
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 24-Mar-2022

Subject: Planning Application 2021/92528 Erection of retail development, associated parking, servicing areas and landscaping. Land off, Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT

APPLICANT

Lidl GB Ltd

DATE VALID

21-Jun-2021

TARGET DATE

20-Sep-2021

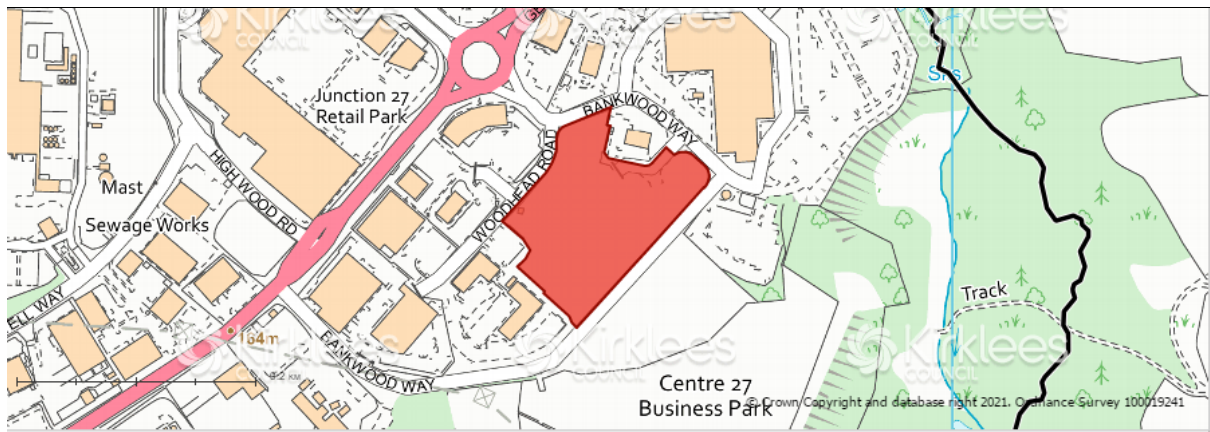
EXTENSION EXPIRY DATE

16-Dec-2021

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

Delegate approval of the application to the Head of Development Management to:

1. Refer the application to the Secretary of State under the terms of The Town and Country Planning (Consultation) (England) Direction 2021 because the application is for retail development in excess of 5,000sq m, not in accordance with one or more provisions of the development plan and in an out of centre location.

2. Subject to the Secretary of State not calling the application in on retail grounds, secure the signing of a Section 106 Agreement to provide:

i. £160,000 for a pedestrian improvement scheme on the neighbouring retail park which includes:

- A signalised crossing on Gelderd Road
- New and upgraded pedestrian crossing points within the immediate vicinity of the site

ii. Travel Plan Monitoring fee (£10,000)

iii. Off-site contribution towards biodiversity enhancement (£38,180)

iv. Arrangements for the future maintenance and management of the surface water drainage infrastructure within the site

3. Complete the list of conditions including those contained within this report and issue the decision notice.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Development and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

1.1 The application is for a new Lidl supermarket and a Home Bargains store. The application is brought forward to the Strategic Planning Committee because the proposal is for a non-residential development on a site that is over 0.5ha in size. The proposal is also for retail development over 1250 square metres gross floor space and referred up to Strategic Committee because officers are recommending approval of the scheme subject to referral to the Secretary of State. This is in line with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The site previously contained a collection of office blocks which formed part of the Centre 27 Business Park. The office blocks were demolished several years ago, and the site cleared and fenced off. There are trees to much of the perimeter of the site.

- 2.2 The site sits within a wider leisure/retail area. There is an office building abutting the northern boundary and commercial buildings to the south-western boundary. Within the slightly wider vicinity is a cinema and McDonald's restaurant.
- 2.3 The majority of the site is bound by Bankwood Way and Woodhead Road. There is an existing point of access off Bankwood Way to the northern part of the site, which is shared with an existing office unit (Paradigm House).

3.0 PROPOSAL:

- 3.1 The application is seeking full planning permission for the erection of retail development, associated parking, servicing areas and landscaping.
- 3.2 The retail development comprises of two separate retail units – one is to be a Lidl supermarket and the other is to be Home Bargains store.
- 3.3 The Lidl store would have a gross internal area of 2,231m², with a net sales area of 1,414m².
- 3.4 The Home Bargains store would have a gross internal area of circa 2,280m², with a net sales area of 2,014m². The Home Bargains store also includes an associated garden centre to the rear, which would provide an additional 513m² of retail floor space.
- 3.5 The proposed access from Woodhead Road would serve both stores.
- 3.6 The internal layout includes a joint servicing area to the rear of the stores and 174 car parking spaces, including 10 accessible spaces, 9 parent and child spaces and 2 electric vehicle charging spaces. A ramped footpath link from Woodhead Road is not being provided, however, there is pedestrian access from Woodhead Road via pavements.
- 3.7 Areas of landscaping, which would include new tree planting, are proposed to the periphery of the car park. Some tree planting is also proposed within the car park.
- 3.8 It is proposed to have two new substations within the site rather than relocating the existing substation. The new substations are adjacent to Woodhead Road and Bankwood Way, which does not give rise to any significant implications.
- 3.9 The application form indicates that the development would provide 110 part time and full-time jobs (75 FTE).

4.0 RELEVANT PLANNING HISTORY:

- 4.1 There is an extant outline planning permission for four retail units on the site. This approved the principle of the development and the means of access for the site. Details of the application as follows:

2018/92563 Outline application for erection of retail units – Approved by the Strategic Planning Committee (Decision notice dated 9th January 2020).

4.2 Prior to the above application, there were a series of prior approval applications to change the use of the offices to residential; these were all refused. There was subsequently a series of demolition consents granted for the eight office blocks that existed on the site.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 The development was the subject of formal pre-application advice. Advice was provided on the scope of the retail impact assessment that would be required to support a future planning application and technical matters, including highways, drainage, and ecology.

5.2 During the process of this planning application, additional information has been provided to address consultee comments. This includes:

- Drainage information to respond to comments from Kirklees Lead Local Flood Authority and Yorkshire Water;
- Ground contamination information to respond to comments from The Coal Authority and Kirklees Environmental Services;
- Vehicle tracking to respond to comments from Highways Development Management;
- Security measures to respond to comments from the Police Designing Out Crime Officer.

5.3 There have also been negotiations in respect of a contribution towards off-site highway works to improve pedestrian connectivity between the site and the wider retail park. This has resulted in an offer of £160,000. This is intended to fund a new pedestrian light-controlled crossing on A62 Gelderd Road between the Woodhead Road roundabout and the High Wood Road junction, plus a package of targeted measures to enhance pedestrian connections in the immediate vicinity of the site. These amount to the formation of 12 dropped kerb locations and 28 tactile paving locations.

5.4 Additional tree planting has been secured to help to compensate for the loss of existing trees surrounding the site. Additional trees are to be provided within the areas of proposed landscaping to the periphery of the car park and some tree planting is included within the car park. A native hedgerow has also been added in place of a knee-high rail to part of the site edge to improve wildlife connectivity whilst also delivering a defensible boundary. A native hedgerow has also been added along the south-eastern boundary of the development where the site abuts Bankwood Way, to soften the appearance of this part of the site.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 The site is allocated as a Priority Employment Area within the Local Plan.

6.3 Kirklees Local Plan (2019):

- LP1 - Presumption in favour of sustainable development
- LP2 - Place shaping
- LP3 - Location of new development
- LP7 - Efficient and effective use of land and buildings
- LP8 - Safeguarding employment land
- LP13 - Town Centre Uses
- LP20 - Sustainable travel
- LP21 - Highway safety and access
- LP22 - Parking
- LP24- Design
- LP28 - Drainage
- LP30 - Biodiversity and geodiversity
- LP31 - Strategic Green Infrastructure Network
- LP33 - Trees
- LP51 - Protection and improvement of air quality
- LP52 - Protection and improvement of environmental quality
- LP53 - Contaminated and unstable land

6.4 Supplementary Planning Guidance / Documents:

Highways Design Guide SPD

6.5 National Planning Guidance:

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 6 – Building a strong, competitive economy

Chapter 7 – Ensuring the vitality of town centres

Chapter 8 – Promoting healthy and safe communities

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding, and coastal change

Chapter 15 – Conserving and enhancing the natural environment

6.5 Other material considerations:

Biodiversity Net Gain Technical Note

Planning Practice Guidance

National Design Guide

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notices, neighbour letters and press advert. Three public representations have been received, all objecting to the application. The representations are summarised as follows:

- Traffic in this area is already bad and the development will make this worse. It is a main route to the major motorways and the development will cause longer delays. The surrounding residential areas are already affected by the

traffic situation around the retail park and the development will exacerbate this.

- The area around McDonalds is particularly bad for queues adding at least 30 mins to 1 hour to vehicle journey times
- Adding a supermarket to this area will add to air pollution because of the additional traffic and a supermarket is also likely to create litter.
- The following objections were received from MRPP on behalf of Tesco Stores Limited and the issues it raises are appraised in paragraphs 10.31 to 10.46
- An adverse impact upon the vitality and viability of a Batley Town centre due to an adverse impact upon a key town centre supermarket that has a key role facilitating linked trips to other shops and services.
- The Nexus (retail consultant on behalf of Kirklees Council) reports are not available to the public on the council's website to allow further consideration by third parties and objectors.
- Significant concerns in relation to the applicant's submissions in respect of retail (and other) matters are summarised below.
 1. The lack of an up to date healthcheck of relevant defined centres;
 2. The consideration of disaggregation in the application of the sequential test;
 3. The adopted catchment area for the purposes of the sequential test;
 4. The lack of a robust assessment of the Local Plan Priority Employment Area Policy

7.2 Ward councillors were notified of the application. Councillor Mark Thompson commented on the applicant's proposed pedestrian improvement plan:

- *Why drop kerb and tactile paving right on the roundabout, this roundabout is so busy I would have thought discouraging pedestrians to cross there would have been the priority.*
- *The plan to install another set of pedestrian lights! Seems to be overkill on a length of road no longer than 800 mtrs + no one goes down to those lights as there is no obvious ingress or egress from either side of the road to where those lights are or going to be, please explain.*
- *Wouldn't an overhead walkway be more beneficial to pedestrians and to keep the flow of traffic going on what is one of the busiest stretches of road in Kirklees?*
- *With all the additional food halls and takeaways being completed to the Showcase side of the retail park and the, sometimes, overwhelming footfall at the other side of the A62 why would we interfere so much with flow of traffic i.e. drop kerbs and additional lights.*

Officer's response is included in the representations section at paragraphs 10.111 to 10.114.

A meeting has been held with Councillor Smaje, attended by planning and highways officers. The meeting was to discuss highway issues within this area, including within the context of the proposed development. Councillor Smaje has raised significant concerns with the traffic situation around the retail park and has expressed her desire to see a coordinated approach to help alleviate this.

Councillor Smaje has concerns that the proposed development will add to the existing problems on Gelderd Road and the surrounding area.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection

National Highways (formerly Highways England) – No objection

Health & Safety Executive - HSE does not advise against the granting of planning permission on safety grounds.

KC Lead Local Flood Authority – No objection subject to conditions.

The Coal Authority - No objection subject to conditions

8.2 Non-statutory:

KC Planning Policy – No objection on retail policy grounds

KC Environmental Health – No objection subject to conditions

KC Ecology Unit – No objection subject to conditions and an off-site contribution to achieve a biodiversity net gain. A native hedgerow should be incorporated into the layout to improve wildlife connectivity.

KC Trees Officer – Recommends that the car park is redesigned to retain some of the existing boundary trees. Many of these trees are an attractive feature of the locality and their loss would not meet Policies LP24 and LP33.

KC Landscape Officer - There are opportunities for strengthening the landscape edge around the car park boundary to the site with a native mixed hedgerow. A native hedgerow would also help create a more defensible car park, rather than a low knee rail. There are also opportunities for further tree planting. Recommend a condition for full details of the landscaping proposals and a management plan for the maintenance of the soft landscaping for the first five years following completion (and replacement of any species that die).

WY Police Designing Out Crime Officer – Welcomes a number of the proposed security measures however it is advised that Vehicle Height Restrictors should be provided to the car park entrances to deter unauthorised encampments and barriers/gates are added to the rear delivery bay.

Leeds City Council – The applicant's sequential and retail impact assessment covers Morley, but not Drighlington. Whilst there should be no issue regarding the sequential test not including Drighlington, as it's unlikely there would be a suitable and available site of this size, there may be an impact on the vitality of the local centre and we would not want this application to undermine that.

Any issues arising from the generated traffic flows associated with the proposals will be constrained within the Kirklees boundary (along Woodhead Road and Bankwood Way) and are unlikely to have any adverse impact upon the operation of the highway network within the Leeds boundary.

Yorkshire Water – Request confirmation that the proposed surface water drainage scheme connects to a watercourse and not to the public sewer network.

WY Archaeology Advisory Service – No objection

9.0 MAIN ISSUES

- Principle of development
- Retail assessment
- Highway issues
- Urban design issues
- Landscape issues
- Drainage issues
- Crime and security
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The principle of retail development on the site has already been established. An outline application for four retail units was approved under planning application reference 2018/92563 in January 2020. That permission allows for up to 7,896m² of gross floorspace and limits the sale of convenience goods to no more than 30% of the gross floor space (or 2,369m²). By comparison, the proposed development amounts to 5,023m² of gross floor space.
- 10.2 The site is within a Priority Employment Area (PEA) in the Local Plan.
- 10.3 Local Plan policy LP8 seeks to safeguard employment land and premises. It states that 'proposals for development or redevelopment for employment generating uses in Priority Employment Areas will be supported where there is no conflict with the established employment uses in the area'. Employment uses are defined within the Local Plan. These comprise general industry (use class B2); storage and distribution (use class B8); and offices, research and development of products and processes and industrial uses that can be carried out in a residential area (use class E(g)). The Local Plan also identifies employment generating uses, which include the above uses, as well as enterprises which provide jobs, such as retail, hotel, assembly, and leisure.

The PEA in this location includes the application site and the existing offices to the southwest as well as a separate and much larger swathe of land to the west of the site. The nearby cinema, food outlets, gym and the retail stores within the Junction 27 Retail Park are not part of the PEA.

Within the immediate vicinity of the site are a range of established employment uses and employment generating uses, including offices, retail, and leisure. Within the wider PEA allocation there are some general industries as well as storage and distribution use amongst other types of business.

Officers are satisfied that the proposed development would not conflict with the established employment uses in the area. The nature of the proposed use is considered to be compatible with the established make-up of the area and the development would not introduce a use that would conflict with the operation of existing businesses. Retail uses form part of make-up of PEA's and this scheme proposes retail units found elsewhere within the vicinity where no evidence has been produced to suggest that they would not be compatible with existing employment uses.

- 10.4 Furthermore the proposed retail development is an employment generating use as defined in the Local Plan and as such it is accepted as being appropriate in a priority employment area. The principle of the development is therefore in accordance with policy LP8.
- 10.5 The applicant states that the proposal would create new employment opportunities and would generate 110 part time and full-time jobs (75 FTE). The jobs that would be created and the level of inward investment into the district would help to strengthen the local economy and this weighs in favour of the application.
- 10.6 In addition to the above, the application relates to a brownfield site and therefore involves the recycling of previously developed land. This represents an efficient use of land, which is promoted by the NPPF and Policy LP7 of the Local Plan. Furthermore, the development would remediate a contaminated site that has been vacant for a considerable period of time, which is a further benefit of the proposal.
- 10.7 Based on the above, the principle of retail development on the site is accepted. It is however necessary to consider the specific retail impacts of the proposed development, which is set out in the following section of this report.

Retail assessment

- 10.8 The site is located immediately adjacent to the Junction 27 Retail Park and Birstall Shopping Park, which consists of retail warehouse units including an Ikea store and leisure units.
- 10.9 The site is in an out of centre location, located approximately 1.5km northeast of Birstall District Centre, 3km to the northwest of Batley Town Centre and 5.5km north of Dewsbury Town Centre. Whilst it is adjacent to a retail park, it is not designated in the Local Plan.
- 10.10 Retail is classified as a main town centre use. Given the amount of new retail floorspace being proposed and the site being situated in an out of centre location, the applicant is required to undertake a sequential test and retail impact assessment, as set out in Local Plan policy LP13 (part b and c) and chapter 7 of the NPPF (Ensuring the vitality of town centres).
- 10.11 The applicant has therefore undertaken a sequential test and retail impact assessment, the scope of which has been agreed with the Local Planning Authority. The sequential test and retail impact assessment have been independently assessed by Nexus Planning on behalf of the Local Planning Authority. A summary of the findings of the Council's retail planning advisor is set out below.

Sequential assessment

- 10.12 Paragraph 87 of the NPPF sets out the order of preference in applying the sequential approach. The first preference is for main town centre use development to locate in town centres, followed then by edge of centre locations, and only if no other suitable sites are available should out of centre sites be considered.
- 10.13 Paragraph 88 indicates that, when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.
- 10.14 In this instance, the application site is out of centre. As such, there is a need to consider in and edge of centre sites, and whether there might be any better connected out of centre sites, as part of the NPPF test.
- 10.15 The applicant has adopted a Study Area which includes Zone 9 from the Kirklees Retail Study as the Primary Catchment Area, and also includes Zones 4, 8 and 10 to form the wider Study Area. This is considered to be a reasonable approach, particularly in light of the nature of the proposal and the areas from which the proposed units are likely to draw their trade.
- 10.16 On the basis of this Study Area, the applicant's sequential search is focused around Batley town centre and Birstall district centre in Kirklees, and Morley town centre in Leeds.
- 10.17 Having reviewed the location of existing food stores and the geography of the surrounding area, Nexus are satisfied that the applicant's approach is appropriate and that no other centres offer genuine potential to serve a similar catchment area in a similar manner. Accordingly, it is accepted that the three centres identified in the applicant's Planning and Retail Statement appropriately comprise the area of search in respect of sequential alternative sites.
- 10.18 The applicant identifies five potential sites within or on the edge of Batley, Birstall and Morley defined centres. Nexus have reviewed all of the sites and locations considered by the applicant in its submission and do not believe that any one is both available and suitable to accommodate the application proposal. Officers and Nexus are unaware of any other sites which are in a sequentially preferable location relative to the application site that are available and suitable for the proposed development (even when allowing for appropriate flexibility in terms of format and scale).
- 10.19 Given the above, it is concluded that the application proposal conforms to the requirements of the sequential test as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.

Retail impact assessment

- 10.20 Paragraphs 90 and 91 of the NPPF indicate that application proposals for retail and leisure development should be refused planning permission where a significant adverse impact is likely to arise from development. In assessing the significance of impacts arising from development, it is necessary to reflect upon

the advice set out in the Town Centres PPG. In this regard, paragraph 017 states that:

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

- 10.21 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice and competition. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a ‘significant adverse’ impact.
- 10.22 In this case, it is anticipated that the food store will trade most directly against other convenience goods retailers capable of supporting some main food shopping trips within and close to Kirklees Retail Study Zone 9.
- 10.23 The two key impact tests identified by paragraph 90 of the revised NPPF are considered below. The tests relate to:
- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
 - the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).
- 10.24 An updated assessment of impact has been undertaken by Lichfields on behalf of the applicant as part of their Retail Assessment Addendum submitted in December 2022 following the objection made by Tesco. This includes the most up to date information on company average turnovers of the national food retailers as provided by Global Data. Taking this into consideration, Nexus have then provided a detailed assessment of each of the two strands of the test.
- 10.25 In terms of the first part of the test, Nexus conclude that there is not any town centre investment which would likely be prejudiced as a consequence of the application proposal. The application therefore complies with the first part of the impact test.
- 10.26 With regards to the second part of the test, Nexus do not consider that the resultant impacts on the overall vitality and viability of the defined centres would be at a level which could be considered to be significantly adverse.
- 10.27 Given the conclusions made by Nexus on the sequential and impact tests, it is considered that the proposal complies with Policy LP13 of the Local Plan and guidance in the NPPF.

- 10.28 Furthermore, planning policy is supportive of retail development which improves local customer choice and accords with sustainable development principles, providing no 'significant adverse' impacts occur at town centre locations. Most particularly, this is evident through paragraph 90 of the NPPF which requires a local planning authority to consider changes in consumer choice across the retail catchment area as a whole when determining planning applications for retail uses.
- 10.29 It is accepted that there would be no significant adverse impacts on nearby town centres, and it is acknowledged that the development would improve local customer choice. It would also promote linked trips to other nearby outlets, with associated economic as well as environmental benefits (potential for fewer vehicular trips).
- 10.30 As the proposal is for retail development in an out of centre location and conclusions on the scheme are based on the quantum and format of floorspace proposed, conditions are considered necessary to protect the vitality and viability of town centres should the application be approved. Conditions are considered necessary to restrict the net sales area of the proposed units in respect of the quantum of convenience and comparison floorspace. In addition, given the nature of the development and the comparable unit sizes in defined centres, it is also recommended that a condition be imposed to restrict future sub-division of the proposed units without approval from the Council, should the intended operators vacate the premises in the future.

Retail update (February 2022)

- 10.31 Nexus Planning have provided a supplementary appraisal of retail policy issues dated February 2022 which is accessed through the link at the end of the report under background papers. This document has been on the councils website since 17th of February 2022. The appraisal responds on matters raised by MRP on behalf of Tesco Stores Limited and Lichfields (on behalf of the applicants') Addendum to the Planning and Retail Statement dated December 2021.

Nexus focus on three retail matters as set out below:

1. The lack of an up-to-date healthcheck of relevant defined centres;

- 10.32 Concern has been raised that the consideration of impact assessment and the potential implications of the proposal has been undertaken on the basis of out of-date healthcheck information.
- 10.33 In relation to this matter Lichfields (acting on behalf of the applicant) have undertaken updated healthchecks of Batley and Birstall centres, which are provided at Appendix 3 of their December 2021 Addendum. Nexus has also undertaken updated healthchecks of the centres on 23 November 2021. Nexus detail their assessment in the supplementary note and subsequently conclude that the assessment of impact has been undertaken having regard to an up-to-date position of the existing health of the defined centres within the catchment. Nexus confirmed that its conclusions have also been reached having regard to the general impact of the COVID-19 pandemic and that the defined centres *“are generally well placed to recover from any temporary loss as Covid-related trading restrictions are lifted.”*

2. The consideration of disaggregation in the application of the sequential test;

- 10.34 Nexus have considered the relevant case law regarding disaggregation, including referencing these cases in their February note. Concluding... *“In this regard, the broad type of retail development proposed provides for occupation of the unit by a discount foodstore operator (Lidl), and a discount variety operator with an element of convenience sales floorspace (to be occupied by Home Bargains). In our view, it is clear that the application has not been submitted on a speculative basis and has been applied for using defined unit sizes and confirmed operators, and there is no intended phased approach to deliver the scheme. The proposal comprises a single scheme and we believe that the developer intends to implement it as such. We therefore consider that there is no requirement to consider the disaggregation of the elements of the scheme.”*
- 10.35 In any event, Lichfields has sought to address MRPP’s comments by providing additional commentary on potential sequential alternatives in Birstall and Batley centres, to understand if units or sites could accommodate either of the proposed units should the scheme be disaggregated.
- 10.35 Nexus have reviewed this additional work on sequential alternative sites and are satisfied that there are no suitable units if the proposal was disaggregated. This includes the Scatcherd Works specifically referenced by MRPP where Nexus state that *“given its lack of visibility/frontage and its restricted access for vehicles due to surrounding land uses, it would not be suitable for the redevelopment for large format retail units. Furthermore, the site benefits from an extant planning approval (ref. 19/07611/FU) for the demolition of the existing industrial building and construction of nine dwellings. This approval indicated that the site is likely to come forward for residential development, and as such is not considered to be available to accommodate the development proposals.”* They conclude that they are satisfied that the proposal satisfies the policy requirements of the sequential approach as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF and that consideration of disaggregation has been satisfactorily addressed in the application of the sequential test.

3. The adopted catchment area for the purposes of the sequential test;

- 10.36 MRPP states that: *‘A number of centres, including Gomersal and Drighlington, sit within a short, and less than 5-minute drive time from the application site ie consistent with the area of sequential search frequently adopted by the discount foodstore operators elsewhere. The applicant’s sequential assessment is thus flawed in that it does not consider any potential opportunities within these centres, that might be ‘more accessible’ or ‘better connected’ than the application site in line with NPPF paragraph 88. A more widely cast assessment should be provided.’*
- 10.37 Nexus set out that *“Lichfields provides details of the catchment area at Appendix 1 of the Planning and Retail Statement. The justification states that, given the location of the application site, the proposed development would draw the most significant proportion of its trade from the north-eastern part of the Borough which broadly reflects Zone 9. As such, they have adopted Zone 9 as the Primary Catchment Area.*

- 10.38 *They then go on to acknowledge that as the site lies in proximity to a wide range of commercial facilities at Birstall Shopping Park, and its location in the context of the M62, the scheme may also draw trade from a wider area as people combine their trips to the proposed development with the wider commercial area. We consider this likely to be the case.*
- 10.39 *This analysis was set out in full to the Council in providing our initial advice. In doing so, it was acknowledged that there are smaller defined centres located within the Primary Catchment Area and that we were unaware of any units or sites which could be considered to be available and suitable to accommodate the proposed development.*
- 10.40 *Within Lichfields' December 2021 Addendum, they state at paragraph 4.21 that they have visited the local centres of Gomersal and Drighlington. Lichfields state that they have not identified any sites which could be considered available and suitable to accommodate the proposal.*
- 10.41 *In this regard, Lichfields refer to three sites, all of which are allocated for housing within the adopted local plan for Leeds. In each case, the sites are considered unsuitable due to their size, character and lack of clear frontages. We are satisfied that there are no sites within or on the edge of the local centres which could be considered available and suitable to accommodate the proposed development.”* Consequently, Nexus concludes that the catchment area adopted by Lichfields is appropriate.
- 10.42 In addition Nexus Planning has undertaken an independent cumulative impact assessment taking account of this proposal, the similar proposal, yet to be determined, in Cleckheaton (reference 2020/62/91821/E), and other committed schemes
- 10.43 In summary, Nexus Planning's cumulative impact assessment finds that:
- the Tesco store at Cleckheaton would continue to perform very strongly and the Morrisons store at Heckmondwike would perform satisfactorily, subsequent to the implementation of the Bankwood Way and Cleckheaton Mills proposals and other relevant commitments
 - the post-impact performance of the Lidl at Heckmondwike town centre is of greater concern, but note that Lidl continues to pursue its own scheme at the application site at Bankwood Way (which would also trade against its Heckmondwike store) and we believe that it would likely also continue to trade from Heckmondwike in practice;
 - the wider offer at Cleckheaton and Heckmondwike town centres in particular but also Birstall and Batley centres, would not be subject to a significant adverse impact, as the centres would retain the same important role and function in meeting day to day retail and service needs; and
 - any impact arising elsewhere would not have a material impact on the ongoing role, function, and operation of defined centres.
- Consequently, the proposal complies with the second strand of the NPPF impact test as articulated by paragraph 90(b) of the NPPF and referred to in paragraph 10.46 below.

In conclusion:

- 10.44 In respect of the application of the sequential test, Nexus have reviewed all of the sites and locations considered by the applicant in its original and subsequent submissions, and do not believe that any one is both available and

suitable to accommodate the application proposal. Nexus therefore find that the application proposal conforms to the requirements of the sequential test as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.

- 10.45 In respect of the consideration of retail impact Nexus are unaware of any town centre investment that would likely be prejudiced as a consequence of the application proposal, which accords with the requirements of the first part of the NPPF impact test.
- 10.46 In terms of the second part of the impact test, Nexus believe that the trade diversion impacts arising at defined centres are acceptable and that no centre would be the subject of a significant adverse impact. Nexus have reached this conclusion with reference to their own cumulative retail impact assessment, site visits, and having reviewed all relevant representations submitted by interested parties.

Urban design issues

- 10.47 Policy LP24 of the Local Plan states that good design should be at the core of all proposals, and this should be promoted by ensuring that the form, scale, layout, and details of all development respects and enhances the character of the area. Guidance within the NPPF also seeks to achieve well-designed places (chapter 12).
- 10.48 The site previously contained a group of office buildings which were generally 2 and 3 storeys in height. These have been demolished and the site has been fenced off. There is a substantial number of trees to the periphery of much of the site. The site sits at a slightly lower level to Woodhead Road and slopes downwards towards the south-east where it meets Bankwood Way.
- 10.49 The surrounding area is characterised by a variety of commercial development, including brick-built office buildings, retail warehouse type buildings, a cinema and restaurants. Trees, shrubs and hedges to the boundaries of these premises are characteristic of this part of the retail park.
- 10.50 It is proposed to carry out some engineering works to create a development plateau. This involves raising the level of the ground towards the south-east and lowering the ground adjacent to the north-western boundary. The proposed car park would be set down from Woodhead Road and enclosed by a retaining wall/embankment. A retaining wall is proposed along the south-eastern boundary to Bankwood Way.
- 10.51 The proposed Home Bargains store would be located to the south-west boundary and would be side-on to Woodhead Road. The store would sit at a lower level to this adjacent highway which mitigates the overall height of the unit. The proposed Lidl store would sit perpendicular to Home Bargains and would back onto Bankwood Way. The access to a shared service yard separates the stores. Car parking occupies the remainder of the site with two areas of landscaping to the periphery.

- 10.52 The design of the buildings is typical for this type of use and reflects the standard store designs adopted by the respective operators. The Home Bargains unit is a retail warehouse faced in a mixture of render and cladding, with the materials providing contrasting tones of grey. The Lidl unit is faced in white and grey cladding with glazed curtain walling to the store entrance and incorporates a mono pitch roof.
- 10.53 The areas of landscaping to the north-western and north-eastern car park boundaries and the inclusion of some tree planting within the car park help to soften the appearance of the development and are reflective of other nearby developments.
- 10.54 The engineering works to create a development plateau result in a relatively substantial retaining wall along the south-eastern boundary alongside Bankwood Way. The adjacent car park would have a circa 2m-2.5m retaining wall with 1.1m handrail on top. To the rear of the Lidl store the height of the retaining wall increases to almost 3m in height and includes 2m palisade fencing to secure the rear of the store. As such, the Lidl store sits in an elevated position when viewed from Bankwood Way.
- 10.55 Bankwood Way is an unadopted road that links Gelderd Road with Woodhead Road with trees and shrubs on each side of the road. It currently forms a relatively inconspicuous element of the retail park. The area immediately to the south-east of the site, on the opposite side of Bankwood Way, is currently undeveloped but it forms part of the same Priority Employment Area allocation as the application site. It is therefore probable that this neighbouring land will come forward for development in the future which would mean that this becomes a more active part of the retail park.
- 10.56 The boundary treatment to this section of Bankwood Way and the elevated position of the Lidl store means that the development would be visible from the south-east, although from longer range vistas it would be viewed against the backdrop of the wider retail park, which rises gradually beyond the site. The appearance of the development at road level would be mitigated to an extent by the fact that the retaining wall would be set in from the carriageway by a 1.5m (approx.) strip of grassed verge, with the Lidl store set into the site by a further 1.8m.
- 10.57 To further soften the appearance of this part of the site, the applicant has proposed a native hedgerow in front of the retaining wall along the south-eastern boundary to Bankwood Way. Additionally, the applicant has advised that the 2m security fencing to the rear of the Lidl store can be replaced with some railings at a lower height to help create a more attractive boundary treatment. Furthermore, a condition requiring details of the facing material for the retaining wall is recommended in the interests of visual amenity.
- 10.58 In conclusion, the scale and design of the units are in keeping with the established character of the area, and it is considered that the proposal satisfies policy LP24 of the Local Plan and the guidance contained in part 12 of the National Planning Policy Framework - Achieving well designed spaces.

Highway issues

- 10.59 The site is located within the Birstall retail park which is within 2 distinct areas to the north and south of the A62 Gelderd Road, a very busy arterial road adjacent to the M62 junction 27. The proposed site is located within the southern area of the retail park.
- 10.60 The existing site access arrangement, which served the former office units is accessed off Bankwood Way. Bankwood Way, directly joins a section of Woodhead Road carrying on to its junction with the A62 Gelderd Road roundabout wraps around the rear of the site (southern boundary) to link to its priority junction with the A62 Gelderd Road, some 200m southwest of the Gelderd Road roundabout.
- 10.61 At the point where Woodhead Road meets Bankwood Way, Woodhead Road has a cul-de-sac section approximately 150m in length from its junction with Bankwood Way. Both roads serve various leisure uses including a cinema, restaurants, and a gym.
- 10.62 Vehicular access to the development site would be provided from two separate points; firstly Woodhead Road to the north-west via a new priority-controlled T-junction and secondly, through the existing site access junction off Bankwood Way to the northeast.
- 10.63 Given the level difference between the site and Woodhead Road to the north-west, pedestrian access to Woodhead Road from the site would be provided via pavements. A ramped footpath link from Woodhead Road is not being provided.
- 10.64 The site on which the retail units are proposed benefits from an extant outline planning permission (application reference 2018/92563) for four A1 non-food retail units and a 305-space shared car park, with access to be taken from Bankwood Way at two separate points.
- 10.65 As part of the extant planning permission, condition 9 requires details to be submitted and agreed for proposed changes to the priorities at the Woodhead Road / Bankwood Way junction. The same changes in priority will also be made as part of the current proposals.
- 10.66 The proposed car park provides a total capacity for 174 spaces, including 10 accessible spaces, 2 electric vehicle (EV) charging spaces and 9 parent & toddler spaces.
- 10.67 As evidence of the provision of car parking for the Lidl store, reference is made to car parking accumulation surveys which have been undertaken at two existing Lidl stores in Sunningdale Road, Balby, Doncaster and Cottingham Road, Hull.
- 10.68 A car parking accumulation for Home Bargains unit has been undertaken using trip rates from the TRICS database.
- 10.69 The largest type of vehicle expected to access the site will be for delivery and servicing movements, which would be a 16.5-metre-long maximum legal length articulated HGV. All delivery and servicing movements will be required to be

taken from the Bankwood Way access to the north-east. Vehicle swept path analysis has been undertaken to demonstrate that this existing site access arrangement can safely accommodate turning movements associated with this vehicle, and that the internal site layout is also suitably designed to accommodate the design vehicle.

10.70 Six junctions listed below, as well as the proposed site access junction with Woodhead Road, are assessed within the applicant's Transport Assessment.

1. A62 Gelderd Road / Woodhead Road / Holden Ing Way roundabout;
2. A62 Gelderd Road / Bankwood Way T-junction;
3. A62 Gelderd Road / Oakwell Way traffic signal junction;
4. A62 Gelderd Road / High Wood Road traffic signal junction;
5. Bankwood Way / Woodhead Road T-junction;
6. Bankwood Way / Existing Site access T-junction

10.71 Traffic survey information for these six junctions has been extracted from the previous information submitted in support of the extant permission on the site.

10.72 Peak hour traffic flows for each of the above junctions have been extracted from these documents, with the surveys having taken place at varying times in March, October, and December 2017.

10.73 Due to the nature of the extant permission, all junctions were surveyed and modelled during the weekday (Friday) evening peak period and during the Saturday midday peak period. The identified peak hours of the highway network were 4:00pm – 5:00pm on the Friday evening and 1:00pm – 2:00pm for the Saturday afternoon period

10.74 As far as this assessment is concerned, morning and evening peak traffic flows at a future year 2026 have been determined using 'Tempo' to provide the peak hour growth traffic flows to the future year 2026.

10.75 The previous permission on the site associated with the 4 proposed retail units have been added to form part of the base line assessment. The committed development flows have been added to the 2026 growth flows to represent traffic flows on the network in the 2026 base scenario.

10.76 The 2026 base peak hour operational characteristics of the 6 junctions have then been assessed. The applicant's Transport Assessment concludes that all the junctions within the study area are expected to continue operating within capacity during the 2026 base scenario, except the A62 Geldard Road/Bankwood Way roundabout junction and the junction of Woodhead Road and Bankwood Way where the changed priorities are proposed.

10.77 Mitigation measures were agreed as part of the extant planning permission to offset the impact of that development. These measures were:

1. Change Priority of the Woodhead Road/Bankwood Road junction to prevent queuing back, and subsequently blocking the A62 Gelderd Road roundabout.
2. Provide directional signage within the site and upon egressing to direct drivers travelling towards Birstall/Batley to turn right out of the Bankwood Road access junction and to join the A62 Geldard Road at its priority-

controlled junction with Bankwood way to the southwest of the site. This would improve development impact at the A62 Gelderd Road roundabout and improve its operation.

- 10.78 Highways Development Management have assessed the proposals including the applicant's Transport Assessment. Highways Development Management accept the principle of the two access points. Revised vehicle tracking information was requested and this is now considered acceptable. The level of parking is also considered to be acceptable.
- 10.79 The same mitigation measures as the extant permission, which are intended to offset the impact of the development on the A62 Gelderd Road roundabout (as detailed above), are to be secured through conditions. As such, it is considered that the traffic associated with the development can be adequately accommodated on the local highway network. Furthermore, National Highways (formerly Highways England) has been consulted and no objection has been raised.
- 10.80 The previous application secured a financial contribution towards a suite of pedestrian improvements within the vicinity of the site to improve connectivity with adjacent premises. The contribution amounted to £97,000 and included new pedestrian crossing points, upgrading of existing crossing points and new and upgraded pedestrian traffic islands across the retail park.
- 10.81 Officers have considered this issue as part of the current application. It is considered that improving pedestrian connectivity would be best served by a new pedestrian light-controlled crossing along Geldard Road between Woodhead Road/A62 roundabout junction and the High Wood Road junction to strengthen pedestrian connectivity between the northern and southern sides of the retail park and public transport links. Such a crossing would cost £80,000 plus a 15-year commuted sum of £30,000-40,000.
- 10.82 The applicant has proposed a contribution of £160,000 towards pedestrian improvements. This is intended to deliver the light-controlled crossing on Gelderd Road and a set of pedestrian improvements within the immediate vicinity of the site, specifically between the site access and the Geldard Road roundabout and to the four arms of the roundabout. The proposed scheme of improvements amounts to 12 dropped kerb locations and 28 tactile paving locations at the following locations:
- Dropped kerbs (2 No.) and tactile paving (2 No.) at the Bankwood Way / Site Access junction
 - Tactile paving (2 No.) at the existing dropped kerb crossing on Bankwood Way located between the site access junction and Woodhead Road
 - Dropped kerbs (6 No.) and tactile paving (6 No.) at the Woodhead Road / Bankwood Way revised priority junction
 - Tactile paving (2 No.) at the western junction between Bankwood Way and A62 Gelderd Road (across the Bankwood Way arm), and
 - Tactile paving across all 4 arms (16 No.) of the A62 Gelderd Road / Woodhead Road / Holden Ing Way roundabout, including dropped kerbs (4 No.) on the A62 Gelderd Road eastern arm.
- 10.83 The pedestrian improvement proposals are intended to meet the likely pedestrian desire lines to / from the site within the retail park.

- 10.84 A financial contribution to fund the delivery of a scheme of pedestrian improvements is considered necessary to make the development acceptable in planning terms. Furthermore, the proposed offer of £160,000 and the intended use of the contribution as outlined above, would meet the tests for planning obligations in that it would be directly related to the proposal and fairly and reasonably related in scale and kind to the proposed development.
- 10.85 The application is supported by Travel Plans for the proposed stores. These are accepted and a contribution towards Travel Plan monitoring is recommended. The required contribution is £10,000 i.e., £2,000 per annum for a period of 5 years.
- 10.86 Subject to outstanding matters, the application is considered acceptable in highway safety terms and accords with policies LP20, LP21 and LP22 of the Kirklees Local Plan and guidance in the NPPF.

Flood risk and drainage issues

- 10.87 The site is in flood zone 1 and is therefore categorised as being at low risk of flooding from main river sources.
- 10.88 The proposed drainage strategy is for surface water to be attenuated on site within a tank below the car park and for the attenuated flows to discharge into an existing culvert that crosses the site. This is acceptable to Kirklees Lead Local Flood Authority (LLFA). Evidence to demonstrate that the culvert eventually discharges to a watercourse has been provided and accepted by the LLFA. Yorkshire Water have requested confirmation that surface water discharges to a watercourse and not to the public sewer network.
- 10.89 A new foul water system to serve the development is proposed. The foul drainage will comprise underground piped drainage and will discharge into the public sewer on Bankwood Way.
- 10.90 Information has been provided regarding overland flow routing, which indicates where water would travel in the event that the proposed system is overwhelmed in an extreme rainfall event. This shows that water would flow towards one of the landscaped areas and a corner of the service yard. Kirklees LLFA accept the submitted flood exceedance drawing.
- 10.91 The application is considered to be acceptable in flood risk and drainage terms and in accordance with policies LP27 and LP28 of the Kirklees Local Plan and guidance in the NPPF. A s106 undertaking to maintain the surface water drainage system is necessary.

Trees and ecology

- 10.92 There is a substantial number of trees that exist to the periphery of the site which are proposed to be removed. None of the trees are protected but consideration has been given to whether some of these trees could be retained around the car park. The number of parking spaces proposed is at the lower end of what would normally be expected for a development of this type and scale and so reducing the size of the car park is not considered to be appropriate. Instead, the applicant has proposed to increase the number of trees to the landscaped areas to the edge of the car park adjacent to

Woodhead Road and Bankwood Way. Some tree planting has also been included within the car park itself.

- 10.93 The above amendments to the landscaping scheme are an improvement and help to mitigate the loss of the existing trees to an acceptable degree when the development is weighed alongside the wider benefits of the scheme, as detailed in this assessment.
- 10.94 Kirklees Biodiversity Net Gain Technical Advice note outlines that a development should achieve no net losses to woodland cover and should achieve an overall biodiversity net gain of 10%. The proposal results in a net loss of woodland cover and it is not considered possible to compensate for this any further on site. As such, a commuted sum is sought from the development to facilitate woodland planting in an off-site location. Based on the scheme as originally submitted, a commuted sum of £38,180 is required to enable to Council to undertake biodiversity net gain off site. The applicant has however provided some additional tree and hedgerow planting. These changes to the landscaping scheme would reduce the off-site contribution. An updated calculation will be provided on the basis of the revised landscaping scheme.
- 10.95 The additional planting provided would enhance the biodiversity of the site, particularly the connectivity of the site to the nearby Kirklees Wildlife Habitat Network. The native hedgerows would help to provide similar benefits and functions to those currently provided by the existing trees.
- 10.96 In terms of the ecological impacts of the proposals, the ecological impact assessment submitted with the application concluded that there would no significant impacts, provided that a series of recommended mitigative measures be provided. These can be secured through a BEMP (Biodiversity Enhancement Management Plan), and CEMP (Construction Environmental Management Plan (for Biodiversity)) and relevant conditions are therefore recommended.
- 10.97 The applicant has submitted an updated Biodiversity Metric calculation which reflects the changes that have been made to the soft landscaping on the site, namely the provision of additional tree and hedgerow planting. This does not significantly affect the off-site contribution that has been sought to deliver a biodiversity net gain of 10%. The development is considered to comply with Policies LP30, LP31 and LP33 and guidance in the NPPF.

Contamination (including coal mining legacy)

- 10.98 The application site falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
- 10.99 The Coal Authority records indicate that the plotted position of a recorded mine entry (adit) is within the north-eastern part of the application site. The Coal Authority hold no details of any past treatment of this former coal mining related feature. In addition, the site lies in an area where underground coal mining activity has taken place at shallow depth and where further historic unrecorded shallow coal mining is likely to have taken place.

- 10.100 The planning application is accompanied by a Combined Phase 1 & Phase 2 Ground Investigation Report (12 May 2021, prepared by Curtins). Based on a review of coal mining and geological features information, previous reports prepared for the site and further recent intrusive investigations, the report highlights that mining legacy features along with the presence of deep backfill material and landfill waste represent key constraints to the proposed development. However, the Coal Authority did not consider that this adequately addressed the impact of coal mining legacy on the proposed development. They therefore raised an objection to the proposal and considered that the applicant needed to revise and resubmit the report, taking into account matters of surface extraction, shallow mine workings, the recorded adit, mine gas and the proposed sustainable urban drainage system.
- 10.101 The applicant therefore subsequently submitted additional information in response to The Coal Authority's concerns including a Detailed Coal Mining Risk Assessment (28 October 2021). The Coal Authority assessed the additional information provided by the applicant and has withdrawn its objection, subject to the imposition of conditions that require a scheme of further intrusive site investigations, remediation works/mitigation measures to address land instability arising from coal mining legacy (as may be necessary) and validation of the completion of the remediation works/mitigation measures
- 10.102 Kirklees Environmental Services recommend conditions to address land contamination.

Crime and security

- 10.103 The Police Designing Out Crime Officer welcomes a number of the proposed security measures, such as hostile vehicle mitigation measures, security glazing to the store frontages and measures to secure the car park perimeter.
- 10.104 The Designing Out Crime Officer has recommended that vehicle height restrictors are also added to the car park entrances to deter unauthorised encampments.
- 10.105 The applicant is reluctant to add vehicle height restrictors to the car park at this stage. They have indicated that if unauthorised encampments became an issue, then they would install measures to prevent this. There do not appear to be any vehicle height restrictors to the outdoor car parks serving other premises across the retail park and there is nothing to indicate that unauthorised encampments are a particular issue within the retail park. In the circumstances, it is considered that it would be unreasonable to insist that the proposed development incorporates vehicle height restrictors.
- 10.106 It has also been recommended that gates are provided across the access road between the two proposed units which serves the delivery/loading area. This is to enhance the security of this area given that it is relatively secluded. The applicant does not wish to provide a barrier to the loading area because it would create practical difficulties. Lidl have explained that full flexibility is required because deliveries would take place at all times of the day and night and often involve third party delivery drivers. Managing these movements into the loading area would therefore be a challenge and would be further complicated by the separate requirements of Home Bargains. The applicant has however indicated that they would be willing to provide alternative security measures to the

delivery/loading area, such as CCTV. A condition is recommended to secure details of security measures for this part of the site.

Planning obligations

10.107 The following planning obligations are sought from this development and reflect those discussed earlier within this appraisal.

- £160,000 towards off-site pedestrian improvements
- £38,180 towards off-site biodiversity enhancement
- £10,000 for Travel Plan monitoring
- Arrangements for the future maintenance and management of the surface water drainage infrastructure within the site.

•
As set out in the report, these are considered to meet the tests for Planning Obligations set out within the NPPF of being necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Representations

10.108 Three public representations have been received. In addition to the retail objection from MRPP on behalf of Tesco Stores Limited from MMRP addressed above, the two additional representations raise objections on the grounds of the impact of additional traffic on the highway network and air pollution. Concerns are also raised with potential litter from the supermarket.

10.109 Highway matters and air quality matters have been addressed within this appraisal.

10.110 Ward Member Councillor Mark Thompson commented on the applicant's proposed pedestrian improvement plan:

- *Why drop kerb and tactile paving right on the roundabout, this roundabout is so busy I would have thought discouraging pedestrians to cross there would have been the priority.*
- *The plan to install another set of pedestrian lights! Seems to be overkill on a length of road no longer than 800 mtrs + no one goes down to those lights as there is no obvious ingress or egress from either side of the road to where those lights are or going to be, please explain.*
- *Wouldn't an overhead walkway be more beneficial to pedestrians and to keep the flow of traffic going on what is one of the busiest stretches of road in Kirklees?*
- *With all the additional food halls and takeaways being completed to the Showcase side of the retail park and the, sometimes, overwhelming footfall at the other side of the A62 why would we interfere so much with flow of traffic i.e. drop kerbs and additional lights.*

Officer response:

- 10.111 The proposed dropped crossings/tactile paving are, to some extent, a legacy of the previous extant permission 2018/92563 for the erection of retail units on the site, which secured funding for a series of similar measure across the wider retail park. With regards to the Gelderd Road/Holden Ing Way/Bankwood Way roundabout, the drop crossings on the northwest, southwest, and southeast arms of the roundabout are existing, the intention being to upgrade these existing facilities with the installation of tactile paving. With regards to the northeast arm of the roundabout, there are currently no pedestrian crossing facilities on this arm.
- 10.112 It is acknowledged that the installation of a crossing facility on the northeast arm of the roundabout may be detrimental to highway safety. This arm of the junction is controlled by part time signals, which could lead to misunderstanding for pedestrians trying to cross at this point. Nevertheless, the scheme to implement these works would be designed and constructed by the Highway Authority and would be subject to an independent Road Safety Audit (RSA). If the RSA raised safety issues with this element of the scheme which could not be satisfactorily addressed, then it would be omitted from the scheme.
- 10.113 Discussions during the application process identified A62 Gelderd Road as a significant barrier to pedestrian movement between the western and eastern areas of the retail park and it was considered that the provision of a signalised pedestrian crossing point would be of strategic benefit. Assessment indicates that a crossing can be accommodated and has been located to connect with the pedestrian route serving the western retail area (Curry's PC World etc.) and the northeast bound bus stop, enabling passengers alighting at this stop to safely cross A62 Gelderd Road to access the retail (including the application site) and leisure facilities on the eastern side of Gelderd Road.
- 10.114 In terms of the suggestion of a footbridge, it is considered that a footbridge would provide similar pedestrian benefits to a signalised crossing. However, it would require a significant land footprint, particularly to construct a bridge that could meet the needs of all potential users (i.e., including ramped access). This is a heavily developed area and land is not readily available to accommodate a footbridge. Furthermore, a bridge would be extremely cost prohibitive and beyond what could be reasonably justified to mitigate the current development proposals.

Other Matters

- 10.115 The site is within the middle and outer zone of a COMAH site (Control of Major Accident Hazards), with the majority of the site being in the middle zone. As such, the Health and Safety Executive (HSE) have been consulted via the PADHI system (Planning Advice for Development adjacent Hazardous Installations). The HSE does not advise on safety grounds, against the granting of planning permission in this case.
- 10.116 Environmental Services recommend a condition to mitigate the impact of the development on air quality. A condition is also recommended to restrict the noise from fixed plant and equipment and for details of the external lighting.

10.117 The proposed development has been screened as to whether an Environmental Impact Assessment (EIA) is required, with the conclusion reached that the development does not meet the threshold for an EIA.

Climate change

10.118 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

10.119 The development relates to a brownfield site and therefore represents the efficient use of land.

10.120 The development would provide a contribution which will promote pedestrian connectivity across the retail park and to public transport links. As part of this application, Travel Plans to encourage the use of low emission forms of transport have been provided and a contribution is to be secured regarding the monitoring of the Travel Plans. The application indicates that two electric vehicle charging points are to be provided however a condition is recommended requiring details of a scheme to ensure an adequate number are provided along with a suitable specification for the recharging points.

10.121 The development also provides replacement trees and an off-site contribution towards biodiversity enhancement, including woodland planting. Solar PV panels are proposed on the roof of the Lidl store, which would generate approximately 25% of the store's electricity requirements per year. The applicant estimates that this would reduce carbon emissions by at least 44 tonnes per year. A roof layout plan and specification for the proposed PV panels has been submitted. The provision of PV panels provides an environmental benefit which aligns with the local and national climate change agenda. As a whole these measures will help to mitigate the impact of this development on climate change.

11.0 CONCLUSION

11.1 The proposal represents a significant inward investment within Kirklees which is projected to generate 110 part time and full-time jobs (75 FTE). Within this Priority Employment Area allocation. The development will therefore contribute to the delivery of the job requirements set out in the Local Plan, in accordance with policy LP3.

11.2 Officers are satisfied that the proposed development would not conflict with the established employment uses in the area and complies with Local Plan policy LP8. The nature of the proposed use is compatible with the established make-up of the area and the development would not introduce a use that would conflict with the operation of existing businesses.

- 11.3 The proposal would also regenerate a vacant piece of brownfield land, remediating an area where there are known contamination and coal mining legacy issues.
- 11.4 The retail impacts of the scheme have been assessed and the conclusions reached by the Council's independent planning consultants with reference to their own cumulative retail impact assessment, site visits, and having reviewed all relevant representations submitted by interested parties. It has been concluded that:
- no individual alternative site is both available and suitable to accommodate the application proposal. The application proposal conforms to the requirements of the sequential test as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.
 - There are no town centre investments that would likely be prejudiced as a consequence of the application proposal, which accords with the requirements of the first part of the NPPF impact test at paragraph 90(a) of the NPPF.
 - In terms of the second part of the test at paragraph 90(b) of the NPPF, the trade diversion impacts arising at defined centres are acceptable and no centre would be the subject of a significant adverse impact.
- 11.5 It is considered that the traffic associated with the proposed development can be adequately accommodated on the highway network without resulting in any significant adverse effects.
- 11.6 The proposal would deliver wider benefits through a substantial pedestrian improvement scheme within the vicinity of the site which would help to promote linked trips across the retail park on foot. The development would also deliver a biodiversity net gain through a financial contribution that would help towards Council tree planting initiatives.
- 11.7 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.
- 11.8 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.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Restriction on the net sales area of the stores and the proportion of convenience and comparison floorspace to that proposed within the application.

Lidl store:

Net sales area of 1,414m²

80% convenience goods (equating to 1,131m²)

20% comparison goods (equating to 283m²)

Home Bargains store:

Net sales area of 2,014m² (plus the associated garden centre)
45% convenience goods (equating to 906m²)
55% comparison goods (equating to 1,108m²).

4. Restriction on the sub-division of the units
5. Detailed junction design for points of access
6. Detailed scheme for proposed change to the road priorities on Woodhead Road/Bankwood Way
7. Scheme for highway directional signage
8. Detailed drainage design including surface water attenuation and petrol interceptor for the car park
9. Temporary drainage measures for construction
10. Biodiversity Enhancement Management Plan (BEMP)
11. Construction Environmental Management Plan for biodiversity (CEMP)
12. Contamination/remediation conditions
13. Scheme of to address land instability arising from coal mining legacy (address Coal Authority comment)

13. Scheme for provision of electric vehicle recharging points
14. Management plan for landscaped areas
15. Detailed design of highway retaining walls
16. Facing materials of the retaining wall to the south-eastern boundary alongside Bankwood Way
17. Security measures for the delivery/loading area
18. Restriction on noise from fixed plant and equipment
19. Construction management plan for amenity and highways
20. Overland flow routing (drainage/flood risk)
21. Air quality mitigation
22. External lighting scheme

Background Papers:

Application and history files.

Website link:

[Link to application details](#)

[Nexus Retail Report Feb 2022](#)

Certificate of Ownership – Certificate B signed: Notice served on Mr Henry Butt.