
Report of the Head of Strategic Investment**STRATEGIC PLANNING COMMITTEE****Date: 15-Feb-2019**

Subject: Planning Application 2018/90607 Outline application for demolition of existing buildings and the erection of a new retail park with parking and access Land at Junction of Gelderd Road/Bankwood Way, Birstall, Batley WF17 9LX

APPLICANT

Justin Garnett, Sir Robert
Ogden Estates Ltd.

DATE VALID

21-Feb-2018

TARGET DATE

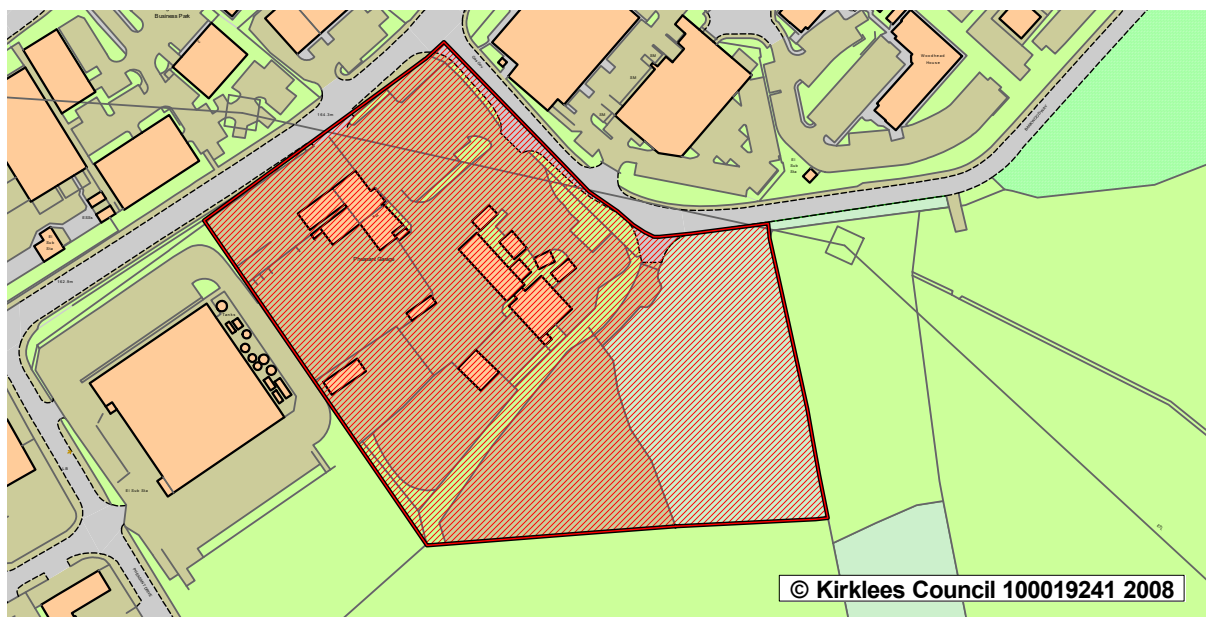
23-May-2018

EXTENSION EXPIRY DATE

30-Nov-2018

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Birstall and Birkenshaw

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION:

Delegate to the Head of Strategic Investment to:

1. Refer the Committee decision to the Health and Safety Executive in accordance with the NPPG;
2. Subject to the HSE not requesting a call-in, secure the signing of a Section 106 Agreement to secure:
 - A pedestrian improvements scheme on the neighbouring retail park; and
 - Travel Plan Monitoring fee (£15,000 ie £3,000per annum for 5 years ;
3. Complete the list of conditions including those contained within this report and Issue the decision notice.

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

1.0 INTRODUCTION:

- 1.1 This application was brought to Strategic Planning Committee as it is a retail application for a floor area in excess of 1250 sq m, and it is a non-residential application on a site in excess of 0.5ha.
- 1.2. This application has been considered by the Strategic Committee previously on 22/11/18. As the Committee were mindful to grant the application, it was referred to the Health & Safety Executive (HSE) in accordance with the guidance in ([LINK to previous committee report 22-11-2018](#)) the National Planning Policy Guidance. The HSE requested an extension of time to consider their response, which was agreed.
- 1.3. On 28/1/19, a letter was received from the HSE which indicated they are giving "very serious consideration to requesting the Secretary of State call-in the application for his own determination. This is an exceptional case and it is important that officials are assured that all key issues are given due consideration"
- 1.4. The letter raised concerns regarding a number of matters that they wished to be responded to before they reach their decision on requesting call in, these include

factual inaccuracies regarding the sites location within the COMAH zones; misinterpretation of the National Planning Policy Guidance, failure to comply with National Planning Policy Guidance and Article 13 of the Seveso Directive. It has been agreed between the Council and the HSE that this Proposal would be brought back to Strategic Committee with the matters that were raised in the letter addressed in the report .The HSE have been invited to attend, and have agreed to send representatives.

- 1.5 The HSE letter also contains some comments about the applicant's submission. The applicants are aware of this, should they wish to respond.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises an area of 3.2 ha and is located on the southern side of the A62 Gelderd Road, at the junction with Bankwood Way, Birstall. The site has frontages onto both Gelderd Road and Bankwood Way. It is in a prominent location on a main arterial road.
- 2.2. The site is currently occupied by a number of businesses including a storage and haulage area (timber palettes) and a small café, and a car wash/garage. The south east section of the site is vacant and overgrown.
- 2.3. The site slopes down from Geldert Road to the south. The access is proposed off Geldert Road, and the Bankwood Way frontage is fenced off. The site has a fairly untidy appearance. Overhead power lines cross a small part of the site that fronts onto Geldert Road.
- 2.4 The site is unallocated on the Unitary Development Plan, and a Priority Employment Area within the Emerging Local Plan, and is located within the inner and middle zones of the neighbouring COMAH site (which has a licence to store hazardous substances)

3.0 PROPOSAL:

- 3.1 Outline planning permission is sought for the removal of existing buildings, and the erection of 14,562 sq m of Class A1 retail floor space. The indicative layout shows a terraced block comprising 8 format retail units that vary in size between 765 sq m to 325 sq m. The terrace faces Bankwood Way, with access taken off Bankwood Way to a car parking area totalling 453 no spaces. The indicative elevations show a low rise development, with the bulk of the frontage and activity facing onto Bankwood Way. The buildings are stepped down from north to south, to reflect the existing slope of the site. The applicants specify that development would generate up to 300 jobs.
- 3.2. Access is the only matter applied for at this stage, with layout, scale, appearance and landscaping the remaining reserved matters.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2018/92563; Outline application for the erection of retail units with associated access and car parking. Centre 27 Business Park. This is a current application yet to be determined.

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

- 5.1 A pre-application enquiry was received 2017/20157, this was the subject of internal consultation, and notification with Ward Members.
- 5.2 On receipt of the application, additional information and survey work was requested of the applicant, including extending the extent of the search as part of the sequential test, an additional 10 sites, including 3 in Huddersfield were screened.
- 5.3. The initial retail impact assessment was undertaken a second time having agreed better weighting system and the need to include other centres outside of the existing catchment area. The details included within the assessment are based upon this more robust and information.
- 5.4. Additional highway modelling was required at the request of Highways England, to justify the increase in the level of traffic that would be generated, and the ability of the junction with the M62 to accommodate this. This additional modelling has been undertaken and Highways England have now withdrawn their holding restriction, and raise no objection to the development
- 5.5. The site and neighbouring retail park areas were surveyed to ascertain if pedestrian improvements and links between the application a site and the neighbouring retail parks could be provided. A scheme identifying a significant number of opportunities, including dropped crossings, new pedestrian crossing and traffic islands has been drafted. The applicants have agreed to fund these improvements, and their provision will be secured via a Section 106 Agreement

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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan, its published modifications and Inspector's final report dated 30 January 2019 is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2

- S1- Town Centres
- S4-Proposals for large stores
- D2 Unallocated land
- B4- Existing employment uses
- BE1 Quality of Design
- BE2 Design Principles
- BE23 Crime Prevention
- G6 – Contaminated Land
- T10 Highways Safety
- T15 Pedestrian facilities
- T19 Parking standards
- EP12 Overhead powerlines

Emerging Local Plan

6.3.

- PLP1- Presumption in favour of sustainable development
- PLP8- Safeguarding employment land
- PLP13- Town Centre Uses
- PLP21- Highways safety and access
- PLP22- Parking
- PLP24- Design
- PLP28- Drainage
- PLP30- Bio diversity and geodiversity
- PLP51- Protection and improvement of air quality
- PLP52- Protection and improvement of environmental quality
- PLP53- Contaminated and unstable land

This site is unaffected by the modifications to the Local Plan.

Supplementary Planning Guidance / Documents:

6.4 Not Applicable

National Planning Guidance:

6.5 Part 6- Building a strong and competitive economy
Part 7- Ensuring the vitality of town centres
Part 8- Promoting healthy and safe communities
Part 9- Promoting sustainable transport
Part 12- Achieving well designed spaces
Part 14- Meeting the challenge of climate change, flooding and coastal change
Part 15- Conserving and enhancing the natural environment.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The proposal has been advertised as a departure due to the location of the site being out of centre on an unallocated site within the UDP.

- 7.2 6 letters of objection have been received and relate to the extra level of traffic generated and the need for significant improvements in pedestrian safety and access around the whole retail park complex.
- 7.3 An objection has been received on behalf of the Princess of Wales precinct, Dewsbury, on the grounds the new retail space will have an adverse effect on the Dewsbury Town Centre
- 7.4 One letter of objection relates to the sites location within the inner zone of a COMAH site (The Control of Major Accident Hazards).
- 7.5. Cllr Light (also on behalf of Cllrs Smaje and Thompson)

Ward Councillors support the development as it will enhance the retail offer at Junction 27 and bring positive benefits to the area including improvements to pedestrian safety.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Bradford MDC No objections

Leeds CC- No response.

KC Highways- Scheme is satisfactory subject to appropriate conditions.

Highways England – Have withdrawn their holding restriction and raise no objections

Health and Safety Executive – Advise against the granting of planning permission.

Coal Authority- No objections subject to standard condition.

Yorkshire Water Authority- Recommend conditions if permission is granted.

YEDL – No response

8.2 Non-statutory:

KC Environmental Health- Recommend conditions

KC Environment Unit- No objections rec conditions

KC Lead Local Flood Authority- Require additional info

Police Architectural Liaison Officer- No objections in principle

9.0 MAIN ISSUES

- The principle of development
- Highways Issues
- Urban Design Issues
- Environmental Issues (Remediation, Air Quality, HSE comments)

- Bio diversity Issues
- Drainage Issues
- Crime Prevention.
- Planning Obligations
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated on the Unitary Development Plan, and as an Employment Priority area within the Emerging Local Plan.
- 10.2 Policies B4 of the Unitary Development Plan and PLP8 of the Emerging Local both relate to sites last or currently in employment use. The presumption being that any redevelopment of such a site should preferably be an employment generator itself, and not conflict with any established employment uses in the area.
- 10.3 The phrase “Employment Generating Use” is taken from the National Planning Policy Framework which allows for flexibility within a plan, in that non B class operations may be appropriately located within Priority Employment sites, providing they meet the criteria within the Local Plan. The glossary in the Emerging Local Plan also describes “economic development” as a wide range of uses including main town centre uses.
- 10.4 As such given the potential delivery of between 250 -300 jobs, the entirety of the site being brought into use and the compatibility of the use with neighbouring uses, it is considered that the proposal accords with Policy B4 of the Unitary Development Plan, and PLP8 of the Emerging Local Plan.

Retail Policy

The Sequential Test

- 10.5 Paragraphs 86 and 87 of the National Planning Policy Framework states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre nor in accordance with an up-to-date development plan. Paragraph 86 states that main town centre uses should be located in town centres, then edge of centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Paragraph 87 then states that when considering edge or out of centre proposals, preference should be given to accessible sites which are well connected to the town centre.
- 10.6 A series of site search parameters were agreed between the applicant and WYG, the Council's retail planning advisor. In particular, the focus for alternative sites concentrated on those which measured between 2.5ha and 3.5ha, i.e. approximately +/- 0.5ha. For completeness, Savills also assessed sites which could accommodate floorspace over 929 sq.m, being the smallest unit proposed within the scheme. This level of flexibility was considered to be overly cautious given that there is no requirement to disaggregate the scheme.

- 10.7 The applicant's original sequential assessment concentrated on the centres located within Zones 4, 8, 9 and 10 of the Kirklees Retail Capacity Study which includes Dewsbury and Batley Town Centres. The applicant was then requested by WYG to also review potential sequential alternative sites within and on the edge of Huddersfield town centre, in light of the town centre being the principal centre within the District.
- 10.8 As such, the sequential test identified 36 sites in total across the wider catchment. These included 4 sites within and on the edge of Dewsbury Town Centre and 2 sites on the edge and out of Batley Town Centre. All of these 6 sites were either too small and/or not available for the proposal. 10 of the sites were within and on the edge of Huddersfield Town Centre. Of those, 7 of the sites fell well below the 2.5-3.5ha threshold.
- 10.9 The remaining 3 sites fall broadly within the threshold and are all on the edge of Huddersfield Town Centre, but each have site specific issues and different planning aspirations for their overall use that could not be delivered as part of a retail park proposal.
- Site HU4 – Land east of Southgate is not suitable for the proposal as it is allocated as a mixed use site in the local plan and the expectation of mixed use development on that site would fall below the minimum size requirement.
 - Site HU8 - Trinity West is not considered available given the extant and live planning applications for the site.
 - Site HU10 – Retail East of Southgate is currently occupied by a Sainsbury's foodstore and therefore not available.
- 10.10 As such it is considered that the sequential approach has been satisfied in accordance with Policies S1 and S4 of the UDP, PLP 13 of the Emerging Local Plan, and paragraphs 86 and 87 of the National Planning Policy Framework.

Impact Assessment

- 10.11 Paragraph 89 of the National Planning Policy Framework sets out a twin impact test, for assessing applications of this type:
- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
- 10.12 In terms of the first impact test, Savills refers to six extant schemes within the primary catchment area (zones 4, 8, 9 and 10), although not all of the commitments identified are located within defined centres and are therefore not of direct relevance to the test. Of the schemes located within the centres, it was concluded that given the qualitatively different nature of these schemes, the proposed development was unlikely to have a significant adverse impact on the planned investments. WYG concluded that the proposal complies with the first part of paragraph 89 of the NPPF.

10.13 Turning to the second impact policy test, the impact on town centre vitality and viability, Savills, in discussion with WYG, has prepared a series of quantitative assessments which follow the guidance as set out in the NPPG. The assessments have been updated during the life of the application to respond to requests from WYG. In particular, in WYG's initial appraisal from May 2018, Savills was requested to address a series of concerns set out by WYG as follows:

1. A review of the primary catchment area adopted by Savills, and further clarification regarding whether this should extend further north, north east and north west to better reflect the areas from which shoppers are likely to travel from to shop at the proposed floorspace;
2. An assessment of potential sequential alternatives within and on the edge of Huddersfield town centre particular, and any other centres outside of Kirklees administrative area which fall within an identified catchment area as highlighted above;
3. A review of additional commitments located outside of the Kirklees administrative area (based on the findings of the points above) and how these could impact on the established shopping patterns and on the turnover of the centres as identified in the Kirklees Retail Study. Savills can also remove commitment C2 (Gasworks site, Huddersfield) for completeness;
4. A review of the population and expenditure figures and an update to the quantitative tables to reflect the latest projections, which in turn will impact upon the turnovers of the existing destinations at the design year;
5. The use of the findings of the latest Retail Planner Briefing Note 15 (December 2017) throughout the impact assessment;
6. An update to the turnover of the proposed floorspace, using sales densities projected forward to the design year;
7. A review of the design year adopted by Savills to reflect national guidance;
8. A review of the weightings system applied by Savills, and an associated review of the trade diversion assumptions throughout the quantitative assessment; and
9. An assessment of the potential implications of the proposal on the defined centres should be undertaken, to better understand what impact the level of diversion assumed by Savills could have on the health (vitality and viability) of the centres, in accordance with local and national planning guidance.

10.14 Savills submitted an updated quantitative assessment in September 2018 (which was then superseded by updated quantitative tables a few days later). The updated assessment responded directly to the matters raised by WYG, most pertinently by updating the weighting system applied to the impact assessment to more realistically reflect how the scheme would likely trade in practice.

10.15 In undertaking the impact assessment, Savills has adopted the study area zones and associated shopping patterns from the latest Kirklees Retail Capacity Study (2016), and have then updated the population and expenditure figures. In undertaking the assessment, Savills has adopted a test year of 2023 to accord with national guidance.

- 10.16 *Catchment Area* – It is agreed that the proposed development would draw its trade from a similar catchment area to that which has been established through the existing facilities at Birstall Shopping Park. By analysing the shopping patterns identified within the Retail Study, it has been identified that the majority of the existing Birstall Shopping Park's turnover is drawn from Zones 4, 8, 9 and 10 of the Kirklees Retail Capacity Study, which has been adopted as the primary catchment area for the purposes of the assessment. It is also important to acknowledge the importance of considering the implications of the impact on locations located outside of the principle catchment area.
- 10.17 Savills provided a review of the overall 'health' of the defined centres within the primary catchment area, along with a review of the health of Huddersfield town centre and Brighouse town centre.
- 10.18. In undertaking the impact assessment, Savills has included the relevant retail commitments as part of the cumulative impact assessment. Following a request from WYG, Savills were also requested to provide a review of commitments outside of the Kirklees Retail Study Area and it is considered that none of the additional permitted schemes would be likely to have a material impact on the defined centres within the catchment area.

Trade Diversion

- 10.19 Savills has adopted a weighting system in assessing the potential impact of the scheme, which is the principal factor in assessing which existing destinations within the catchment area will experience the most amount of trade diversion. This is in the policy guidance set out in national policy that like-effects-like. Again, following a request from WYG, Savills updated their weighting system to respond to concerns raised by WYG that too much trade was being diverted from out of centre destinations and not enough was being diverted from the principal town centres in Kirklees, which also perform important comparison shopping roles within the catchment area. WYG was satisfied with Savills' updated weighting system applied in their September 2018 response.
- 10.20 As a result of Savills' updated quantitative assessment and adoption of a more robust and realistic weighting system, Savills has provided two new impact scenarios. The scenarios can be summarised as:
- 1. Scenario A** – adopts the higher sales density of £4,500 per sq.m and the new weightings as outlined above. .
- 2. Scenario B** – also adopts the higher sales density of £4,500 per sq.m and assumes more trade will be drawn from locations other than Junction 27. In particular, this scenario has been included to assess the trade from the principal retail locations drawn from residents in Zones 4, 8, 9 and 10, concentrating more specifically on shopping patterns of those residents residing in the primary catchment area of the proposal. The result is an increase in diversion from some of the key defined centres within the catchment (Dewsbury), along with an increase in diversion from destinations within the Leeds City Council administrative area, and a reduction from Huddersfield, Leeds Road Retail Park and Junction 27.
- 10.21 We set out below the overall impact summary from Savills' calculations of both the commitments and the proposal based on Savills' two scenarios. In

each case, the trade diversion to commitments remains constant but the diversion to the proposal alters

- 10.22 Savills estimates that under Scenario A, the cumulative impact on Huddersfield town centre will be -1.9%, on Dewsbury town centre the cumulative impact will be -4.0% and on Batley the impact would be -6.7%. This is based on the assumption that 11.6% of the proposal's turnover would be diverted from Huddersfield town centre, 5.7% would be diverted from Dewsbury town centre and 2.7% would be diverted from Batley. Savills then estimates that the cumulative impact on Birstall Shopping Park would be -8.0%, assuming that 34.4% of the proposal's turnover will be diverted from existing retailers in the surrounding area within the Shopping Park.

Table 3: Trade Diversion and Impact Under Scenario A

Destination	Diversion to Commitments		Diversion to Proposal		Impact	
	£m	%	£m	%	£m	%
In Centre Destinations						
Huddersfield town centre	-3.2	-0.7%	-6.1	-1.3%	-9.4	-1.9%
Cleckheaton town centre	-0.2	-0.9%	-1.0	-3.9%	-1.2	-5.7%
Dewsbury town centre	-0.8	-0.9%	-3.0	-2.6%	-3.9	-4.0%
Batley town centre	-0.3	-1.1%	-1.4	-4.6%	-1.6	-6.7%
Morley town centre	-0.2	-0.9%	-1.2	-4.1%	-1.4	-5.9%
Out of Centre Destinations						
Birstall Shopping Park	-3.6	-1.2%	-18.0	-6.7%	-21.6	-8.0%
Leeds Road Retail Park	-1.1	-0.8%	-2.4	-1.8%	-3.5	-2.7%
Great Northern Street Retail Park	-0.3	-0.7%	-0.4	-1.1%	-0.7	-1.8%

- 10.23 Under Scenario B, the cumulative impact on Huddersfield town centre will be -0.9% assuming that just 2.5% of the proposal's turnover will be diverted from the centre and on Batley the impact would be -4.8% assuming that 1.7% of the proposal's turnover will be diverted from the centre. Under Scenario B, the cumulative impact on Dewsbury town centre would increase to -5.5%, as it would on Cleckheaton town centre. Savills then estimates that the cumulative impact on Birstall Shopping Park under Scenario B would be -4.9%, assuming that 19.3% of the proposal's turnover will be diverted from existing retailers in the surrounding area.

Table 4: Trade Diversion and Impact Under Scenario B

Destination	Diversion to Commitments		Diversion to Proposal		Impact	
	£m	%	£m	%	£m	%
In Centre Destinations						
Huddersfield town centre	-3.2	-0.6%	-1.3	-0.3%	-4.3	-0.9%
Cleckheaton town centre	-0.2	-0.8%	-1.0	-4.6%	-1.2	-5.5%
Dewsbury town centre	-0.8	-0.8%	-4.4	-4.6%	-5.3	-5.5%
Batley town centre	-0.3	-1.0%	-0.9	-3.8%	-1.2	-4.8%
Morley town centre	-0.2	-0.7%	-1.3	-5.4%	-1.5	-6.3%
Out of Centre Destinations						
Birstall Shopping Park	-3.2	-1.2%	-10.1	-3.7%	-13.2	-4.9%
Leeds Road Retail Park	-1.1	-0.8%	-0.5	-0.4%	-1.5	-1.2%
Great Northern Street Retail Park	-0.3	-0.7%	0.0	0.0%	-0.3	-0.7%

- 10.24 Comparing the two Scenarios, under Scenario A, a higher proportion of trade is expected to be diverted from the defined centres and destinations within Kirklees and under Scenario B, higher levels of trade will be diverted from destinations outside of Kirklees. In any event, the diversion of trade on any single destination would be -6.7% on Birstall Shopping Park under Scenario A, and in terms of defined centres, -5.4% on Morley town centre under Scenario B.

- 10.25 We note that the level of trade to be diverted from Calderdale administrative area is still shown as a single entity, rather than deciphering precisely which destinations the trade will be diverted from. Our particular concerns previously related to the potential impact of the proposal on Brighouse, following on from our request for Savills to provide a healthcheck of the centre. In any event, we note that under either Scenarios A or B, the highest level of diversion is expected to be -£0.3m, and even if all of this was diverted from Brighouse centre alone, would not have a significant adverse impact.
- 10.26 Having reviewed the updated quantitative assessments and alternative Scenarios provided by Savills, we can confirm that we are now satisfied that following the updated weightings applied and further consideration of existing shopping patterns, the trade diversion assumptions now seem more realistic.
- 10.27 Based upon the updated and amended information provided by the applicants, it is agreed that the market share attracted to the existing centres is unlikely to alter to a level that would have a significant adverse impact on the trading characteristics of these centres.
- 10.28 There is a current application (2018/92563) approx. 200m to the North East of the site on the Centre 27 Business Park, which seeks outline permission for 7,980 sq. m (gross) Class A1 retail floorspace. As both applications are currently “live”, there is a need to consider the potential cumulative impact of the schemes.
- 10.29 However, at present the Centre 27 scheme is still in need of additional information to undertake a meaningful assessment of the retail impact it would have in its own terms, and therefore also cumulatively. As such, it would be inappropriate to draw any definitive conclusions regarding cumulative impact of both proposals at this stage. The applicant for the Centre 27 scheme will need to consider the cumulative position should this application be approved which will include the implications of both schemes on the defined centres. A full impact assessment has been carried out on the present application, which has been found to be satisfactory.

Highway Issues.

- 10.30. This is an outline application with all matters reserved except for access for the demolition of existing buildings and the erection of a new retail park with parking and access on land at the junction of Gelderd Road and Bankwood Way, Birstall.

A pre-application scoping exercise was carried out by the applicant with Kirklees Highways in September 2017.

Highways related documents submitted with this application are as follows:

- Transport Assessment dated February 2018;
- Transport Assessment Addendum dated June 2018;
- Framework Travel Plan dated February 2018;
- Stage 1 Road Safety Audit dated November 2018.

- 10.31. The basis for assessment in the Transport Assessment is a scheme comprising 14,562m² GIA of A1 non-food retail use and associated access, 453 car parking spaces, service yards, landscaping and infrastructure improvements.

Existing Conditions:

10.32. The site is currently occupied by a variety of uses including a pallet business, haulage yard, car wash, garage and café with access points from both A62 Gelderd Road and Bankwood Way.

Data collection was undertaken in 2017 by the applicant on Friday 6th October between 15:00 and 19:00, Saturday 7th October between 10:00 and 16:00 and Sunday 8th October between 10:00 and 16:00 to establish a sound baseline for assessment. The data was collected at the following locations:

- A62 Gelderd Road / Oakwell Way;
- A62 Gelderd Road / Bankwood Way;
- A62 Gelderd Road / High Wood Road;
- A62 Gelderd Road / Holden Ing Way / Bankwood Way;
- Existing site access / Bankwood Way; and
- Existing site access / A62 Gelderd Road.

10.33 In addition, 7 day automatic traffic counters surveys were undertaken on A62 Gelderd Road and High Wood Road and speed surveys were undertaken along A62 Gelderd Road.

Two-way vehicles flows along Gelderd Road are recorded at approximately 1,850 in the Friday PM Peak, 1,650 in the Saturday lunchtime peak and 1,500 in the Sunday lunchtime peak. Corresponding flows along Bankwood Way are 150 in the Friday PM Peak, 250 in the Saturday lunchtime peak and 225 in the Sunday lunchtime peak. The measured 85th percentile speed along A62 Gelderd Road in the vicinity of Bankwood Way is 29mph eastbound and 30 mph westbound. Traffic generation from the existing site uses is recorded at 54 two-way trips in the Friday PM peak hour, 21 two-way trips in the Saturday peak and 50 two-way trips in the Sunday peak.

Proposed Vehicular Access Arrangements:

10.34 The proposed site is divided into three development platforms and each one is served by a simple priority junction off Bankwood Way. The proposed access roads are 5.5m wide with 6 metre radii connections to Bankwood Way. Sight lines of 2.4 by 43m are achieved which meet the required standard. Existing access points will be closed off and new footways established.

Proposed Traffic Flows:

10.35. The trip rates for the proposed development have been derived from the existing adjacent Birstall Shopping Park and Junction 27 Retail Park. These are considered to reflect site specific characteristics such as close proximity to the motorway and local characteristics such as car ownership levels, the relationship to competing shopping outlets and proximity to the customer base. When the derived trip rates are applied to the proposed development, the following trip generations result:

	In	Out	Two-Way
Friday PM Peak	222	259	481
Saturday Peak	465	398	864
Sunday Peak	442	446	888

10.36. As is usual with the assessment of retail applications, it is accepted that most development trips are already on the wider network accessing other retail outlets. The Retail Impact Assessment provides advice of where the trade diversion to this development proposal will be from and shows the biggest draw from Dewsbury, Batley and Morley. Approximately 50% of trips are forecast to be transferred from the adjacent retail outlets at Junction 27 Retail Park, Birstall Shopping Park and Ikea.

Accidents and Safety:

10.37. Personal injury accident statistics have been analysed by the applicant for the five year period 1st October 2013 – October 2017. The study area incorporates A62 Gelderd Road from its junction with Oakwell Way through to M62 Junction 27 and the surrounding road network of Bankwood Way, Holden Ing Way and High Wood Road. A total of 21 personal injury accidents have occurred over this period comprising 18 slight and 3 serious and with no fatal accidents. It is concluded that there is no specific accident hot spot that the development proposal would compound.

Proposed Parking Arrangements:

10.38. The proposed indicative layout indicates the provision of 453 parking spaces. This is split 81 spaces on an upper level, 174 on the mid-level and 198 on the lower level. The Kirklees UDP parking standards suggest a maximum parking ratio of 1 space per 15m² whereas the proposed provision is 1 space per 32m². A parking accumulation exercise has been undertaken by the applicant based on predicted arrivals and departures which indicates that a car park provision of 453 spaces is adequate and Kirklees Council accept this position.

10.39. Cycle, motorcycle, disabled parking (required in the range 5-10% of the total stock) and electric vehicle charging point provision is required and will be addressed at reserved matters.

Pedestrian Access:

10.39. An assessment of pedestrian facilities in the vicinity of the site. To assist and encourage pedestrian use, the development will provide:

- A new footway along the Bankwood Way site frontage;
- A improved and resurfaced footway along the Gelderd Road site frontage;
- Controlled crossing facilities across Bankwood Way at the junction with Gelderd Road;
- Funding for the improvement of the pedestrian environment within the existing shopping areas comprising the upgrading of 60 existing crossings and the provision of 25 new and the provision of 3 new refuge islands.

Servicing Proposals:

10.40. Service yards are proposed along the western side of the site accessed from a single junction off A62 Gelderd Road. This has been tested through swept path analysis and the proposed 7.3 metre access with 15m radii to Gelderd Road is considered acceptable. The achieved sight line of 2.4m by 90m complies with the required standards.

Impact on Junctions:

Junction modelling has been undertaken at the following junctions:

- Gelderd Road / Holden Ing Way / Bankwood Way roundabout;
- Gelderd Road / High Wood Road signal junction;
- Improved Gelderd Road / High Wood Road / Bankwood Way signal junction;
- Gelderd Road / Oakwood Way signal junction.

10.41. Base counts collected in October 2017 form a sound baseline. To this, growth has been added to year 2023 and modelling for with and without development scenarios has been undertaken. The results of junction modelling show a neutral effect at the Holden Ing Way roundabout due mainly to the reassignment of traffic that was destined for the existing shopping parks but which would now divert to the proposed development. Modelling of the Oakwell Way signal junction demonstrates that the junction continues to operate below practical capacity values when development is added. In order to accommodate the development traffic the applicant proposed to signalise the Gelderd Road / Bankwood Way junction and incorporate this into the existing Gelderd Road / High Wood Road junction. Junction modelling demonstrates that in 2023 with development, the new junction works within practical capacity thresholds. Kirklees UTC have reviewed the design and the modelling results and accept the proposals.

Travel Planning:

- 10.42. A travel plan has been submitted with the application which provides the necessary commitment to promoting sustainable travel characteristics. The travel plan aims and objectives are to encourage staff and customer travel by sustainable modes. The travel plan seeks to establish a culture of sustainable travel at the site from the outset by the implementation of physical and soft measures including:
- appointment of a site wide Travel Plan Coordinator;
 - Baseline surveys of staff within 3 months of opening;
 - Set mode shift targets;
 - Provision of a bus shelter on the westbound Gelderd Road stop;
 - Annual monitoring to measure success.
- 10.43. The likely transport impacts of this proposed retail development have been investigated. The characteristics of the development include the assumption that the majority of trips are already on the wider network. Junction analysis has shown a minimal impact on local junctions resulting from the development and improvements are proposed where necessary. Attention has been paid to non-car modes and the interaction with the neighbouring shopping outlets and measures are proposed to encourage walking and public transport use
- 10.44. On this basis, Kirklees Highways consider the proposals acceptable, subject to suitable conditions.

Urban Design Issues

- 10.45. The application site is currently partly occupied by a pallets business, storage area, car wash and small café. The frontage onto the Bankwood Way is fenced off. The overall appearance of the site is somewhat run down and untidy.

- 10.46. The application site is located on a prominent junction, adjacent to Geldert Road, and is highly prominent for users both entering and existing the motorway, and could be described as a “gateway” site.
- 10.47. As stated earlier the appearance of the site at present is not overly impressive, and run down. Whilst the current application is in outline the indicative layout and elevations indicate a terrace of buildings which face out onto Bankwood Way, providing an active frontage that currently does not exist. Also the scale of the buildings indicated (low rise) and their being set well back from Bankwood Way, and stepped in nature to reflect the sites topography, is considered to represent an opportunity to enhance the appearance of this prominent gateway site.
- 10.48. As such it is considered that the proposal satisfies Policies BE1, and BE2 of the UDP. Policy PLP24 of the Emerging Local Plan, and the guidance contained in part 12 of the National Planning Policy Framework Achieving well designed spaces.

Environmental Issues (Remediation, Air Quality,)

- 10.49 *Remediation*- the applicants have submitted a phase 1 report, which is considered to be satisfactory by Environmental Health. Further investigation is recommended as a condition together with a Remediation Strategy, and subsequent validation. These matters will be covered by the imposition of appropriate conditions.
- 10.50 *Air Quality*- this application is classified a major proposal within the West Yorkshire Low Emissions strategy, and the applicants have submitted an Air Quality Assessment. The application is still at outline stage, and a reserved matters or details submission is still to follow. At that stage it is recommended that an additional air quality Assessment is submitted which monetises the level of impact on air quality, and identifies appropriate mitigation measures. Electric Vehicle charging points will be required by condition. The service yard and deliveries to the store will not impact upon residential amenity of occupants of properties, the nearest of which are a significant distance away

Health and Safety Issues

- 10.51. The site is within the inner and middle zone of a COMAH site (Control of Major Accident Hazards) with the majority of the site being in the inner Zone and as such the Health and Safety Executive have been consulted via the PADHI system (Planning Advice for Development adjacent Hazardous Installations), states **“HSE’s advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case”**
- 10.52. Paragraph 2 of the National Planning Policy Guidance requires that when considering applications around hazardous installations technical advice should be sought from the HSE on the risks presented by major hazards affecting people in the surrounding area and environment. This advice has been sought and is presented above.
- 10.53. This allows those making planning decisions to give due weight to those risks when balanced against other planning considerations. Paragraph 71

goes onto explain that “the decision on whether or not to grant permission rests with the local planning authority. In view of its acknowledged expertise in assessing the offsite risks presented by the use of hazardous substances, advice from the HSE that planning permission should be refused for development near a hazardous installation should not be overridden without most careful consideration.

10.54. Paragraph 72 explains that the Health and Safety Executive will normally consider its role to be discharged when it is satisfied that the local planning authority is acting in full understanding of the advice received and the consequences that would follow.

10.55. As stated above the HSE are giving serious thought to requesting the Secretary of State call this in given the relationship of the propose site to the Hazardous Installation. The site currently has a mixed range of employment uses on it with between 45-50 people employed on the site 24 hours a day. The proposal would result in up to 300 people being employed (part and full time) plus customers during opening hours. This represents a significant increase in the numbers of people present within the site particularly the inner zone. The HSE in their advice indicate that Major Hazard sites are subject to the requirements of the Health and Safety Work Act 1974 which specifically includes provisions for the protection of the public. Whilst the likelihood of a major accident occurring is small it is prudent for the planning process to consider the risks to people in the vicinity of the hazardous installation.

10.56 The inner zone currently extends across Gelderd Road, and includes a number of existing businesses and the proposal would put an increased number of people at risk in the event of an accident.

Biodiversity Issues

10.57 The application site been accompanied by an Ecological Assessment however given the extent of the site coverage, the opportunity for biodiversity enhancement is limited. Currently the site is of little ecological value.

However the applicants own survey does Ecological Report does recommend additional survey work and re-survey work prior to any development taking place. This additional survey work should inform a detailed Ecological design strategy that would deliver biodiversity enhancement across the site or appropriate mitigation, together with its future maintenance.

10.58 Subject to conditions requiring this Ecological Design Survey and mitigation, no objection is offered to the proposal.

Drainage issues

10.59 The site is in an area Flood Zone 1 (ie the area least likely to flood) and the site is currently partly used for employment use, and is allocated in its entirety as a Priority Employment Area. This application is in outline at this stage, but the applicants have submitted Flood Risk Assessment given the size of the site, relating to surface water run-off.

- 10.60 The site is largely brownfield, with hardstanding associated with the storage and haulage areas, as such it is expected that the run off rates be improved significantly by up to 50% and these levels together with other drainage matters can be satisfactorily dealt with via the imposition of conditions.
- 10.61. No objection have been received from the Yorkshire Water Authority who have also recommended conditions in the event of an outline approval.

Crime Prevention

- 10.62. Whilst the application is in outline form it is appropriate to consider the indicative layout from a crime prevention perspective at this stage. No objections are raised in principle to the development or the nature of the development.
- 10.63 The orientation of buildings onto Bankwood Way is welcomed, as it improves the security for car parking and customers using the site. Clearly at reserved matters stage a detailed crime prevention plan should be received covering car parking security, CCTV, lighting and security for deliveries, and also robust boundary treatments on the southern boundary which abuts a future Travellers site.
- 10.64. As such it is considered that the issue of crime prevention and policy BE23 of the Unitary Development Plan, can be satisfactorily dealt with by condition.

Planning obligations

- 10.65 As is detailed above within the Highways section paragraph 10.35, in addition to the pedestrian improvements necessary for the development itself, additional survey work relating to pedestrian safety measures across the larger retail site has been undertaken, and the applicant has agreed to fund these works.
- 10.66. In addition a Travel Plan will be required for this development, and a travel plan monitoring fee will also be required. This fee will be £15,000 ie £3,000 per annum for a period of 5 years
- 10.67. The improvement of pedestrian safety on adjoining areas, of retail space, is considered to be reasonably related to the nature of the development, and the travel plan monitoring fee is relevant, necessary in the interests of highway safety.
- 10.68. The above contributions therefore satisfy the CIL tests identified in paragraph 56 of the National Planning Policy Framework.

Representations

- 10.69. The representation received fall into 3 broad areas:
- 10.70 The development will generate extra traffic on a road that is already extremely busy and congested

Response. The applicant has provided a Traffic Impact Assessment and additional modelling to satisfy Highways England as to the capacity of the

M62 junction to accommodate the additional traffic .No objections subject to conditions are raised by Highways England or Highways DM

10.71. The site is located within a COMAH zone.

Response. *The sites location within the inner and middle zone and the HSE comment, advising against granting permission reported. The NPPG indicates that such advice from the HSE should not be overridden without very careful consideration. Should the Council still be minded to grant the permission the proposal is referred to the HSE under the NPPG guidance, to enable them to decide if they wish to request the Secretary of State call in the application for his own determination*

10.72. Any proposal should provide an improved environment for pedestrian safety

Response. *A scheme to improve pedestrian safety across the larger retail park has been identified and the applicants have agreed to fund it. This will be secured via a Section 106 Agreement.*

11.0 CONCLUSION

11.1 It is considered that the proposal will represent a significant inward investment within Kirklees generating a significant number of new jobs to the Employment Priority policy allocation. The scheme also has satisfied the retail sequential tests and impact assessment, so no policy objection is raised to the use or the scale of the retail floor space proposed.

11.2 A Traffic Impact Assessment and additional traffic modelling have been undertaken and the scheme is considered to be acceptable in highway terms, subject to conditions. Also additional pedestrian safety improvements have been secured in the neighbouring retail park area.

11.3. The application site is in a prominent gateway location on the entrance into the Kirklees area. Currently, whilst partly occupied it is in an untidy state. The proposal represents an opportunity to significantly improve the appearance of the gateway site and surrounding area.

11.4 As the proposal is retail development in excess of 5,000sq m and in an out of centre location, the application has been referred to the Secretary of State under the terms of Circular 02/2009 (Town and Country Planning Direction) 9 England) Order 2009. The Secretary of State replied on 15/1/19 indicating that they were not going to call in the application.

11.5 The HSE have advised against the granting of this permission, and the potential consequences are set out comprehensively in paragraphs 10.51-10.56. This advice is a material planning consideration in the making of any decision which will be made in full knowledge of HSE letter dated 28/01/19.

11.6 The HSE is mindful of the fact “the siting of developments should remain a matter for planning authorities to determine, since the safety implications, however important could not be divorced from other planning considerations, and “.local authorities are well placed to take proper account of the full range of local factors, including safety issues, which are relevant to a planning decision”.

11.7 Acknowledging the HSE advice, it is considered that the benefits that this scheme generates on an area which is earmarked in the Emerging Local Plan as Priority Employment Area are very considerable, and on balance the recommendation is to approve the application.

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

1. Standard outline permission conditions x4
2. Highways conditions- new footway on Bankwood Way; improved footway on Gelderd Road signalised crossing; travel plan, travel plan monitoring
3. Environmental Health conditions- remediation; Air Quality Assessment; electric charging points.
4. Drainage conditions- foul and surface water attenuation; flood routing; temporary drainage;
5. Ecological Design Strategy
6. Crime Prevention condition.
7. Retail conditions
 - Restrict the gross floorspace to 14,532 sq m (for avoidance of doubt including mezzanine level) and net floorspace to 11,650 sq m across the scheme, and restrict the use of the floorspace to the sale of comparison goods only.
 - The floorspace should be provided within eight units with a maximum gross floorspace of 2,325 sq m in any individual unit and a minimum gross floorspace of 765 sq m in any individual unit.

Background Papers:

Application and history files.

Website link to be inserted [here](#)

Certificate of Ownership – Notice served on/ or Certificate A signed: