SEQUENTIAL ASSESSMENT

1.0 Introduction

1.1 This note has been prepared in support of a full planning application for the erection of a single storey extension to the existing petrol filling station sales building and associated infrastructure at Morrisons petrol filling station, Station Road, Meltham, HD9 5NX.

2.0 The Sequential Assessment

2.1 National planning policy adopts a town centre first approach through the application of the sequential test. This approach requires main town centre uses to be located in town and city centres, then in edge of centre locations; and only if suitable sites are not available or not expected to become available within a reasonable period, out of centre. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. The sequential test is not a tool to simply justify refusing planning permission for developers seeking to develop sites in non-town centre locations. Alternative sites within central areas must be suitable, viable and available for the proposed development to be considered sequentially preferable.

2.2 The proposed extension to the existing sales building forms only one part of the wider development and more importantly, the site's planning unit is not a town centre use but a sui generis PFS, where the modest amount of retail space that is provided is clearly ancillary to the main PFS use – that is currently the case and will remain so after the proposed works have been undertaken.

2.3 In consolidating the previous planning policy guidance notes/statements into the single NPPF, some detailed guidance was forfeited, and it is the case that in the previous 'Planning Policy Statement 6: Planning for Town Centres', it used to specifically say the sequential approach is only a relevant consideration in relation to extensions where the gross floorspace of the extensions exceeded 200sqm (and here the proposed additional floor space proposed is only 90 sqm), and that shops may be proposed as an ancillary element to other forms of development, with PFS cited as one example. This is the case here, where both the existing and proposed sales area is to provide facilities/goods for motorists using the PFS – it is not intended as a destination in its own right, and it should be noted that the development will have minimal parking provision: customers will primarily be motorists using the site to refuel and the sales area will clearly be ancillary to the main PFS use.

2.4 Planning policy recognises that LPAs need to be realistic and flexible in applying the sequential test and that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. And that is evidently the case here, where the need is for an improved facility to serve motorists visiting the PFS. Undertaking a sequential assessment to seek to locate the extension within a defined centre would therefore not be suitable, as locating the proposed floorspace anywhere other than on the application site would fail to meet the identified need, which is to provide better facilities for customers visiting the PFS.

2.5 Notwithstanding the fact that a 'location specific need' clearly exists for the scale and form of uses proposed and compliance with the sequential approach to site selection can therefore be demonstrated; we have sought to undertake a proportionate sequential assessment based upon standard methodology, for the purposes of robustness. In doing so, this report considers recent case law and high court judgements in regard to the application of the sequential test, including in regard to the need for 'disaggregation'.

3.0 Status of the Application Site

3.1 In retail policy terms the application site lies in an 'edge of centre' location on the edge of Meltham District Centre. The following closest defined centres of sequentially preferable status are identified as follows:

- Meltham District Centre
- Netherton Local Centre
- Honley District Centre
- Slaithwaite District Centre
- Marsden District Centre
- Holmfirth District Centre
- Linthwaite Local Centre
- Brockholes Local Centre

3.2 These centres have been chosen on the basis that they are the closest identified centres of relevance to the proposed development, in closest proximity to Station Street, the likely source of most visits to the site. Due to the expectation that customers are predominantly expected to comprise passing motorists, other district and local centres have been excluded from the search as it is not anticipated that customers of the proposed development will primarily be drawn from Huddersfield or wider residential areas.

3.3 Meltham District centre is approximately 120 metres to the immediate southwest of application site. Marsden District Centre is approximately 6km to the west, Netherton Local Centre is approximately 4.5km to the northeast, Honley District Centre is approximately 5km to the northeast, Slaithwaite District Centre is located approximately 4.5km to the northwest, Holmfirth District Centre is approximately 6km to the southeast, Linthwaite Local Centre is approximately 6km to the north and Brockholes Local Centre is approximately 7km to the east. Please see Figure 1 below.

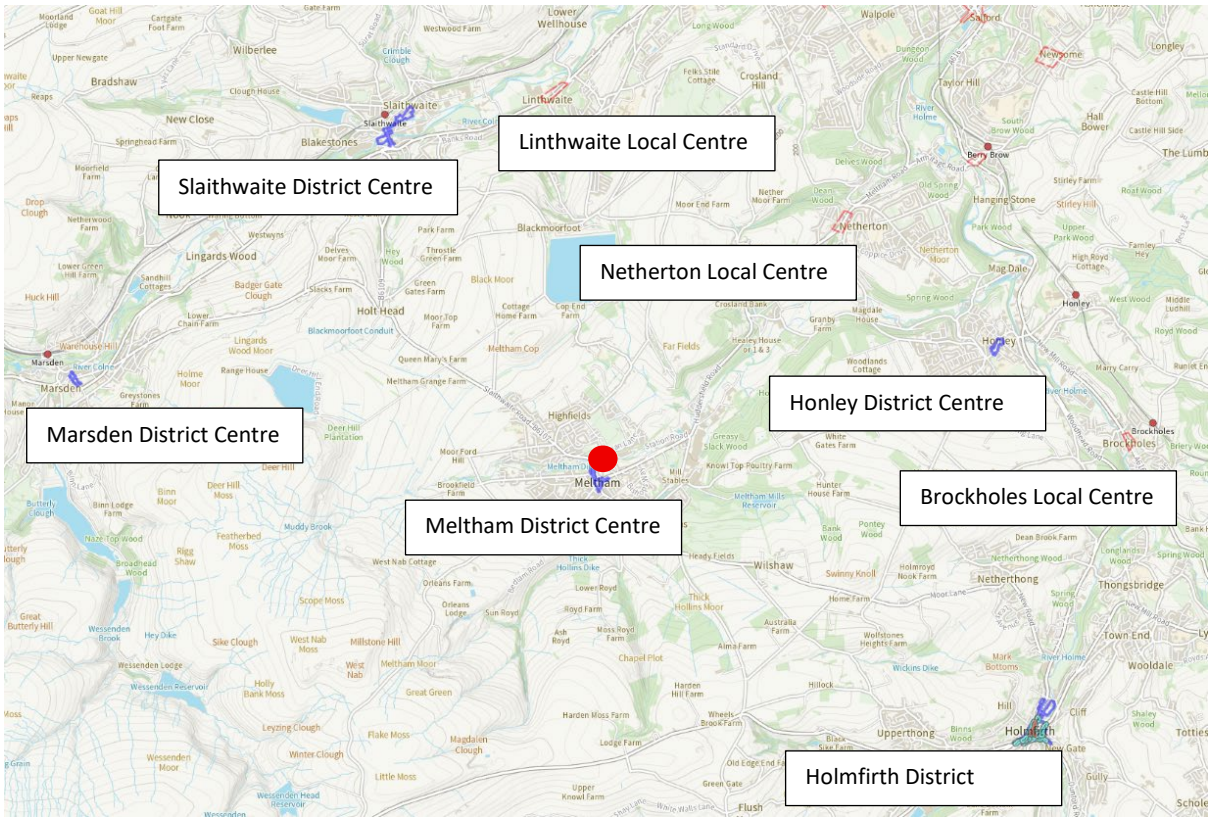

Figure 1: Retail Centres in relation to Application Site (shown by red dot)

4.0 Application of the Sequential Approach

4.1 The approach adopted in this assessment is consistent with the recommendations and guidance set out in the NPPF and prevailing judicial authority regarding the application of the sequential test.

4.2 It is important that the sequential approach is applied in a policy and legally compliant manner. Several appeal and Court cases have helped shape application of the sequential test. The following provides a summary of the key matters regarding the application of the sequential test including applying flexibility, suitability and the need to disaggregate.

- When looking at the suitability of potential sequential sites, flexibility should be demonstrated on issues such as format and scale. The definition of suitability is pertinent to the consideration of flexibility of format and scale. The definition was clarified in February 2012 by the Supreme Court in Tesco Stores v Dundee City Council[1]. Since this time the Judgment has been recognised and applied by the High Court, Secretary of State and Inspectors in England and Wales. The Dundee Judgment identifies that provided the applicant has demonstrated flexibility with regard to format and scale, the question is" whether an alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit an alternative site." (Dundee, paragraph 29).

[1] Tesco Stores Ltd v Dundee City Council (2012) UKSC13

- While policy requires developers/retailers to be flexible when assessing alternative sites under the sequential approach, there is no longer a requirement to consider the disaggregation of floorspace where the development would be split onto separate sites: this has been confirmed in a number of appeal/call-in decisions, including Rushden Lakes in Northamptonshire (PINS Ref. APP/G2815/V/12/2190175 and Cribbs Causeway in South Gloucestershire (APP/P0119/V/17/3170627), as well as the judgement of the Court of Appeal in Warners Retail (Moreton) Ltd v Cotswold District Council (2016).

- For a sequentially preferable site to be suitable, it must be "suitable for the development proposed by the applicant." The "whole exercise is directed to what the developer is proposing, not some other proposal which the planning authority might seek to substitute for it which is for something less than that sought by the developer." (Dundee, paras 24 and 38);

- To refuse an out-of-centre planning consent on the ground that an admittedly smaller site is available within the town centre may be to take an entirely inappropriate business decision on behalf of the developer." (Dundee, para 28). Accordingly, the application of the sequential test is "for use in the real world in which developers wish to operate, not some artificial world in which they have no interest doing so." (Dundee, para 38);

- Another English appeal decision is relevant-that of a mixed-use scheme informally referred to as Rushden Lakes[2], which was an appeal recovered and allowed by the Secretary of State. As well as declaring the Dundee judgement of "seminal importance" (paragraph 8.44) it also noted that English policy and guidance called for flexibility to be demonstrated and for 'available' sites to be considered but provides no guidance on the degree of flexibility of the timescale within which a site may become available.

- Furthermore, the appellant's own commercial objectives are relevant to the question of suitability, even where these are site specific (Telford Forge appeal[3], para 16).

- In the Scotch Corner appeal[4] the SoS endorsed the Inspector's conclusion that the NPPF does not require disaggregation. This sets a baseline position where the SoS has decided disaggregation does not apply.

- For a site to be suitable, it would have to be a genuine "real world" alternative for the development. If the appeal were dismissed, would the developer build the development on the sequentially preferable site is the relevant question (Telford Forge appeal, para 19).

4.3 Accordingly, any sequential assessment must be undertaken on a flexible basis, both on the side of the LPA and the developer and mindful of relevant case law examples.

[2] APP/G2815/V/12/2190175 - LXB RP (Rushden) Limited v East Northamptonshire Council, June 2014
[3] Telford Forge Retail Park (Appeal Ref. APP/C3240/A/12/2172756)
[4] APP/V273/V/15/3132873 & APP/V2723/V/16/3143678 – Land at West of the A618 Barrack Bank, Scotch Corner, Dec 2016

4.4 It is unrealistic to suggest that the need for the proposed development could be met by disaggregating elements of the scheme across several sites. All that would result in, were it ever to be commercially viable, is a series of small-scale developments at various locations, both inside and out of centre that poorly relate to each other and the overall planning strategy for the regeneration of the town centres. This view is reinforced by relevant case law examples.

5.0 Flexibility in the Context of the Application Proposals

5.1 In terms of the minimum size of site sought to accommodate a fuel service station alongside a sales kiosk and access road, approximately 0.2 ha is required to accommodate the various components of the scheme.

5.2 As set out above there is no requirement to consider the disaggregation of the PFS (pumps, carwash and canopy) and sales kiosk elements from one another, given various recent appeal and legal precedents. Furthermore, to do so in this instance would render the scheme unviable, given that viability of the proposed development is reliant upon providing an interrelated fuel and refreshment offer which support one another in terms of overall revenue generation, whilst meeting the needs and expectations of modern road users.

6.0 Location Specific Need

6.1 It is self-evident that the commercial viability of roadside uses such as a PFS are intrinsically linked to their location. The existing PFS has connectivity to the Station Street and Slaithwaite Road (B6107) which connects to the A62 to the northwest and therefore guarantees continuous pass-by vehicular trade for the scheme, which is a pre-requisite for any roadside facilities.

6.2 It is also important to recognise the almost unique nature of the retail/food offer proposed, which is geared towards meeting the needs of the travelling public. Users of the PFS are almost exclusively private vehicle borne and their location on main roads means that visitors are typically leisure travellers or commuters who rely on the facilities for refreshment purposes sometimes as part of a long journey. Visits to PFS are therefore made out of necessity for fuel and sustenance rather than out of a specific desire to visit the facility as a 'destination'.

6.3 The fact that the PFS serves a relatively unique role and are heavily reliant on 'pass-by' trade is very important in the context of the sequential test's application. We draw the LPA's attention to a highly relevant planning appeal decision from January 2017 for a drive-through restaurant adjacent to existing roadside services at Baynard's Green, Oxfordshire (Appeal Ref: APP/C3105/W/16/3151655). In allowing this appeal the Inspector confirmed that "Given that the purpose of this development is to provide roadside facilities for motorists on the A43, which by definition is unlikely to be within a town centre, I consider the sequential test to be of little relevance to this appeal. (Paragraph 2, Page 1, Ref. APP/C3105/W/16/3151655).

6.4 The Inspector is clearly saying that to provide the proposed retail and commercial floorspace within an existing centre would be illogical because in such a location it would be unable to serve its intended catchment or fulfil its intended role and function. In the case of this planning application, the role and function of the proposed extension to the sales building is to serve the travelling public. Accordingly, it can be demonstrated that the scale and form of development proposed is wholly compliant with the sequential approach by virtue of there being a 'locational requirement' for it to be accommodated alongside the A386 where it can best serve the needs of this particular part of the road network (its intended catchment).

6.5 Notwithstanding the fact that a 'location specific need' clearly exists for the scale and form of uses proposed and compliance with the sequential approach to site selection can therefore be demonstrated; we have sought to undertake a proportionate sequential assessment based upon standard methodology, for the purposes of robustness.

6.6 The specific site requirements in order to accommodate the proposed development are;

- A broadly level site with a minimum size of 0.2 hectares, configured in such a way as to allow for the erection of a single storey building, fuel station pumps and canopy, carwash facilities and associated vehicular circulation.
- Safe and efficient access onto the road network.
- Sufficient prominence from the nearest road to ensure visibility to passing custom.

7.0 Sequential Site Search

7.1 The applicant has undertaken a site search of the following centres which are in closest proximity of the application site.

- Meltham District Centre
- Netherton Local Centre
- Honley District Centre
- Slaithwaite District Centre
- Marsden District Centre
- Holmfirth District Centre
- Linthwaite Local Centre
- Brockholes Local Centre

Meltham District Centre

7.2 Meltham District Centre is located approximately 120 metres to the southwest from the application site.

7.3 The adopted Kirklees Local Plan identifies at Policy LP13 that Meltham comprises a District Centre in the settlement hierarchy, below the Town Centres and Principal Town Centres. Table 11 identifies

that the District Centres provide a range of shopping for everyday needs and serve specialist markets. They should be the focus for basic financial services, food and drink, entertainment, leisure and tourist facilities and health services.

7.4 Part B of the policy relates to proposals which come forward for main town centre uses, which are located outside of defined centre boundaries and requires the submission of a Sequential Test.

7.5 The primary shopping area (PSA) lies at the heart of the town which centres on Station Street and Holmfirth Road.

7.6 It has been identified that whilst the town centre has some vacant units within it, there are no sites of the size required to accommodate the proposed development. No assessment of alternative edge-of-centre sites is required, as the application site is located within the edge-of-centre area and therefore satisfies this element of the sequential approach.

Netherton Local Centre

7.7 Netherton Local Centre is located approximately 4.5km to the northeast by road from the application site.

7.8 The adopted Local Plan identifies that Local Centres provide for top-up shopping and local services, particularly food and drink and are at the bottom of the settlement hierarchy .

7.9 Netherton Local Centre comprises a small range of local services including convenience stores, independent shops, charity shops, a surgery and takeaways interspersed with residential dwellings.

7.10 Whilst there are some vacant retail units, it has been identified that there are no sites within the centre of the size required to accommodate the proposed development.

7.11 A review of edge of centre sites has not revealed any of sufficient size to accommodate the proposed dwelling, with surrounding development predominantly comprising of residential dwellings, open fields and dense vegetation.

Honley District Centre

7.12 Honley District Centre is located approximately 5km to the northeast and comprises first floor shops fronting onto Westgate.

7.13 Whilst there are some vacant retail units, it has been identified that there are no sites within the centre of the size required to accommodate the proposed development.

7.14 A review of edge of centre sites has not revealed any of suitable size or location to accommodate the proposed development.

Slaithwaite District Centre

7.15 Slaithwaite District centre is located approximately 4.5km to the northeast of the application site.

7.16 The heart of the town is focused on the historic Globe Worsted Co factory, surrounded by lower floor shop frontages on Carr Lane. The District Centre offers a small range of shops and facilities including convenience stores and independent shops bisected by the River Colne in addition to an Aldi supermarket.

7.17 Whilst there are some vacant retail units, it has been identified that there are no sites within the town centre of the size required to accommodate the proposed development. Likewise, we have also not identified any sites on the edge of the centre that are available and could accommodate the development proposed. The surrounding edges of the district centre are largely industrial in nature and do not benefit from the visibility and connectivity to the strategic road network that would be required for the proposed development.

Marsden District Centre

7.18 Marsdon District Centre is located approximately 6km to the west of the application site.

7.19 The shopping area comprises of a selection of shops and restaurants adjacent to Peel Street. No vacant retail units have been identified, and no sites within the local centre of the size required to accommodate the proposed development have been identified.

7.20 A review of available edge-of-centre sites has identified the potential vacant former Bank Bottom Mills buildings to the south of Warehouse Hill Road. This comprises a significant site of former mill buildings. The site is however significantly constrained by the number of buildings within the plot, which would be vastly onerous and complicated to redevelop. Moreover, the site is tucked away behind the existing high street frontage and does not benefit from a direct road access or visibility from the highway network. It is also located within the wider conservation area and is likely of some historic merit.

7.21 A planning application for the development of the mill complex for mixed use development has been submitted in January 2026 and is currently pending determination.

7.22 For these reasons, it is therefore discounted from the sequential assessment.

7.23 No further edge of centre sites has been identified.

Holmfirth District Centre

7.24 Holmfirth District Centre is located approximately 6km to the southeast.

7.25 The district centre comprises a small selection of shops, cafes and restaurant fronting the A6024 and Hollowgate. Whilst some vacant retail units have been identified, no sites within the centre of the size required to accommodate the proposed development have been identified. Likewise, we have

also not identified any sites on the edge of the centre that are available and could accommodate the development proposed.

Linthwaite Local Centre

7.26 Linthwaite Local Centre is located approximately 6km to north.

7.27 The local centre focuses its retail offering along the A62 and comprises a selection of shops and restaurants. Whilst some vacant retail units have been identified no sites have been identified within the local centre of the size required to accommodate the proposed development. Likewise, we have also not identified any sites on the edge of the centre that are available and could accommodate the development proposed. The surrounding area is a mix of residential and industrial buildings which would not facilitate the locational need of the proposed development, which heavily relies on passing motorist trade.

Brockholes Local Centre

7.28 Birchencliffe Local Centre is located approximately 7km to the east.

7.29 The local centre comprises a small number of shops and takeaways largely interspersed with residential dwellings along the A616, New Mill Road. No vacant retail units have been identified, and no sites within the local centre of the size required to accommodate the proposed development have been identified. Likewise, we have also not identified any sites on the edge of the centre that are available and could accommodate the development proposed.

7.30 In summary the sequential search has identified no sites which can be considered available, suitable, and viable sequentially preferable alternatives in respect of the proposed development, allowing for flexibility. The proposed development is considered, therefore, to fully accord with local and national policy and guidance as well judicial and appeal authority with respect to the sequential approach.

7.31 It should be noted that although the application proposal is identified as a town centre use, petrol filling stations are not easily accommodated within town centres due to the space requirements associated with them. There have been appeal decisions (APP/V1260/W/23/3333238) which acknowledged that the scope to provide large sites which can be readily accessed by car, is a limiting factor in many town centre locations. This should be considered in the planning balance both when considering the need for an out-of-centre location and also when considering the suitability of site within a centre.