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**Report of the Head of Planning and Development**

**STRATEGIC PLANNING COMMITTEE**

**Date: 30-Jan-2025**

**Subject: Planning Application 2023/91405 Erection of foodstore (class E) with associated access, parking, servicing area and landscaping Part of former St Luke's Hospital site, Blackmoorfoot Road, Crosland Moor, Huddersfield, HD4 5RA**

**APPLICANT**

Lidl GB Ltd

**DATE VALID**

18-Jan-2024

**TARGET DATE**

18-Apr-2024

**EXTENSION EXPIRY DATE**

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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**

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**Electoral wards affected:** Crosland Moor and Netherton

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **RECOMMENDATION**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matter(s):

**Biodiversity Net Gain (to secure 10% net gain off-site):** £37,030 towards off-site ecological habitat enhancement.

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development 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 Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION**

- 1.1 This application seeks full planning permission for the erection of a foodstore (use class E) with associated access, parking, servicing area and landscaping.
- 1.2 This application is brought to the Strategic Planning Committee in accordance with the Delegation Agreement due to a significant number of public representations being received that are contrary to the officers' recommendation.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is brownfield land which was previously part of the St Luke's hospital grounds. The hospital was demolished between 2013 and 2014, with most of the hospital's grounds subsequently being redeveloped for residential use, while the application site was kept vacant. The outline permission which authorised the residential redevelopment included the application site having a retail use.
- 2.2 The site is within a residential area, with residential properties in each direction. Dwellings sit upon the site's south and west boundaries, with dwellings to the northeast and northwest separated from the site by Turnstone Way and Blackmoorfoot Road respectively. Several properties near to the site, on Blackmoorfoot Road, are Grade 2 Listed.

2.3 The topography of the area generally slopes downhill from southwest to northeast, with the land within the site and neighbouring dwellings following this form. Several TPOs are within the site's boundaries, however many of these trees have been felled previously (as part of the site wide re-development). Two remain, a sycamore roughly north-east of the centre of the site and a horse chestnut adjacent to Blackmoorfoot Road. A substation sits to the immediately east of the site, fronting onto Turnstone Way.

### **3.0 PROPOSAL**

3.1 Full planning permission is sought for the erection of a foodstore (use class E), with associated access, parking, serving, and landscaping.

3.2 The food store building would have a GIA of 2,000sqm, with a sales floor of 1,331sqm. Other floorspace would be dedicated to storage, refrigeration, and staff facilities. The building is expected to facilitate 40 (full time equivalent) jobs. The proposed opening hours are:

- Monday to Saturday: 0800 to 2200.
- Sunday: Sunday trading laws (no specifics given)

The proposed hours of delivery are:

- Monday to Friday: 0700 – 2200
- Saturday: 0800 – 2200
- Sunday: 1000 – 1600

3.3 The building would be located within the east of the site, along part of the boundary with Turnstone Way. It would be roughly rectangular in shape, and be single storey with a mono-pitched roof. Elevations would be faced in a mixture of natural stone, metal cladding (grey and white), and render (stone coloured). Glazed panels, allowing views into the store, would be sited on the northwest elevation and partly on the southwest elevation. Spaces for advertisements are also shown on these elevations. The roof would be constructed using metal composite panels. A plant and serving area, including a vehicle ramp for levelling access, is proposed on the building's southeast elevation.

3.4 Access to the site would be via a new priority T-junction from Turnstone Way. The site's car park would include 93 car parking spaces and two dedicated spaces for motorcycles. Five cycle loops would be sited adjacent to the main building and two electric vehicle charging points (EVCP) are proposed.

3.5 A cutting exercise is proposed across the site to form a level plateau. This necessitates retaining walls throughout the site, but notably adjacent to the north, east, and south boundaries. These would be faced in stone and would have a maximum height of circa 5m.

3.6 Behind the retaining wall, wrapping around corner adjacent to the Blackmoorfoot Road and Turnstone Way junction, would be a landscaped buffer zone. This would host ornamental planting and 12 standard trees, with two further trees within the car park. All existing trees within the site, including the TPO sycamore and horse chestnut would be felled to facilitate the development.

3.7 Surface water attenuation would be located under the car park and discharge into the Blackmoorfoot Road combined sewer.

#### 4.0 RELEVANT PLANNING HISTORY (including enforcement history)

##### 4.1 Application Site

2013/90248: Prior notification for demolition of existing buildings – Granted.

2014/93099: Outline application for phased development comprising up to 200 dwellings with associated infrastructure and open space; retail units (open use class A1); accommodation for potential neighbourhood uses (use class A2/D1/D2/sui generis); restaurant/public house (use class A3/A4); and petrol filling station (sui generis) – Granted.

2016/91337: Removal of conditions 25 (drainage system), 31 (floorspace), and Variation of conditions 3 (phasing plan), 6 (Remediation Strategy), 7 (contamination), 8 (Validation Report), 9 (Construction Environmental Management Plan), 10 (Air Quality Impact Assessment), 11 (charging plug), 15 (acoustic barriers), 18 (bat roost and bird nesting opportunities), 19 (lighting scheme), 20 (drainage), 21 (surface water discharge), 22 (storm events), 23 (drainage), 24 (surface water drainage), 26 (surface water flows), 27 (Surface water), 30 (gross floorspace), 35 (construction and layout specification), 36 (retail site access), 37 (residential site access), 40 (construction vehicles) and 41 (parking spaces) of previous outline permission 2014/93099 for phased development comprising up to 200 dwellings with associated infrastructure and open space; retail units (open use class A1); accommodation for potential neighbourhood uses (use class A2/D1/D2/sui generis); restaurant/public house (use class A3/A4); and petrol filling station (sui generis) – Granted.

2018/93098: Variation of conditions 28, 33, 34 and 35 and removal of condition 31 on previous application 2016/91337 – Granted.

2018/93201: Reserved matters application for residential development pursuant to outline permission 2018/93098 – Granted

2019/93902: Reserved matters application for residential development pursuant to outline permission 2018/93098 for Variation of conditions 28, 33, 34 and 35 and removal of condition 31 of previous application 2016/91337 – Granted.

2019/93307: Discharge of condition 7 (estate roads) of previous reserved matters approval 2018/93201 for residential development pursuant to outline permission 2018/93098 – Refused.

2021/90694: Discharge of conditions 32a and 32b of previous permission 2018/93098 for variation of conditions 28, 33, 34 and 35 and removal of condition 31 on previous application 2016/91337 – Refused.

**Note:** Numerous Discharge of Condition applications are not listed due to them being deemed not relevant to the current proposal.

## 4.2 Surrounding Area

*land at, former St Luke's Hospital (land to the west of the site)*

2018/93200: Erection of 26 dwellings – Granted.

2019/93950: Erection of 21 dwellings and associated access works – Granted.

## 4.3 Enforcement History

COMP/20/0256: Major site monitoring – Ongoing.

This relates to standard major site monitoring practice, although a notable ongoing issue for the site is the road. K.C. Highways have expressed concerns over aspects of Turnstone Way's construction, which is currently preventing adoption by the council. Negotiations continue.

COMP/23/0575: Alleged breach of condition 9 (2014/93099) – Ongoing.

This complaint regarded a breach of the Construction Management Plan for the adjacent residential development and has no direct relevance to the current proposal.

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

5.1 As originally submitted, the proposal sought for the building to be pushed back into the site, close to the west boundary. Officers expressed concerns over the design implications of this, as it would not reflect the local urban grain nor would it engage with the Blackmoorfoot Road streetscene. The car park would have been the most prominent feature. As such, a design review was undertaken to consider whether a more suitable location could be identified. During these discussions, negotiations took place on whether the mature trees covered by TPOs within the site could be retained. It was concluded, to deliver the development in a reasonable manner, they could not.

5.2 As a result of the above, the building was relocated to the east boundary. As such, the proposal's plans were updated and re-advertised.

5.3 In addition to the above, negotiations took place on various other technical matters, including drainage and highways. On final receipt of updated / further information, these issues were concluded to be suitably resolved, subject to conditions.

## **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 27/02/2019).

Kirklees Local Plan (2019) and Supplementary Planning Guidance / Documents

- 6.2 The site is part (8%) of Mixed-Use allocation reference MXS1 on the Local Plan Policies Map. The mixed uses identified are housing and retail uses. The allocation has an indicative housing capacity of 200 units. No indicative floor space for retail is given, although the following is stated:

*Mixed use - housing and retail (additional retail and/or leisure beyond that already permitted (2014/93099 retail units open use class A1) would be subject to policy LP13)*

- 6.3 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP13** – Town centre uses
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP67** – Mixed use allocations

- 6.4 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council;

*Supplementary Planning Documents*

- Highway Design Guide SPD (2019)

*Guidance documents*

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets Principles for the West Yorkshire Transport Fund

## National Planning Guidance

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2024 and the Planning Practice Guidance Suite (PPGS), first launched March 2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 7** – Ensuring the vitality of town centres
- **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
- **Chapter 16** – Conserving and enhancing the historic environment

6.6 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)

## Climate change

6.7 The Council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

6.8 On 12/11/2019 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

### *The applicant's statement of community involvement*

7.1 The application is supported by a Statement of Community Involvement which details the applicant's engagement with local residents prior to the submission of their planning application. The applicant's means of engagement included leaflets being issued to circa 10,000 dwellings in the vicinity of the site, and ward councillors being notified. A dedicated webpage was also set up with details of the proposal.

7.2 In response to the engagement undertaken, 968 responses were received split between the website (468, equivalent to 48%) and the leaflet (500, equivalent to 52%). Of these, the applicant states that 85.6% of respondents were in favour of the proposal, 10.2% against, and 4.1% unsure.

7.3 The concerns that were raised included:

- the principle of development of a foodstore in this location
- traffic and highways issues
- pedestrian access
- arboriculture and landscaping

The applicant considers each of the above points in their Statement of Community involvement. In summary, they are satisfied that their proposal, supported by documents such as a Transport Statements and Ecological Impact Assessment, would suitably address and overcome the concerns raised during their pre-application public engagement.

#### *Public representations to the planning application*

7.4 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the council's adopted Statement of Community Involvement.

7.5 The application was amended during its lifetime and a period of re-consultation, via neighbour letters, was undertaken. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.

7.6 The end date for public comments is 28/01/2025, prior to the committee meeting but after this report is due to be published. This is the end of an additional public representation period, with several publicity periods having taken place due to various amendments / further details being provided during the course of the application's life. The amendments pursuant to the final period of publicity principally relate to the procedural matter of land ownership, following the applicant's red-line boundary being extended to Blackmoorfoot Road (the nearest adopted road). A summary of any additional comments received after the date of this report shall be included within the committee update.

7.7 In total, at the time of writing, 44 public comments have been received to date. This includes a mixture of letters in support and also in objection to the proposal. The objections include a petition with circa 160 signatures on it. The petition cites concerns over traffic generation in the area and harm to nearby businesses. The following is a summary of the comments made received to date:

#### *Support*

- General support for a food supermarket in this location. It will help local residents not travel so far to collect food, and improve the local offer of shop variety.



### *Sequential and Retail impact*

- The proposed development would prejudice the development of other new retail units, including via app 2018/92647 (former Kirklees College, New North Road), at a sequentially preferable site, and 2023/90076 (Leeds Road Retail Park), potentially preventing them coming forward.
- The site subject to 2018/92647 should be seen as sequentially preferable, being edge of centre, until such a time that the store is operational. This should be considered by the applicant. There would be a 7-min catchment area shared between the proposed site and the former Kirklees College, New North Road site. When 2023/90076 was considered, the sequential test undertaken at that time used a 7-min catchment area, which is not being utilised by the applicant. The assessments should be consistent.
- By approving the proposal, the redevelopment of the Kirklees College, New North Road site is put at jeopardy via harming investor confidence. This site is edge of centre and its re-development is important within the Local Plan. There should be some form of mechanism that requires the 2018/92647 / Kirklees College, New North Road proposal to be developed, prior to the application site.

### *Highways*

- Concerns over the local highway network's capacity to accommodate additional traffic.
- Concerns over pre-existing excessive vehicle parking on Turnstone Way, which includes residents from neighbouring street, making access to properties on Turnstone Way difficult. Turnstone Way should have double yellow lines and a crossing point near the junction to Blackmoorfoot Road.
- Access should be taken from Blackmoorfoot Road, which was previously the case for the former hospital.
- The Turnstone Way / Blackmoorfoot Road junction needs to be improved to facilitate the development. A roundabout or dedicated right turn lane off Blackmoorfoot Road are suggested. If traffic lights are to be used, consideration must be given to properties adjacent to where the lights would be sited, and where they'd park
- Traffic surveys for the proposal were undertaken during a COVID-19 lockdown and therefore are not representative. Furthermore, it fails to take into account other local developments, including the Black Cat proposal (for 770 units). It also does not identify all of the recent Road Traffic Accidents (including a fatal incident) nor consider non-reported incidents.
- The proposal should introduce traffic calming on Blackmoorfoot Road, which is a known speeding zone.

### *Amenity*

- The proposal will result in harmful noise pollution. The site should include noise mitigation barriers.
- The proposal will lead to an increase in vermin within the area.
- The proposal will cause harmful odour pollution.
- Dust during construction must be considered and managed.

- Deliveries to the site should be during the day only, or else they'd disrupt local residents who are near to the service area.
- The proposal will cause overshadowing of nearby dwellings.
- Adverts and other lights on the site should be dimmed at night to not cause light pollution.

### *Design*

- The building is unattractive and not fitting into the character of the area.
- The building should be constructed in local, natural materials.
- Additional trees should be planted to soften the appearance of the building a support local ecology.

### *Other*

- The land should be used for homes for the elderly.
- The proposal will take business from local shops, leading to a decline in local shopping options.
- The proposal will introduce competition into the local market.
- The car park will attract anti-social behaviour when the store is closed.
- The drainage must prevent flooding onto Turnstone Way and nearby dwellings.

7.8 The site is within Crosland Moor and Netherton ward, where members are:

- Cllr Jo Lawson
- Cllr Imran Safdar
- Cllr Alex Vickers

7.9 Cllr Lawson expressed the following concerns during the course of the application:

- Concerns over the impact upon the local highway, including traffic generation and the junction between Turnstone Way and Blackmoorfoot Road.
- Raising concerns over potential site security and making sure the site does not attract anti-social behaviour.
- Question on whether any Section 106 money could be spent providing barriers to local paths.

## **8.0 CONSULTATION RESPONSES**

K.C. Ecology: No objection subject to conditions and a Section 106 agreement to secure a contribution of £37,030 towards securing a 10% net gain.

K.C. Environmental Health: Have considered various potential sources of pollution, including ground conditions, noise, light and odour. While initial concerns were held, based on amended proposals and further details, no objection subject to conditions.

K.C. Highways (Waste): No objection.

K.C. Highways (Development Management): Sought further details / amendments relating to traffic generation, internal layout, and internal manoeuvres. Further details have been provided and found to be acceptable. No objection subject to conditions.

K.C. Lead Local Flood Authority: Expressed initial concerns over aspects of the drainage design. Following further details and negotiations, confirmed that the submission adequately makes spaces for water and that they have no objection, subject to amendments and additional information being provided via discharge of condition.

K.C. Trees: Object due to the proposal's loss of protected trees on site.

West Yorkshire Police Designing Out Crime Officer: Initially raised various questions on crime management and offered advice. Following amendments Crime Prevention acknowledged the improvements and offered no further comments, subject to conditions being imposed.

## 9.0 MAIN ISSUES

- Principle of development
- Urban design
- Residential amenity
- Highways
- Drainage and flood risk
- Planning obligations
- Other matters
- Representations

## 10.0 APPRAISAL

### Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.

### *Development of a Mixed-Use allocation*

- 10.2 The site is part of Mixed-Use allocation ref. MXS1. Policy LP67 governs the assessment of Mixed-Use allocations, stating:

*The sites listed below are allocated for mixed use development in the Local Plan. Planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map.*

Allocation MXS1 is allocated for residential and retail uses. The allocation sets out an indicative capacity of 200 dwellings. The allocation does not set an indicative capacity for retail floor space, stating:

*(additional retail and/or leisure beyond that already permitted (2014/93099 retail units open use class A1) would be subject to policy LP13)*

- 10.3 Application 2014/93099 approved 5,388sqm of retail space under use class A1, with the current proposal now seeking 2,000sqm. As of the September 2020 amendment to The Town and Country Planning (Use Classes) Order 1987, use class A1 has been subsumed by use class E.
- 10.4 The indicative housing delivery for the allocation has been achieved, via the following applications:
- 2014/93099: Outline permission for up to 200 units.
  - 2019/93902: Reserved Matters pursuant to 2014/93099 for 195 units
  - 2018/93200: Erection of 26 dwellings and 2019/93950 for full permission for 21 units (2019/93950 granted permission for a replan of part of 2018/93200's site, providing 21 dwellings which effectively resulted in a scheme of 31 dwellings on the site of the existing approval.
- 10.5 The above applications total 226 units, over the indicative capacity of 200 units, and each has commenced (and been largely completed). Therefore, officers are satisfied that the intended residential function of the site has been achieved.
- 10.6 Since 2014/93099, no other application for retail within the site has come forward. The proposal would develop all remaining space within the allocation, prohibiting any additional retail use coming forward. Application 2014/93099 approved 5,388sqm of retail space, across a larger area than the application site, while the current proposal seeks only a single unit of 2,000sqm (1,331sqm retail floor space). While of a lower floorspace, the proposals for 2014/93099 are accepted to have been speculative and are noted as having not come forward in a not-insufficient period of time, an indicator of market conditions. Furthermore, from a design perspective, officers consider it would be difficult to accommodate a greater floor space (without multiples storeys, which is typically undesirable for retail units) within the remaining land, without an unacceptable loss of parking spaces.
- 10.7 Overall, notwithstanding the historic permission 2014/93099, officers are satisfied that the proposed retail development would represent an effective and efficient use of the allocation, in principle. This is subject to assessment of the development's specific impacts, not least having due regard to the retail sequential test.

*Town centre use: sequential test*

- 10.8 The proposal includes a main town centre use that would not be within a defined town centre, as designated by the Local Plan. Therefore, a retail sequential test and impact assessment (as the proposed floorspace would be above 500sqm) are required to demonstrate compliance with policy LP13. The

purpose of policy LP13 is to protect the vitality and viability of town centres through the reasonable concentration of economic activity. Consideration shall first be given to the sequential test, followed by the impact assessment (see paragraph 10.16 onwards).

10.9 The sequential test seeks to establish whether the proposed development could be reasonably accommodated at a sequentially preferable alternative location. The following locational preferences are applied for main town centre uses:

1. sites located in town centre locations
2. sites on edge of centre locations
3. well-connected out of centre sites
4. out of centre sites

Local Plan paragraph 9.12 provides further guidance on the scope of the sequential test and that applicants will be expected to provide details of the business model for the development, an appropriate catchment that the business would seek to serve and an appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification.

10.10 The applicant has provided a Sequential & Impact Assessment Report which has been reviewed by a council appointed independent assessor (Nexus Planning). It should be noted that these documents specifically related to an earlier revision of the proposal, which was marginally smaller than the scheme was eventually amended to be (an increase of 79 sqm sales area and 90sqm total). Officers have considered the report in the context of the changes made to the proposal and are satisfied that the methodology and findings are not materially affected by the amendments, which are considered nominal in the scope of the reports.

10.11 In terms of business model, the proposed store would be a Lidl. Lidl stores primarily seek to serve the immediate local community in which they are located, both in terms of their shopping function and also in terms of employment (with circa 40 full time equivalent jobs expected). They fill a 'middle' role between smaller top up stores and superstores, with a Lidl store stocking circa 3,000 – 4,000 products, compared to a superstore having 20,000+. Subject to seasonal variation, Lidl stores dedicate around 20% of floorspace to the sale of 'comparison' goods (non-food) items, with the remaining floorspace being used for the sale of 'convenience' goods. Unlike other foodstore operators, they do not include in-store concessions or other ancillary facilities such as opticians, dry cleaners, bureaux de change, or cafes, which also helps to limit their impact upon existing town centres.

10.12 Considering what forms a suitable search area, the council's Retail Capacity Study Update (2016) document splits Kirklees into seven district zones. The applicant states:

*Given the location of the subject site, the likelihood that the proposed new retail floorspace would draw the majority of its trade from the south-western side of Huddersfield, and the relatively limited range of retail provision serving this area, Zone 1 has been defined as the Primary Catchment Area (PCA) for the purposes of this assessment. Within this PCA, a five minute drive-time isochrone from the application site has also been identified. This area represents the Core Catchment Area of the proposed new Lidl store and has informed the approach taken to addressing the sequential approach to site selection and impact test.*

Officers concur with this assessment and consider Zone 1 (Huddersfield Central) to be a reasonable search area, having due regard to the above and the business model. Based on this and the extent of a five-minute drivetime the following defined centres have been considered:

- Berry Brow local centre.
- Blackmoorfoot Road local centre;
- Crosland Moor local centre;
- Huddersfield local centre;
- Lockwood local centre;
- Manchester Road/Longroyd Lane local centre;
- Manchester Road/Mount Street local centre;
- Milnsbridge district centre;
- Milnsbridge local centre;
- Newsome local centre;
- Paddock Foot local centre,
- Paddock local centre; and
- Thornton Lodge, Huddersfield local centre.

Officers accept that there are no other centres that should be considered. As to what sites within the identified centres could be suitable for the proposed development, and sequentially preferable, the following criteria have been provided:

- Accommodate a store between 1,672sqm and 2,461sqm (gross). Any pre-existing vacant unit would need to be circa 90% of the size of the store proposed;
- Whether the site lies within, or on the edge of, an existing centre;
- Whether there are any development plan policies of relevance to a site's potential redevelopment;
- Whether the site allows safe access and manoeuvring by customer vehicles;
- Whether the site could accommodate adjacent surface level car parking;
- Whether the site can accommodate an appropriate servicing arrangement;
- The ability to accommodate a single-storey store which benefits from generally level topography;
- Whether there are any extant permissions for other uses on the sequential alternative site;
- Whether there are any land assembly issues that could constrain future development;
- What the current land use is at the alternative site and whether there is a requirement for this to be relocated;
- Whether the site is commercially attractive to operators; and
- Other potential constraints, such as conservation area and listed building designations, tree preservation orders, topography, and so on.

- 10.13 The applicant contends that alternative sites should be at least 0.6ha in size, however, officers are of the view that broadly similar developments have been brought forward on slightly smaller sites. Therefore, potential alternative sites of at least 0.5ha have been considered when applying the sequential test.
- 10.14 Within the identified centres, within the identified search area, and utilising the above criteria, the applicant has identified eight potential alternative sites. These are considered, and for their own reasons discounted, as follows:

**Land Between Market Street and Dowker Street, Milnsbridge**

The site comprises of 0.5 ha, is constrained by an irregular shape and highways which bound the site are relatively narrow. It does not have access from, or have visibility to, Market Street.

It is accepted that the site is not suitable to accommodate the proposal.

**50 Market Street, Milnsbridge**

Existing footprint is around 120sqm therefore not suitable for the proposal.

**Former Car Wash Site, Market Street, Milnsbridge**

The site is 0.1 ha in size therefore not suitable for the proposal.

**Land at Hart Street, Newsome**

The site is approx. 0.6 ha in size; however, it is at the edge of the area of search and unlikely to cater for the same broad market opportunity. It is subject to residential planning permission, there is no evidence that the site is available, and it is not suitable given its location in relation to the catchment.

Since the test was done, a residential development has been commenced on site.

**Newsome Mills, Newsome**

The site is a local plan residential allocation and located on the periphery of the search area, it is not suitable for meeting the needs of the catchment.

**Former Shine on Car Wash, Lockwood**

The site is 0.1 ha in size therefore not suitable for the proposal.

**Site North of Longroyd Lane, Manchester Road**

The site is 0.6ha. However, the site is to act as a compound to assist in the delivery of the Transpennine Route Upgrade. The site is not considered to be available and it is unlikely to be available for some time.

**Paddock Civic Youth Centre**

The site is 0.3ha therefore not suitable for the proposal.

- 10.15 Officers are satisfied that none of the sites above could be considered both available and suitable to accommodate the proposed development, giving due regard to the search criteria, even allowing for appropriate flexibility in format and scale. Therefore, officers are satisfied that there is currently no sequentially preferable location, within a reasonable search area and which could suitably support the specifics of the proposal. Therefore, the application proposal accords with the requirements of the sequential test set out in policy LP13 of the Local Plan.

*Town centre use: retail impact assessment*

- 10.16 Policy LP13 also requires a Retail Impact Assessment for planning applications which include retail development that are not located within a defined centre, and where the development creates a floorspace greater than 500 sqm gross. The applicant's submissions for these tests have likewise been reviewed by an independent consultant on behalf of the LPA, followed by a review by K.C. Planning (Policy) Officers, following receipt of further information. Matters to consider include whether the proposal would prejudice nearby town centre investment, nor harm the viability and vitality of the centres.
- 10.17 First considering town centre investment, the applicant's Planning and Retail Statement (para 8.3) states that the proposed development would not have any adverse impact on the ability to bring forward investment at Crosland Moor local centre or any other existing centre.
- 10.18 The applicant's submission notes that there are no sequentially preferable sites that are suitable and available, the proposed foodstore is a different scale to most development/redevelopment opportunities within centres in the area, there is no other planned investment in any of the centres in south-west Huddersfield that could be affected by the proposal. The cultural facilities and public spaces being progressed in Huddersfield Town Centre are fundamentally different to the proposal and any other schemes in more distant centres would serve different catchments.
- 10.19 In addition to the above, a discount foodstore (operated by Lidl) forms part of the proposed redevelopment of the former Kirklees College site within the Huddersfield Town Centre boundary. The former college site is 2.5km from the application site and it is considered that they will serve substantially different catchment areas. Lidl has formally been identified as the future operator for both sites. It is considered that the granting of planning permission for the Crosland Moor proposal would not have a prejudicial impact on the redevelopment of the former Kirklees College site.
- 10.20 The proposal complies with the first part of the impact test as it is considered that there is no town centre investment that would be prejudiced by the proposal.
- 10.21 Progressing to the proposals' impact on town centre vitality and viability, the applicant sets out its approach to trade diversion impact within Sections 6, 8 and appendix 2 of its Planning and Retail Statement and within their updated Retail Assessment summary.



- 10.22 The assumptions presented including the updated information requested by the council's independent assessor have been reviewed and are satisfactory. It is accepted at the outset that comparison goods floorspace associated with the application is limited (248sqm) and that in practice this element of the proposal would trade against a wide range of destinations. The viability of existing retailers would therefore not be materially affected by this floorspace.
- 10.23 The highest proportion of trade will be diverted from Aldi in Milnsbridge District Centre (£1.27m, or 13.7% of the proposal's turnover). It is not considered that the expected cumulative impact would have a significant adverse impact on the future performance of the Aldi store and the wider district centre.
- 10.24 In regard to Crosland Moor local centre, and particularly the Co-op, it is considered that the store is probably performing strongly against its benchmark average given its likely catchment with limited direct competition nearby. Therefore, it is considered that the store would continue to trade well following assumed cumulative trade diversion levels and that the impact on the store would not be at a level which is significantly adverse. The wider implications of the diversion on Crosland Moor local centre as a whole have been considered and it is not at a level which would have any material impact on its future trading performance.
- 10.25 It is considered that the potential cumulative impact of the proposal when considered alongside other commitments would not materially impact on the performance of any other defined centres.
- 10.26 The proposal would not have a significant adverse impact on the vitality and viability of any defined centre, particularly Milnsbridge District Centre and Crosland Moor Local Centre from which Lichfield estimate the highest cumulative diversion would occur.
- 10.27 Following the above assessment having been made, a representation was received from a national competitor, raising an objection to the proposal. It raised several concerns over the sequential test and retail impact assessment undertaken by the applicant. The following is a summary of the concerns raised, and the applicant's response.
- The proposed development would prejudice the development of other new retail units, including via app 2018/92647 (former Kirklees College, New North Road), at a sequentially preferable site, and 2023/90076 (Leeds Road Retail Park), potentially preventing them coming forward.

**Applicant response:** *The [objector] argues that there would be overlapping catchment areas between the proposed store on the former St Lukes Hospital site and that previously approved on the former Kirklees College site. This is on the basis of their view that these stores serve catchment areas which comprise a seven-minute drive-time from each site, an approach which was taken in respect of the approved foodstore at Leeds Road Retail Park (ref. 2023/62/90076/W). This approach resulted in sites within Huddersfield Town Centre (which incorporates the former College site) being considered as part of the assessment of sequentially preferable sites.*

*Lidl do not currently have an interest in the Leeds Road Retail Park scheme. In any event, however, based on a review of the Planning and Retail Statement which accompanied this application, the use of a seven-minute drive-time to define the catchment area was taken at the request of Council Officers, and no evidence has been provided by to substantiate this approach.*

*The above statement also confirms (at paragraph 6.13) that catchment areas for this type of operator (i.e. discount food retail) are usually defined using a five-minute drive-time. This is reflected in Lidl's own approach to defining catchment areas which, for urban areas such as this - including where there are other existing or committed/proposed Lidl stores – is to use a five-minute drive-time as a starting point.*

*The comments in the letter ignore the fact that the Core Catchment Area (CCA) was defined for the proposed new store on the St Lukes site on this basis – and that this approach was agreed through discussions with Council Officers and their appointed retail planning consultants. They also ignore the fact that, as set out in the Planning and Retail Statement, the CCA reflects the extent to which the new store here would serve residents living on the south-western side of Huddersfield, focused upon the Crosland Moor area.*

*This is, in turn, reflected in the fact that the site is allocated for mixed-used development, including retail, in the adopted Kirklees Development Plan, under Policy LP67 (site. ref. MXS1), and indeed was subject to a previous outline planning permission which included around 3,900 sqm (42,000 sqft) gross new retail development. The potential for new floorspace on the site which serves the surrounding areas on this side of Huddersfield has already been recognised by the Council who, in granting permission for the previous scheme, accepted that the sequential test had been satisfied.*

*In practice, the new Lidl store coming forward on the former college site would serve a different – and complementary - catchment area to that on the St Lukes site. A such, and as neither the college site nor the wider Huddersfield Town Centre fall within the CCA for the St Lukes site, it cannot be considered suitable for the current application proposals.*

- *The site subject to 2018/92647 should be seen as sequentially preferable, being edge of centre, until such a time that the store is operational. This should be considered by the applicant. There would be a 7-min catchment area shared between the proposed site and the former Kirklees College, New North Road site. When 2023/90076 was considered, the sequential test undertaken at that time used a 7-min catchment area, which is not being utilised by the applicant. The assessments should be consistent.*

**Applicant's response:** *[The objection contends] that the former College site must be considered as a sequentially preferable site until such time that the foodstore is operational. However, it has already been confirmed that Lidl is the intended operator in this site, and indeed a Section 73 (variation of condition) application has recently been submitted and validated for various amendments to the scheme required in order to facilitate their occupation of the new store. Furthermore, and as set out in the attached letter from Lidl themselves, they will be looking to start on site and bring a new store to Trinity Street in Huddersfield once this application has been approved. This letter also confirms this applies regardless of the outcome of the St Lukes application.*

*It is contended by that the former college site must be considered as a sequentially preferable site until such time that the foodstore approved there is operational. However, Lidl's position – as clearly set out in their separate letter – is that not only that they will be occupying this foodstore, but that it will serve a different (and complementary catchment area to that on the St Lukes site). Whether the store is operational or not yet is therefore not relevant.*

*In the context of the above, given the different catchment areas served, and the fact that the new foodstore on the former college site is intended to be built and occupied well in advance of any store approved on the former St Lukes site, the latter is neither suitable nor available for the new Lidl store proposed on the latter site.*

- By approving the proposal, the re-development of the Kirklees College, New North Road site is put at jeopardy via harming investor confidence. This site is edge of centre and its redevelopment is important within the Local Plan. There should be some form of mechanism that requires the 2018/92647 / Kirklees College, New North Road proposal to be developed, prior to the application site.

**Applicant response:** *The [objector] argues that the assessment undertaken as part of the proposal on the St Lukes site does not account for the impacts that the development of an out-of-centre foodstore would have on Pg 3/4 32470955v1 securing a foodstore at the former College site. It also contends that the current application may undermine investor confidence, affecting the potential to deliver investment, and having an unacceptably significant impact upon the town centre, on the basis that there is no confirmation that Lidl will be developing a store on the former college site.*

*However, the letter actually acknowledges that the store on the former college site was promoted as a replacement for the existing Lidl store on Castlegate. Lidl have confirmed in the attached letter that they are the operator of this store, and that the store is intended to commence construction following approval of the recently submitted/validated Section 73 application. Clearly, Lidl would not be progressing with an application for amendments to the approved scheme if they had no intention of occupying it.*

*There are, therefore, no grounds for any concern in relation to whether this store will be implemented, or indeed in relation to the potential impact upon investment in the town centre or the wider development plan strategy.*

*For the same reasons, and given the different catchment areas which the two stores would serve, there are no grounds for the imposition of any mechanism to ensure that the approved store on the former college site comes forward prior to construction of any store approved at Blackmoorfoot. Any such planning condition would not be necessary for the granting of planning permission, nor would it be reasonable.*

- 10.28 Officers note the objections raised within the representation. Nevertheless, officers concur with the rebuttal offered by the applicant and maintain that the applicant has demonstrated compliance with policy LP13.

10.29 Both the sequential test and retail impact assessment are based on the details provided with the application. To ensure no unassessed and/or greater impact may occur, a condition to control aspects of the proposal, to align with the details provided and assessed, is required. This should include the following restrictions:

- a) The unit shall have no more than 1,382sqm of net internal sales floorspace and no more than 2,000 sqm of gross internal floorspace;
- b) The unit is restricted to the sale of convenience goods and comparison goods. The quantum of net internal sales floorspace dedicated to comparison goods shall be no more than 248sqm with the remaining net internal sales floorspace dedicated to convenience goods; and
- c) The unit shall not be sub-divided without prior approval of the Local Planning Authority

10.30 In summary, the applicant has demonstrated compliance with Policy LP13. Giving due regard to the specifics of the proposed development, the applicant has demonstrated that there are no sequentially preferable locations which could accommodate the proposal. Furthermore, the proposed development on this site would neither harm the investment within, or viability / vitality of, nearby local centres. This is subject to a condition controlling the above matters being imposed.

#### *Sustainable development*

10.31 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions

10.32 This application is supported by a document titled 'Energy usage and Sustainability Statement'. This report identifies that the building would have the following design features:

Incorporate passive design strategies to take advantage of:

- Natural daylighting through careful building and glazing orientation. This will offer a reduced dependency on electric lighting through the contribution of natural lighting to achieve the required Lux levels.
- Enhanced fabric efficiencies and thermal mass have been allowed for to help stabilise any temperature fluctuations within the building reducing heat gains and/or losses.

Incorporate active design strategies to reduce energy consumption by:

- Introduce heat recovery ventilation to pre-heat incoming fresh air. This will reduce the energy loads associated with fresh air heat loss/gains.

- Introduce separate sub-metering to allow for all energy consumed to be monitored and any discrepancies easily identified and fixed thus minimising wasted energy.
- Low energy lighting will be installed with suitable controls to ensure lights are not left on unnecessarily. Suitable controls will eliminate human error.
- Building energy management system (BEMS) will be designed and installed to manage all systems effectively, ensuring their efficiencies are maintained and achieved.

10.33 In addition to the above, the report identifies that both air source heat pumps or solar panels are 'viable and advisable' at the site, although no specifics are provided within the submission. To promote climate resilience, a condition requiring details of such provision is recommended.

10.34 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

### Urban Design

10.35 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP7 and LP24 are relevant to the proposed development in relation to design, as is the National Design Guide.

10.36 The site lies with a predominantly residential area. Dwellings fronting onto Blackmoorfoot Road are mostly traditional stone terraced properties (several of which are listed, to be considered further in paragraphs 10.52 – 10.58). On streets branching from Blackmoorfoot Road the character of properties is more varied. Stone terraces are still common, however more contemporary detached and semi-detached properties are also present, with the most modern example being the new residential development on the remainder of the former St Luke's site, immediately to the south of the application site. However, other forms of development which break up the residential make-up, including commercial properties, apartment buildings, and a school, are evident from Blackmoorfoot Road as well as on the nearby branching streets.

10.37 The proposal would introduce a new contemporary food-store, with parking and landscaping, to the site. While it would evidently not replicate the predominantly residential properties nearby, subject to having a suitable design, this would not be a fundamental concern. It is not unusual for small- / medium-sized commercial or retail properties to be seen alongside residential development, and this forms a characteristic of the wider area. Examples include those referenced above, the nearby Crossland Moor retail complex (including a Co-op store), and the site's former hospital building.

- 10.38 The location of the building within the site has been deliberated between officers and the applicant. Part of this exercise was to consider whether the mature trees within the site, which are protected by Tree Preservation Orders (TPO), could be retained. Initially the store was proposed to be set back into the site, with the car parking to the front. This was not supported by officers, as the building would not relate to the surrounding environment and would result in a large, visually unattractive and unengaging car park being the most prominent element of the proposal, therefore not integrating well into the urban environment. Consideration was given to having the store fronting directly onto Blackmoorfoot Road, to give that thoroughfare an appropriate degree of enclosure, and to reflect the high density and tightknit existing urban grain, with all other buildings in the vicinity being close spaced to the road. However, this was discounted by the applicant due to operational issues, with the necessary shape / footprint of the building not appropriately fitting into the available space, with draft plans provided to show this. Furthermore, this layout would still necessitate the removal of both TPO trees. Officers accepted the issues with this layout and concluded that the now proposed location was the most practical and suitable, balancing the constraints of the site, the applicant's operational needs, and matters of design. The current layout allows the building to integrate into the established urban environment, having an active and attractive frontage facing towards Blackmoorfoot Road (albeit set back).
- 10.39 In terms of size, the building is proportional to the site and would not appear cramped. It would have appropriate separation from neighbouring buildings. While larger than the residential properties nearby, it would not be incongruously large and would replicate typical urban residential / commercial relationships. For height, it would be single storey with a mono-pitched roof. The lower eaves would face into the public realm, reducing its evident massing. The size and height of the building is considered acceptable.
- 10.40 In terms of the design and architectural appearance of the building, that proposed is typical of contemporary retail stores. The frontage, which would face towards Blackmoorfoot Road, would be largely glazed with natural stone as a secondary material. The glazing would be an attractive feature, allowing for active views into the building, and would actively engage well with the streetscene, while the natural stone would reflect the predominant material. Natural stone and stone coloured render are proposed on part of the northeast elevation, where it would be most visible on an east approach from Blackmoorfoot Road, therefore helping it fit into the character of the area, otherwise the building would be clad in a mixture of white and grey cladding panels. The roof would be metal composite. While these materials are not typical in the area, they would be situated on secondary elevations that would not be prominently visible from outside of the site and, on balance, are considered appropriate in the setting. Subject to the abovementioned use of natural stone on key elevations, and the submission of suitably high-quality end-products, each of which may be secured via condition, officers consider the design and appearance of the buildings to be acceptable.
- 10.41 Excavation across the site to form a level development plateau is proposed. This would result in retaining walls of varied heights along the site's north, south, and west boundaries. The tallest would be circa 5m in height, along the west boundary. The walls would be faced in stone. In terms of impact, the walls would not be overly prominent when viewed from outside of the site, because the existing adjacent land levels would mask their prominence. Furthermore,

the walls closest and most visible to Blackmoorfoot Road would be the lowest. The taller retaining walls, on the west boundary, would be set well into the site and partly screened by the new building. It is a reasonable necessity for the site to have a mostly level plateau and retaining structures are not uncommon in the area, given the topographical constraints. Considering this, and their minimal impact on the wider area's visual amenity, they are considered acceptable. A condition for details of the walling, to be stone, is recommended.

- 10.42 For boundary treatments, where the site adjoins existing residential properties, the existing fencing is to be mostly retained. This consists of between 1.8 and 2m close boarded timber fencing. However, for properties along the south and southeast boundary, the fencing is proposed to be increased to 2.4m acoustic fencing, to mitigate potential noise pollution (as detailed in paragraph 10.69). This would be set back from the retaining wall and, from such a distance, the additional 0.4 or 0.6m is not considered to have significant urban design implications.
- 10.43 A 0.6m timber knee rail is to defined the site's boundary to Blackmoorfoot Road, which, combined with the landscaping in the area, would be attractive. Atop the retaining walls, 1.1m metal fencing to act as guarding is currently proposed. Officers are not convinced that guarding is required, and having no fencing atop the wall would be visually preferable, although appropriate safety provisions must be allowed for. Should the 1.1m fencing be necessary for safety, this would be acceptable (subject to suitable design), with officers satisfied that this matter may be resolved at condition stage (details of all boundary treatment to be submitted and approved).
- 10.44 Finally, the proposal includes 1.8m hit and miss fencing along part of the site's frontage to Turnstone Way. While raising some concern along this frontage, the applicant has identified that this is necessary to prevent public access the store's rear service areas, including access to the roof access ladder, and the plant / rear fire escape doors. They also consider it necessary to guide people out of the fire doors away from Turnstone Way, where there could be oncoming traffic, and towards the front of the site. They proposed that the fencing would have a 20mm gap between the timbers for improved informal observation from the roadside. Finally, it is noted that a similar fence could be erected under Permitted Development rights, and there has been one surrounding the site since circa 2020 (as part of the neighbouring residential development and to secure the site). Given these considerations, on balance, officers consider the fencing acceptable.
- 10.45 Other hard landscaping works include the formation of a car park, a necessary and utilitarian feature of the proposed use. The proposed landscaping and excavation works would soften its appearance and limit its prominence in the area.
- 10.46 As noted in paragraph 10.38, the proposal includes the removal of two TPO trees. These are identified as T1, a sycamore, and T7, a horse chestnut. T7 is a smaller specimen that, since its TPO was issued, has degraded in health / quality. The applicant's arboricultural report identifies it as category U, the lowest category for grading trees, due to matters including symptoms of Bleeding Canker and dieback in the crown. It is considered to be of no public amenity and its removal is considered acceptable. T1 is a large, mature tree that is visible from public vistas. It is category A, the highest category, and is considered to be of public amenity value, forming an attractive feature when viewed from Blackmoorfoot Road. Policy LP33 states that '*Proposals should normally retain any valuable or important trees where they make a contribution to public amenity*'.

- 10.47 The loss of T1 is a negative of the proposal, which needs to be considered in the planning balance. In justification, the tree is inconveniently located within the site, taking a prominent central location near to the proposed point of access. The proposed point of access is that part-built on-site when Turnbridge Road was built, and cannot be moved without relocating the proposed building. Were the access to be moved (therefore needing to relocate the building), the tree would still prevent the siting of the building in a large portion of the site. Officers have explored options with the applicant, and concluded that the retention of the tree would unduly limit both the size and operation of a new building and its car park. This included considering whether the tree could be moved, either within the site or elsewhere. Due to its size and age, this was concluded to be unrealistic and likely to result in fatal damage to the tree.
- 10.48 In mitigation for the loss of the trees, the application includes an attractive landscaping proposal which includes the planting of 14 standard trees. This includes 12 of the trees along the site's boundaries, with a concentration to the frontage onto Blackmoorfoot Road, which is welcomed. Two of the trees would be within the car park, enhancing what would otherwise be a large hard-surfaced area.
- 10.49 Weighing the reasoning for T1's removal and proposed mitigatory replanting, which may be secured via condition, and the proposals' other benefits of job creation and economic activity, on balance officers do not consider the loss of T1 to be a reasonable ground for refusal.
- 10.50 There are two historic vehicle accesses from Blackmoorfoot Road into the site which are now closed off and redundant. The applicant's submission references landscaping them, to remove the possibility of on road parking. This is welcomed and, in addition to highway benefits, would enhance the appearance of the area. This may be secured via condition.
- 10.51 Summarising the urban design implications of the proposal, the proposal is concluded to represent an attractive and well considered design. Despite being a different form of development to that it would be immediately seen alongside, it would reflect and respect local character and harmonise well in its setting. Subject to the given conditions, officers are supportive of the proposed design, and consider that the development complies with policy LP24 of the Kirklees Local Plan.

#### *Historic environment*

- 10.52 There are several Grade II listed buildings within close proximity to the site, all of which are terraced dwellings fronting (or are back-to-back properties) onto Blackmoorfoot Road. These are numbers 174 – 190 (even properties only), 194, 200, 303 and 305 Blackmoorfoot Road.
- 10.53 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 introduce a general duty in respect of consideration listed buildings when assessing planning applications. In considering whether to grant planning permission for development which affects a heritage asset or its setting, the Local Planning Authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.



- 10.54 Due regard must be given to the heritage significance of the identified heritage assets. The applicant's heritage impact assessment states:

*These buildings are among the first terraced houses to be built in Crosland Moor in an area that had been predominantly agricultural prior to the 19th-century. These buildings derive much of their significance from their early construction which is reflected in the proportions of the buildings and the design of the mullion windows and stone door surrounds and gutter brackets.*

- 10.55 Officers concur with the above assessment of significance. With regard to the impact of the proposal, the applicant's heritage impact assessment continues:

*The setting of these buildings has changed over time due to the introduction of later-20th century development along Blackmoorfoot Road and the demolition of earlier school buildings on the site, followed by the demolition of St Luke's Hospital. More recently the setting has been changed with the development of new homes on the St Luke's Hospital site. These homes are set back from the main road, behind the site of the proposed development. The vacant site breaks the pattern of development along Blackmoorfoot Road and only allows for views across the recently completed housing on Turnstone Way. It makes no contribution to the significance of the surrounding heritage assets. In this context, the listed buildings on Blackmoorfoot Road are not considered to be sensitive to the proposed development.*

*The proposed development will see a new building constructed on the site for the first time since the mid-20th-century. The proposed foodstore will feature locally sourced stone on the principal elevations along with grey coloured roofing that will allow the building to sit comfortably alongside the surrounding stone buildings and slate roofs. Although the building will have a modern design, this is appropriate in the context of the recently constructed housing to the south. The store will be set back from the northern edge of the site to avoid the building appearing too prominently in views along Blackmoorfoot Road. The proposed areas of landscaping and additional tree planting will help to soften the appearance of the new building and surface car park*

*Overall, the proposed development will have a neutral effect on the setting of this group of listed buildings and a no effect on their significance.*

- 10.56 Again, officers concur with the findings of the applicant's Heritage Impact Assessment and are satisfied that the proposal would not harm the identified heritage significant or value of the noted heritage assets. While it should be noted that the above assessment pre-dates the amendments to the proposal (including the change in location of the building within the site), officers are satisfied the assessment made would not materially change.

- 10.57 The applicant's Heritage Impact Assessment also considers the development's potential impact upon Castle Hill (scheduled ancient monument) and Victoria Tower (Grade II listed). While the site is circa 3km away from these heritage assets, given their outlook and position upon a hillside, there is a potential for impact. Nevertheless, by virtue of the proposal

being within a heavily built-up area, if the proposed development can be glimpsed in views from these heritage assets it would represent a very minor change to a localised part of their distant setting. It would also be seen in the context of existing development and would not change the character of this part of the setting.

- 10.58 Summarising the above, the proposal development would not impact upon the heritage significance of the identified heritage assets, and would therefore have a neutral impact. Accordingly, the proposal is considered to comply with the aims of policy LP35 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Residential Amenity

- 10.59 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.60 The proposed building would be in excess of 60m from properties on the north of Blackmoorfoot Road. It would be over 40m from properties on the south. These separation distances negate concerns of overbearing, overshadowing, or overlooking upon properties on Blackmoorfoot Road.
- 10.61 To the east of the site is a row of terraced properties on Chapel Terrace. The rear elevations of these properties would face towards the new building at a distance of circa 25m. While the new building would be on a higher ground level than these properties, this distance, and the existing and proposed boundary treatments between the existing and proposed structures, would be effective screening and prevent any harmful overbearing, overshadowing, or overlooking upon the Chapel Terrace properties.
- 10.62 To the south and west of the site are the new properties on Turnstone Way. Those which have side elevations facing towards the site would not have a clear view towards the new building and are not subject to impacts such as overbearing or overshadowing. For the properties which have rear elevations facing towards the site, the distance between them and the new building varying between 16.5m (34 Turnstone Way) and 47m (54 Turnstone Way), and each would have a clear view (bar boundary fencing) towards the new building. However, the new building would be on a lower ground level than the identified dwellings, and would be single storey (albeit taller than a typical residential single storey), minimising its visual presence. Officers are satisfied that the identified distances, including that of the closest property, 34 Turnstone Way, are sufficient to prevent the new building causing harmful overbearing impacts upon residents. Being due north, and on a lower level, overshadowing would not be caused. Likewise, due to having no windows facing towards the properties in question, overlooking would not be caused.
- 10.63 While the new building would not cause direct harm through overbearing, overshadowing, or overlooking upon neighbouring properties, due regard must be given to other potential impacts.
- 10.64 The site, including the car park, is to be illuminated. As there are dwellings immediately adjacent to the site, poorly designed lighting may lead to lighting pollution which could affect amenity. The applicant has provided sufficient details to demonstrate there is no fundamental concern however, with a condition recommended for a fully detailed strategy to be submitted and approved.

- 10.65 The site is to include an ancillary bakery, and therefore due regard must be given to odour impacts. The application is supported by proposed ventilation and ducting details, which have been reviewed and accepted by K.C. Environmental Health. A condition is therefore recommended to ensure the proposal operates in accordance with the submitted details.
- 10.66 Finally, consideration must be given to noise pollution. The application is supported by a Noise Impact Assessment which has been reviewed by K.C. Environmental Health. The proposed opening hours are:
- Monday to Saturday: 0800 to 2200.
  - Sunday: Sunday trading states, none given.

By virtue of Sunday Trading Laws, it can be assumed the site would operate either 1000 – 1600, or 1100 – 1700 and is assessed as such hereafter, although clarification has been sought from the applicant.

- 10.67 The above hours of operation (subject to clarification regarding Sunday) and trade are acceptable and not anticipated to, in themselves, cause harmful noise pollution. They may be secured via condition. However, further consideration must be given to any plant noise, delivery times, and the car park.
- 10.68 With regard to the site's plant, the applicant proposes a maximum allowable noise level which has been considered and accepted by K.C. Environmental Health. A condition requiring this limit be adhered to is recommended.
- 10.69 A loading bay is proposed to the south of the building. For deliveries, the proposed hours of delivery are:
- Monday to Friday: 0700 – 2200
  - Saturday: 0800 – 2200
  - Sunday: 1000 – 1600

The proposal states that, in order to screen the neighbouring properties closest to the loading bay from the effects of the loading bay, a 2.4m high solid timber fence must be installed along the southeastern and southern sites boundaries stating the base of the fence should be on top of the proposed retaining wall. The visual implications of this fence are considered in paragraph 10.42 above. Officers accept the methodology and proposed mitigation as a suitable means to control noise. With regard to the fence increasing in height, as it would be set to the rear of their properties and to the north, officers do not anticipate this to lead to harmful overbearing or overshadowing for residents.

- 10.70 Notwithstanding the above, K.C. Environmental Health have advised that a condition for a Delivery Management Plan be imposed. This is to consider any operational noise not covered in the submitted assessment e.g. reversing beepers, refrigeration units, vehicle engines left running etc. Furthermore, they note that the submitted Noise Impact Assessment does not include consideration of the car park and that several nearby dwellings have been constructed (as part of the neighbouring estate's phased development) since the currently submitted noise assessment was undertaken. While there is no concern that the car park would produce a prohibitive degree of noise, or that

the new dwellings would have a greater impact upon them, it is considered judicious to require an updated Noise Impact Assessment that incorporates assessment of the car park and new dwellings too, to ensure the mitigation strategy is fully suitable. Officers concur with this and recommend such a condition be imposed.

- 10.71 Poorly managed construction can harm the amenity of nearby residents. A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.72 In summary, officers are satisfied that the proposal would not result in material harm to the amenity of nearby residents, subject to the recommended conditions. Therefore, the proposal would comply with the aims and objectives of policies LP24, LP51, and LP52 of the Kirklees Local Plan.

### Highways

- 10.73 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.74 The NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. The NPPF continues that that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.75 The development is to be accessed from Turnstone Way, a road originally approved as part of applications 2014/93099 (and associated applications 2018/93201, and 2019/93902). Turnstone Way is under construction at the time of writing, although it is at an advanced state and suitable for temporary use. However, what has been built of the road has been done so incorrectly, without complying with the relevant planning conditions, nor securing a Section 38 agreement. The applicant for the aforementioned applications, for the residential estate, is currently undertaking remedial works to resolve this matter. For the purposes of this assessment, Turnstone Way has been considered and assessed as being built in accordance with the approved details.

- 10.76 First considering traffic generation, the proposal is anticipated to generate the following vehicle movements:

	<b>Arrivals</b>	<b>Departure</b>	<b>Two-way</b>
<b>Weekday PM Peak</b>	97	96	194
<b>Saturday Peak</b>	138	133	271

K.C. Highways have considered these traffic volumes, including factoring in annual growth, and the potential impact on local junctions and traffic flows. It has been concluded that the local network and junctions may accommodate the additional flow without a severe impact.

- 10.77 It should be noted that as part of 2014/93099 (the outline for both retail development on the applicant site, and residential development on the neighbouring site), it was intended that the Turnstone Way and Blackmoorfoot Road junction would be signalised. The applicant has provided an assessment, factoring in more up-to-date data, including actual traffic flows, and the smaller scale of the retail element now proposed. This has found that the junction would operate within capacity as a priority junction, including at peak times. Thus, K.C. Highways Development Management no longer consider it necessary or desirable for the Turnstone Way and Blackmoorfoot Road junction to be signalised, and therefore it does not form part of this proposal nor is it a recommended requirement.
- 10.78 Regarding the point of access, access would be taken from Turnstone Way. The design of the point of access (from Turnstone Way) is considered acceptable, although full technical details and delivery of the access would be secured via a recommended condition. However, notwithstanding the comments in paragraph 10.75, as noted Turnstone Way itself, and the Turnstone Way and Blackmoorfoot Road junction, have not been constructed in compliance with approved details. The operation of this site, with the junction not built in accordance with the approved plans, is a concern. Accordingly, a condition is recommended requiring that the applicant provide details of improvements to the Turnstone Way and Blackmoorfoot Road, and that said works be implemented prior to the foodstore being brought into use.
- 10.79 The internal car park's layout is considered acceptable. It has been through appropriate Road Safety Audit and concluded to operate safely. The level of parking has been demonstrated to be commensurate to the scale of the proposed development. Adequate space would be provided for both customer vehicle movements and service vehicles, including both delivery and refuse collection. A condition requiring the car parking to be delivered in accordance with the approved plans, prior to the building being brought into use and retained thereafter, is recommended.
- 10.80 Consideration has been given to pedestrian movements. A condition requiring the delivery of a 2m wide footway along the site's frontage onto Turnstone Way is recommended: this was partly implemented as part of the residential development, pending delivery of the retail element. A direct route through the site to the north onto Blackmoorfoot Road, and the adjacent bus stop, would be welcomed, however because of different levels steps would be required, would require the removal of a parking space, and lead into the car park. Given the indirect route via Turnstone Way is safer, more level, and only marginally longer, the proposed arrangement is accepted.

- 10.81 The existing bus stop facilities on Blackmoorfoot Road adjacent to the site access are to be upgraded as part of the residential development aspect of the site allocation. No further improvements are considered necessary to facilitate the current proposal. In terms of cycle provision, five cycle loops are proposed which will be able to accommodate ten bikes. These would be prominently located. As a discount food shop, where larger purchases are expected, cycling to the store by customers is expected to be low, although not necessarily non-existent. Accordingly, the cycle facilities for customers are acceptable, and may be secured via condition. However, such facilities are not suitable for longer-term bike storage, such as by staff. In terms of staff cycling, no dedicated facilities have been proposed. A condition requiring the provision of adequate facilities for staff is therefore recommended.
- 10.82 The applicant has submitted a draft Travel Plan, detailing means of promoting sustainable travel, although it lacks the level of detail expected for a full Travel Plan. Therefore, it is recommended that a fully detailed Travel Plan be secured via planning condition although, given the smaller scale of the development, a Travel Plan monitoring fee is not considered necessary.
- 10.83 The proposal would not prejudice the safe and effective operation of the local highway network. It is suitably located and would allow for sustainable travel measures. The internal layout would provide sufficient parking and manoeuvring facilities. Overall, the proposal is deemed to comply with the aims and objectives of policies LP21 and LP22 of the Kirklees Local Plan.

#### Drainage and flood risk

- 10.84 The size of the development, and its location within Flood Zone 1, means there is no requirement for a Flood Risk Assessment. There are no concerns relating to fluvial flood risk for the development.
- 10.85 Regarding pluvial (rain water) flooding and management, the proposal is supported by a drainage strategy. Due regard has been given to the drainage hierarchy, with infiltration and discharge to watercourse discounted due to the ground conditions and lack of nearby watercourse. Therefore, the point of discharge is to be the combined sewer on Blackmoorfoot Road, which is accepted.
- 10.86 The Lead Local Flood Authority (LLFA) have raised concerns over the drainage strategy as currently submitted. This is due to technicalities regarding the attenuation tank caused by the proposed discharge rate and base level. The applicant has proposed a greenfield discharge rate of 3.1l/s. However, as a brownfield site, a higher discharge rate can be accepted (30% reduction from previous discharge rate). As part of the wider re-development of the whole former St Luke's site, a sizable pre-existing discharge rate was identified, a portion of which was set aside during the residential re-development for this parcel of land. Officers and the LLFA are satisfied that, if utilising the higher permitted discharge rate, the identified design issues could be resolved and that these matters may be resolved via condition.
- 10.87 Based on the submitted layout and topography the LLFA hold no in-principal concerns regarding exceedance event flood-routing (i.e., the unexpected event where the drainage system fails) at the site. In such events, water is expected to be directed away from dwelling houses and avoiding their

domestic curtilages wherever possible. As the site falls towards Turnstone Way, which would collect the water, no flood water would be directed towards third party dwellings. Nonetheless, a condition for a detailed exceedance event flood routing strategy being submitted and implemented is recommended.

- 10.88 Details of the maintenance and management of the proposed surface water drainage system, to ensure it remains in appropriate working order, would need to be secured. Also, details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.89 Considering the above, subject to the proposed conditions, the proposal is concluded by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the Kirklees Local Plan.

### Ecology

- 10.90 Policy LP30 of the KLP states that the council will seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist. The application is supported by an Ecological Impact Assessment (EclA) which has been reviewed by K.C. Ecology. This document, which is informed by on-site surveys, considers the site's value as habitat as well as the proposals direct and indirect impact on local species.
- 10.91 The report details that the site primarily comprises of high levels of hardstanding with some grassland and scrub also present. The report details that overall, the site provides minimal value for ecological receptors, with only some suitability for roosting bats and nesting birds present within the trees and scrub at the site. The recommendations made in the report indicate that soft felling of trees with low bat roosting suitability and a low impact lighting strategy to avoid impacts to foraging and commuting bats will be required. In addition to the above, standard mitigation measures for nesting birds that may be impacted by the proposed development in nesting season, are also recommended, which may be secured via condition.
- 10.92 The proposal pre-dates the national legal requirement for proposals to provide a 10% Biodiversity Net Gain. Regardless, policy LP30 has required proposals in Kirklees demonstrate a net gain since the Local Plan's adoption. A Biodiversity Net Gain calculation has been undertaken using the DEFRA Metric. This sets out that that the development would result in a net loss of 79.8% (-1.43 units) (with no hedgerow or river units on site). Therefore, a commuted sum of £37,030 would be required in order for the development to achieve a 10% biodiversity net gain, unless the applicant is able to find an alternative site in the vicinity where this could be delivered. This may be secured via a Section 106 agreement.
- 10.93 Notwithstanding the identified off-site contribution, the proposal would deliver some habitat units on site (0.36). A condition for an Ecological Design Strategy, to detail and secure the on-site delivery, is proposed. The management and maintenance of ecological measures for a minimum of 30 years would also need to be secured. A condition for a Construction Environmental Management Plan: Biodiversity is also recommended, to

ensure construction activity is managed in a considerate way, along with a lighting strategy to ensure external lighting does not prejudice habitats on or adjacent to the site.

- 10.94 No invasive plant species were identified within the survey work undertaken.
- 10.95 In summary the proposal would not unduly affect local habitats and, through contributions and on-site improvements, would achieve a biodiversity net gain. Furthermore, the proposal would have no significant impacts upon local species. Subject to the given conditions and securing the off-site ecological contribution, the proposal is considered to comply with the aims and objectives of policy LP30 of the Kirklees Local Plan.

### Other Matters

#### *Air quality*

- 10.96 The application is supported by an Air Quality Impact Assessment (AQIA). This has been reviewed by K.C. Environmental Health in accordance with West Yorkshire Low Emission Strategy (WYLES) Planning Guidance. The report details the impact that the development would have on existing air quality, and how this would impact existing and future sensitive receptors during the construction and operational phases
- 10.97 For the construction phase of the development, the AQIA acknowledged that dust pollution may be caused. This is not unusual and may be addressed via a dust mitigation strategy to be included within the Construction Environmental Management Plan (CEMP) recommended to be secured via condition.
- 10.98 For the operational phase detailed dispersion modelling was undertaken using ADMS-Roads (version 5.0.1) to predict changes in pollutant concentrations due to traffic emissions caused by the development at 23 existing sensitive receptor locations. Model inputs included traffic data provided by Bryan G Hall (transport consultants for the project) and included predicted traffic flows from several other committed housing developments in the area to determine the overall cumulative impact on the nearest Air Quality Management Area (AQMA 9).
- 10.99 The report concludes that for the operational phase the predicted annual NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations will be below the current national air quality objectives for both the “without development” and “with development” scenarios at all modelled sensitive receptor locations in 2025. Therefore, in accordance with the Environmental Pollution UK (EPUK) and Institute of Air Quality Management (IAQM) guidance, the overall effect of the proposed development on human receptors is considered to be ‘not significant’.
- 10.100 K.C. Environmental Health broadly agree with the methodology, findings, and recommendations of the submitted AQIA. However, an error is noted that the nearest Air Quality Management Area, AQMA 10 (Manchester Road), is not considered. Given the information available, there are no fundamental concerns that the proposal would cause substantial harm to this AQMA, however, a condition is recommended requiring an updated AQIA which includes an assessment on AQMA 10 is recommended, to ensure any mitigation is accurate, and is thereafter implemented.



- 10.101 Regarding electric vehicle charging, the proposal includes the provision two EVCP bays. It is unknown what speed of charging these are proposed. K.C. Environmental Health recommend that for a development of this size and consider 3 fast (7-23kW) or 2 Rapid (43kW+) charging points to be more appropriate. A condition requiring an amended strategy is therefore recommended.
- 10.102 Subject to the above conditions, officers are satisfied that the proposal would not harm local air quality, nor would occupiers suffer from existing poor air quality, in accordance with policy LP51 of the Kirklees Local Plan.

#### *Contamination*

- 10.103 The site is identified as being potentially contaminated. Therefore, the application is supported by a Phase 1 Geoenvironmental Risk Assessment and Remediation Strategy, which has been reviewed by K.C. Environmental Health.
- 10.104 K.C. Environmental Health considers the methodology and findings of the reports to be acceptable. The report concludes that further investigations are needed (a Phase II Report), however there are considered to be no fundamental reasons regarding contamination which would prohibit the re-development of the site. The submission of a Phase II Report, and, if needed, a remediation strategy may be secured via condition, alongside a condition for a validation report to demonstrate the remediation has been successful. Subject to these conditions, officers are satisfied that the proposal complies with policy LP53 of the Local Plan.

#### *Crime Mitigation*

- 10.105 The West Yorkshire Police Designing Out Crime Officer has made a number of comments and recommendations, particularly with regard to security features and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments.
- 10.106 A condition is recommended for crime mitigation details to be provided, per phase. This would require consideration of the site's boundary, finding an appropriate balance between an attractive design which does not prejudice amenity with security being adjacent to a public area, and consideration of the security for the bike / car parking area, including lighting.

#### *Minerals*

- 10.107 Mineral resources are finite and their extraction can only take place where the minerals naturally occur. The application site falls within an area designed as a Mineral Safeguarded Area (Sandstone) in the Local Plan. This allocation indicates that there is the potential for these mineral resources to be underlying the site. Policy LP38 seeks to ensure the appropriate management of minerals and consider whether they may be extracted during development.
- 10.108 The applicant has made no commentary or assessment on this subject. However, officers note that policy LP38 allows exceptions where 'there is an overriding need for the development'. As a mixed use (residential and commercial) allocation, this is considered to be applicable to the site.

Furthermore, it is not considered practical for this site to include mineral extraction, given the proximity of residential properties (with the site's narrow shape and steepness limiting the feasibility of appropriate separation distances and bunds). Accordingly, it is considered that the proposal complies with the aims and objectives of policy LP38 regarding mineral safeguarding issues.

### Representations

10.109 Most matters raised via the representation period have been addressed elsewhere within this report. The following sets out consideration of and responses to the matters not previously addressed.

#### *Highways*

- Concerns over pre-existing excessive vehicle parking on Turnstone Way, which includes residents from neighbouring street, making access to properties on Turnstone Way difficult. Turnstone Way should have double yellow lines and a crossing point near the junction to Blackmoorfoot Road.
- The proposal should introduce traffic calming on Blackmoorfoot Road, which is a known speeding zone.

**Response:** This application is limited to considerations related to the proposed development. It cannot be used to control existing matters. The car park for the proposed development is considered sufficient to accommodate the proposed development and therefore it is not considered necessary to impose Traffic Regulation Orders on Turnstone Way as part of this proposal. Likewise, this proposal is not expected to increase any potential speeding on Blackmoorfoot Road.

- Access should be taken from Blackmoorfoot Road, which was previously the case for the former hospital.

**Response:** It is best practice to minimise the number of junctions onto roads, therefore the proposed access via Turnstone Way is deemed the most safe and efficient.

- Traffic surveys for the proposal were undertaken during a COVID-19 lockdown and therefore are not representative. Furthermore, it fails to take into account other local developments, including the Black Cat proposal (for 770 units). It also does not identify all of the recent Road Traffic Accidents (including a fatal incident) nor consider non-reported incidents.

**Response:** The submitted documentation and survey work, which includes datasets from during and after the COVID lockdowns, is considered to be suitably robust and covers all necessary requirements to inform the assessment of the proposal.

### *Amenity*

- The proposal will lead to an increase in vermin within the area.

**Response:** This is a presumption and falls outside the remit of planning. Appropriate waste storage and collection arrangements have been demonstrated.

- Adverts and other lights on the site should be dimmed at night to not cause light pollution.

**Response:** Adverts for the site would be considered under a separate Advertisement Consent application.

### *Other*

- The land should be used for homes for the elderly.

**Response:** Planning decisions must be made in accordance with the Development Plan. The Local Plan allocates this site (and the neighbouring new housing estate) for mixed use residential and retail, with the expected residential element having been achieved, as set out in paragraphs 10.2 – 10.7.

- The car park will attract anti-social behaviour when the store is closed.

**Response:** A condition for crime mitigation measures is proposed, as stated in paragraph 10.105 – 10.106. This will include consideration of the car park.

10.110 The following is a consideration and response to the comments raised by local ward members:

- Concerns over the impact upon the local highway, including traffic generation and the junction between Turnstone Way and Blackmoorfoot Road.

**Response:** The proposals impact on the local highway, including traffic generation and the junction, is considered through paragraphs 10.73 – 10.83 And found to be acceptable.

- Raising concerns over potential site security and making sure the site does not attract anti-social behaviour.

**Response:** A condition for crime mitigation measures is proposed, as stated in paragraph 10.105 – 10.106. This will include consideration of the car park.

- Question on whether any Section 106 money could be spent providing barriers to local paths.

**Response:** Planning contributions must directly relate to the development being considered. Given this is a pre-existing issue which is not expected to be exacerbated by the proposal, officers consider there to be no grounds to request such a contribution.

## 11.0 CONCLUSION

- 11.1 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.
- 11.2 The application site is the last part of a Mixed-Use allocation intended for retail and residential use to be developed. The residential use has been achieved elsewhere in the allocation. The proposal's retail floorspace would fall below the indicative floor space expectations of the Local Plan, however as set out within the report, this is not considered to be a concern. Overall, the proposal would represent an effective and efficient use of a Local Plan allocation and would promote local employment, which is welcomed. As the proposal includes a main town centre use, due regard has been given to the town centre sequential test and the impact on nearby local centres, which has been concluded to be acceptable. Accordingly, the principle of the development is found to be acceptable.
- 11.3 Site constraints including topography, trees, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The loss of the mature TPO-protected sycamore tree within the site is a negative of the proposal, but is deemed justified and on the planning balance is acceptable given the other public benefits of the proposal. Across negotiations with the applicant, the design and appearance of the site has evolved to an acceptable position that would be attractive and harmonise well with the character of the area. There would be no undue harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage and ecology have been addressed through the proposal.
- 11.4 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, subject to conditions and planning obligations to be secured via a Section 106 agreement.

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

- Three years to commence development.
- Development to be carried out in accordance with the approved plans and specifications.
- Limit on floorspace (sales and other), convenience and comparison good ratio, and no subdivision of the unit.
- Details of Alternative Low or Zero Carbon (LZC) technologies to be submitted, approved and implemented.
- Landscaping to be done in accordance with plans, with management strategy to be approved.
- Facing materials to be in accordance with plans, with samples to be provided and approved.

- Full details, including typical elevations, of all boundary treatment to be submitted, approved and implemented.
- Full details, including typical elevations, of all retaining wall materials to be submitted, approved and implemented.
- Existing points of access onto Blackmoorfoot Road to be closed and made good.
- Proposal to operate in accordance with the submitted ventilation details.
- Lighting strategy to be submitted, approved and implemented.
- Construction Environmental Management Plan (CEMP) to be submitted, approved and implemented.
- Details and the delivery of a 2m wide footway along Turnstone Way to be submitted, approved and implemented.
- Delivery Management Plan to be submitted, approved and implemented.
- Plant noise levels not to exceed given level.
- Updates noise impact assessment to be submitted, approved and implemented.
- Customer bicycle storage to be provided.
- Staff bicycle storage details to be submitted, approved and implemented.
- Details of improvements to Blackmoorfoot Road and Turnstone Way junction to be submitted, approved and implemented.
- Details of point of access from Turnstone Way to be submitted, approved and implemented.
- Car parking to be provided in accordance with plans.
- Full drainage strategy to be submitted, approved and implemented (with note regarding discharge rate), including management and maintenance details.
- Flood routing strategy to be submitted, approved and implemented.
- Temporary construction drainage strategy to be submitted, approved and implemented.
- No clearance in bird breeding season to take place, without survey.
- Lighting strategy for ecology to be submitted, approved and implemented.
- Trees to be felled in accordance with ecological recommendations.
- Updated AQIA to be submitted, approved and implemented.
- Updated EVCP to be submitted, approved and implemented.
- Contaminated land investigations, remediation, and validation to be submitted, approved and implemented.
- Crime mitigation measures to be submitted, approved and implemented.

## **Background Papers**

### Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f91405>

### Certificate of Ownership

Certificate B signed.