl store, and on street parking, which allows shoppers to park and then visit other shops in. the centre.
- 3.23 The centre appears busy, particularly around the Wakefield Road Retail Park and Lidl store areas, with further footfall around Aspley Basin and the hotel. This strongly indicates a centre which is in good health overall and is clearly performing its level in the retail hierarchy, whilst also meeting wider retail needs with the larger stores.

### Birkby Local Centre

- 3.24 Birkby local centre is approximately 1.5km north of Huddersfield town centre and 2km west of the application site. It is formed of largely terraced properties along Blacker Road and St John's Road with a number of properties including a commercial use at ground floor and residential uses above along with residential dwellings interspersed within the centre.
- 3.25 The types of units and uses within the centre are entirely typical of a centre in this position in the hierarchy located in a residential area; and include smaller convenience stores along with services uses and hot food premises.
- 3.26 The centre has good footfall and is in good health overall, and is clearly performing its level in the retail hierarchy (i.e., a local centre meeting day to day needs).

### Far Town Bar Local Centre

- 3.27 Far Town Bar is a larger local centre approximately 1.5km north of Huddersfield town centre and 2km west of the application site. It is located along Bradford Road (A641) Spaines Road and Fartown Green Road, with Bradford Road being a main route into Huddersfield from the north. The centre has good accessibility being located within walking distance of residential areas and being located on a main bus route.
- 3.28 As with Birkby local centre, Far Town Bar is largely formed of traditional terraced properties including a commercial use at ground floor and residential uses above along with residential dwellings interspersed within the centre. However, the centre also includes larger units such as a car dealership and light industrial type buildings.
- 3.29 The types of units and uses within the centre are generally typical of a centre in this position in the hierarchy located in a residential area, with smaller convenience stores, local service uses, a dentist and hot food premises. The centre also includes a large healthcare centre on Spaines Road.
- 3.30 The centre has good footfall and is in good health overall, and is clearly performing its level in the retail hierarchy (i.e., a local centre meeting day to day needs).

### Hillhouse Local Centre

- 3.31 Hillhouse is a smaller local centre located a short distance (less than 200m south of Far Town Bar local centre), it is approximately 1km north of Huddersfield town centre and 1.5km west of the application site. It is predominantly located along Bradford Road (A641), with Bradford Road being a main route into Huddersfield from the north.

It has good accessibility being located within walking distance of residential areas and being located on a main bus route.

- 3.32 As with a number of other local centres in the area, Hillhouse is largely formed of traditional terraced properties including a commercial use at ground floor and residential uses above along with residential dwellings interspersed within the centre. The centre also includes a petrol filling station and a small number of employment uses. The Ringway Centre is to the south west of the centre (outside of the centre boundary) albeit somewhat divorced from the centre due levels changes and associated walking routes.
- 3.33 The types of uses are typical of other local centres as described above; including smaller local stores along with service uses and hot food establishments. Overall, the centre appears healthy and is well performing in serving the local residential catchment, given the position in the retail hierarchy.

#### Long Lane Dalton Local Centre

- 3.34 Long Lane Dalton is a small local centre formed largely of a single row of shops which includes a convenience store, diner, and service uses at ground floor and residential uses above. The former 'The Grove' public house which is within the centre boundary was converted to apartments in 2019. It is within a residential area approximately 2km east of Huddersfield town centre and 2km south east of the application site.
- 3.35 The centre evidently has a very local catchment and serves the immediate residential areas in which the centre sits. The centre appears to perform well in the context of its clearly very localised role.

#### Rawthorpe Local Centre

- 3.36 Rawthorpe is a small local centre of a single row of shops, with commercial uses at ground floor and residential uses above. There is off street parking and the centre is within a short walk of residential areas (some of which being adjacent on Bradley Mills Road). It is within a residential area approximately 3km east of Huddersfield town centre and 2km south east of the application site.
- 3.37 The centre includes a local convenience store and smaller service and hot food uses, and evidently has a very local catchment. The centre appears to perform well in the context of its clearly very localised role.

## 4.0 PROPOSED DEVELOPMENT

4.1 The occupier requires a retail consent which allows the sale of all convenience goods, and comparison goods from up to 20% of floorspace, within Class E of the Town & Country Planning (Use Classes) (Amendment) (England) Regulations (2020).

4.2 The development would therefore deliver such a unit, with a gross internal area of 2,269sqm (1,382sqm net sales), formed by the amalgamation of Units A and B. The associated internal and external alterations so not increase the unit floorspaces. The proposed layout is enclosed at **Appendix 5**.

4.3 The proposed floorspace for the unit is shown in the following table:

	Floorspace (sqm)
Gross Internal Area	2,270
Net Sales Area	1,388
Of which food goods	1,110
Of which non-food goods	277

### The Planning Applications

4.4 As detailed above, two standalone applications are submitted:

- Variation of conditions 15 and 20 (submitted under Section 73 of the Act); and
- Standalone detailed application for external alterations to the units, car park, service yard, and adjacent landscaping.

#### Variation of condition

4.5 The proposed development requires a variation of the wording of conditions 20 (goods controls) and 15 (operational hours) of planning permission 93/62/04925/W2. The suggested alternative conditions are set out below, with amended wording the conditions as currently worded.

4.6 The existing sale of goods restrictions would be amended to enable occupation by a food retailer. However, as the unit already benefits from an extant consent for a foodstore of 13,500sqft this application seeks the additional areas for food retail and ancillary comparison goods only.

4.7 Condition 20 (sale of goods) would be amended as follows:

**"Apart from the 13,500sqft food unit hereby approved Units A and B from which**

- All convenience goods may be sold, and
- All comparison goods from no more than 20% of the gross internal floorspace may be sold,

The occupancy of the retail units shall be ~~in accordance with the Council's Review of Shopping Policy approved on 1<sup>st</sup> November 1989 in that the such that the~~ goods sold shall be restricted to DIY goods (including gardening equipment and garden plants and motor accessories,) electrical goods, furniture and carpets, together with goods sold as a subsidiary activity, unless otherwise agreed in writing by the Local Planning Authority."

4.8 The intended occupier also requires slightly wider operational hours which are key to their business model. Condition 15 (hours of operation) would therefore be revised to:

**"The premises shall not open to the public, and servicing shall not be undertaken, outside the hours of ~~07:30 and 21:00~~ 07:00 to 23:00 hours ~~Monday to Saturday and 08:00 to 20:00 hours Sunday and in any case the hours of use of the site including deliveries shall be restricted to between 07:00 hours and 22:00 hours Monday to Saturday and 07:00 hours to 21:00 hours Sunday all~~ except as may be agreed in writing by the Local Planning Authority."**

#### Detailed application

4.9 Units A and B will be combined and refurbished to form a single unit, with works to the service yard and car park. There is no additional floorspace created. The development includes:

- External alterations to the unit façade to enable the amalgamation;
- Refurbishment of the front elevation to reflect the amalgamation, including new glazing and entrance features;
- Provision of an entrance canopy to ensure the store entrance, shopping trolleys and customers are protected from inclement weather;
- New signage zones;
- Alterations to the rear elevation to reflect the new internal layout;
- Alterations to the rear elevations to infill certain existing access points, creation of new access points, and replacement cladding to provide a consistent design approach;
- Rationalisation of car park layout (with a minor loss of spaces), with works to improve the car park surface and appearance;
- Introduction of accessible car parking spaces;

- Improved pedestrian access from Bradley Mills Road into the site, and improved routes through the area of the site adjacent the store; and
- Consequential alterations and improvements to the retail park landscaping.

4.10 The proposed development will have a clean and contemporary design. The unit will have a single height glazed entrance, with a glazed elevation along part of the eastern elevation to provide an active frontage.

4.11 There is no change to the main vehicular access and servicing routes would remain as existing (i.e., from Bradley Mills Way, leading to the A62) and this access is suitable.

### **The Proposed Occupier**

4.12 The unit has been designed to meet the requirements of Lidl as the preferred occupier, with final terms to be agreed with Lidl following the planning process. If occupied by Lidl, this store would be additional to their existing stores in Huddersfield. Even if the store were not occupied by Lidl it is highly likely it would be occupied by a similar scale food retailer. This commercial position is relevant when considering the scope of any retail planning policy assessments.

4.13 It is also relevant to note the following key operational characteristics of the potential operators of the store, as these characteristics also inform the application scope and key considerations for a planning application:

- Their approach is focussed on efficiency and simplicity from supplier to customer, which influences all aspects of the business and enables the operator to sell a focussed product range at lower prices;
- This means they do not provide the full 'supermarket retail' offer, or extended products / services (café / deli / pharmacy / laundrette / etc.) and wider comparison goods expected of a larger foodstore;
- As an efficient store format has been designed, where each component part is integral to the overall offer;
- This means customers will often visit for grocery goods and items, and visit other retailers for more specific or deemed 'luxury' or specialist items, as well as continuing to visit smaller local convenience stores close to home for everyday essentials and top-up shopping;
- Resultantly, this type of store will typically close earlier than both many larger stores and local 'top-up' stores; and
- Therefore, a typical store will serve a relatively compact catchment.

- 4.14 These matters are all material to the planning case.
- 4.15 The unit would be occupied by such a retailer and the store has been designed with their requirements in mind. However, it should be noted that the conclusions later in the report are applicable to any food retailer meaning there is no requirement to specifically restrict the occupier or future use.
- 4.16 The application has been developed then agreed in pre-application discussions with Kirklees Council. The scope of the planning application provides proportionate and robust evidence, as set out in the favourable officer response.

## 5.0 PLANNING POLICY

- 5.1 Section 38(6) of the Planning & Compulsory Purchase Act (2004) requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 The development plan is formed of the Kirklees Local Plan (2019) which includes Strategy & Policies and Allocations & Designations documents. A number of supplementary documents and guidance support the implementation of development plan policies.
- 5.3 The National Planning Policy Framework ('NPPF') and associated Planning Practice Guidance are material considerations.

### **Kirklees Local Plan**

- 5.4 The Local Plan seeks to encourage sustainable development (Policy LP1) in line with national policy, this means that proposals that accord with the Local Plan will be approved without delay.
- 5.5 LP7 encourages efficient use of previously developed land in sustainable locations, particularly where this encourages the reuse of vacant or underused properties.

### Town centre use development

- 5.6 The application site is not allocated for any specific purpose within the development plan. It is an 'out of centre' site in town centre use terms being more than 300m of the identified Primary Shopping Area of Huddersfield town centre.
- 5.7 Policy LP13 sets the retail hierarchy for Kirklees. Huddersfield is identified as a principal centre which sits at the top of the retail hierarchy and is the largest centre in Kirklees with a range of commercial uses along with cultural, and administrative functions being the location for key public services and Kirklees Council.
- 5.8 LP13 seeks to focus main town centre uses to defined centres and direct such uses in accordance with the sequential test, such that sites are directed first to existing centres before edge of centre and finally out of centre sites are considered. A retail impact assessment is also required for town centre uses not within defined centres where the scale of floorspace exceeds the locally set threshold. The threshold for development relevant to a principal centre is 500sqm (gross).
- 5.9 These policy sets the core context for the proposals.

Other relevant policies

5.10 The site is not specifically allocated in the Local Plan but is an existing retail location within the Huddersfield urban area. Relevant policies including those noted above are:

- LP1 – Presumption in favour of sustainable development;
- LP3 – Location of new development;
- LP7 – Efficient use of buildings;
- LP13 – Town centre uses;
- LP20 – Sustainable travel;
- LP21 – Highway safety and access;
- LP22 – Parking;
- LP24 – Design;
- LP27 – Flood risk;
- LP28 – Drainage;
- LP30 – Biodiversity & geodiversity;
- LP33 – Trees; and
- LP51 – Air quality.

**National Planning Policy Framework**

5.11 The NPPF, at its core, is aimed towards delivery sustainable development and economic growth. Paragraph 8 identifies the three overarching sustainable objectives; economic, social, and environmental.

5.12 Paragraph 11 states that plans and decisions should apply a '*presumption in favour of sustainable development*'. In terms of planning applications this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

- 5.13 For the purposes of this application, it is noted the Local Plan was adopted after the publication of the NPPF and key relevant policies in the NPPF have not substantially changed in the interim.

Town centre uses

- 5.14 Paragraph 87 states that local planning authorities should apply a sequential test to main town centre uses which are not in an existing centre nor in accordance with an up-to-date plan. It states town centre uses should be focussed to town centres in the first instance, 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.
- 5.15 Practice Guidance ('PPG'), which provides detail on interpreting and implementing NPPF policy, accepts it is not always possible to accommodate development within a town centre due to site or operator constraints and in such circumstance the authority should plan positively whilst having regard to the sequential and impact tests (Paragraph Reference ID: 2b-006-201 40306).
- 5.16 Of note, the PPG also highlights that the use of the sequential test should recognise that certain main town centre uses have market and locational requirements which mean that they may only be accommodated in specific locations (Paragraph Reference ID: 2b-012-20190722).
- 5.17 Paragraph 90 states for retail uses outside town centres, not in accordance with an up-to-date plan, a retail impact assessment should be required. If there is no locally set threshold, a default threshold of 2,500sqm gross floorspace should be applied. In this instance there is a locally set threshold of 500sqm (Policy LP13).

Highways

- 5.18 The NPPF is clear that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (paragraph 109).
- 5.19 Paragraph 110 then provides detailed criteria to be considered in the proposed development, relating to design, suitable access, sustainable transport, servicing requirements and emergency access. Paragraph 111 is clear that Travel Plans and Transport Statements are only required for developments which generate significant amounts of movement.

Other policy

5.20 Paragraph 118(c) highlights the need for decision to give substantial weight to the value of using suitable brownfield land. Paragraph 118(d) then provides specific support to the use of under-utilized land and buildings.

5.21 Other relevant NPPF principles include:

- Supporting strong, vibrant, and healthy communities (paragraph 8);
- Positively seek opportunities to meet the development needs of the area, and be sufficiently flexible to adapt to rapid change (paragraph 11); and
- Ensuring developments add the overall quality of an area (paragraph 127).

## 6.0 PRINCIPLE OF DEVELOPMENT – TOWN CENTRE USES

6.1 The assessment of the proposals must be set within the context of the site, the proposed development, and relevant policies in the NPPF and Development Plan (the Kirklees Local Plan).

6.2 Local Plan Policy LP13 and the NPPF set the approach to town centre use development; i.e. the sequential and impact tests. The scope of required retail work has been agreed with the local planning authority. The site is in an 'out of centre' location in town centre use terms and LP13 directs main town centre uses to existing centres in accordance with the retail hierarchy.

### Sequential test

6.3 There are clear locational benefits for the development, not least it reuses existing land and buildings in an established retail area. This context is important, as the site evidently has a longstanding retail use. This context has been agreed with the local planning authority during pre-application discussions.

6.4 Town centre uses guidance is clear the sequential test should be applied proportionately, and this has also been agreed with officers. The sequential test approach and findings are detailed below.

### Application of the sequential test

6.5 The practical application of the sequential test has been the subject of clarification through Appeal decisions and the Courts. It is accepted that flexibility is required when applying the test and the test must operate '*in the real world*' (see The Supreme Court in '*Tesco vs Dundee*'<sup>3</sup>). This means the practical application must consider the context of the site and realities of delivering development. For example, imposing a site that would require an operator to compromise their business to a commercially unrealistic or unviable extent not be 'suitable' for the purposes of the sequential test.

6.6 '*Tesco vs Dundee*' establishes an alternative site must be suitable for the development proposed not another hypothetical form of development. This approach was ratified in 'Aldergate' (*Aldergate Properties Ltd v Mansfield District Council & Anor [2016]*). Appeal and Secretary of State Call-In decisions (notably see, Rushden Lakes<sup>4</sup>, Exeter<sup>5</sup>, Tollgate<sup>6</sup> and Kingswood<sup>7</sup> decisions) provide further practical guidance on applying the

<sup>3</sup> Tesco Stores Ltd v Dundee City Council (Scotland) [2012] UKSC 13 (21 March 2012)

<sup>4</sup> Rushden Lakes - APP/G2815/V/12/219017

<sup>5</sup> Exeter - APP/Y1110/W/15/3005333

<sup>6</sup> Tollgate (Colchester) - APP/A1530/W/16/3147039

<sup>7</sup> Kingswood (Hull) - APP/V2004/W/17/3171115

test. Whilst now more dated, the 'Cribbs Causeway' decision<sup>8</sup> (at paragraph 572) summaries the approach to sequential test matters and the Inspector's decision is clear the test should be applied proportionately on a case by case basis recognising specific issues. Disaggregation is also no longer a policy requirement, but flexibility must be considered with commercial realities in mind, and this approach is reflected in the more recent Altringham Retail Park decision<sup>9</sup>. In this instance the store cannot be disaggregated as it operates as a single functional outlet.

6.7 The methodology and approach to implementing the test is also clarified in PPG which established the sequential test should be flexibly applied by both the applicant and local planning authority. Specifically, PPG paragraph 2b-011-20190722 states:

**'The application of the test will need to be proportionate and appropriate for the given proposal.'**

6.8 PPG paragraph 2b-012-20190722 goes on to state:

**'Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.'**

6.9 This is entirely relevant to this application, which seeks to improve existing retail facilities in a highly accessible location where the Local Plan (LP1) encourages development in such locations. In this instance there is a clear rationale the proposed unit can only be provided in this location as it relates to an existing established retail location. This is entirely the type of development which is suited for this location.

6.10 The need for development to take place in this location is established by the development context and overall benefits as detailed earlier in the report. This approach is not driven by land ownership or site assembly criteria, rather a beneficial approach to reusing an existing retail site.

6.11 Nevertheless, a sequential assessment has been undertaken in accordance with Local Plan policy LP13. In line with PPG, the sequential test should be proportionately applied in light of the previous consents for food retail at the retail park where no alternative sites were identified.

#### Sequential Test Methodology

6.12 A robust approach to the sequential test has been undertaken which involves:

- i. Setting the development parameters – i.e. a preferred store of 2,269sqm (gross), with associated car parking and access (a site area of circa

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<sup>8</sup> Cribbs Causeway - APP/P0119/V/17/3170627

<sup>9</sup> Altringham Retail Park - APP/Q4245/W/21/3267048

- 1.2ha), to reflect the proposed development, albeit accepting the need for flexibility.
- ii. Then taking a flexible approach by considering units of approximately 2,000sqm or 0.6ha sites (reflecting newer urban store formats);
  - iii. Defining a store catchment (the Primary Catchment Area ('PCA')) based on the existing retail provision in the area and likely trade draw (in this instance this covers an approximate minute drive-time (**Appendix 6**));
  - iv. Defining the centres in the catchment:
    - Huddersfield (Principal Centre);
    - Moldgreen (District Centre);
    - Aspley (Local Centre), which includes ASDA and Lidl;
    - Birkby (Local Centre);
    - Hillhouse (Local Centre);
    - Long Lane Dalton (Local Centre);
    - Rawthorpe (Local Centre); and
    - Fartown Bar (Local Centre).
  - v. Undertaking site visits to the centre(s);
  - vi. Applying the site specific considerations (i.e. conversion of an existing retail unit in an accessible location) and development parameters in the context of relevant case law and appeal precedent; and
  - vii. Assessing the identified sites based on their suitability and availability.

6.13 In setting the store catchment, it should be noted the general extent of the catchment is typically defined by the existing retail provision in the local area which can in turn relate to a particular drive-time distance or journey time. In this instance, given the nature of the catchment, a 7-minute drive-time has been adopted at the request of officers compared with the typical 5-minute drivetime which can inform the primary catchment for this type of food retail operator. The catchment includes the centres listed above, albeit the catchment only partially covers the eastern edge of Huddersfield town centre and the town centre has been assessed as a whole at the request of officers.

6.14 Regard must also be had to the scale of development proposed and the fact that planning policy does not require the arbitrary subdivision or disaggregation of development proposals. Indeed, there is no scope to disaggregate the proposed development, for example the amalgamated unit could not be delivered elsewhere nor could the food and non-food sales be split to separate units or sites.

6.15 Furthermore, in order for a site to be suitable and available it must be able to meet occupier requirements and align with the broad parameters of the proposed development, in this instance this requires sites with:

- Safe access and manoeuvring by customer vehicles;
- Adjacent surface level or immediately accessible car parking;
- Dedicated servicing to the rear of the store;
- Suitable space for deliveries and manoeuvres from heavy goods vehicles;
- A single-storey, open and unrestricted sales floor area;
- Generally level footprint or can be made to accommodate a level footprint;
- Uncomplicated land assembly issues (e.g. multiple ownership) which could constrain the potential for future development;
- No existing uses, or existing uses which can be readily relocated within appropriate timeframes;
- Commercially attractive frontage and visual prominence with the ability to pick up passing trade;
- Limited other potential constraints to development, for example conservation area or listed; and
- building status, tree preservation orders, topography, etc., which could prevent the store from being delivered.

6.16 These operational requirements are all material to the planning case.

Sequential site analysis and conclusions

6.17 It has already been established that Leeds Road Retail Park is in an accepted accessible location, and indeed there is a safeguarded consent for a foodstore within this area of the retail park (as detailed in section 3). This existing safeguarded position is highly material (in that a foodstore could operate from the retail park almost immediately) and should also be considered alongside the fact that a foodstore of this scale was previously considered appropriate for Unit G at Leeds Road Retail Park (permissions 2016/62/93905/W and 2018/70/91316/W).

6.18 Nevertheless, assess the relevant units and sites in the identified centres, which meet the identified search criteria, which are:

- Huddersfield town centre:
  - Former Kirklees College development site.
  - Existing Lidl store, Castlegate (Huddersfield).
  - Former BHS, Piazza Centre.
  - Former car showroom at 72 Northgate.

*Former Kirklees College development site (Huddersfield)*

- 6.19 The former Kirklees College site is a 2.46ha regeneration site within the wider Huddersfield town centre boundary albeit the site is separated from the town centre by Castlegate. In retail terms it is arguably an 'edge of centre' site as it is away from, but within 300m of, the defined town centre secondary retail frontages.
- 6.20 The site benefits from a very recent Hybrid planning permission granted on 3 August 2022 (application 2018/62/92647/W) for a mixed-use development including a 1,900sqm foodstore (alongside other residential and commercial uses). The developer has sought approval for the discharge of various pre-commencement conditions needed to make a material start on site. Lidl has been confirmed as the future tenant for the store, which will see Lidl relocate from their existing compromised store on the edge of Huddersfield town centre. The parts of the site which benefits from detailed planning permission are likely to be delivered within the next 12 months, with the foodstore likely to open around that time.
- 6.21 Therefore, whilst the site is suitable for retail uses (on the basis of the extant consent) it is **unavailable** as there is a confirmed occupier and a store is being delivered to meet their requirements. The site can be discounted on this basis.
- 6.22 Furthermore, the proposed store at the former college site is likely to serve a difference, and complementary, catchment to the store at Leeds Road Retail Park on the basis the college site is likely to serve the central and western areas of the town, whereas the Leeds Road Retail Park catchment is predominantly to the east and north-east of the town.

*Lidl store, Castlegate (Huddersfield)*

- 6.23 The 945sqm (gross) store is located on a 0.38ha site on the edge of Huddersfield town centre to the south of Castlegate, between its junctions with Manchester Road to the east and Outcote Bank to the west.
- 6.24 The existing store lacks sufficient floorspace, yet the store is compromised by being located on a tightly bound site with no realistic options to expand the store to provide additional floorspace. As a result, Lidl will relocate to a replacement store on the Former Kirklees College site (which benefits from planning permission for a foodstore).
- 6.25 The existing Castlegate store is **unavailable and unsuitable** as it is occupied by Lidl and lacks sufficient floorspace to accommodate the proposed development at Leeds Road Retail Park. Furthermore, it is highly unlikely that Lidl would make their existing store available to a competing occupier following their relocation to the college site.

- 6.26 There are currently no proposals for the site once Lidl have relocated to the Kirklees College site. Therefore, there is sufficient uncertainty regarding future proposals meaning the site (as a development site) is also **unavailable**. Notwithstanding this, the site is compromised (hence Lidl relocating) and is therefore also **unsuitable**. The site can be discounted on this basis.

*Former BHS, Piazza Centre, Huddersfield*

- 6.27 The vacant former BHS store extends to approximately 3,900sqm over two floors with ancillary basement/storage space and is within the town centre.
- 6.28 The site is identified in the Kirklees Council 'Huddersfield Blueprint' as being part of 'The Cultural Heart' regeneration area where new public open space, indoor/outdoor performance space, an art gallery, museums, and ancillary leisure uses. The Blueprint recognises there is an overprovision of retail in this part of the centre meaning footfall vitality and vibrancy of the area have suffered. The primary goal for the Cultural Heart is therefore to create a more varied and attractive destination that responds to trending market conditions and helps drive footfall back into the town centre. The Piazza Centre would be demolished as part of the proposals. A planning application and application for listed building consent have been recently submitted to Kirklees Council (planning application 2022/48/93248/W) to deliver the regeneration proposals envisaged in the Huddersfield Blueprint.
- 6.29 The unit in its current form is clearly **unavailable**, and the proposed regeneration of the site means the site is both **unsuitable and unavailable** for a foodstore. The site can be discounted on this basis.

- 6.30 The site was also discounted as a sequentially preferable site as part of the previous applications at the retail park, and the conclusions were agreed with Kirklees Council.

*Former car showroom – 72 Northgate, Huddersfield*

- 6.31 The 0.35ha site was formerly a car showroom with associated vehicle workshops and servicing but is now vacant. The site is 'edge of centre' in retail planning policy terms. Although the site is vacant it has been confirmed West Yorkshire Police has purchased the site in order to deliver a new police station (and associated uses) to replace existing out of date facilities and buildings elsewhere in Huddersfield.
- 6.32 The site is already unacceptably compromised and could not deliver the proposed store at Leeds Road Retail Park even in a heavily modified manner. Therefore, it is **unsuitable**. Notwithstanding, the site is identified for a new police station and it is therefore **unavailable**. The site can be discounted on this basis.

### Summary

6.33 There are **no sites or units within the centres identified that could accommodate the proposed store**. The additional floorspace (above that already safeguarded) cannot be disaggregated as it is an essential component of a wider development, and this has been accepted in the council's pre-application response.

### **Retail impact**

6.34 NPPF paragraph 89 states that for retail development outside town centres, not in accordance with an up-to-date plan, a Retail Impact Assessment should be required. If there is no locally set threshold, then a default threshold of 2,500sqm should be applied. In this instance, Local Plan policy LP13 sets a local impact threshold of 500sqm for Principal Centres.

6.35 The net uplift floorspace for which a variation of condition is required is below the retail impact threshold, on the basis there is a safeguarded allowance of 1,200sqm of food retail and the proposed net sales area is only 1,328sqm. However, it is accepted the gross uplift in floorspace being altered to allow food sales and ancillary non-food is above the threshold. Therefore, for robustness, a proportionate impact assessment has been completed.

6.36 LP13 does not, however, define the scope of retail assessments. The default position at NPPF paragraph 89 is relevant, which requires an assessment of:

- a) 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;
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

6.37 The assessment considers the additional convenience goods sales and ancillary comparison goods sales, as required by the intended occupier.

6.38 In applying the test, the Local Plan and NPPF are clear that planning applications should only be refused on retail impact grounds where any impact is demonstrated to be '*significant adverse*'. Thus, some form of impact is both expected and acceptable and in fact will result in beneficial competition in the local area (in terms of consumer choice).

6.39 The approach to the retail impact assessments takes a step by step approach which:

- Defines the study area, and identifies the centres in the study area.

- Sets out the proposed store turnover (in this instance taking account of the safeguarded consent at the retail park);
- Establishes likely trade draw based on shopping habits;
- Identifies the likely trading effects; and
- Identifies the potential 'impact' with reference to the impact test.

Defining the study area, centres, and associated stores

- 6.40 As set out at paragraph 6.13 of this statement, in setting the store catchment, it should be noted the general extent of the catchment is typically defined by the existing retail provision in the local area which can in turn relate to a particular drive-time distance or journey time. In this instance, given the nature of the catchment, a 7-minute drive-time has been adopted at the request of officers compared with the typical 5-minute drivetime which can inform the primary catchment for this type of food retail operator. The catchment includes the centres listed above, albeit the catchment only partially covers the eastern edge of Huddersfield town centre and the town centre has been assessed as a whole at the request of officers.
- 6.41 Zones 1 and 2 of the Council's Retail Study are considered to be the most relevant zones for the purpose of the assessment taking in to account the likely store catchment drivetime, the location of the application site to the east of Huddersfield, the likelihood that the greatest levels of trade will be drawn from existing residential areas to the east (and partly the north-east and south-east) of Huddersfield, and the relative lack of similar retail provision in the area.
- 6.42 Given the geography of Huddersfield and the range of stores elsewhere in the town it is highly unlikely that a significant number of people will travel from the west and south of Huddersfield to visit the store given this journey would pass existing or proposed stores in these areas. Not least there is an existing store at Aspley Local Centre and at Castlegate on the edge of Huddersfield town centre. There are proposals for a new Lidl store as part of the consented mixed-use development at the former Kirklees College site, which will eventually replace the Castlegate store.
- 6.43 The following main stores and centres are within the primary catchment, with reference to the Kirklees Retail Study Update (2017) and more recent retail assessments in relevant planning applications (including the proposed redevelopment of the Spotted Cow Public House (planning application 2021/62/94029/W)):
- Huddersfield (principal centre);
  - District and local centres of;
    - Moldgreen (District Centre)

- Aspley (Local Centre), which includes ASDA and Lidl as main stores;
- Birkby (Local Centre);
- Hillhouse (Local Centre);
- Long Lane Dalton (Local Centre);
- Rawthorpe (Local Centre); and
- Fartown Bar (Local Centre).
- Stores outside defined centres, including:
  - Sainsbury's (Southgate, Huddersfield);
  - Tesco (Viaduct Street, Huddersfield);
  - Morrisons (Waterloo);
  - Lidl (Castlegate);
  - Aldi (Ringway Centre); and
  - Aldi (Gallagher Retail Park).

6.44 There are also neighbourhood centres within the 7-minute catchment. However, it is considered that as it is established that 'like affects like' in retail terms a store at Leeds Road Retail Park is unlikely to affect smaller neighbourhood centres which serve immediate 'top up' shopping needs. Indeed the same rationale can be applied to the above local centres, aside from Aspley which contains larger food stores.

#### Proposed store turnover

6.45 As detailed in this report, there is already a safeguarded allowance of approximately 1,200sqm of food retail (as per the original consent for the retail park), meaning a foodstore could operate from the retail park without any changes to existing goods controls. It is, however, recognised the proposed store is larger than the safeguarded allowance being changes to goods controls are needed.

6.46 The convenience floorspace turnover has been calculated by applying Lidl's turnover (from GlobalData) to the net sales area. Approximately 80% of the total net sales area will be dedicated to convenience goods with the remainder for a select range of comparison items.

6.47 The amount of net comparison goods floorspace is therefore likely to be limited and, in reality, the comparison goods offer for such a foodstore is different to general comparison retailers and indeed other larger foodstores. Not least as the comparison offer for this type of retailer changes on a weekly basis, meaning the impacts of this floorspace are dispersed across a wide range of retailers. We note this conclusion was accepted in the recent planning application at the Former Spotted Cow site. Therefore, this assessment focusses on the convenience goods aspect of the development.

- 6.48 Taking account of the existing safeguarded allowance for food retail this results in the following turnover scenarios based on assessing the entire floorspace or the uplift in floorspace only:

Scenario	Floorspace (sqm)
Floorspace uplift only	1,382
Total store	500

Expected trade draw based on existing shopping patterns

- 6.49 The list of relevant centres and main stores in Huddersfield and the surrounding urban area is identified above.
- 6.50 Trade diversion is anticipated from the following stores based on; (1) the PCA; (2) the stores within the PCA; and (3) that existing customers in Huddersfield who shop elsewhere will more likely shop more locally will likely shop more locally. This assumes that trade diversion will occur on a like for like basis (as is accepted practice) and therefore the majority of trade will be diverted from other nearby major food stores, and similar stores in particular, if they are located within a suitable distance of the proposed store.
- 6.51 In applying the retail impact test, only the effect on stores within the defined centres is a material consideration – i.e. edge of centre and out of centre stores (thus stores not within the centre) are not afforded policy protection.

Impact test (1) – Impact on existing, committed and planned public and private investment in a centre or centres

- 6.52 The main investment proposals within the relevant centres in this assessment are those in Huddersfield town centre:
- i. Huddersfield Blueprint – including the Kingsgate proposals and The Cultural Heart Proposals; and
  - ii. Regeneration of the former Kirklees College Site.

Huddersfield Blueprint – Kingsgate proposals

- 6.53 The Huddersfield Blueprint envisages a new cinema and leisure complex within the Kingsgate Centre to build on the retail offer and attract more visitors to the town centre. Planning permission was granted in July 2019 (application 2018/62/93568/W) for an extension to the Kingsgate Centre to deliver a cinema and other uses, with the

application revised later in 2019 (2019/70/92693/W). Various pre-commencement conditions have been discharged.

- 6.54 Furthermore, it is relevant to consider the proposed uses at Leeds Road Retail Park with the proposed development at the Kingsgate. The Leeds Road Retail Park proposals will introduce a food retailer to an existing retail park location, whereas the Kingsgate proposals are for a leisure-led expansion within an existing shopping centre.
- 6.55 It is therefore reasonable to conclude the Kingsgate extension is being actively brought forward and will be delivered in the near future. The proposed uses at Leeds Road Retail Park will have no impact on the delivery of the Kingsgate expansion.

*Huddersfield Blueprint – Cultural Heart Proposals*

- 6.56 The Cultural Heart project will introduce new public open space, food and drink, leisure, cultural and civic uses, and new public realm on the location of what is predominantly the existing Piazza Centre and indoor market. The proposals include demolition of the Piazza Centre, and a planning application for the Cultural Heart has been submitted to Kirklees Council (application 2022/48/93248/W).
- 6.57 The submission of the planning application shows a strong willingness to reduce the quantum of retail floorspace in the town centre to enable other uses, and indeed the submission of a planning application shows a firm commitment to delivering this Kirklees Council backed project. As with the Kingsgate proposals, the Cultural Heart proposals are entirely different in their nature, content, and purpose to the proposed foodstore at Leeds Road Retail Park.
- 6.58 The proposed foodstore at Leeds Road Retail Park will have no impact on the delivery of the Cultural Heart proposals.

*Regeneration of the former Kirklees College Site*

- 6.59 The former Kirklees College site benefits from a Hybrid planning permission (2018/62/92647/W, granted August 2022) for a standalone foodstore (2,470sqm) and wider mixed use proposals for refurbishment of listed buildings and new buildings for office and residential uses. The developer is in the process of discharging relevant pre-commencement conditions ahead of a start on site. Lidl is the named operator of the foodstore element.
- 6.60 The Kirklees College proposals have been brought forward in full knowledge of proposal for a foodstore at Leeds Road Retail Park (given the previous consents at the retail park), and the discharge of pre-commencement conditions with an occupier identified for the foodstore shows a clear intent to deliver the development.

- 6.61 The submitted retail impact assessment allows for a certain amount of future trade to be drawn from the eventual foodstore on the Kirklees College site, and it is evident the impact will be negligible at most.
- 6.62 The proposed foodstore at Leeds Road Retail Park will have no impact on the delivery of the redevelopment of the former Kirklees College proposals.

Impact test (2) – Impact on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)

- 6.63 Envisaged levels of trading effects are shown in **Table 3 of Appendix 7**. This store will provide an accessible alternative retail offer in Huddersfield which in turn widens consumer choice and reduces the need to travel to other destinations.
- 6.64 The submitted tables also consider a cumulative position whereby other consented / emerging stores (Aldi (New Hey Road), Lidl (New Hey Road), and St Thomas' Hospital)) are also considered. This results in the following anticipated trade diversion.

Centre	Scenario 1 (all floorspace)		Scenario 2 (floorspace uplift)	
	Solus impact (%)	Cumulative impact (%)	Solus impact (%)	Cumulative impact (%)
Huddersfield (Town Centre)	1.61%	4.75%	0.58%	3.72%
Moldgreen (District Centre)	2.64%	2.64%	0.95%	0.95%
Aspley (Local Centre)	6.54%	9.50%	2.36%	5.32%
Birkby (Local Centre)	3.67%	3.67%	1.32%	1.32%
Fartown Bar (Local Centre)	4.88%	4.88%	1.76%	1.76%
Hillhouse (Local Centre)	4.42%	4.42%	1.59%	1.59%
Long Lane (Local Centre)	3.93%	3.93%	1.42%	1.42%
Rawthorpe (Local Centre)	4.78%	4.78%	1.72%	1.72%

- 6.65 The levels of trade diverted from existing centres stores are evidently not 'significantly adverse' (i.e., the planning policy test). Trade may be drawn from smaller neighbourhood centres/stores but the change will be imperceptible, and these smaller stores will continue to provide a local 'day to day' shopping function.
- 6.66 Of the 'in centre' provision the greatest levels of impact are likely to be on Aspley local centre as the nearest centre with a comparable offer (i.e., an existing Lidl store). Evidently, the majority of the impact will be on the existing well performing Lidl store on Wakefield Road and as Lidl are the preferred tenant at Leeds Road Retail Park they

will have assessed the effect of the store on their existing portfolio given the proposed store is in addition to existing stores. Even if the vast majority of the turnover is taken from the Lidl store it will still perform at or above company expectations and there would be no risk of the store closing, not least given the fact Lidl has assessed the potential effect of a Leeds Road store on their existing Aspley store.

- 6.67 Similar conclusions apply to any impact on the existing Lidl Castlegate store (and future Trinity site replacement store). It should be noted the impact assessment lists Castlegate as Trinity Street on the basis the Trinity Street store will be open and trading by 2025 at which point the Castlegate store will close. All three of the relevant Lidl stores (i.e., Leeds Road Retail Park / Aspley / Trinity Street) will serve different and complementary catchment areas, and that various proposals are being progressed in full knowledge of each other.
- 6.68 As detailed in Section 3 of this statement, the relevant centres are generally well performing with an appropriate mix of uses, and investment. There is ongoing investment in Huddersfield town centre is ongoing (although the investment does not extend to provision of additional retail floorspace). There is certainly no risk that a foodstore at Leeds Road Retail Park will adversely affect the town centre, and this has been accepted in previous planning permissions for food retail at the retail park.
- 6.69 The smaller local and district centres in the catchment are similarly well performing and meet localised day to day and top up shopping needs for the communities they serve. A foodstore at Leeds Road Retail Park will not undermine these centres, and any potential impact will in no way approach anything which could be described as 'significantly adverse' (as the planning policy test).
- 6.70 Furthermore, there is a realistic prospect that the store will benefit from a proportion of 'passer-by' trips as the unit is positioned on an existing retail destination which is close to a key arterial route in Huddersfield (Leeds Road). In turn, this enhances the sustainability credentials of the site as shoppers use the store as a more convenient location rather than driving further afield.
- 6.71 There will be no significant adverse effect on vitality and viability, and there are positive effects on consumer choice in the area through the provision of an accessible store close to the town centre.
- 6.72 Most of the trade will be from existing stores not within nearby centres. By diverting trade from stores outside of existing centres the proposed store will provide greater choice and competition in the retail market, whilst providing an accessible shopping location close. In turn, this can reduce the need to travel and particularly if shoppers

are choosing the store over existing Aldi stores which require a greater travel time or distance. This creates more sustainable patterns of shopping and trade.

**Summary of retail matters**

- 6.73 It is demonstrated there are no sequentially preferable sites, following a robust assessment undertaken in accordance with national and local planning policy and the approach advocated in relevant legal judgements and Appeal decisions. The proposals therefore pass the sequential test.
- 6.74 The retail impact assessment demonstrates there will be no significant adverse effect on existing centres. Indeed, the greatest levels of impact are likely to be on existing Lidl stores in the area and this level of impact has been considered commercially appropriate by Lidl in confirming their interest in an additional store at Leeds Road.
- 6.75 The proposals are entirely compliant with town centre use policy as established in the Local Plan (LP13) and NPPF. There are no sequentially preferable sites and the development will not have a significant adverse effect on the centres in the hierarchy.

## 7.0 SUSTAINABLE DEVELOPMENT AND TECHNICAL CONSIDERATIONS

### Sustainable Development

#### Economically Sustainable

- 7.1 The economic benefits should be viewed within the accepted position that the application site is an established retail location, including food retail, which is well-connected to the wider area. Economic benefits realised at the retail park can benefit the area through linked trips for example.
- 7.2 It is relevant that retail jobs are now recognised as adding significant value to the economy due to a range of factors including; (i) volume of roles, (ii) commitment of national retailers to pay a 'living wage', (iii) range and flexibility of roles available (e.g. part time, shop floor, management, etc.), and (iv) training and development opportunities offered. These benefits are material to the planning case and weigh heavily in favour of granting planning permission.
- 7.3 Key economic considerations therefore include:
- Delivering further investment into an existing retail area, including utilising exiting brownfield land;
  - Enabling the re-provision of retailing on a brownfield site, and the associated investment required to deliver development;
  - Approximately 40 Full Time Equivalent jobs, on a range of hours contracts which will be available to the local community (the number of job roles on full and part time contracts will be well above 40 job roles);
  - Creation of flexible employment opportunities, offering full and part time work with posts suitable for, and accessible to, the local population;
  - The scheme has been designed to meet retail demand, as opposed to being a speculative claim on available retail expenditure;
  - Similarly, the unit is responding to an identified need for retail space; and
  - Increased revenue to the local authority through business rates associated with the development.

7.4 Therefore, the economic benefits of development are notable.

#### Socially Sustainable

7.5 Social benefits are intrinsically linked to the economic benefits. Employment opportunities will be available to residents, and the roles available can be in a range of positions on full and part time contracts and are attractive to those requiring flexible arrangements. The roles will be accessible, both in terms of employment prospects

and physical accessibility, to residents, providing a notable increase in the choice of jobs available in the area. New jobs bring greater wealth and wellbeing, reduced joblessness and increased social mobility.

- 7.6 The social benefits of the application should not be discounted and support the benefits of the development and are a material benefit.

#### Environmentally sustainable

- 7.7 The proposals will deliver a high quality, modern and improved form of development on site. The re-use of vacant buildings in an existing retail location to provide beneficial development (and the economic gains which can flow from that) is a cornerstone of sustainable development.

- 7.8 The site is accessible by sustainable transport. Bus stops with regular services are 20m from the retail park, providing direct and frequent services to the wider residential areas. The site is highly accessible.

- 7.9 The proposals also include new and replacement landscaping which provides an overall betterment to the existing.

### **Technical Considerations**

#### Sustainable Transport

- 7.10 The development is in accordance with the local plan strategy and there are sustainable travel options for the site, notwithstanding the site is and existing retail location with other commercial uses close by and therefore promotes the co-location of similar uses. The site is also close to dedicated cycle infrastructure. Cycle parking spaces are provided. The number of cycle spaces is entirely appropriate given the nature of the proposed retail use.

- 7.11 It is highly accessible via a range of transport modes including alternatives to the car. There are bus stops within 20m of the retail park and the site is within walking distance of residential areas of Huddersfield. A unit in this location minimises the need to travel and provides safe, suitable, and attractive access for all transport users.

- 7.12 The proposals are entirely acceptable in highways terms and are in accordance with the NPPF (paragraphs 109, 110 and 111) and Local Plan policies LP20 and 21.

#### Highways and traffic

- 7.13 The accompanying Transport Statement demonstrates the development will not affect highway safety or prejudice the free flow of traffic and is entirely appropriate

development in highways terms. There are no works affecting the public highway in terms of vehicle movements and the existing service access will be maintained. There are, in fact, potential vehicle flow improvements through the reorganisation of the car park to provide a simpler and more logical layout.

- 7.14 The site is an existing retail location within a wider retail area and therefore it is realistic to conclude that some customers will visit the unit alongside trips to other stores nearby (i.e. linked trips). This is an inherently more sustainable form of shopping than visiting a range of different locations at different times, and there is a realistic prospect that these trips will be linked to trips to the town centre.
- 7.15 Any parking demand created by the additional floorspace can be accommodated within the site. Whilst there is an overall minor reduction in car parking the loss is negligible in the context of the wider retail park car park. The parking provision is appropriate and in accordance with Local Plan policy LP22, and will include accessible and elective vehicle charging.
- 7.16 The enclosed tracking plans show the service yard has ample room for HGV entry and turning. The service yard will be secure with a fence and gate which will then be locked outside of store opening hours.

### **Trees and landscaping**

- 7.17 The proposals result in the selective removal and pruning of certain trees, and only involves the removal of trees where necessary to deliver the development. The more established and better-quality trees to the front of the retail park remain, along with many of the trees to the rear of the site. Similarly, the proposals require the removal of certain areas of poorer quality landscaping.
- 7.18 Replacement tree planting and landscaping is proposed, predominantly in the area to the south of the unit around the improved pedestrian access route from Bradley Mills Road. This planting and landscaping offsets the loss of poorer quality provision.

### **Design**

- 7.19 Local Plan policy LP24 seeks to promote high quality design. It is of note that the proposed unit is located on brownfield land in an existing retail area with no immediately sensitive uses. In this context, there will be a clear improvement upon the current environment.
- 7.20 The external works include a new canopy, improved pedestrian routes, reconfigured car parking, new glazing to the unit frontage, and general making good of the external

elevations using matching and appropriate materials. Indeed, following the pre-application discussions the proposed rear and side elevations have been updated to introduce a uniform approach to the infill panels such that the materials will match the existing style and extent of the infill 'bays'. Full details of the scheme design and materials is within the Plans Pack.

- 7.21 The addition of new glazing to the shopfront improves the overall appearance and creates active frontage, and has been specifically welcomed at pre-application. In addition, a canopy is required to protect the store entrance and trolley bay during inclement weather they preventing trolleys transporting water in to and through the store, and creating a safety hazard. The trolley bay cannot be moved and the canopy is essential in this location.
- 7.22 There changes will have no adverse impact on character of the area and the proposed design and materials are suitable for this location.
- 7.23 In accordance with NPPF 127 and Local Plan policy LP24 the proposed include high quality design and external refurbishment of existing units. The design and materials are acceptable and accord with all relevant planning policy.

#### **Amenity and noise**

- 7.24 The retail park already benefits from wide servicing arrangements and there has been no reported instances of noise disturbance or nuisance. The submitted Noise Impact Assessment demonstrates there would be no adverse effect resulting from the proposals. The proposed servicing and opening hours are entirely acceptable.

#### **Summary**

- 7.25 In terms of other material considerations and detailed development management policy (such as highways, design, amenity, etc.) as set out in this section, the development remains wholly acceptable, and can deliver notable benefits.
- 7.26 The proposals will deliver a range of benefits; economically, socially, and environmentally. These are material considerations in favour of development. Any assessment against the Development Plan and NPPF is in this context of benefits.
- 7.27 The proposals are entirely in accordance with the Development Plan. No adverse effects have been identified, even if adverse effects were apparent, they would not outweigh the benefits as identified.

## 8.0 CONCLUSION

- 8.1 This Planning Statement assess two applications that enable the reoccupation of the vacant Units A and B at Leeds Road Retail Park, Huddersfield. The applications are:
- Submission under Section 73 of the Act for a variation of condition of planning permission 93/62/04925/W2 to:
    - Enable the sale of food and a range of non-food goods;
    - Widen the store opening and servicing hours; and
  - Detailed planning application for all associated external works.
- 8.2 The proposals have been subject to pre-application discussions with Kirklees Council to agree the approach to considering town centre uses policy and other key matters. These discussions have informed the detail within this statement.
- 8.3 Leeds Road Retail Park is an established retail destination, within a mixed retail and commercial area in Huddersfield. The retail park benefits from a safeguarded consent for a foodstore at the site (from a 1,200sqm unit) and this represents a material fallback position for considering this application. Furthermore, food retail uses have previously been considered acceptable.
- 8.4 Therefore, in reality only a very modest change to the sale of goods controls is needed to enable the wholly beneficial occupation of the units, which in turn delivers sustainable growth within the Huddersfield urban area.
- 8.5 The application has been considered against wider Local Plan town centre use policy, namely Local Plan policy LP13 and the NPPF. The proposals are entirely in accordance with LP13 and the NPPF. There are no sequentially preferable sites that are suitable and available and there will not be a significant adverse impact on existing centres.
- 8.6 The changes to the consented store opening hours and wider operational hours will have no adverse effect on the amenity of nearby residents. The wider operational hours have been agreed during pre-application discussions.
- 8.7 The submitted Transport Statement (including car park survey) demonstrates the proposed development will not adversely affect the safe operation of the highway and that development can be accommodated without offsite works. The retail park car park will continue to operate efficiently and effectively.
- 8.8 There are no adverse impacts arising from the proposed development that outweigh the extensive range of benefits. Planning permission should be granted.

## **APPENDIX 1**

THIS DRAWING IS COPYRIGHT, AND REMAINS THE PROPERTY OF HTC ARCHITECTS. IT MUST NOT BE REPRODUCED, USED, DISCLOSED OR TRANSMITTED TO THIRD PARTIES IN ANY FORM, IN WHOLE OR IN PART, WITHOUT PRIOR WRITTEN PERMISSION.

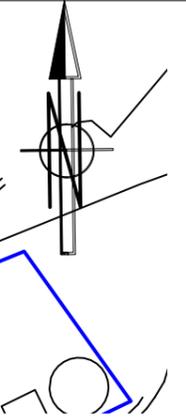
DO NOT SCALE!  
ALL DIMENSIONS SHOULD BE CHECKED ON SITE BEFORE WORK COMMENCES

BASED DRAWING 10933-04\_A.PDF Ratcliffe Groves Partnership received 01.04.21

SUBJECT TO HGV TRACKING REVIEW

LIDL SPEC 2020.02 FEBRUARY 2021 REV

SUBJECT TO TITLE PLAN AND BOUNDARY REVIEW



Rev.	Date	Description	Drawn
C	15/12/2022	Removed Google Earth Image	BM
B	15/12/2022	Updated red line boundary	BM
A	01/11/22	Title block updated.	JC

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client

project

**UNIT A & B Leeds Road RP,  
Huddersfield**

drawing title

**Location Plan**

date **April 2021**

status **Planning**

scale **1:1250 @ A3**

drawn **BM** checked **PH**

job no. **2905** dwg no. **P401** rev. **C**

## **APPENDIX 2**

KIRKLEES METROPOLITAN COUNCIL

Town and Country Planning Act  
1990

Town and Country Planning General Development Order 1988

PLANNING PERMISSION FOR DEVELOPMENT

Application Number : 93/62/04925/W2

TO : S P B S PLANNING SERVICES  
4 THUNDERBRIDGE  
KIRKBURTON  
HUDDERSFIELD  
HD8 0PX

**DECISION**  
**- 9 DEC 1993**  
**ISSUED**

For : SEBEL HOUSE

In pursuance of its powers under the above-mentioned Act and Order the KIRKLEES METROPOLITAN COUNCIL (hereinafter called "The Council") as Local Planning Authority hereby permits:-

RETAIL PARK AND ASSOCIATED USES

AT:- LEEDS ROAD/BRADLEY MILLS ROAD/BRADLEY MILLS LANE,  
HUDDERSFIELD.

In accordance with the plan(s) and applications submitted to the Council on 19 OCTOBER 1993, subject to the condition(s) specified hereunder:-

- (1) The development shall be begun not later than the expiration of five years beginning with the date on which permission is granted.
- (2) The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions, unless otherwise agreed in writing by the Local Planning Authority.
- (3) Samples of all facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority before development commences, and the development shall be constructed of the approved materials.
- (4) Full details of the proposed fence to the garden centre shall be submitted to and approved in writing by the Local Planning Authority before development commences.
- (5) A comprehensive scheme for landscaping treatment of the site including levels, contours and cross sections, prepared in accordance with the Local Planning Authority's Code of Practice Note 2 shall be submitted to and approved in writing by the Local Planning Authority before development commences.

- (6) Any planting, seeding or tree management works forming part of the landscaping scheme referred to in condition 5 shall be carried out during the first planting, seeding or management season following the commencement of development, or as otherwise may be agreed in writing by the Local Planning Authority, and shall be maintained for a period of five years from the completion of planting works. All specimens which die within this period shall be replaced to the satisfaction of the Local Planning Authority.
- (7) During the first planting season following the commencement of the development, the area to the north east and north west of the site (behind the Leeds Road and Springfield Crescent residential properties) marked green on the approved plan shall be planted with trees and shrubs so as to form a continuous screen not less than 3 metres wide to the satisfaction of the Local Planning Authority.
- (8) A scheme for the hard landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority before development commences and shall be carried out in complete accordance with the agreed scheme.
- (9) A scheme for the external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority before development commences and shall be carried out in complete accordance with the agreed scheme.
- (10) Details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls shall be approved in writing by the Local Planning Authority before development commences. The approved walls/fences shall be erected before the development hereby approved is occupied/brought into use and shall thereafter be maintained.
- (11) The development shall not be occupied/brought into use until the areas to be used by vehicles including parking, loading and unloading areas and access road (including service road) have been surfaced, sealed and drained to the satisfaction of the Local Planning Authority and shall thereafter be retained to the satisfaction of the Local Planning Authority.
- (12) The design and construction of the sleeping policemen/traffic calming measures on the main car park/link road shall be approved in writing by the Local Planning Authority before development commences.

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- (13) Notwithstanding the submitted plans, at the southern end of Bradley Mills Road, adjacent to the Leeds Road Cafe, provision shall be made for the turning round of service vehicles. The design of this turning area, shall be approved in writing by the Local Planning Authority before development commences.
- (14) All emissions to atmosphere resulting from any process, plant or activity shall be treated and discharged at such a height, position or manner to the satisfaction of the Local Planning Authority. Details of the emission(s) and the method(s) of treatment and discharge shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of emissions.
- (15) The premises shall not open to the public outside the hours of 07.30 and 21.00 hours Monday to Saturday and 08.00 to 20.00 hours Sunday and in any case the hours of use of the site including deliveries shall be restricted to between 07.00 hours and 22.00 hours Monday to Saturday and 07.00 hours to 21.00 hours Sunday all except as may be agreed in writing by the Local Planning Authority.
- (16) The site shall be developed by means of a separate system of drainage, unless otherwise agreed in writing by the Local Planning Authority.
- (17) No building or other obstruction shall be erected within 6 metres of the 66" outfall sewer, 5 metres of the line of the 21" sewer and 3 metres of the 9" sewer on the north western boundary of the site nor within 6 metres of the bank top of the River Colne all except as may be agreed in writing by the Local Planning Authority.
- (18) Site levels shall be raised to 58.4 AOD or 4m above the normal water level in the River Colne with floor levels of any buildings a further 300mm higher, unless otherwise agreed in writing by the Local Planning Authority.
- (19) Surface water from vehicle parking and hardstanding areas shall be passed through adequate interceptor(s) prior to discharge to public sewers.
- (20) Apart from the 13,500 sq ft food unit hereby approved, the occupancy of the retail units shall be in accordance with the Council's Review of Shopping Policy approved on 1st November 1989 in that the goods sold shall be restricted to D.I.Y. goods (including gardening equipment and garden plants and motor accessories) electrical goods, furniture and carpets, together with goods sold as a subsidiary activity, unless otherwise agreed in writing by the Local Planning Authority.
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(21) Notwithstanding the submitted details there shall be adequate public access for the disabled to the development hereby approved both in terms of disabled car parking provision and access to the buildings. (A disabled car parking space measures 3.2m x 5m). Before the commencement of the development a detailed scheme for disabled access shall be submitted to and approved in writing by the Local Planning Authority and implemented thereafter in accordance with the agreed scheme to the satisfaction of the Local Planning Authority, unless otherwise agreed in writing by the Local Planning Authority.

NOTE This approval relates to Plan Nos 181.4'T' and 181.6'C'

The reasons for the Council's decision to grant permission for the development subject to compliance with the conditions specified are :-

- (1) Pursuant to Section 91 of the Town and Country Planning Act 1990.
- (2) So as to ensure the satisfactory appearance of the development on completion.
- (3/10) In the interest of visual amenity.
- (11) So that adequate provision is made within the site in the interests of the safety and free flow of traffic.
- (12/13) In the interests of the free and safe use of the highway.
- (14/15) To safeguard the amenities of nearby residents.
- (16/19) In the interests of the proper drainage of the area.
- (20) To ensure that the development is in accordance with the adopted Council policy.
- (21) To ensure the satisfactory development of the site.

DATED: 8 DECEMBER 1993

Signed..... *C. R. Hammett* ..... on.....  
Chief Economic Development & Planning Officer

Address to which all communications should be sent:-

Economic Development and Planning Service  
P.O. Box B93  
Civic Centre  
Huddersfield  
HD1 2JR

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE NOTES ATTACHED

## **APPENDIX 3**



**Town and Country Planning (Development Management Procedure) (England)  
Order 2015**

**PLANNING PERMISSION FOR DEVELOPMENT**

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**Application Number: 2016/62/93905/W**

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**To:** Nick Pleasant,  
NJL Consulting  
Park House  
Park Square West  
Leeds  
LS1 2PW

**For:** Ross Burns, Coal Pension Properties Ltd (c/o LaSalle Investment Management)

**In pursuance of its powers under the above-mentioned Act and Order the  
KIRKLEES COUNCIL (hereinafter called "The Council") as Local Planning  
Authority hereby permits:-**

VARIATION OF CONDITION 11 (RESTRICTION ON GOODS TO BE SOLD) ON  
PREVIOUS PERMISSION 97/90410 ERECTION OF 1 NO. A1 WAREHOUSE  
UNIT. DEMOLITION OF RESIDENTIAL UNITS AND INTERNAL AMENDMENT  
TO LAYOUT, PARKING AND LANDSCAPING

**At:** UNIT F1, LEEDS ROAD RETAIL PARK, LEEDS ROAD, HUDDERSFIELD,  
HD1 6PF

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**In accordance with the plan(s) and applications submitted to the Council on  
18-Nov-2016 (together with those plans and application(s) submitted to the  
Council on 25-Feb-1997 and incorporated into planning permission 97/62/90410/W  
granted on 27-Jun-1997) and subject to the condition(s) specified hereunder:-**

1. Aside from 1115sqm (gross internal floorspace) which can be used for the sale of convenience goods and ancillary items (the area used for the sale of ancillary items shall not exceed 175sqm), the occupancy of the unit indicated as “Proposed Staples unit” on the approved site layout plan shall be restricted to DIY goods, gardening equipment, garden plants, motor accessories, electrical goods, furniture and carpets and ancillary items, and Unit F1 shall be used for no other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) “the Order” or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order.

**Reason:** To ensure the proposal will not have a detrimental impact on the vitality and viability of Huddersfield Town centre or other local centres and to accord with Policy S4 of the Unitary Development Plan and part 2 of the National Planning Policy Framework; Ensuring the vitality of town centres.

2. The areas to be used by vehicles shown on plan B/587 P/01 including parking, loading and unloading areas shall be retained and at all times kept clear of all obstruction to their use for parking and servicing.

**Reason:** To ensure that satisfactory provision for vehicular access, parking and servicing is retained in the interests of highway safety and to accord with the aims of Policies T10 and T19 of the Unitary Development Plan.

3. The premises shall not open to the public outside the hours of 07.30 and 21.00 hours Monday to Saturday and 08.00 to 20.00 hours on Sunday and in any case the hours of use of the site including deliveries shall be restricted to between the hours of 07.00 and 22.00 hours Monday to Saturday and 07.00 to 21.00 hours on Sunday all except as may be agreed in writing by the Local Planning Authority.

**Reason:** To prevent the development giving rise to loss of amenity to residential properties in the vicinity of the site by reason of noise at unsociable hours, and to accord with the aims of Policy EP4 of the Unitary Development Plan.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Site / Block layout	B/587P/01	M	18-Nov-2016
Planning & Retail Statement			18-Nov-2016
Further supporting information on sequential test			10-Jan-2017
Transport Statement			18-Nov-2016

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer requested the applicant submit additional information giving additional clarification on the sequential test to ensure that the applicant had fully assessed possible alternative premises.

**Building Regulations Approval is required for most work involving building operations and/or structural alterations. It is the applicant's responsibility to find out if the work permitted by this planning permission needs approval under the Building Regulations, and if necessary to submit an application. If you are not the applicant can you please ensure the applicant is aware of this requirement. Contact Building Control on Telephone: (01484) 221550 for more information.**

#### **Development within a Coal Mining Area**

**The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.**

**It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:**

**<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>**

**Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.**

**Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.**

**If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)**

**The application has been publicised by notice(s) in the vicinity of the site. It is respectfully requested that the notice(s) now be removed and responsibly disposed of to avoid harm to the appearance of the area**

#### **Appeals to the Secretary of State**

- **If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.**
- **If an enforcement notice is served or has been served relating to the same or substantially the same land and development as in your application and if you want to appeal against the local planning authority's decision on your application, then you must do so within:**
  - i) **28 days from the date of this notice where the enforcement notice has been served,**
  - ii) **28 days of the date of service of the enforcement notice or,**
  - iii) **the specified period starting from the date of this notice,**

**whichever period expires earlier.**
- **If you want to appeal against your Local Planning Authority's decision then you must do so within the specified period, starting on the date of this notice.**

- The “specified period” is 12 weeks where the development relates to a “minor commercial application” as defined within the Town and Country Planning (Development Management Procedure) Order 2010 (as amended), or 6 months in any other case.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk> . Further information on the Planning Appeal process can be found online at the Planning Inspectorates website <https://www.gov.uk/government/organisations/planning-inspectorate>.
- You must use the correct Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the type of application that the appeal relates to so they can send you the appeal form you require.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

Please note, only the applicant possesses the right of appeal.

#### **Purchase Notices**

- If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

An important part of improving our service is to review your feedback on the way that we have dealt with your planning application(s). Please take a couple of minutes to email your comments to [dc.admin@kirklees.gov.uk](mailto:dc.admin@kirklees.gov.uk) so that we can work on continually improving our customer service. Thank you.

**Dated:** 27-Jan-2017

**Signed:** 

**Jacqui Gedman**  
**Director of Place**

### **Decision Documents**

The decision notice indicates which documents relate to the decision. These documents can be viewed online at the Planning Services website at [www.kirklees.gov.uk/planning](http://www.kirklees.gov.uk/planning), and by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2016/70/93905/W .

If a paper copy of the decision notice or decided plans are required please email [planning.contactcentre@kirklees.gov.uk](mailto:planning.contactcentre@kirklees.gov.uk) or telephone 01484 414746 with the application number. There may be a charge for this service.

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All communications should be sent to one of the following address:

**E-mail:** [planning.contactcentre@kirklees.gov.uk](mailto:planning.contactcentre@kirklees.gov.uk)

**Write to:** Planning Services  
Investment and Regeneration  
PO Box B93  
Civic Centre III  
Off Market Street  
Huddersfield  
HD1 2JR

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## **APPENDIX 4**



**Town and Country Planning (Development Management Procedure) (England)  
Order 2015**

**PLANNING PERMISSION FOR DEVELOPMENT**

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**Application Number: 2018/70/91316/W**

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**To:** Nick Pleasant,  
NJL Consulting  
Park House  
Park Square West  
Leeds  
LS1 2PW

**For:** Coal Pension Properties Ltd

**In pursuance of its powers under the above-mentioned Act and Order the  
KIRKLEES COUNCIL (hereinafter called "The Council") as Local Planning  
Authority hereby permits:-**

VARIATION OF CONDITIONS 1 (RESTRICTION ON GOODS TO BE SOLD)  
AND 3 (OPENING HOURS) ON PREVIOUS APPLICATION FOR VARIATION OF  
CONDITION 11 (RESTRICTION ON GOODS TO BE SOLD) ON PREVIOUS  
PERMISSION 97/90410 ERECTION OF 1 NO. A1 WAREHOUSE UNIT.  
DEMOLITION OF RESIDENTIAL UNITS AND INTERNAL AMENDMENT TO  
LAYOUT, PARKING AND LANDSCAPING

**At:** UNIT F1, LEEDS ROAD RETAIL PARK, LEEDS ROAD, HUDDERSFIELD,  
HD1 6PF

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**In accordance with the plan(s) and applications submitted to the Council on  
23-Apr-2018 [together with those plans and application(s) submitted to the  
Council on 25-Feb-1997 and incorporated into planning permission ref no.  
97/62/90410/W2 granted on 27-Jun-1997] and subject to the condition(s) specified  
hereunder:-**

1. The unit indicated as “Proposed Staples unit” (Unit F1) on the approved site layout plan shall be restricted to the sales of convenience goods, DIY goods, gardening equipment, garden plants, motor accessories, electrical goods, furniture and carpets, and ancillary items including other comparison goods. The area used for the sale of ancillary items, including other comparison goods, shall not exceed 20% of the net sales area. For the avoidance of doubt the net sales area is defined as the sales area within the building (i.e. all internal areas accessible to the consumer) but excluding lobbies, customer toilets and walkways behind the checkouts. The unit shall be used for no other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) “the Order” or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order.

**Reason:** To ensure the proposal will not have a detrimental impact on the vitality and viability of Huddersfield Town centre or other local centres and to accord with Policy S4 of the Unitary Development Plan, PLP13 of the Publication Draft Local Plan and part 2 of the National Planning Policy Framework; Ensuring the vitality of town centres.

2. The areas to be used by vehicles shown on plan B/587 P/01 including parking, loading and unloading areas shall be retained and at all times kept clear of all obstruction to their use for parking and servicing.

**Reason:** To ensure that satisfactory provision for vehicular access, parking and servicing is retained in the interests of highway safety and to accord with the aims of Policies T10 and T19 of the Unitary Development Plan, PLP21 and PLP22 of the Publication Draft Local Plan.

3. The unit indicated as “Proposed Staples unit” (Unit F1) on the approved site layout plan shall not be open to the public outside the hours of 07.30 to 22.00 hours Monday to Saturday and 08.00 to 20.00 hours on Sunday and deliveries shall be restricted to between the hours of 07.00 and 22.00 hours Monday to Saturday and 07.00 to 21.00 hours on Sunday.

**Reason:** To prevent the development giving rise to loss of amenity to residential properties in the vicinity of the site by reason of noise at unsociable hours, and to accord with the aims of Policy EP4 of the Unitary Development Plan and PLP24 and PLP52 of the Publication Draft Local Plan.

4. The variation of condition hereby approved relates solely to the unit indicated as “Proposed Staples unit” (Unit F1) on the approved site layout plan. All other units originally approved under application no 1997/90410 are controlled by the conditions imposed on that planning permission.

**Reason:** For the avoidance of doubt and in order to retain the vitality and viability of Huddersfield Town centre and other local centres, in the interests of highway safety and the amenities of occupants of nearby residential properties. This would accord with Policies T10, EP4, T19 and S4 of the Unitary Development Plan, PLP13, PLP24, PLP52, PLP21 and PLP22 of the Publication Draft Local Plan and the National Planning Policy Framework.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Block plan			23-Apr-2018
Planning statement			23-Apr-2018
Transport statement			23-Apr-2018

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer undertook negotiations with the applicant over the wording of the proposed replacement condition on the type of goods to be sold, but no amended plans or additional information were considered necessary.

#### **Development within a Coal Mining Area**

**The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.**

**It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:**

**<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>**

**Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.**

**Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.**

**If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)**

**Building Regulations Approval is required for most work involving building operations and/or structural alterations. It is the applicant's responsibility to find out if the work permitted by this planning permission needs approval under the Building Regulations, and if necessary to submit an application. If you are not the applicant can you please ensure the applicant is aware of this requirement. Contact Building Control on Telephone: (01484) 221550 for more information.**

**The application has been publicised by notice(s) in the vicinity of the site. It is respectfully requested that the notice(s) now be removed and responsibly disposed of to avoid harm to the appearance of the area**

#### **Appeals to the Secretary of State**

- **If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.**
  - **If an enforcement notice is served or has been served relating to the same or substantially the same land and development as in your application and if you want to appeal against the local planning authority's decision on your application, then you must do so within:**
    - i) **28 days from the date of this notice where the enforcement notice has been served,**
    - ii) **28 days of the date of service of the enforcement notice or,**
    - iii) **the specified period starting from the date of this notice,**
- whichever period expires earlier.**

- If you want to appeal against your Local Planning Authority's decision then you must do so within the specified period, starting on the date of this notice.
- The "specified period" is 12 weeks where the development relates to a "minor commercial application" as defined within the Town and Country Planning (Development Management Procedure) Order 2010 (as amended), or 6 months in any other case.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/planning-inspectorate>. Further information on the Planning Appeal process can be found online at the Planning Inspectorates website <https://www.gov.uk/government/organisations/planning-inspectorate>.
- You must use the correct Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the type of application that the appeal relates to so they can send you the appeal form you require.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

Please note, only the applicant possesses the right of appeal.

#### **Purchase Notices**

- If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

An important part of improving our service is to review your feedback on the way that we have dealt with your planning application(s). Please take a couple of minutes to email your comments to [dc.admin@kirklees.gov.uk](mailto:dc.admin@kirklees.gov.uk) so that we can work on continually improving our customer service. Thank you.

**Dated:** 27-Jun-2018

**Signed:**



**Karl Battersby**  
**Strategic Director Economy and Infrastructure**

### **Decision Documents**

The decision notice indicates which documents relate to the decision. These documents can be viewed online at the Planning Services website at [www.kirklees.gov.uk/planning](http://www.kirklees.gov.uk/planning), and by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2018/70/91316/W .

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**Write to:** Planning Services  
Investment and Regeneration  
PO Box B93  
Civic Centre III  
Off Market Street  
Huddersfield  
HD1 2JR

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**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 73**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO  
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING  
CONDITIONS PREVIOUSLY ATTACHED**

**Reference No:** 2018/70/91316/W

**Site Address:** Unit F1, Leeds Road Retail Park, Leeds Road,  
Huddersfield, HD1 6PF

**Description:** Variation of conditions 1 (restriction on goods to be sold) and 3 (opening hours) on previous application for variation of condition 11 (restriction on goods to be sold) on previous permission 97/90410 erection of 1 no. A1 warehouse unit. demolition of residential units and internal amendment to layout, parking and landscaping

**Recommending Officer:** William Simcock

**DECISION – approve variation of conditions for Unit F1 only**

**I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

Teresa Harlow

***AUTHORISED OFFICER***

Date: 27-Jun-2018

## Officer Report

### Site Description

The site comprises a large single-storey unit on a modern retail park. Its north-west elevation fronts the shared customer carpark and walkways; its south-east elevation overlooks a shared servicing area. The area surrounding the retail park to the south-west and north-east is mainly residential. Unit F1 is situated next to the vehicular access off Leeds Road.

The total net sales area of the retail park is approximately 18000 sqm (gross). This particular unit is 20000 sq ft (or 1858 sqm).

### Description of Proposal

The proposal is for Variation of conditions 1 (restriction on goods to be sold) and 3 (opening hours) on previous application no. 2016/93905 for variation of condition 11 (restriction on goods to be sold) on previous permission 97/90410 erection of 1 no. A1 warehouse unit. demolition of residential units and internal amendment to layout, parking and landscaping.

The original condition from 1997 reads:

“The occupancy of the retail unit shall be in accordance with the Council's decision in the Review of Shopping Policy approved on 1 November 1989 in that the goods sold shall be restricted to DIY goods (including gardening equipment and garden plants and motor accessories), electrical goods, furniture and carpets together with goods sold as a subsidiary activity, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that the development is in accordance with adopted Council policy.”

The document referred to has been long superseded, but the aim of the condition would have been to ensure that the goods sold would be those that cannot conveniently or economically be sold from a town centre site because they are bulky and require a relatively large floor area.

A previous applicant successfully applied (2016/93905) to have the condition varied, and thus resulted in a ‘new’ permission being issued. The wording of the varied condition states:

1. Aside from 1115sqm (gross internal floorspace) which can be used for the sale of convenience goods and ancillary items (the area used for the sale of ancillary items shall not exceed 175sqm), the occupancy of the unit indicated as “Proposed Staples unit” on the approved site layout plan shall be restricted to DIY goods, gardening equipment, garden plants, motor accessories, electrical goods, furniture and carpets and ancillary items, and Unit F1 shall be used for no other purpose in Class A1 of the Schedule of the Town and Country Planning

(Use Classes) Order 1987 (as amended) “the Order” or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order.

**Reason:** To ensure the proposal will not have a detrimental impact on the vitality and viability of Huddersfield Town centre or other local centres and to accord with policy S4 of the Unitary Development Plan and part 2 of the National Planning Policy Framework; Ensuring the vitality of town centres.

The present application seeks to have the condition varied so that it will allow the entire floor area, amounting to 1858sqm altogether, to be used for food sales. This is an additional 743sqm gross floor area. A planning statement has been submitted giving justification for the proposal.

The application also seeks to vary the hours condition so as to allow opening until 10pm Mon-Sat.

### **History of negotiations/amendments received**

None.

### **Relevant Planning History**

97/90410: Erection of 1 no. A1 warehouse unit, demolition of residential units and internal amendment to layout, parking and landscaping. Approved and implemented.

2016/93905 – Variation of condition on above permission (see “Description of Proposal”).

### **Representations**

Final publicity date Expires: 31-May-2018

No representations made.

### **Consultation Responses**

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- Planning Policy (informal response). No objections.

### **Policy**

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the UDP Proposals Map and without designation on Kirklees Publication Draft Local Plan.

**Kirklees Unitary Development Plan:**

- **S1** – Town and Local Centres
- **T10** – highway safety

**Kirklees Publication Draft Local Plan (PDLP):**

- **PLP1** – Presumption in favour of sustainable development
- **PLP13** – Town centre uses
- **PLP21** – Highway safety and access
- **PLP22** – Parking

**National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, together with Circulars, Parliamentary Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Core Planning Principles
- Chapter 2 – Ensuring the vitality of town centres

**Assessment**

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Economic sustainability

- 2) Impact on visual amenity
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

1 – Principle of development: The site is unallocated in the UDP proposals map and without designation on the Draft Local Plan.

The Core Planning Principles of the NPPF state that the effective re-use of previously developed land, the promotion of mixed use developments and making use of sustainable modes of transport (also covered in Chapter 4).

As the site is outside a town or village centre, and is a main town centre use, it is subject to a sequential test as set out in paragraph 24 (Chapter 2 of the NPPF). Out of centre sites should only be considered if centre and edge of centre locations are not available.

PLP13 which deals with town centre uses and criteria to be used in assessing those in out of centre locations can be given only limited weight as it attracts substantial objections.

2 – Economic sustainability: Chapter 2 of the NPPF states that when considering out-of-centre sites, preference should be given to accessible sites that are well connected to the town centre. If it fails to satisfy the sequential test or is likely to have a significant adverse impact on public investment in centres in the catchment area, or on vitality and viability of town centres, it should normally be refused.

S1 supports this principle, stating that town and local centres will remain the focus for commercial activity.

In part 5.36 of the report, the applicant sets out the parameters that will determine whether or not an alternative site is suitable for their purposes. The sequential test has researched sites in Huddersfield Town Centre and four larger local centres in Huddersfield. These comprise the former BHS in The Shambles, former Co-op 103 New Street, former Kirklees College Site, other vacant units in Huddersfield Town Centre and various other vacant units and sites in other centres. All of these have been identified as either unavailable or not suitable, for reasons that include their configuration and rent levels sought by the owner.

The application undertakes a retail impact assessment which concludes that the impact on nearby centres would be negligible and that it would not have a significant adverse impact on investment (in particular the proposed Kingsgate expansion and Trinity Central redevelopment).

It is considered on the basis of the report and Planning Policy advice that the sequential test has been met and that the proposal would not affect the vitality or viability of Huddersfield Town Centre or other commercial centres, thereby complying with the aims of the NPPF and S1.

The 2016 variation of condition specified the amount of floorspace (approximately 15%) that could be used for “ancillary items” (those other than convenience goods). The applicant has requested that up to 20% comparison goods can be allowed. This is considered acceptable as an upper limit as being within the definition of ancillary, as it would be very unlikely to result in any additional trade diversion, provided this means 20% of net, not gross, sales area.

The Planning Policy team have suggested that a new condition is placed on the permission to prevent subdivision of the unit. Given the history of the premises, including that no such condition was imposed on 2016/93905, and that it is unlikely that any subdivision would lead to a material intensification of its use, it is considered unreasonable to impose it here.

3 – Impact on visual amenity: The proposals do not involve any external physical alterations at this stage.

4 – Impact on residential amenity: The unit is not very close to the site boundaries (other than Leeds Road). Leeds Road and Bradley Mills Road which provide the two access points into the retail park, will experience a significant level of traffic at well into the evenings. The existing condition already allows deliveries, and the use of the site as a whole, until 10pm. It is considered that the change to allow the premises to be open to the public until 10pm would not make any appreciable difference to its impact on the surrounding residential development.

5 – Impact on highway safety: Highways Services were consulted on the previous application for variation of condition. They requested further information in terms of servicing arrangements, pedestrian access routes and the operation of the car park. The case officer decided that notwithstanding this there was enough information to allow the application to be determined, for the following reasons:

- While the change might mean delivery vehicles than before because of a higher turnover of stock, the layout of the existing servicing arrangements is satisfactory;
- Increased footfall near the new store entrance and between the store and the car park, would only give rise to some minor inconveniences to motorists but would not give rise to safety problems given that the existing layout and visibility are of a good standard;

- The entire retail park is in the same ownership so it is reasonable to assume that they have taken these factors into account and would not be applying for the change of use if it were likely to interfere with the safe and efficient operation of the remainder of the retail park.

It is considered on balance that the change of use of the remaining part of the unit would not create or materially add to highway safety problems since the layout of the site as a whole would allow safe access, parking and servicing arrangements for all users. It would therefore comply with the aims of Policies T10-19 and PLP21-22.

6 – Other matters: Most of the conditions on the original permission – e.g. those relating to landscaping, materials, separate surface and foul water drainage, and the demolition of the old buildings on site – do not need to be re-imposed, as in 2016, as they are no longer applicable.

One condition – “surface water from vehicle parking and hardstanding areas shall be passed through adequate interceptor(s) prior to discharge to public sewers” is probably too vaguely worded to be enforceable, and as the retail park has been trading for nearly 20 years it can be assumed that it is being satisfactorily drained, so this condition should not be re-imposed.

It should be conditioned that the parking and servicing areas be retained and kept free from obstructions.

#### 7 – Representations:

No representations were made.

### **Conclusion**

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government’s view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

### **Recommendation – GRANT VARIATION OF CONDITION**

## Decision Authorisation - Delegated Powers

**Application Number:** 2018/91316

**Officer Recommendation:** GRANT VARIATION OF CONDITION

### Conditions and Reasons

1. The unit indicated as "Proposed Staples unit" (Unit F1) on the approved site layout plan shall be restricted to the sales of convenience goods, DIY goods, gardening equipment, garden plants, motor accessories, electrical goods, furniture and carpets, and ancillary items including other comparison goods. The area used for the sale of ancillary items, including other comparison goods, shall not exceed 20% of the net sales area. For the avoidance of doubt the net sales area is defined as the sales area within the building (i.e. all internal areas accessible to the consumer) but excluding lobbies, customer toilets and walkways behind the checkouts. The unit shall be used for no other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) "the Order" or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order.

**Reason:** To ensure the proposal will not have a detrimental impact on the vitality and viability of Huddersfield Town centre or other local centres and to accord with policy S4 of the Unitary Development Plan, PLP13 of the Publication Draft Local Plan and part 2 of the National Planning Policy Framework; Ensuring the vitality of town centres.

2. The areas to be used by vehicles shown on plan B/587 P/01 including parking, loading and unloading areas shall be retained and at all times kept clear of all obstruction to their use for parking and servicing.

**Reason:** To ensure that satisfactory provision for vehicular access, parking and servicing is retained in the interests of highway safety and to accord with the aims of Policies T10 and T19 of the Unitary Development Plan, PLP21 and PLP22 of the Publication Draft Local Plan.

3. The unit indicated as "Proposed Staples unit" (Unit F1) on the approved site layout plan shall not be open to the public outside the hours of 07.30 to 22.00 hours Monday to Saturday and 08.00 to 20.00 hours on Sunday and deliveries shall be restricted to between the hours of 07.00 and 22.00 hours Monday to Saturday and 07.00 to 21.00 hours on Sunday.

**Reason:** To prevent the development giving rise to loss of amenity to residential properties in the vicinity of the site by reason of noise at unsociable hours, and to accord with the aims of Policy EP4 of the Unitary Development Plan and PLP24 and PLP52 of the Publication Draft Local Plan.

4. The variation of condition hereby approved relates solely to the unit indicated as "Proposed Staples unit" (Unit F1) on the approved site layout plan. All other units originally approved under application no 1997/90410 are controlled by the conditions imposed on that planning permission.

**Reason:** For the avoidance of doubt and in order to retain the vitality and viability of Huddersfield Town centre and other local centres, in the interests of highway safety and the amenities of occupants of nearby residential properties. This would accord with Policies T10, EP4, T19 and S4 of the Unitary Development Plan, PLP13, PLP24, PLP52, PLp21 and PLP22 of the Publication Draft Local Plan and the National Planning Policy Framework.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Block plan			23-Apr-2018
Planning statement			23-Apr-2018
Transport statement			23-Apr-2018

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer undertook negotiations with the applicant over the wording of the proposed replacement condition on the type of goods to be sold, but no amended plans or additional information were considered necessary.

**Report Dated:** 26-Jun-2018

## **APPENDIX 5**

THIS DRAWING IS COPYRIGHT, AND REMAINS THE PROPERTY OF HTC ARCHITECTS. IT MUST NOT BE REPRODUCED, USED, DISCLOSED OR TRANSMITTED TO THIRD PARTIES IN ANY FORM, IN WHOLE OR IN PART, WITHOUT PRIOR WRITTEN PERMISSION.

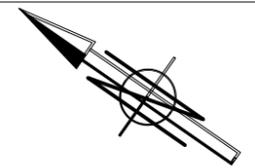
DO NOT SCALE!  
ALL DIMENSIONS SHOULD BE CHECKED ON SITE BEFORE WORK COMMENCES

BASED DRAWING 10933-04\_A.PDF Ratcliffe Groves Partnership received 01.04.21

SUBJECT TO HGV TRACKING REVIEW

LIDL SPEC ECO 2021 DATED NOVEMBER 2021

SUBJECT TO TITLE PLAN REVIEW



PROPOSED: (LIDL)ECO SPEC 2021 NON - STANDARD	
TOTAL SALES =	1382m <sup>2</sup>
ANCILLARY =	248m <sup>2</sup>
WAREHOUSE =	639m <sup>2</sup>
TOTAL GIA =	2269m <sup>2</sup>
TOTAL GEA =	2348m <sup>2</sup>
TOTAL CAR PARKING SPACES = 111 (INCLUDING 8 P&C, 5 DISABLED)	

F	01/11/22	Title block updated.	JC
E	28.07.22	Added plant area Removed red line boundary & existing parking spaces layout, swapped bakery & chiller positions, tracked HGV. Updated proposed parking (-1 space)	BM
D	21.06.22	Shown existing parking layout	JBH
C	14.06.22	Shown existing parking layout	BM
Rev.	Date	Description	Drawn

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client

project

**UNIT A & B Leeds Road RP,  
Huddersfield**

drawing title

**Proposed Site Plan**

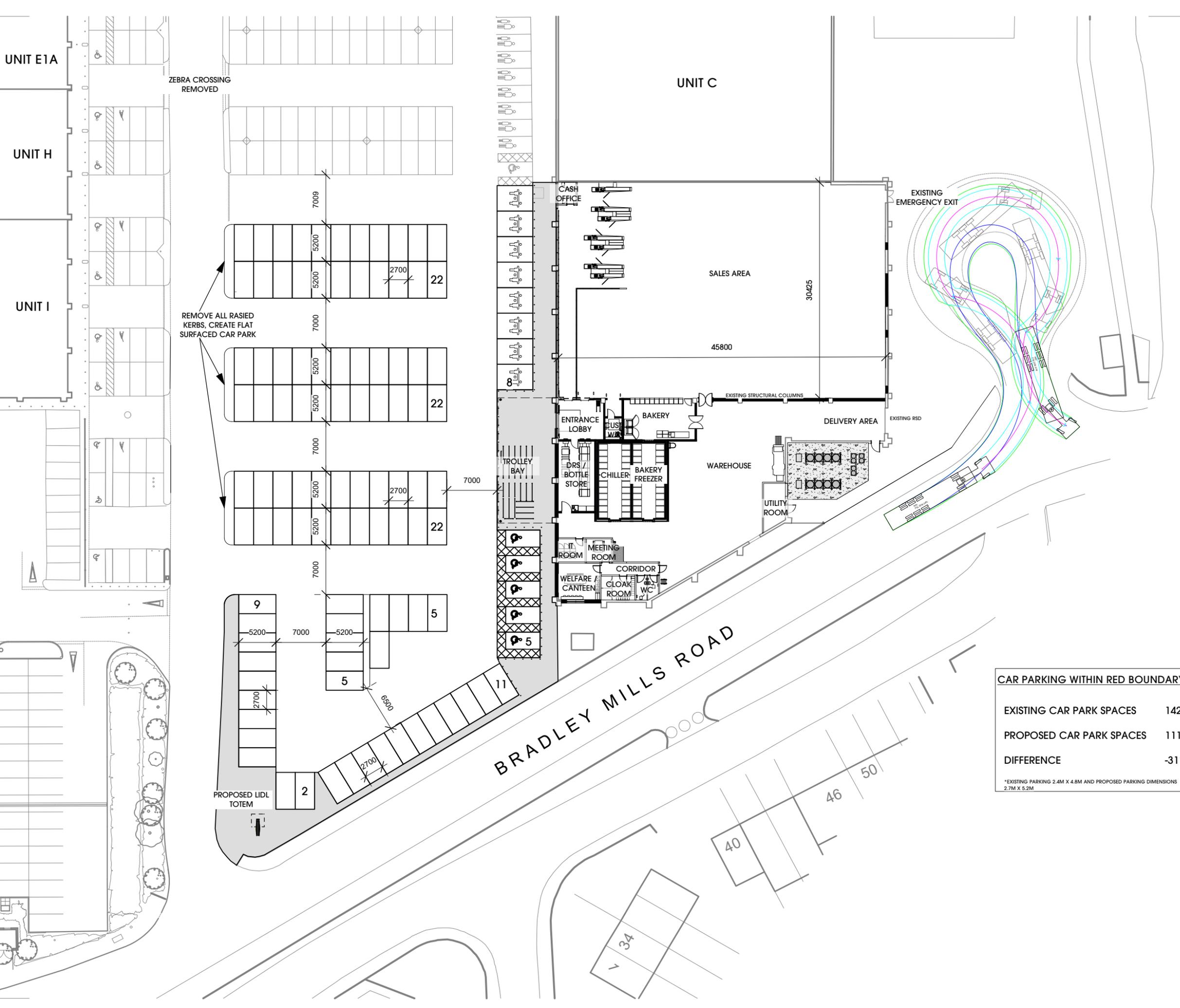
date **April 2021**

status **Planning**

scale **1:500 @ A3**

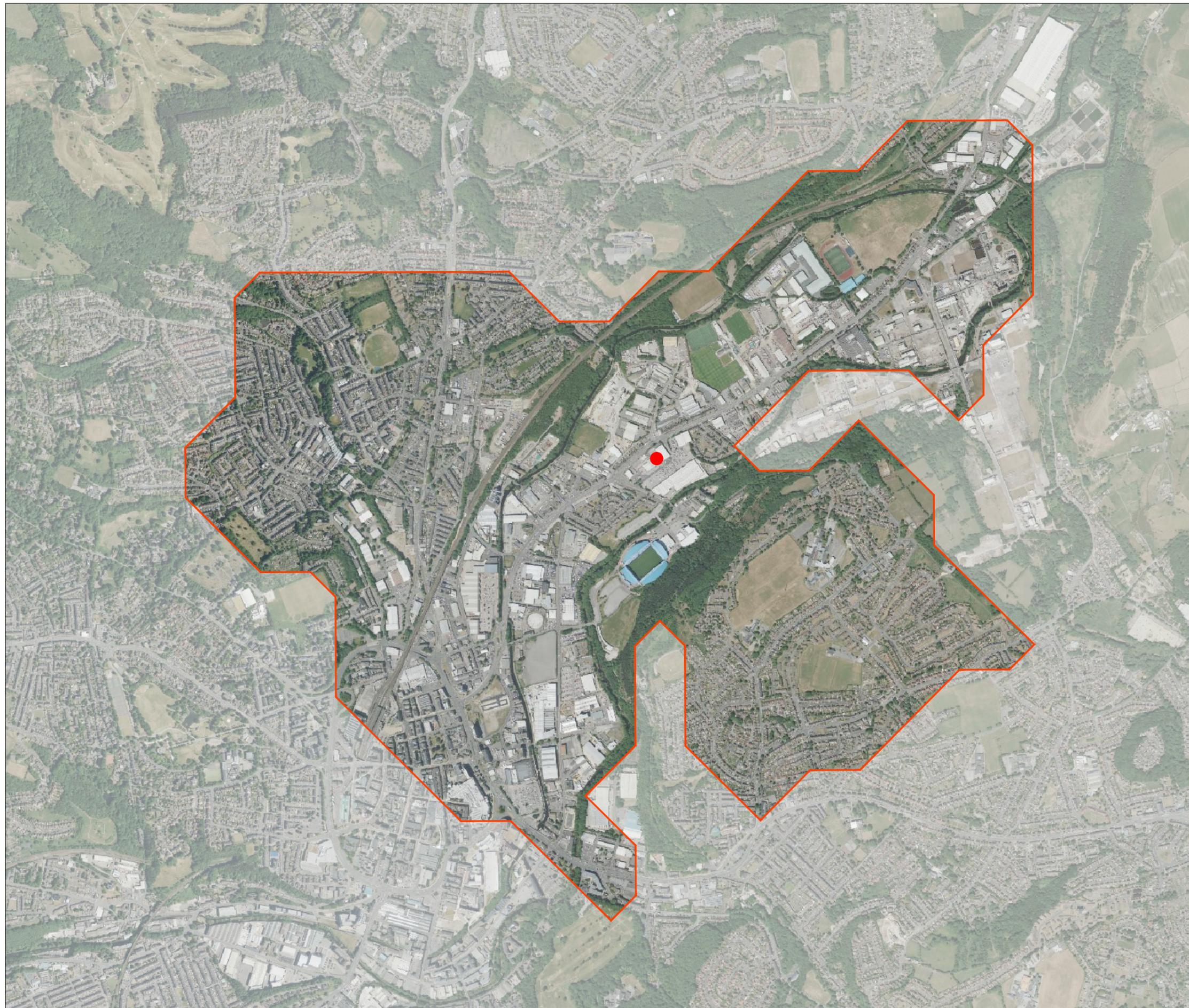
drawn **BM** checked **PH**

job no. **2905** dwg no. **P403** rev. **F**



CAR PARKING WITHIN RED BOUNDARY	
EXISTING CAR PARK SPACES	142
PROPOSED CAR PARK SPACES	111
DIFFERENCE	-31*
*EXISTING PARKING 2.4M X 4.8M AND PROPOSED PARKING DIMENSIONS 2.7M X 5.2M	

## **APPENDIX 6**



The scaling of this drawing cannot be assured

Revision	Date	Drn	Ckd
-	-	-	-

- Origin location
- 7 minute drive time

Project  
**Huddersfield**

Drawing Title  
**Drive Time Plan  
7 Minute Drive**

Date	Scale	Drawn by	Check by
05.09.22	NTS	SM	RP
Project No	Drawing No	Revision	
1300	BM-M-01	-	



Town Planning • Master Planning & Urban Design • Architecture •  
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## **APPENDIX 7**

**Table 1: Turnover of the proposed development**

Use	Total
	Net sales area (sqm)
Retail (all floorspace) (Scenario 1)	1,388
Retail (uplift only) (Scenario 2)	500

Notes

Sales Density based on latest tenant information

Sales Density increases as per Experian Retail Planner Briefing Note 19 (2022)

2020 Prices

Assumes entire floorspace trades at convenience density, for robustness

Scenario 2 (Uplift only) reflects the fact the unit has an existing foodstore consent

**Table 2: Turnover of existing stores/centres (convenience goods only)**

Stores / Centre
<b>In centre</b>
Huddersfield (Town Centre)
Moldgreen (District Centre)
Aspley (Local Centre)
Birkby (Local Centre)
Far Town Bar (Local Centre)
Hillhouse (Local Centre)
Long Lane Dalton (Local Centre)
Rawthorpe (Local Centre)
<b>Edge of centre and out of centre</b>
Sainsbury's (Southgate, Huddersfield)
Tesco (Viaduct Street, Huddersfield)
Morrison's (Waterloo)
Asda (Long Hill Road, Huddersfield)
Aldi (Ringway Centre)
Aldi (Gallagher Retail Park)
Lidl (Trinity Street, Huddersfield)

Notes

Turnover taken from proposed Lidl store at New Hey Road (application 2021/62/94029/W)

Where centres not assessed in the above application, turnover densities and reasonable assumptions used

2020 prices

Assumes Lidl (Tinity Street) as an existing store in 2025 given the consented scheme to replace the Castlegate store



