
Report of the Head of Development and Master Planning**STRATEGIC PLANNING COMMITTEE****Date: 20-Jun-2019****Subject: Planning Application 2018/92563 Outline application for erection of retail units Centre 27 Business Park, Bankwood Way, Birstall, Batley, WF17 9TB****APPLICANT**

AEW UK (Core Property Fund)

DATE VALID

02-Aug-2018

TARGET DATE

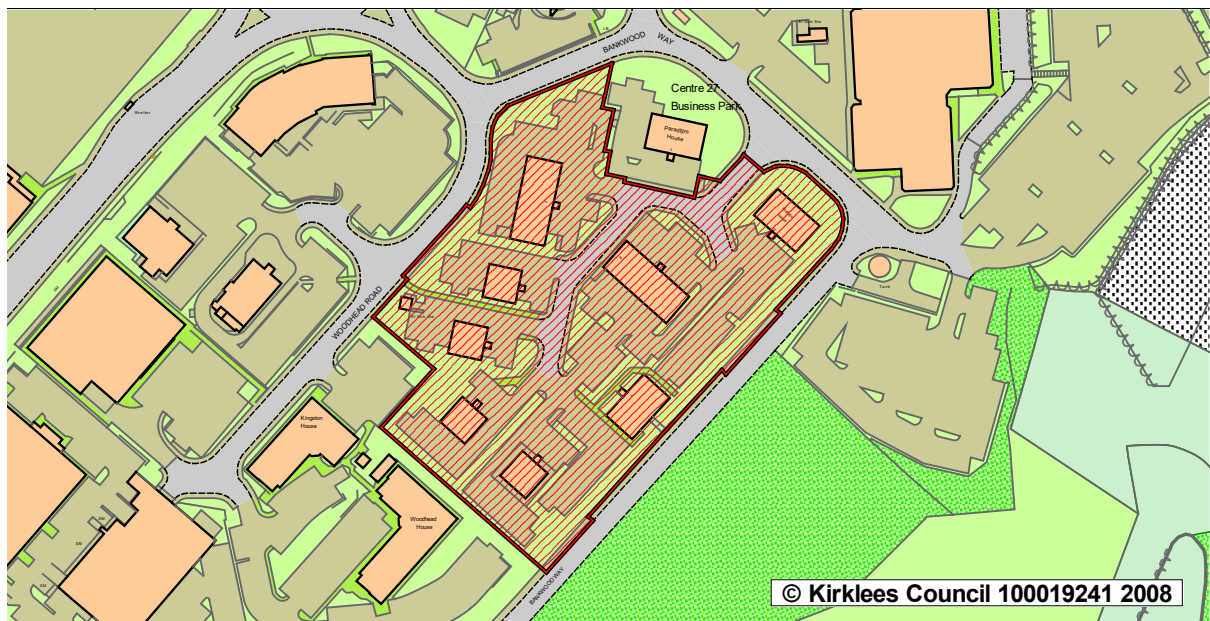
01-Nov-2018

EXTENSION EXPIRY DATE

30-Jun-2019

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<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 approval of the application to the Head of Development and Master Planning to:

1. Refer the Committee decision to the Health and Safety Executive in accordance with the NPPG;
2. Refer the application to the Secretary of State under the terms of Circular 02/2009 (Town and Country Planning Direction) 9 (England) Order 2009 because the application is retail development in excess of 5,000sq m and in an out of centre location;
3. Subject to the HSE not requesting a call-in and the Secretary of State not calling the application in on retail grounds, secure the signing of a Section 106 Agreement to provide:
 - £97,000 for a pedestrian improvement scheme on the neighbouring retail park which includes:
 - i. New pedestrian crossing points
 - ii. Upgrading of existing crossing points
 - iii. New and upgraded pedestrian traffic islands
 - Travel Plan Monitoring fee (£10,000)
 - Arrangements for the future maintenance and management of the surface water drainage infrastructure within the site
4. Complete the list of conditions including those contained within this report and Issue the decision notice.

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

1.0 INTRODUCTION:

- 1.1 The application is brought forward to the Strategic Planning Committee because it is for a non-residential development on a site that is over 0.5ha in size. The proposal is also for retail development over 1250 square metres gross floor space and referred up to Strategic Committee because officers are minded to approve.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site previously formed a business park containing 8 office blocks. The office blocks have been demolished and the site has been largely cleared and is fenced off. An office block has been retained towards the northern part of the business park but this does not fall within the application site boundary. The site sits within a wider leisure/retail area and is accessed via Bankwood Way.

3.0 PROPOSAL:

- 3.1 The application is for the erection of retail units and has been submitted in outline form with the point of access the only matter that is not reserved (scale, layout appearance and landscaping being reserved for future approval).
- 3.2 The proposed access is off Bankwood Way to the north eastern site boundary (utilising an existing access). A separate point of exit for right turning vehicles is to be provided to the south eastern boundary.
- 3.3 The indicative layout shows 4 retail units with associated car parking and landscaping. The buildings form a block of units with retail floor space over 2 floors. Three of the units are the same size and the fourth is slightly larger. A maximum of 7,896 square metres of floor space is proposed.
- 3.4 The units are located to the south eastern boundary of the site with a service yard to the rear accessed from Bankwood Way. Car parking is provided to the front as well as to one side of the retail units with soft landscaping to the perimeter of the car park.
- 3.5 The applicant estimates that the development would generate in the region of 110 new jobs (Full-Time Equivalent) once complete. This is based on Deloitte's Employment Densities Guide, and uses an average full-time equivalent density for retail development. Jobs would also be generated as a result of the construction phase of the development and in the local supply chain.
- 3.6 As the site is currently vacant, all the jobs created will be additional to the area. The applicant has also stated that the office blocks that were previously on the site "failed to attract occupiers due to being outdated and suffering from structural problems. Competition from newer and more favourably located commercial developments meant that the Centre 27 offices largely sat vacant and did not make a positive contribution to employment provision in the area".
- 3.7 The potential investment level into the site is estimated by the applicant to be approximately £12 million.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 There have been a series of prior approval applications to change the use of the offices to residential which were all refused and subsequently a series of demolition consents granted for the 8 office blocks.

4.2 In terms of applications surrounding the site, of particular relevance to this application is:

2018/90607 Outline application for demolition of existing buildings and the erection of a new retail park with parking and access – Refused by the Strategic Planning Committee 15/2/19.

The above application was refused for the following reason:

1. The risk presented by the increase in numbers of people in the inner zone of the COMAH (Control of Major Accident Hazards) hazardous installation, is a material planning consideration which is considered to outweigh the overall benefits of the scheme and therefore the scheme fails to comply with the provisions of the guidance contained within paragraph 69 of the National Planning Performance Guidance, and paragraph 95 of the National Planning Policy Framework.

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

5.1 Additional information has been provided in support of the retail and highways assessment.

5.2 Access has been included as a matter for formal consideration and changes made to the access arrangements to suit the requirements of Highways Development Management. Information to demonstrate the suitability of the access arrangements has been provided. Proposals to amend the priorities on Bankwood Way/Woodhead Road have been submitted following discussions with Highways Development Management to address concerns with the free flow of traffic on the adjacent highway network.

5.3 Negotiations were undertaken in relation to the scope of pedestrian improvements that are to be provided within the surrounding retail park. As a result of these negotiations the applicant has agreed to fund the same pedestrian improvement scheme that was agreed under refused application 2018/90607 (see planning history above).

6.0 PLANNING POLICY:

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

6.2 Kirklees Local Plan (2019):

- LP1- Presumption in favour of sustainable development
- LP3 – Location of new development
- LP8 - Safeguarding employment land
- LP13- Town Centre Uses
- LP21- Highways safety and access
- LP22- Parking
- LP24- Design
- LP28- Drainage
- LP30- Bio diversity and geodiversity
- LP51- Protection and improvement of air quality
- LP52- Protection and improvement of environmental quality
- LP53- Contaminated and unstable land

6.3 Supplementary Planning Guidance / Documents:

Draft Highway Design Guide SPD

6.4 National Planning Guidance:

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 Two representations have been received. A summary of the representations is provided as follows:

Representation 1: Received on behalf of the owners of the Prince of Wales Shopping Centre, Dewsbury.

- The council should consider the retail impacts of the proposal alongside the separate application for retail development nearby (2018/90607)
- Concerns raised with the negative impact on Dewsbury town centre
- Proposal will fundamentally affect the ability of the Prince of Wales Shopping Centre to retain and attract retailers
- Investment has been made in the shopping centre and approving further out-of-centre retail development may affect future investment decisions
- Proposal does not accord with local or national planning policy
- Proposal fails to satisfy the sequential test
- Proposal fails the impact tests
- Proposal would be premature
- Alleged benefits of the proposal will not outweigh the harm
- If approved conditions should be imposed to limit the net tradeable area, the convenience/comparison split and prohibiting the subdivision of the units or installation of further mezzanines.

Representation 2: Received from a nearby business within the retail park.

- Concerns raised with increase in traffic volumes
- Roundabout will not cope with the extra traffic a development of this size will generate
- Potential impact on M62
- There will also be an increase in traffic from the allocated traveller site
- Impact on drainage systems
- Increase in pedestrian movements; already safety issues for pedestrians; crossing facilities and traffic calming needed
- Trees to boundary should be retained
- Increased rubbish and vermin
- No commercial vehicles should be allowed to park on Woodhead Road

Cllr Light – *“Firstly, the site was previously allocated and used for B1 office & Business prior to the office units being demolished to create a redundant site. I see no reason to change site use to retail however I appreciate the Council will not oppose change of use.*

Second whilst I have no issues with the layout or building design I recommend the following conditions given that whilst there are leisure uses on this side of the A62 this brings retail activity to this part of the Birstall Junction 27 site for the first time.

1. *Traffic impact assessment from the roundabout on the A62 followed by highway measures to increase junction and access capacity with particular emphasis on peak time flows.*
2. *A full pedestrian strategy showing how this development will provide safe pedestrian access directly to the other Junction 27 retail parks and the wider Birstall Junction 27 leisure experience.*
This must include pedestrian crossings and or overhead pedestrian bridge for the A62 and a pedestrian crossing to link the Showcase cinema area.”

- 7.2 The amended plans showing the new access arrangements and the proposed change to the priorities on Woodhead Road/Bankwood Way have been advertised by site notices within the vicinity of the site. The publicity period expires on 17th June 2019 and any representations received will be reported to members within the written update.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objections (see detailed comments in appraisal section)

Highways England – No objection

Health & Safety Executive - There are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.

KC Lead Local Flood Authority – No objection subject to conditions and a s106 undertaking to maintain SUDS systems until such time as they are adopted.

The Coal Authority - No objection subject to conditions

The Environment Agency – No comments received

Yorkshire Water Services Limited – No objection subject to conditions

8.2 **Non-statutory:**

KC Planning Policy – No objection on retail policy grounds

KC Environmental Health – No objection subject to conditions relating to contamination and provision of electric vehicle charging points

KC Ecology Unit - No objection subject to condition requiring an ecological design strategy

WY Archaeology Advisory Service – No objection

Leeds City Council – No comments received

9.0 **MAIN ISSUES**

- Principle of development – Land allocation and retail assessment
- Highway issues
- Urban design issues
- Health and safety issues
- Residential amenity
- Landscape issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 **APPRAISAL**

Principle of development

Land allocation

- 10.1 The site is in within a Priority Employment Area (PEA) in the Local Plan.
- 10.2 Local Plan policy LP8 seeks to safeguard employment land and premises. It states that 'proposals for development or redevelopment for employment generating uses in Priority Employment Areas will be supported where there is no conflict with the established employment uses in the area'. The definition of 'employment generating uses' for the purposes of this policy includes 'enterprises which provide jobs, for example retail, hotel, assembly and leisure and certain non-residential Sui Generis uses (such as clubs, cash and carry businesses and builders merchants)'.
- 10.3 As the proposed retail development is an employment generating use as defined in the Local Plan then it is appropriate in a priority employment area and is in accordance with policy LP8.

Retail assessment

- 10.4 The site is located immediately adjacent to the Junction 27 Retail Park and Birstall Shopping Park which consists of retail warehouse units including an Ikea store and leisure units.
- 10.5 The proposal is for a total of 7,896 square metres of new GIA retail floorspace subdivided into 4 units with a total of 4,180 square metres on the ground floor and a total of 3,716 square metres at mezzanine level. Approximately 30% of the space (2,350 sq.m.) may be used for the sale of food and convenience goods.
- 10.6 The site is in an out of centre location, located approximately 1.5km north east of Birstall District Centre, 3km to the north west of Batley Town Centre and 5.5km north of Dewsbury Town Centre. Whilst it is adjacent to a retail park, these are not designated in the Local Plan.
- 10.7 Given the amount of new retail floorspace being proposed and the site being situated in an out of centre location, the applicant is required to undertake a sequential test and retail impact assessment, as set out in Local Plan policy LP13 (part b and c) and part 7 of the NPPF (Ensuring the vitality of town centres, paragraph's 86, 87, 89 and 90).
- 10.8 The applicant has undertaken a sequential test and retail impact assessment, the scope of which has been agreed with the Local Planning Authority. The sequential test and retail impact assessment have been independently assessed on behalf of the Local Planning Authority. A summary of the findings of the Council's retail planning advisor are set out below:

Sequential test:

- 10.9 The applicant has provided a review of the sequential alternative sites in terms of their availability and suitability. The assessment provides full details of the site area, development plan allocation, the availability and suitability and other potential constraints with regard to each site.
- 10.10 A total of 24 alternative sites were considered – 2 in Dewsbury, 2 in Batley, 5 in Cleckheaton, 1 in Heckmondwike, 1 in Morley, 2 in Mirfield and 11 in Huddersfield.
- 10.11 Based on the applicant's consideration of sequential alternatives and the council's independent advisors' assessment, it is accepted that there are no sites which are within or on the edge of any defined centre within the catchment area which are both available and suitable to accommodate the proposed development, even when applying a sufficient degree of flexibility.
- 10.12 The application is therefore considered to comply with policy LP13 of the Local Plan and paragraphs 86 and 87 of the NPPF with respect to the sequential test.

Retail Impact Assessment:

Trade Diversion and Impact:

- 10.13 The proposal will likely divert trade from a range of defined centres within the catchment area but also edge and out of centre developments, which do not afford any policy protection. This is due to the wider existing commercial facilities in the area and the overall wide draw of the destination both within and outside Kirklees. The principal destination which is expected to be impacted on by the proposal is the existing retail provision at Birstall Shopping Park.
- 10.14 The applicant's cumulative assessment of impact is shown below. This takes into account the proposed retail development close to the application site (application reference 2018/90607) which was refused by the Strategic Planning Committee earlier this year. A retail impact assessment was undertaken by Savills' as part of that nearby application; this put forward two scenarios (A and B) for the level of trade diversion resulting from application 2018/90607. Scenario A replicates the pattern of trade of the junction 27 Birstall shopping park as existing with modelling weighted to reflect schemes of a similar nature trade against each other. Scenario B concentrates and weights the assumptions of trade diversion more specifically on the existing shopping patterns of residents in north Kirklees. This is the approach that has been adopted for the current assessment.
- 10.15 The applicant's retail assessment refers to two options. Option A relates to the scheme being based on non-food sales whereas option B is based on a proportion of sales being derived from food and other convenience goods. It is assumed that option A, as it is all non-food goods, would have the highest cumulative impacts and therefore the following assessment focuses on option A.
- 10.16 Table 4.4 (below) adopts the applicant's option A (that assumes that all of the floorspace is devoted to non-food sales) and Savills' Scenario A. Under this first scenario, the highest cumulative impact is expected to be felt on Batley town centre at -9.6%, followed by Morley town centre at -8.5% and Cleckheaton town centre at -8.1%. The impacts on Dewsbury and Huddersfield town centres are estimated to be -5.6% and -2.5% respectively.

Table 4.4: Trade Diversion and Impact under Option A and Scenario A

Destination	Diversion to Commitment		Diversion to Bankwood Way Proposal		Change after Commitments and Bankwood Way		Diversion to Centre 27 BP Proposal		Change after Commitments, Bankwood Way and Centre 27 Proposal	
	£m	%	£m	%	£m	%	£m	%	£m	%
Huddersfield Town Centre	-3.2	-0.7%	-6.1	-1.3%	-9.4	-1.9%	-2.9	-0.6%	-12.3	-2.5%
Cleckheaton Town Centre	-0.2	-0.9%	-1.0	-4.7%	-1.2	-5.7%	-0.5	-2.4%	-1.7	-8.1%
Dewsbury Town Centre	-0.8	-0.9%	-3.0	-3.2%	-3.9	-4.0%	-1.5	-1.6%	-5.4	-5.6%
Batley Town Centre	-0.3	-1.1%	-1.4	-5.6%	-1.6	-6.7%	-0.7	-2.9%	-2.3	-9.6%
Morley Town Centre	-0.2	-0.9%	-1.2	-5.0%	-1.4	-5.9%	-0.6	-2.5%	-2.0	-8.5%
Heckmondwike Town Centre	-0.1	-1.0%	-0.6	-4.4%	-0.8	-5.5%	-0.3	-2.3%	-1.1	-7.8%

10.17 Table 4.5 below adopts the applicant's Option A (that assumes that all of the floorspace is devoted to non-food sales) and Savills' Scenario B. The table demonstrates that the highest cumulative impact is expected to be felt on Heckmondwike town centre at -9.4%, from which a total of -£1.3m is expected to be diverted. This is followed by Morley town centre at -9.2% and then Cleckheaton and Dewsbury town centres at -8.0%. In terms of Batley town centre, the estimated cumulative impact is expected to be -7.0% and for Huddersfield the cumulative impact is expected to be -1.1%.

Table 4.5: Trade Diversion and Impact under Option A and Scenario B

Destination	Diversion to Commitment		Diversion to Bankwood Way Proposal		Change after Commitments and Bankwood Way		Diversion to Centre 27 BP Proposal		Change after Commitments, Bankwood Way and Centre 27 Proposal	
	£m	%	£m	%	£m	%	£m	%	£m	%
Huddersfield Town Centre	-3.2	-0.7%	-1.3	-0.3%	-4.5	-0.9%	-0.7	-0.1%	-5.2	-1.1%
Cleckheaton Town Centre	-0.2	-0.9%	-1.0	-4.6%	-1.2	-5.5%	-0.5	-2.5%	-1.7	-8.0%
Dewsbury Town Centre	-0.8	-0.9%	-4.4	-4.6%	-5.3	-5.5%	-2.2	-2.5%	-7.5	-8.0%
Batley Town Centre	-0.3	-1.1%	-0.9	-3.8%	-1.2	-4.9%	-0.5	-2.1%	-1.7	-7.0%
Morley Town Centre	-0.2	-0.9%	-1.3	-5.4%	-1.5	-6.3%	-0.6	-2.9%	-2.1	-9.2%
Heckmondwike Town Centre	-0.1	-1.0%	-0.8	-5.4%	-0.9	-6.4%	-0.4	-3.0%	-1.3	-9.4%

Convenience Goods:

10.18 The trade diversion to the proposed convenience store is expected to be distributed across a number of both in and out of centre convenience destinations with the highest levels of diversion expected to be from the Morrisons in Heckmondwike, the Tesco Extra in Batley, the Asda in Dewsbury and the Morrisons in Morley. In each case, the convenience impact is not expected to fall above -5.0%, with the highest expected to be on Birstall District Centre at -4.9% (albeit it is important to note, that this assumes that just £0.02m of convenience expenditure will be diverted from the district centre).

10.19 Based on the trade draw and trade diversion assumptions applied by the applicant in the convenience assessment, the Council's independent retail planning advisors are satisfied with the convenience impact assessment adopted and agree with the applicant that any impact on a defined centre as a whole from a convenience perspective would not be considered to be significantly adverse.

Implications of Cumulative Impact:

- 10.20 Whilst the monetary level of diversion from a centre is important, the consideration of the implication of impact goes beyond just solely the quantitative impact and looks at whether a proposal could result in the relocation of operators, the implications of the potential reduction in linked-trips as a result of the scheme and what impacts a potential reduction in footfall could have on a centre.
- 10.21 The cumulative impact figures for Savills' scenarios A and B with the highest assumed cumulative impact highlighted is set out in the table below. For all centres, other than Huddersfield, it is estimated that under both scenarios, the cumulative impact could reach over -8.0%, with the highest estimated on Batley at -9.6% under scenario A.

Table 4.7: Cumulative Impacts under applicant's option A and Savills' Scenarios A and B

Destination	Scenario A	Scenario B
Huddersfield town centre	-2.5%	-1.1%
Cleckheaton town centre	-8.1%	-8.0%
Dewsbury town centre	-5.6%	-8.0%
Batley town centre	-9.6%	-7.0%
Morley town centre	-8.5%	-9.2%
Heckmondwike town centre	-7.8%	-9.4%

- 10.22 In order to assess the potential impact a proposal may have on a town centre, the applicant should firstly assess the existing performance and overall health of the relevant defined centres.
- 10.23 It is acknowledged that the town centres of Cleckheaton, Heckmondwike, Dewsbury, Morley and Batley typically perform more localised roles, providing main convenience facilities to meet resident's main food shops, along with wider retail, service and leisure uses meeting day-to-day requirements.
- 10.24 Reviewing the latest diversity use figures and from local knowledge it is clear that Dewsbury town centre is struggling. Dewsbury is also served by retailers which occupy the Rishworth Retail Centre and those on Railway Street which are on the edge of the town centre. They perform an important role in providing convenience and comparison facilities. It is important to note that an impact on the edge of centre retail facility could also have wider implications on the town centre through reduction in linked trips to the operators within the town centre boundary, and importantly those operators within the primary shopping area.
- 10.25 In Batley town centre, Tesco Extra is a key anchor attracting both convenience and comparison shopping trips. It is the destination from which a substantial proportion of the diversion is likely to be felt. Whilst this alone is unlikely to cause a significant adverse impact the knock-on implications including the potential decrease in linked trips could.

- 10.26 The identified cumulative impact on Cleckheaton, Morley and Heckmondwike is high in each case under either scenarios A or B as set out in table 4.7 above. However, it is important to note that in practice, only a small proportion of the trade of the proposal is expected to be diverted from these three centres, and given their localised roles and overall qualitatively different provision, we do not consider that the impact would be significantly adverse on these three centres.
- 10.27 However, the data demonstrates that Dewsbury and Batley town centres are experiencing above average vacancy rates in terms of the number of units and that the centres appear to be struggling to a greater extent. Indeed, it has been acknowledged by the Council in drafting the new Local Plan that the centres should be the focus for new retail provision in the north of the district and work is required to regenerate key areas of the centres. Whilst the vacancy rate is just one indicator of a centre's health, it is a useful tool in better understanding how well a centre is performing.
- 10.28 The concerns over the implications of cumulative impact do not relate to Batley town centre as a whole. Batley is anchored by three convenience stores (Aldi, Tesco and Asda) with a range of supporting leisure and retail uses across the wider centre. It is from these three anchor stores which it is expected that the majority of any trade will be diverted given the wider offer of these stores particularly in terms of Tesco's comparison offer. Whilst these are key anchors within the centre, it is unlikely that the level of diversion identified will have a significant adverse impact on these stores, or indeed is unlikely to result in these stores trading at a level which could jeopardise their future existence.
- 10.29 As such, the only real remaining concern from an impact perspective relates to the potential cumulative impact of the proposed development on Dewsbury town centre. This is principally due to the high vacancy rate and overall conclusions that the centre is struggling and continues to do so. The council's independent advisor's view is that as the centre provides a higher proportion of national multiple retailers than the other centres, performing a slightly different role to the smaller centres, with a wider catchment. As such, there is the potential for the scheme to compete directly with the existing retailers in Dewsbury, given the similarities (albeit it is noted that the conclusions are made having regard to the fact the proposed scheme has been submitted on a speculative basis and no named operators have been provided by the applicant).
- 10.30 The applicant has estimated that the impact on Dewsbury town centre could be as high as -8.0% under Savills' Scenario B. As such, the consideration here is whether a cumulative impact of -8.0% on Dewsbury town centre could have a significant adverse impact on the future vitality and viability of the centre, particularly given its high vacancy rate and the role it plays within this part of the administrative area.

- 10.31 Having considered the current composition of the centre, its offer and nature, the council's independent retail advisors are of the view that whilst the cumulative impact is high, it is not at a level which they consider would 'tip the balance' from being acceptable to unacceptable. This conclusion is reached in light of their view that a relatively high proportion of any impact is likely to be felt on the Rishworth Retail Park, given its likely comparable offer, and whilst this is an important facility within Dewsbury, it is located outside of the town centre boundary and separated from the town centre by Rishworth Road. The propensity for linked trips between the retail park and the wider town centre is therefore likely to be limited, and a reduction in footfall at the retail park is therefore unlikely to have a significant impact on the overall footfall within Dewsbury town centre. The same conclusion is reached with regard to other operators located outside of, but in proximity to Dewsbury town centre, including the Asda superstore, the B&Q, the Sports Direct and the Sainsbury's. The view therefore is that the principal impact of the proposal will be felt on edge/out of centre stores and destinations within Dewsbury instead of the defined town centre.
- 10.32 As such, any impact on the 'heart' of Dewsbury town centre is likely to be diluted and would not be at a level which could be considered to have a significant adverse impact on the overall vitality and viability of the centre. This conclusion is also reached having regard to the wider offer of Dewsbury town centre which is focussed more on the retail and leisure service offer.
- 10.33 The council's independent advisors are of the view that the proposal, when considered cumulatively with committed schemes within the catchment, including the scheme proposed under application 2018/90607, would not have a significant adverse impact on any of the defined centres within the catchment and therefore comply with the impact tests contained in Policy LP13 of the Local Plan and paragraphs 89 and 90 of the NPPF.
- 10.34 Following the refusal of application 2018/90607 for retail development on the nearby site, the council's independent retail advisors have provided a supplementary note on the likely effects of the proposed development excluding the refused retail scheme. The trade diversion under Savills' scenario A and scenario B are shown in table 1 and table 2 below.

Table 1: Trade Diversion under Savills' Scenario A

Destination	Turnover Pre- Development (£m)	Diversion to Commitments (£m)	Diversion to Proposal (£m)	Cumulative Diversion (£m)	Cumulative Impact (%)
Huddersfield town centre	429.2	-3.2	-2.9	-6.1	-1.4%
Cleckheaton town centre	18.7	-0.2	-0.5	-0.7	-3.7%
Dewsbury town centre	83.4	-0.8	-1.5	-2.3	-2.8%
Batley town centre	17.7	-0.3	-0.7	-1.0	-5.6%
Morley town centre	23.6	-0.2	-0.6	-0.8	-3.4%
Heckmondwike town centre	14.0	-0.1	-0.3	-0.4	-2.9%

Table 2: Trade Diversion under Savills' Scenario B

Destination	Turnover Pre- Development (£m)	Diversion to Commitments (£m)	Diversion to Proposal (£m)	Cumulative Diversion (£m)	Cumulative Impact (%)
Huddersfield town centre	429.2	-3.2	-0.7	-3.9	-1.0%
Cleckheaton town centre	18.7	-0.2	-0.5	-0.7	-3.7%
Dewsbury town centre	83.4	-0.8	-2.2	-3.0	-3.6%
Batley town centre	17.7	-0.3	-0.5	-0.8	-4.5%
Morley town centre	23.6	-0.2	-0.6	-0.8	-3.4%
Heckmondwike town centre	14.0	-0.1	-0.4	-0.5	-3.6%

10.35 When the nearby retail scheme is taken out of commitments, the cumulative impact figures have decreased substantially on all the surrounding centres. As such, it is robustly concluded that the proposed development (in conjunction with remaining commitments) is unlikely to have a 'significant impact' on the surrounding defined centres. Given that the proposed development is the smaller of the two proposals it will consequently have less of an impact upon the long-term vitality and viability of town centres. However, it must be highlighted that the refused application is within the time limit for an appeal to be lodged and therefore very limited weight can be attached to this scenario at this point in time.

Conclusion on retail assessment

10.36 In terms of the sequential assessment, it is accepted that there are no sites which are within or on the edge of any defined centre within the catchment area which are both available and suitable to accommodate the proposed development, even when applying a sufficient degree of flexibility.

10.37 Turning to the policy test of retail impact, based on the independent advice provided to the council it is not considered that the magnitude of the trade diversion impact arising from the application proposal at each of the centres would be such that it could reasonably be deemed 'significant adverse', even when considered in the context of cumulative impacts arising from commitments. Indeed, it is considered that many operators within these centres would not lose any material level of diversion to the application proposal.

10.38 Detailed consideration has been given to the vitality and viability of the defined centres and particularly Dewsbury and Batley. The council's independent retail advisors do not believe that the identified retail trade diversion impact is such that it would, by itself, undermine the future health of the centres. Accordingly, it is not considered that the retail trade diversion impacts arising from the application proposal are such that the application would fail to comply with the requirements of Policy LP13 of the Local Plan and paragraphs 89 and 90 of the NPPF.

10.39 As the proposal is for retail development in an out of centre location and conclusions on the scheme are based on the quantum of floorspace proposed, conditions should be applied to protect the vitality and viability of town centres should the application be approved. Conditions are considered necessary to restrict the gross floor space to that proposed (including mezzanine level) and to restrict the use of the gross floorspace for convenience goods to 2,350 square metres. The floorspace should be provided within four separate units with a maximum gross floorspace of 2,322 square metres in unit one and maximum gross floorspace of 1,858 square metres in the remaining units. The sale of convenience goods should also be limited to up to 30% of the gross floorspace.

Highway issues

10.40 The site is located within the Birstall retail park which is within 2 distinct areas to the north and south of the A62 Gelderd Road, a very busy arterial road adjacent to the M62 junction 27. The proposed site is located within the southern area of the park.

10.41 The existing site access arrangement which served office units (now demolished) is accessed off Bankwood Way. Bankwood Way directly joins a section of Woodhead Road carrying on to its junction with the A62 Gelderd Road roundabout and also wraps around the rear of the site (southern boundary) to link to its priority junction with the A62 Gelderd Road, some 200m southwest of the Gelderd Road roundabout.

10.42 At the point where Woodhead Road meets Bankwood Way, Woodhead Road has a cul-de-sac section approximately 150m in length from its junction with Bankwood Way. Both roads serve various leisure uses including a cinema, restaurants, and a gym.

Existing Base Traffic Flows:

10.43 Table 1 below gives a summary of the base Friday and Saturday peak hour traffic two-way flows at the Woodhead Road/Gelderd Road roundabout (combined), Woodhead Road/Bankwood Way, and Woodhead Road (cul-de-sac).

Table 1: Existing Base Traffic Flows

	Friday (1600 – 1700hrs)	Saturday (1300 – 1400hrs)
Woodhead Road/Gelderd Road roundabout (combined) minus the Woodhead Road arm.	2,650	3,000
Woodhead Road/Bankwood Way arm j/w Gelderd Road r/bt	800	1,250
Total traffic movements at the Woodhead Road/Gelderd Road r/bt	3,450	4,250
Woodhead Road (cul-de-sac) arm j/w Bankwood Way	320	480
Bankwood Way Link (along southern boundary)	16	14

Forecast 2023 Development Traffic Flows:

10.44 Table 2 sets out a summary of the total development Friday and Saturday peak hour traffic two-way flows at the site access with Bankwood Way.

Table 2: Forecast 2023 Development Traffic Flows

	Friday (1600 – 1700hrs)	Saturday (1300 – 1400hrs)
Primary (new) Development Trips at the site access with Bankwood Way	81	101
Combined (new, linked, and pass-by) Development Trips at the site access with Bankwood Way.	341	489

Forecast 2023 Base + Development Flows:

- 10.45 Table 3 gives a summary of the forecast 2023 Friday and Saturday peak hour base plus development traffic two-way flows at the Woodhead Road/Gelderd Road roundabout (combined), Woodhead Road/Bankwood Way, and Woodhead Road (cul-de-sac).

Table 3: Forecast 2023 Base + Development Flows

	Friday (1600 – 1700hrs)	Saturday (1300 – 1400hrs)
Woodhead Road/Gelderd Road roundabout (combined) minus the Woodhead Road arm.	2,850	3,250
Woodhead Road/Bankwood Way arm j/w Gelderd Road r/bt	1,100	1,700
Total traffic movements at the Woodhead Road/Gelderd Road r/bt	3,950	4,950
Woodhead Road (cul-de-sac) arm j/w Bankwood Way	350	510
Bankwood Way Link (along southern boundary)	30	60

Junction Capacity Assessment:

- 10.46 With the existing highway configuration with Woodhead Road and Bankwood Way, vehicle queues on the Woodhead Road/Bankwood Way arm within the peak times are forecast to back up from the Gelderd Road roundabout blocking right turning vehicles into the Woodhead Road cul-de-sac arm.
- 10.47 An unacceptable consequence of this scenario would be for traffic leaving the roundabout into the Woodhead Road/Bankwood Way arm to then back up into the roundabout to the detriment of highway efficiency and safety.
- 10.48 In mitigation, it is proposed to change the junction configuration making Bankwood Way a priority give way junction with Woodhead Road, effectively establishing Woodhead Road as the primary route and removing the right turn conflict and reducing the probability of vehicles backing up into the Gelderd Road roundabout.
- 10.49 An indicative layout of the proposed junction changes to priorities has been provided which will require the provision of a central pedestrian island and associated directional/informative signage. Modelling has been undertaken with output data indicating the junction will operate over capacity at times within the Saturday hour with traffic queuing back from the junction towards the site only.

- 10.50 To assist with managing traffic queues associated with the development and existing uses, a secondary site exit is proposed onto Bankwood Way on the southern boundary together with directional/informative signage at the main access onto Bankwood Way to inform drivers of an alternative – and currently underused – route to Gelderd Road for destinations in the direction of Batley.

Parking and Servicing:

- 10.51 Approximately 315 car parking spaces have been shown indicatively which would include an appropriate level of secure and sheltered cycle/motor cycle parking, vehicle electric charging spaces and accessible spaces which would be established at the detailed layout stage.
- 10.52 Servicing of the site would be from Bankwood Way where it runs along the southern flank of the site.

Pedestrian Connectivity and Accessibility:

- 10.53 Pedestrian connectivity and accessibility of the whole retail park (northern and southern areas) has been considered by the applicant in the context of the development proposal promoting practical sustainable modes of travel.
- 10.54 To assist in influencing the reduction of existing and forecast vehicular linked trips within the area it proposed to provide a suite of pedestrian crossing point enhancements. These include new pedestrian crossing points, upgrading of existing crossing points with tactile paving as well as new and upgraded pedestrian traffic islands. In total the proposed scheme of works would provide around 70 pedestrian improvement/enhancement measures.
- 10.55 It is considered that these proposed measures would enhance the presence of pedestrians and their routes and would facilitate linked trips across the wider retail park on foot.

Public Transport:

- 10.56 The nearest bus stops to the application site are located on the A62 Gelderd Road. The southbound bus stop is located to the north of the A62 Gelderd Road / Woodhead Road / Holden Ing Way roundabout, approximately 250m from the existing site access. The northbound bus stop is located on the opposite side to the south of the roundabout. This is approximately 270m from the existing site access. A summary of local bus services is set out below:
- a) Service 229; Huddersfield Bus Station to Heckmondwike Hub and Leeds Bus Station via Batley, Birstall and A62 Gelderd Road; Weekdays: 05:30-23:32 (every 30 minutes), Sat: 07:07-23:32 (every 30 minutes), Sun: 07:00-23:32 (every 30 minutes until 16:28).
 - b) Service 281; Dewsbury Bus Station to Birstall Shopping Park: Weekdays 06:25-22:00 (every 30 minutes), Sat 06:55-22:00 (every 30 minutes), Sun 09:00-22:00 (every 60 minutes).
 - c) Service 214; White Rose Shopping Centre to Birstall Shopping Park via Morley: Weekdays 09:27-15:24 (every 60 minutes), Sat No Service, Sun No Service.

Travel Plan:

- 10.57 A Framework Travel Plan (FTP) has been submitted to assist in promoting sustainable travel options and it considers the needs and interests of staff and customers in the context of the local environment and transport network. The FTP aims to deliver the following:
- a) Partnership approach to influence the travel behaviour of future staff and customers to and from The Site;
 - b) Safe and viable alternatives to single occupancy car travel to The Site;
 - c) Fewer vehicle trips and a reduction in overall vehicle mileage;
 - d) Inform staff and customers of the social, environmental and economic costs of their travel choices, and;
 - e) Improved accessibility for all.
- 10.58 A condition for a Full Travel Plan, including staff Metro Cards, is recommended. A travel plan monitoring fee is also required for five years.
- 10.59 The application is considered to be acceptable in highway safety terms and accords with LP20 and LP21 of the Kirklees Local Plan.

Urban Design issues

- 10.60 The site previously contained a group of office buildings which were generally 2 and 3 storeys in height. These have been demolished and the site fenced off.
- 10.61 The indicative layout shows 4 retail units with associated car parking and landscaping. The buildings form a block of units to the south eastern boundary of the site with car parking to the front as well as to one side of the retail units with soft landscaping to the perimeter of the car park.
- 10.62 Matters of scale, appearance and layout are reserved for future approval. Nevertheless, in principle the indicative site plan represents a suitable layout and officers are satisfied that an appropriate scale and design of development can be agreed. The indicative layout shows soft landscaping to the perimeter of the car park and details of the landscaping will be provided as a reserved matter.
- 10.63 The application is considered to satisfy policy LP24 of the Local Plan and the guidance contained in part 12 of the National Planning Policy Framework - Achieving well designed spaces.

Health and Safety Issues

- 10.64 The site is within the middle and outer zone of a COMAH site (Control of Major Accident Hazards), with the majority of the site being in the middle zone. As such the Health and Safety Executive have been consulted via the PADHI system (Planning Advice for Development adjacent Hazardous Installations), who have stated that **“HSE's advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.”**

- 10.65 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.
- 10.66 This allows those making planning decisions to give due weight to those risks when balanced against other planning considerations. Paragraph 71 goes on to 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.
- 10.67 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.
- 10.68 The site previously housed 8 office buildings but is currently vacant. The proposal would result in a large number of people on the site from staff of the retail units and their customers, as well as delivery drivers. Whilst employment figures for the previous office use are not known, it is considered likely that the proposal would result in at least a comparable number of people being present within the middle zone during normal office working hours, although there would be considerably more people present during peak shopping times, including weekends.
- 10.69 The Strategic Committee refused an application earlier this year for retail development that is very close to the application site and which predominantly fell within the inner zone. The reason for refusal was:
- 1. The risk presented by the increase in numbers of people in the inner zone of the COMAH (Control of Major Accident Hazards) hazardous installation, is a material planning consideration which is considered to outweigh the overall benefits of the scheme and therefore the scheme fails to comply with the provisions of the guidance contained within paragraph 69 of the National Planning Performance Guidance, and paragraph 95 of the National Planning Policy Framework.*
- 10.70 The current application differs from the refused application because it does not fall within the inner zone, lying further away from the hazardous installation. The current proposal is also for a lesser scale of retail development, being around half the floor area of the refused scheme.
- 10.71 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.
- 10.72 Given that the proposal lies within the middle and outer zones and weighing the benefits of the scheme against the advice of the HSE, on balance officers are supportive of the application. The proposal will deliver considerable economic benefits which are summarised at paragraphs 3.5 – 3.7 of this report.

- 10.73 Where a local planning authority is minded to grant planning permission contrary to HSE advice, it is required to notify the HSE of its intention to give the HSE opportunity to consider whether to request that the Secretary of State call-in the application for their own determination. This is reflected in the recommendation to the committee.

Drainage issues

- 10.74 The application has been assessed by Kirklees Lead Local Flood Authority (LLFA) who have no objections to the application subject to conditions requiring detailed drainage design, surface water attenuation, a petrol interceptor for the car park and temporary drainage measures for construction. The LLFA has also advised that arrangements for the future maintenance and management of surface water infrastructure should be provided for and these are to be secured via s106.
- 10.75 There are no objections from Yorkshire Water subject to conditions. The conditions overlap with those recommended by the LLFA.

Representations

- 10.76 Two representations have been received. The main issues raised relate to the retail impacts and highway matters. These issues are considered to have been fully addressed within this assessment.
- 10.77 There have also been concerns raised in relation to drainage. There have been no objections raised by the LLFA and Yorkshire Water (subject to conditions) and as such the development is considered to be acceptable in drainage terms.
- 10.78 A query has been raised in relation to the retention of trees to the boundary. There are no protected trees within the site (nor any worthy of protection) and the retention and provision of new tree planting would form part of the landscaping scheme, which is a reserved matter.

Planning obligations

- 10.79 A financial contribution to fund the delivery of a scheme of pedestrian improvements within the vicinity of the site to improve connectivity with adjacent premises is considered necessary to make the development acceptable in planning terms. The pedestrian improvement scheme is the same as that proposed under application 2018/90607 and whilst the current proposal is smaller, it remains of a sufficient scale to warrant the same level of improvements in officers' view. The applicant has agreed to provide the full contribution which is £97,000.
- 10.80 In addition a Travel Plan will be required for this development along with a travel plan monitoring fee. The monitoring fee will be £10,000 i.e. £2,000 per annum for a period of 5 years.

Other Matters

- 10.81 Coal mining information has been provided in support of the application. The Coal Authority raises no objections subject to the imposition of a condition requiring intrusive site investigations and remedial works as may be necessary.
- 10.82 The applicant has submitted a phase 1 and phase 2 report in relation to contamination. These reports are considered to be satisfactory by Environmental Health. Details of the remediation measures that are required for the site (including gas protection measures) can be secured by an appropriate condition, along with a condition for a validation report.
- 10.83 To mitigate the impact on air quality, details of a scheme for the provision of electric vehicle charging points for the development is recommended by way of condition. This is to comply with LP24 of the Local Plan, guidance in the NPPF and the West Yorkshire Low Emissions strategy.
- 10.84 The site is of low ecological value and there is limited potential for bat activity. A condition is recommended requiring an Ecological Design Strategy as a means of providing ecological enhancement, in line with LP30 of the Local Plan and guidance in the NPPF.

11.0 CONCLUSION

- 11.1 It is considered that the proposal will represent a significant inward investment within Kirklees which is projected to generate 110 full-time equivalent jobs within the Priority Employment policy allocation. The development will contribute to the delivery of the job requirements set out in the Local Plan, in accordance with policy LP3.
- 11.2 The scheme has also 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.
- 11.3 Negotiations have been undertaken to ensure that acceptable access arrangements for the development are provided and which would mitigate the impact on the surrounding highway network. Benefits are also provided through a substantial pedestrian improvement scheme within the vicinity of the site which will help to promote linked trips across the retail park on foot.
- 11.4 The HSE have advised against the granting of this permission, and the issues and potential consequences are set out comprehensively in paragraphs 10.64-10.73. This advice is a material planning consideration in the making of any decision which will be made in full knowledge of HSE comments.
- 11.5 Acknowledging the HSE advice, it is considered that the benefits that this scheme generates within this designated Priority Employment Area are 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 Development and Master Planning)

1. Standard conditions for outline permission (4 no.)
2. Retail conditions:
 - Restrict the gross floor space to that proposed within the application (including mezzanine level)
 - Restrict the use of the gross floorspace for convenience goods to 2,350 square metres.
 - Floorspace to be provided within four separate units with a maximum gross floorspace of 2,322 square metres in unit one and maximum gross floorspace of 1,858 square metres in the remaining units.
 - Limit the sale of convenience goods to a maximum of 30% of the gross floorspace
3. Detailed junction design for points of access
4. Detailed scheme for proposed change to the road priorities on Woodhead Road/Bankwood Way
5. Scheme for highway signage
6. Full Travel Plan
7. Drainage conditions - Detailed drainage design, surface water attenuation, petrol interceptor for the car park and temporary drainage measures for construction.
8. Intrusive site investigations and remediation to address the legacy of coal mining
9. Remediation for contaminated land (based on submitted phase 1 and 2 reports)
10. Reporting of unexpected contamination
11. Scheme for provision of electric vehicle charging points
12. Ecological design strategy

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f92563>

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