

# **Flood Risk Sequential Test**

**John Cotton, Mirfield**

**John Cotton Group Ltd**

**August 2024**

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# 1. Introduction

- 1.1 This Sequential Test has been prepared in support of an application lodged by the John Cotton Group for an extension of their existing factory in Mirfield.
- 1.2 This application is in outline, and seeks approval of the principle of a 27,500sqm (c.300,000 sqft) warehouse (B8) development with a maximum height of around 24m. The application is made in outline with some matters reserved.
- 1.3 The site is allocated for employment development in the Adopted Kirklees Local Plan (Site ES9). It is a derelict former Yorkshire Water treatment works, which is now a prominent derelict site at the gateway to both Huddersfield and Mirfield.
- 1.4 The proposed development will be a major investment by John Cotton and will regenerate this vacant brownfield site, as well as bringing forward one of the few remaining sites in the Local Plan which was allocated to provide jobs for people living in Kirklees.
- 1.5 The new building will rationalise John Cotton's local storage operations, reducing local off site vehicle movements associated with the operation, and thus improve highway conditions in the vicinity of the site.
- 1.6 This assessment considers the following topics:
  - a) The relevant Case Law,
  - b) Catchment Area and Relevant Centres,
  - c) Search Parameters for this proposal,
  - d) Analysis and consideration of the identified sites,and
  - e) Sets out a summary of the findings of this exercise.
- 1.7 It is concluded that there are no suitable, available or viable sites at a less risk of flooding which can reasonably accommodate this proposed development.

## 2. Site Location and Description

2.1 The site is located immediately adjacent to the Cooper Bridge junction, adjacent to Leeds Road; Cooper Bridge Road and the A644 leading to Junction 25 of the M62. The site adjoins the existing John Cotton factory on Leeds Road and shares its access point, which is close to the junction of Leeds Road and Huddersfield Road.

2.2 The site location is shown below:



2.3 The site is previously developed and the majority is former waste water treatment works. The site was previously a series of filter beds which have been removed over the last few years. The main area of the site has now been levelled and is currently a flat gravelled area.

2.4 The site includes an area north of nun brook, which is owned by John Cotton and is currently in use as a car park. The existing John Cotton complex is to the east of the site (within PEA42) and commercial uses (comprising a Petrol Filling Station, Spar shop, Starbucks and hotel) lie opposite this, north of Huddersfield Road.

2.5 There are existing residential properties to the immediate west of the site, immediately adjacent to the Cooper Bridge Roundabout and Yorkshire Water have retained property to the north west and south east of the site.

2.6 There are further commercial uses to the north of Leeds Road- comprising a Miller & Carter Steak House and a commercial / horticultural nursery site.

2.7 Other than the two houses immediately adjacent to the western site boundary, the nearest houses are some 130m away from the eastern most tip of the site- which is already in use as

car parking for the John Cotton operation. Indeed, the existing factory provides a firm physical barrier between the development site and those houses.

### 3. Site Status

3.1 The site is an allocated employment site in a recent Local Plan (2019). Whilst that Plan is now acknowledged to be dated in terms of its land supply<sup>1</sup> it is still relatively recent and was prepared when national policy required the sequential test to be undertaken at Local Plan stage.

3.2 The LLFA response to this application notes that:

*The NPPG in relation to flood risk was updated in August 2022.*

*The whole site is located within flood zone 2 (EA and SFRA) with a proportion in the middle of the site in flood zone 3 (EA) and flood zone 3ai (SFRA) where there is a high probability of flooding. In relation to flood risk, general industry and car parking are a less vulnerable use as set out in the flood risk vulnerability classification, Annex 3 of the NPPF, therefore are appropriate, only after the sequential test has been passed (Table 2, NPPG). An exception test is not required in this case.*

*Local Authorities are required to undertake a Level 1 SFRA as part of the Local Plan process, to identify areas where development can be located with a low risk of flooding. The SFRA is then used to apply the Sequential Test and identify appropriate locations for development.*

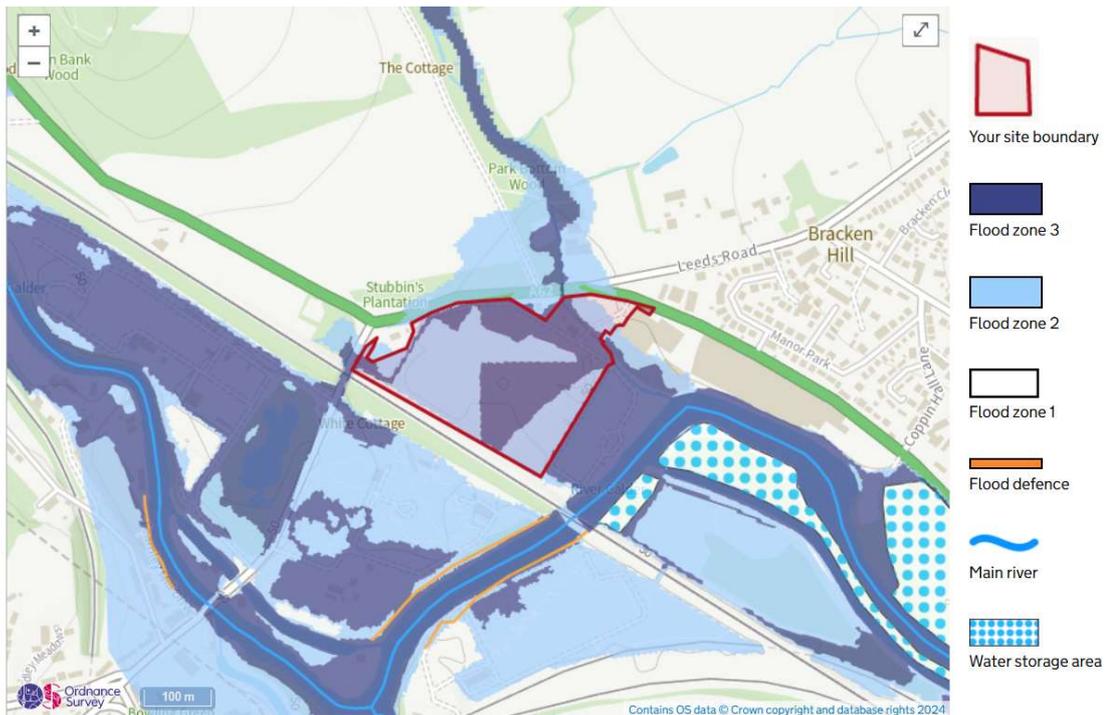
*Employment allocation (ES9) was subject to a Sequential Test as part of the Local Plan process. As a result of this it was not the intention of the council at that time to develop areas of land within this allocation, located in flood zone 3ai. When allocating this site for development the council netted off the area of land located in flood zone 3ai and it was not included in the developable area of the site.*

3.3 This summary is essentially correct- Site ES9 has a stated gross area of 8.49Ha and a net area of 4.26, with the policy stating “developable area reduced to take account of flood zone 3ai and an area of BAP Priority habitat and Wildlife Habitat Network.”. The LLFA analysis of the position above is considered to be fair.

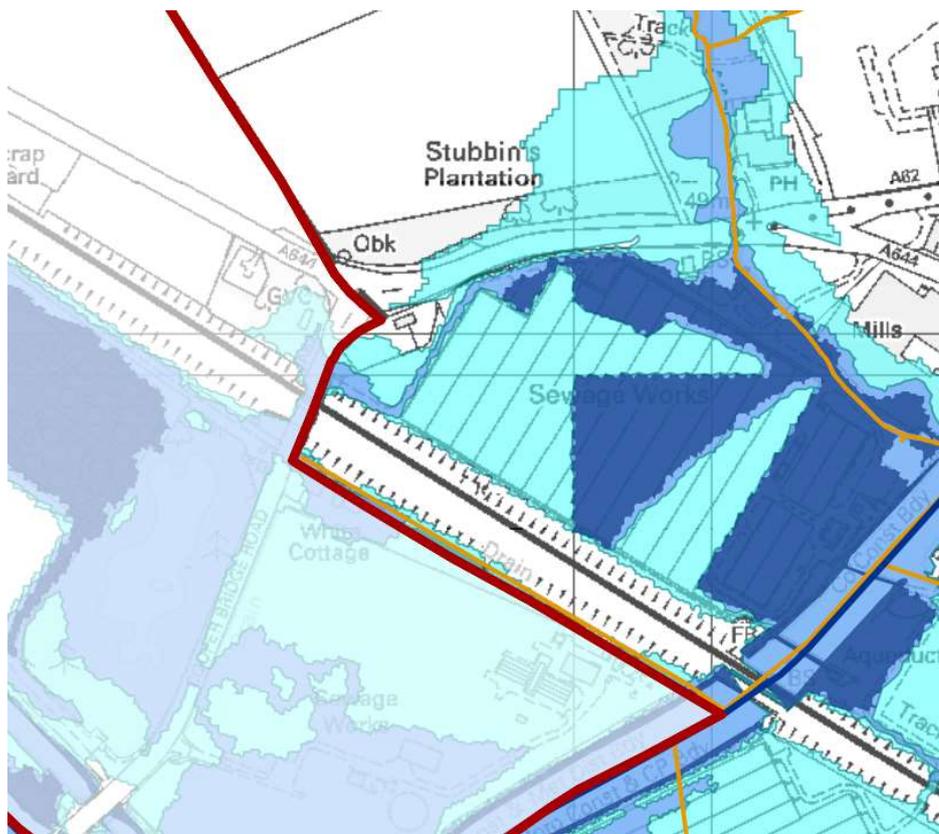
3.4 The EA flood map for planning is extracted below:

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<sup>1</sup> [2023-10-17 Local Plan Review-Update Cabinet Report and App1 finaldocx.pdf \(kirklees.gov.uk\)](#)



3.5 The Council's SFRA has a similar area for Flood Zone 3, as shown in the extract below:



3.6 However, the area of Flood Zone 3 appears to be anomalous.

3.7 Whilst this assessment is prepared (as required) on the basis of this data, the clear alignment of the FZ3 area with two grid lines, set within a defended area of the filter bed of the former

sewage treatment works, appears to be a modelling / mapping error rather than a practical / observed area of flooding. There is no physical feature, on the ground, that would cause such a uniform rectilinear pattern of flooding on the site, and no means for the water to get to that part of the site, as the filter bed area is / was within a raised wall.

3.8 This modelling is clearly incorrect. However, in the absence of an alternative and given the requirement to consider this data as part of the sequential test, it is accepted at face value.

3.9 The LLFA response notes the following expectations for this assessment:

- It should consider the whole of Kirklees- unless a smaller area is justified
- Reasonably available sites should include:
  - Local Plan allocations
  - Unallocated sites with employment permission
  - Windfall sites that don't have permission, or an allocation- but that might be available.
- All sizes of sites should be considered as part of the test and not just those that 'have a comparable yield to the subject site'- a series of smaller sites, or part of a larger site, are relevant, if they could accommodate the proposed development

3.10 This approach is broadly consistent with the NPPF and NPPG- however, a recent case clarified the approach that should be adopted, and that is considered further in Section 4.

## 4. Relevant Case Law and Guidance

4.1 This section sets out the approach that will be adopted to the test, based on both the NPPF / NPPG and recent case law which clarified how this should be undertaken.

4.2 The *R (Mead and Redrow) v SoS LUHC [2024] EWHC 279 (Admin)* case<sup>2</sup> clarified several important points around what constitutes a reasonably available site, and the relevance of “need” when undertaking the sequential test.

4.3 This recent case law suggests that it is appropriate for the applicant to consider a more limited catchment provided that there is a specific need to be met. The judgement, at paragraphs 101 and 102, states:

*...the relevant catchment area or area of search for some types of development will be affected by need considerations. On that basis, I do not see why all considerations of need must be excluded when considering the “appropriateness” of alternatives...*

*A developer may put forward a case that the specific type of development he proposes is necessary in planning terms and/or meets a market demand. It then becomes a matter of judgment for the decision-maker to assess the merits of that case and to decide whether it justifies carrying out the sequential assessment for that specific type or for some other, perhaps broader, description of development. Paragraph 162 of the NPPF does not exclude either approach, but leaves to the decision-maker the selection of the approach to be taken.*

4.4 The judgement also shows that the Council should consider the nature of the project being assessed. At paragraph 103, it states:

*A need and/or market demand case could be based on a range of factors, such as location, the mix of land uses proposed and any interdependence between them, the size of the site needed, the scale of the development, density and so on. But the decision maker may also assess whether flexibility has been appropriately considered by the developer and by the local planning authority.*

4.5 This is an important factor for this case as the application proposes a specific use related to an existing manufacturing business adjacent to the site.

4.6 It also suggests, at paragraph 106, that a site must be broadly available in a broadly similar timeframe:

*“Reasonably available” also has a temporal dimension. The start date and duration of the proposed development may be relevant considerations. But para. 162 of the NPPF does not require that the availability of an alternative site should always align closely with the trajectory for the developer’s proposal.*

4.7 The judgement, at para 108, also clarifies that:

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<sup>29</sup> [Mead Realisations Limited v Secretary of State for Levelling Up Housing and Communities 2024 EWHC 279 Admin .pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/131442/2024-01-23_Mead-Realisations-Limited-v-Secretary-of-State-for-Levelling-Up-Housing-and-Communities-2024-EWHC-279-Admin.pdf)

*The PPG provides for issues as to suitability of location, development type, and temporal availability to be assessed by the decision-maker as a matter of judgment*

- 4.8 Again, these are important considerations for this case. It also suggests that whether a series of smaller sites could accommodate the development is a matter of judgement that depends on a number of factors:

*Whether such an arrangement is so capable depends on the judgments to be made by the decision-maker on such matters as the type and size of development, location, ownership issues, timing and flexibility. Taking into account his assessment of any case advanced by the developer on need and/or market demand, the decision maker may consider smaller sites (or disaggregation) if appropriate for accommodating the proposed development. [our emphasis]*

- 4.9 Clearly, disaggregation only applies if it is relevant to meeting the need identified. It further clarifies, at para 110, that:

*...a proposal should not automatically fail the sequential test because of the availability of multiple, disconnected sites across a local authority's area. The issue is whether they have a relationship which makes them suitable in combination to accommodate any need or demand to which the decision-maker decides to attach weight*

- 4.10 This case is helpful as it sets out the kind of judgements that are open to the decision maker when undertaking a sequential test. In this case, the site is in a highly accessible strategic location, immediately adjacent to an important local business with expansion needs.

- 4.11 It is unlikely that the need could be met on a remote site, let alone if disaggregated into multiple smaller sites across the District. Such an approach would not address the fundamental reasons for the application being made.

- 4.12 Policy and case law is clear that some flexibility should be demonstrated- by both the applicant and decision maker. In this case, the applicant will examine:

- Other allocated sites across the District,
- Consented employment sites which are not allocated, and
- Safeguarded sites

but will assess these with a view to the extent to which they could meet the needs of the business expansion proposed in this application.

- 4.13 The applicant will not consider other windfall sites that don't have permission, or an allocation- but that might be available. This is because there are Hectares of land that could be made available for this development, but this land is all constrained by a tight Green Belt boundary. This other policy factor suggests that they would not receive planning permission without significant positive factors weighing against the Council's usual decision making processes. It is considered unlikely that this could be achieved for such sites.

4.14 The applicant would also remind the Council about the wider benefits of this proposal, as set out in Section 6 of the Planning Statement, which need to be weighed in the wider planning balance, where the sequential test is just one material factor to be considered. In summary, and for ease of reference these are:

- Secure re-use of an abandoned “eye sore” site at a key gateway to the District
- Direct Economic Benefits- around 100 jobs and GVA of around £4.6m per annum.
- Enable retention of a major local advanced manufacturing operator- securing the existing 663 jobs, the future jobs and supporting a key sector identified in the Economic Strategy.
- Delivery of one of the few remaining strategically located employment site in the District
- Exceedance of current Bio-diversity Net Gain requirements

4.15 These factors should also be weighed in favour of the application when the ultimate decision is being made.

## 5. Search Parameters

5.1 The LLFA advice, NPPF, PPG and case law review presented earlier in this report suggests that the following approach would be considered to be reasonable, if it were reviewed by an Inspector or the Courts:

- The whole of Kirklees will be considered
- The following sources of sites will be considered
  - Local Plan allocations for employment, provided that they can accommodate a broadly similar sized development and be available in a similar timescale to the application site.
  - Local Plan allocations for mixed use which can accommodate a broadly similar sized development.
  - Unallocated sites with employment permission, of an equivalent size to that set out above.
  - Safeguarded sites, which are not in the Green Belt, but which are now being made available for housing development under the interim policy<sup>3</sup> will also be considered.

5.2 Windfall sites without a permission, or an allocation will not be considered further. This is because sites with no permission and no allocation, which are a suitable size for the development, are very likely to be in the Green Belt. These will suffer from other policy constraints, and are unlikely to be acceptable to the Council as an alternative to this allocated site.

5.3 Whilst disaggregation can be a consideration in the sequential test for flooding, the purpose of this application is to rationalise and improve the efficiency of the John Cotton operation. This would be undermined by splitting the development across multiple smaller sites. The case law confirms that it is reasonable to take into account need factors- including the site location and size, and the scale of development.

5.4 The site and unit size threshold is set on the basis that this proposal seeks to rationalise John Cotton's business into a single site. They currently have warehousing in Ravensthorpe, Ossett (J40 M1) and at Euroway (J26 M62) which they aim to rationalised back to the main production site at Mirfield.

5.5 This would reduce local traffic movements associated with the operation, as well as increase operational efficiency, reduce cost and produce both environmental and congestion related benefits. The fundamental basis of this application would be undermined if the proposal were split across multiple smaller sites.

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<sup>3</sup> [2023-12-21 Cabinet Report Appendix 1 Interim Housing Position Statement to Boost Supply.pdf \(kirklees.gov.uk\)](#)

- 5.6 The Mead & Redrow case is clear that decision makers can take into consideration such a need case put forward by the Developer. Given that the development is seeking to achieve particular locational and business efficiency aims, requiring an alternative approach would simply result in the development not occurring. This would not be acceptable from the perspective of needing to support and maintain the District's key employers.
- 5.7 However, some flexibility must be shown and so the unit / site size threshold will be varied. The application proposes a 27,500sqm / 300,000sqft building on a 6.1 Ha / 15.1 acre. This assessment will discount sites below 5Ha. Sites above that threshold could accommodate a building of around 17,500sqm / 189,000 sqft, which is 10,000sqm / 111,000 sqft less than the application proposal and therefore shows considerable flexibility in meeting the business' rationalisation needs.
- 5.8 As this is an outline application, and flexibility needs to be demonstrated, availability by mid-2026 is considered to be a reasonable cutoff point. That offers a 2 year period.
- 5.9 The sites considered must be suitable for the development, available in the stated timescales and also be deliverable.

## 6. Site Identification

6.1 The site selection exercise has focussed on the sites allocated in the Plan. No sites of 5+Ha, which are not allocated and have permission for employment uses have been identified.

6.2 The allocated sites are considered by category below.

**Table 1: Employment Sites Assessment**

Local Plan ID	Address	Size (Ha)	Flood Zone	Sequentially Preferable?	Assessment
ES1	Bradley Business Park	4.76	1	Yes	Developed and occupied for Aflex Hose, no space remaining. The site is not available.
ES2	H&E Fabrications, St Andrews Road, Huddersfield	1.29	2	Yes	Developed and occupied by Polyseam, no space remaining. The site is not available.
ES3	Greaves Road, Dewsbury	0.68	1	Yes	Heavily wooded area of disused railway line with mature woodland across most of the site. Crackenedge Road needs to be widened requiring third party land. The site is too small, too constrained and in a location which would exacerbate the efficiency and environmental issues John Cotton are trying to address through this application. The site is not suitable.
ES4	Tilcon Coal Yard, Bretton Street, Dewsbury	0.83	2 and 3	No	Mature vegetation, level drop from road to site level, sewer and gas mains cross the site. Flooding issues and site size mean that this site is too small, too constrained and in a location which would make the efficiency and environmental issues John Cotton are trying to address through this application worse. The site is not suitable.
ES5	Crossroad Commercials Ltd, Pheasant Drive, Birstall	1.82	1	Yes	Controlled and retained by Tennants Chemicals for expansion. Access is via Tennants with historic permissions and hazardous substances consent in place. No space available. Site is too small and in a location which would add to the efficiency and environmental issues that John Cotton are trying to address

Local Plan ID	Address	Size (Ha)	Flood Zone	Sequentially Preferable?	Assessment
					through this application. The site is not suitable or available.
ES6	The Royds, Whitechapel Road, Cleckheaton	23.53	1	Yes	Amazon application recently refused across the entire allocation. Alternative national developer has recently been identified, with pre-app discussions understood to be about to start- this site could be available within the 2 year period suggested for this assessment. The site is large enough with potential to accommodate a unit for John Cotton. However, it is close to John Cotton's existing Euroway depot, which they wish to rationalise back to the Mirfield site for efficiency purposes. This site would simply maintain / worsen the issues the applicant is trying to address through the application. The site is not suitable from that perspective.
ES7	North Bierley WWTW	14.03	1,2 and 3	No	Phase 1 site (Interchange 26) fully developed for larger units- site not available; Phase 2 outline on southern area recently approved. Maximum unit size is 12,078sqm which is below the size threshold set for this assessment. It is also close to John Cotton's existing Euroway depot, which they wish to rationalise back to the Mirfield site for efficiency purposes. This site would simply exacerbate the issues the applicant is trying to address through the application. The site is not suitable.
ES8	Spenn Valley Industrial Park, Bradford Road, Cleckheaton	1.52	2 and 3	No	Developed and occupied for a range of occupiers, with no space remaining. The site is not available.
ES9	Cooper Bridge WWTW	8.49	1,2 and 3	-	This is the application site.

6.3 Only Whitechapel Road and the application site meet the size thresholds with land still available to develop. The application site is considered to be the only site available which

can meet the applicant's needs in terms of location and business rationalisation objectives, and is also reasonably available.

**Table 2: Mixed Use Sites Outcomes**

Local Plan ID	Address	Size (Ha)	Employment component (sqm)	Flood Zone	Sequentially Preferable?	Outcome
MXS1	Blackmoorfoot Road	9	None	1	Yes	This site is subject to an application for a Lidl, and the remainder has permission for housing, originally granted in 2015. The site is not available.
MXS2	East of Southgate, Huddersfield	2.67	4,655	1	Yes	Site is too small and urban, and in a location which would add to the efficiency and environmental issues John Cotton are trying to address through this application. The site is not suitable.
MXS3	Lindley Moor Road	32.16	41,702	1	Yes	Recent approval for employment uses and potential to be available within the timeframes for this assessment. The site is large enough with potential to accommodate a unit for John Cotton. However, it is remote from John Cotton's existing site, and they wish to rationalise back to the Mirfield site for efficiency purposes. This site would simply maintain / worsen the issues the applicant is trying to address through the application. The site is not suitable.
MXS4	North of Trinity Street, Huddersfield	2.44	2,103	1	Yes	Permission granted and being implemented for retail, office, housing and a new Lidl, which retains the listed buildings on site. It is

Local Plan ID	Address	Size (Ha)	Employment component (sqm)	Flood Zone	Sequentially Preferable?	Outcome
						also too small for the proposed development. The site is not available or suitable.
MXS5	Lees House Farm, Leeds Road, Dewsbury	2.18	3,816	1	Yes	This site is accessed off a private drive, via an existing business and residential property. It requires a comprehensive approach to access via the adjacent MXS7 site. The site is not readily deliverable, with potential ransom issues to address. The site is also too small and in a remote location for the John Cotton expansion. It is not available in the short to medium term.
MXS6	Slipper Lane	12.26	17,234	1	Yes	The site is already approved, delivered and occupied- AAA Park / Moor Park. There is no space available.
MXS7	Leeds Road, Dewsbury (Chidswell)	120.78	122,500	1	Yes	Timescales for delivery are uncertain. The site is large enough with potential to accommodate a unit for John Cotton. However, it is remote from John Cotton's existing base in Mirfield, and they wish to rationalise operations back to the Mirfield site for efficiency purposes. This site would simply maintain / worsen the issues the applicant is trying to address through the application. The site is not suitable. It's realistic availability is also questionable. An application has been

Local Plan ID	Address	Size (Ha)	Employment component (sqm)	Flood Zone	Sequentially Preferable?	Outcome
						live since July 2020 and received a resolution to grant in December 2022- including a note that if the S106 was not finalised in 3 months it could be refused. That was nearly 2 years ago. Delivery timescales are uncertain, and the employment elements may not be available within the 2 years suggested for this assessment. Not suitable, not available.
MXS8	Moorlands Business Centre, Balme Road, Cleckheaton	0.46	Retain existing only	3	No	This site is allocated for 8 houses and retention of existing employment uses only. No new space will be made available for employment development and it is too small for the proposal. Not suitable, not available.
MXS9	Westgate, Cleckheaton	6.93	Retain existing only	1, 2 and 3	No	This site is allocated for 223 houses and retention of existing employment uses only. No new space will be made available for employment development. Not suitable, not available.
MXS10	Bank Bottom Mills, Mount Road, Marsden, Huddersfield	3.77	3,953	1	Yes	This site has buildings which will need to be retained for heritage reasons. This site is not suitable. It is too small. local access is not ideal and neither the location or routes to the main roads are suited to the John Cotton business. It is remote from John Cotton's existing base in

Local Plan ID	Address	Size (Ha)	Employment component (sqm)	Flood Zone	Sequentially Preferable?	Outcome
						Mirfield, and they wish to rationalise operations back to the Mirfield site for efficiency purposes. This site would simply maintain / worsen the issues the applicant is trying to address through the application. Not suitable.
MXS11	New Mills, Brougham Road, Marsden, Huddersfield	1.71	2,976	1,2, and 3	No	This site has several buildings which need to be retained for heritage reasons. There is active pre-application work being undertaken now to determine the best approach for this site. However, this site not suitable. It is too small and local access is not ideal. The location and routes to the main roads are not suited to the John Cotton business. It is remote from John Cotton's existing base in Mirfield, and they wish to rationalise operations back to the Mirfield site for efficiency purposes. This site would simply maintain / worsen the issues the applicant is trying to address through the application. Not suitable.
MXS12	Dobroyd Mills, Hepworth Road, Hepworth, Holmfirth	4.22	880	1,2 and 3	No	This site capacity had high flood risk areas removed from the gross area stated- reducing net capacity to 3.45Ha. This site has been subject to various discussions with the Council resulting in

Local Plan ID	Address	Size (Ha)	Employment component (sqm)	Flood Zone	Sequentially Preferable?	Outcome
						issues around highways. The lower area of the site is suited to employment, but it is not big enough and is not sequentially preferable/ The upper section is limited to vehicle movements on to Butt Lane, which has limited capacity. The use of the upper area with access via the lower area would need a new access road which has proven not to be viable for several uses- including a major employer and residential development. This site is not considered to be suitable for the John Cotton use. It is remote from John Cotton's existing base in Mirfield, and they wish to rationalise operations back to the Mirfield site for efficiency purposes. Not suitable.

6.4 Here are 3 sites which are large enough for this proposal:

- Lindley Moor (MXS3) has enough space and is recently approved- but the location is not suitable given the objectives of the applicant.
- Chidswell (MXS7) is "stuck" having been subject to an application for the last 4 years, with a 2 year old resolution to grant, but no positive action. This site is not suitable for location reasons, and its availability within 2 years is highly questionable.
- Westgate, Cleckheaton (MXS9) is large enough, but is only allocated for housing with retained employment- it is not suitable in locational terms, but equally the allocation does not support additional employment space here.

6.5 Again, the application site is considered to be the only site available which can meet the applicant's needs and which is reasonably available.

**Table 3: Safeguarded Sites Outcomes**

Local Plan ID	Address	Size (Ha)	Flood Zone	Sequentially Preferable?	Outcome
SLS1	Kaye Lane, Almondbury	1.99	1	Yes	Site not suitable. It is too small, is not accessible to the main roads, and access is via an narrow single file track leading to listed buildings. This site would be more suitable for a smaller scale residential development provided that access could be addressed.
SLS2	Tolson Street, Chickenley, Dewsbury	2.11	1	Yes	Site not suitable. It is too small, and had poor access off a driveway with residential uses to the boundary. Purchase of existing houses would be needed to gain a suitable industrial access road. The site is more suited to smaller scale housing development.
SLS3	Balderstone Hall Lane, Mirfield	6.91	1	Yes	Site not suitable. Local access is not ideal and neither the location or routes to the main roads are suited to industrial uses. Access to the site is via residential streets. The location and site are more suited to residential uses. Whilst in Mirfield, it is on the far eastern side, remote from John Cotton's existing base, and they wish to rationalise operations back to the Mirfield site for efficiency purposes. This site would simply maintain / worsen the issues the applicant is trying to address through the application.
SLS4	Upper Batley Lane, Batley	3.29	1	Yes	Site not suitable. It is too small, and access to the site is via residential streets. The location and site is more suited to residential uses.
SLS5	Wyke Lane, Oakenshaw, Bradford	4.62	1 and 3	Yes, if development is kept form the bottom of the slope	Site not suitable. It slopes steeply and is only accessible via residential streets. The location and site are more suited to residential uses. It is also close to John Cotton's existing Euroway depot, which they wish to rationalise back to the Mirfield site for efficiency purposes. This site would simply maintain / worsen the issues the applicant is trying to

Local Plan ID	Address	Size (Ha)	Flood Zone	Sequentially Preferable?	Outcome
					address through the application. The site is not suitable.
SLS6	Snelsins Road, Chain Bar, Cleckheaton	4.07	1	Yes	Site slopes steeply and is only accessible via residential streets. The location and site are more suited to residential uses. The site is not suitable.
SLS7	Elm Tree Close, Norristhorpe Lane, Liversedge	1.95	1	Yes	Site not suitable. It is too small, and slopes steeply. It is only accessible via residential streets. The location and site are more suited to residential uses.
SLS8	Cambridge Chase, Gomersal, Cleckheaton	0.84	1	Yes	Site not suitable. It is too small, and has poor access off a driveway with residential uses to the boundary. Purchase of existing houses would be needed to gain a suitable industrial access road. The site is more suited to smaller scale housing development.

- 6.6 Only Balderstone Hall Lane is large enough for this proposal, but the access is very poor for commercial uses and the location would simply exacerbate the issues John Cotton are trying to address with this application. The application site is still considered to be the only site available which can meet the applicant's needs and which is reasonably available.
- 6.7 No windfall sites, which are not allocated but have permission for employment uses, have been identified for assessment.

## 7. Summary of Findings

7.1 This analysis has identified 29 sites for consideration. 7 are not sequentially preferable, and a further 8 are no longer available. The remainder are not considered to be suitable for the application proposals.

7.2 The summary position is set out below:

Local Plan ID	Sequentially Preferable?	Conclusion	Reason for discounting site
ES1	Yes	Not available	
ES2	Yes	Not available	
ES3	Yes	Not suitable	Size, location, meeting fundamental reason for application
ES4	No	Not suitable	
ES5	Yes	Not suitable or available	
ES6	Yes	Not suitable	Location, meeting fundamental reason for application
ES7	No	Not suitable	
ES8	No	Not available	
ES9	-	Application site	
MXS1	Yes	Not available	
MXS2	Yes	Not suitable	Size, location, meeting fundamental reason for application
MXS3	Yes	Not suitable	Location, meeting fundamental reason for application
MXS4	Yes	Not available or suitable	
MXS5	Yes	Not available	
MXS6	Yes	Not available	
MXS7	Yes	Not suitable or available	
MXS8	No	Not suitable or available	
MXS9	No	Not suitable or available	
MXS10	Yes	Not suitable	Size, location, meeting fundamental reason for application
MXS11	No	Not suitable	
MXS12	No	Not suitable	
SLS1	Yes	Not suitable	Size, location, meeting fundamental reason for application
SLS2	Yes	Not suitable	Size, location, meeting fundamental reason for application
SLS3	Yes	Not suitable	Location, meeting fundamental reason for application
SLS4	Yes	Not suitable	Size, location, meeting fundamental reason for application
SLS5	Yes	Not suitable	Location, meeting fundamental reason for application
SLS6	Yes	Not suitable	Size, location, meeting fundamental reason for application
SLS7	Yes	Not suitable	Size, location, meeting fundamental reason for application

Local Plan ID	Sequentially Preferable?	Conclusion	Reason for discounting site
SLS8	Yes	Not suitable	Size, location, meeting fundamental reason for application

7.3 The “suitability” reasons for discounting these sites are based on the ability of those sites to meet the fundamental requirements of this application. The recent case law, as discussed in section 4 states that:

*The PPG provides for issues as to suitability of location, development type, and temporal availability to be assessed by the decision-maker as a matter of judgment*

7.4 In this case, John Cotton have purchased the site to expand and rationalise their business, and to create both business and traffic efficiencies. Current inefficiencies are being caused by already having remote locations as part of their property strategy. The objective of the application is to rationalise their operation onto one site, to facilitate load consolidation and eliminate unnecessary traffic movements between sites- with the associated emissions and congestion that result from these unnecessary movements. A strategy which relies on disaggregating the John Cotton use into more smaller sites is directly counter to that approach. It would not meet business needs and would be less efficient, in both financial and environmental terms.

7.5 Simply- if the applicant were forced to disaggregate this use across multiple smaller sites, they would not pursue the application as the fundamental objectives of the application would be undermined.

7.6 It is both lawful and appropriate for the Council to take the business needs of the applicant into account when applying the sequential test, and it is suggested that securing the future of such a major employer and advanced manufacturing business in Kirklees is of considerable importance to the local economy. This is a significant material factor that should be positively considered when reviewing this sequential test.

7.7 On this basis, it is considered that there are no suitable or available sites at a lesser risk of flooding, that could also meet the fundamental business objectives of this application.

7.8 It is concluded that the sequential test has been passed, and this policy should not impede consideration of the redevelopment proposal further.

