
Case Number	19/00037/FUL (Formerly PP-07482961)
Application Type	Full Planning Application
Proposal	Erection of 3 retail units (Class A1), 8 storage and distribution units (Class B8), 2 drive thru restaurants (Class A3/A5), 1 vehicle maintenance and repair unit (Class B2) and 2 substations including provision of car parking, junction improvements to Penistone Rd and Herries Rd, access onto Herries Rd/ Herries Rd South, servicing, landscaping, pedestrian access and associated on and off-site works (as amended)
Location	Land At Junction With Herries Road, Herries Road South And Penistone Road North Sheffield S6 1QA
Date Received	07/01/2019
Team	West and North
Applicant/Agent	DLP Planning Ltd
Recommendation	Grant Conditionally

Time limit for Commencement of Development

1. The development shall be begun not later than the expiration of three years from the date of this decision.

Reason: In order to comply with the requirements of the Town and Country Planning Act.

Approved/Refused Plan(s)

2. The development must be carried out in complete accordance with the following approved documents:

Drawing nos.
13622-98 Rev A Site Location Plan
547-PRN 03 Tree Survey
547-PRN 04 Tree Constraints Plan
547-PRN 05 Tree Protection Plan
all published on 7.1.19

Drawing nos.
13622-99 Rev H Site As Existing (Survey)
13622-150 Rev J Proposed Site Plan

13622-151 Rev C Proposed Site Sections
13622-155 Rev D Proposed Retail Terrace GA Plan
13622-156 Rev D Proposed Retail Terrace Elevations
13622-157 Rev C Proposed Retail Terrace Roof Plan
13622-158 Rev B Proposed Unit 4 GA Plans & Elevations
13622-159 Rev C Proposed Unit 5 GA Plans
13622-160 Rev C Proposed Unit 5 Elevations
13622-161 Rev C Proposed Trade Units GA Plans
13622-162 Rev C Proposed Trade Units Roof Plan
13622-163 Rev C Proposed Trade Units Elevations 01
13622-164 Rev C Proposed Trade Units Elevations 02
13622-165 Rev C Proposed Unit 12 GA Plans & Elevations
13622-166 Rev D Proposed Unit 13A & 13B Plans
13622-167 Rev D Proposed Unit 13A & 13B Elevations
13622-168 Rev D Proposed Boundary Treatment Plan
13622-172 Rev C Proposed Streetscene Elevations
13622-173 Rev B Proposed Unit 3 GA Plans & Elevations
V13622-L01 Rev D Proposed Landscape Masterplan
V13622-L02 Rev D Proposed Landscape Plan (1 of 2)
V13622-L03 Rev D Proposed Landscape Plan (2 of 2)
all published on 9.10.19

Drawing no.
13622-175 Rev B Proposed Detail Sections
published on 12.11.19

Drawing no.
13622-152 Proposed Demolition Plan Rev A
published on 18.11.19

Drawing no.
13622-174 Rev B Proposed Street Sections
published on 28.11.19

Reason: In order to define the permission.

Pre Commencement Condition(s) – ('true conditions precedent' – see notes for definition)

3. No development shall commence until full details of measures to protect the existing trees to be retained, have been submitted to and approved in writing by the Local Planning Authority and the approved measures have thereafter been implemented. These measures shall include a construction methodology statement and plan showing accurate root protection areas and the location and details of protective fencing and signs. Protection of trees shall be in accordance with BS 5837, 2012 (or its replacement) and the protected areas shall not be disturbed, compacted or used for any type of storage or fire, nor shall the retained trees, shrubs or hedge be damaged in any way. The Local Planning Authority shall be notified in writing when the protection measures are in place and the protection shall not be removed until the completion of the development.

Reason: In the interests of protecting the identified trees on site. It is essential that this condition is complied with before any other works on site commence given that damage to trees is irreversible.

4. No development shall commence until a Landscape and Ecological Management Plan, including short, medium and long term aims and objectives, management responsibilities and maintenance schedules for all distinct areas, has been submitted to and approved in writing by the Local Planning Authority. The Landscape and Ecological Management Plan shall thereafter be implemented as approved.

Reason: In the interests of protecting the biodiversity of the site. It is essential that this condition is complied with before any other works on site commence given that damage to existing habitats is irreversible.

5. The Landscape and Ecological Management Plan shall include the ecology mitigation measures described in Section 4 of the Preliminary Ecological Appraisal dated October 2018 prepared by Weddle Landscape Design, and Section 5 of the additional survey (ref:181139/Rev 1) dated 20.5.19 prepared by Whitcher Wildlife Ltd.

Reason: In the interests of biodiversity.

6. The proposed green wall(s) (vegetated wall system) shall be provided prior to the use of the building commencing. Full details of the green wall construction and specification, together with a maintenance schedule, shall be submitted to and approved in writing by the Local Planning Authority prior to foundation works commencing on site. The plants shall be maintained for a period of 5 years from the date of implementation and any failures within that period shall be replaced.

Reason: In the interests of biodiversity.

7. No development shall commence until a report has been submitted to and approved in writing by the Local Planning Authority, identifying how a minimum of 10% of the predicted energy needs of the completed development will be obtained from decentralised and renewable or low carbon energy, or an alternative fabric first approach to offset an equivalent amount of energy. Any agreed renewable or low carbon energy equipment, connection to decentralised or low carbon energy sources, or agreed measures to achieve the alternative fabric first approach, shall have been installed/incorporated before any part of the development is occupied, and a report shall have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the agreed measures have been installed/incorporated prior to occupation. Thereafter the agreed equipment, connection or measures shall be retained in use and maintained for the lifetime of the development.

Reason: In order to ensure that new development makes energy savings in the interests of mitigating the effects of climate change and given that such works could be one of the first elements of site infrastructure that must be installed it is essential that this condition is complied with before the development commences.

8. No development shall commence until full details of the proposed surface water drainage design, including calculations and appropriate model results, have been submitted to and approved by the Local Planning Authority. This shall include the arrangements and details for surface water infrastructure management for the life

time of the development. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. The scheme should be achieved by sustainable drainage methods whereby the management of water quantity and quality are provided. Should the design not include sustainable methods evidence must be provided to show why these methods are not feasible for this site. If discharge to public sewer is proposed, the information shall include, the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event to allow for climate change. The surface water drainage scheme and its management shall be implemented in accordance with the approved details. No part of a phase shall be brought into use until the drainage works approved for that part have been completed.

Reason: In the interests of sustainable development and given that drainage works are one of the first elements of site infrastructure that must be installed it is essential that this condition is complied with before the development commences in order to ensure that the proposed drainage system will be fit for purpose.

9. Development shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved by the local planning authority. The CEMP shall assist in ensuring that all site activities are planned and managed so as to prevent nuisance and minimise disamenity at nearby sensitive uses, and will document controls and procedures designed to ensure compliance with relevant best practice and guidance in relation to noise, vibration, dust, air quality and pollution control measures. The CEMP shall include strategies to mitigate any residual environmental or amenity impacts that cannot be adequately controlled at source.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

10. Any intrusive investigation recommended in the Phase I Preliminary Risk Assessment Report shall be carried out and be the subject of a Phase II Intrusive Site Investigation Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to construction works commencing. The Report shall be prepared in accordance with Contaminated Land Report CLR 11 (Environment Agency 2004).

Reason: In order to ensure that any contamination of the land is properly dealt with and the site is safe for the development to proceed, it is essential that this condition is complied with before the development is commenced.

11. Any remediation works recommended in the Phase II Intrusive Site Investigation Report shall be the subject of a Remediation Strategy Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to construction works commencing. The Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Local Planning Authority policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with and the site is safe for the development to proceed, it is essential that this condition is complied with before the development is commenced.

12. No development shall commence until the improvements (which expression shall include traffic control and cycle safety measures) to the highways listed below have either:

- a) been carried out; or
- b) details have been submitted to and approved in writing by the Local Planning Authority of arrangements which have been entered into which will secure that such improvement works will be carried out before the development is brought into use.

Highway Improvements:

- (i) Alterations to site access arrangements for vehicles and pedestrians broadly in accordance with submitted drawing number SCP/18445/F13 Rev B (which will be subject to further detailed design), including the provision of pedestrian drop crossings and tactile paving to facilitate unhindered wheelchair mobility and (subject to a stage 2 road safety audit), will promote/prioritise cycle movements along the off-road cycle tracks;
- (ii) Promotion (as necessary) of a Traffic Regulation Order (loading/waiting restrictions in the vicinity of the development site) and provision of associated road markings and signage, all subject to the usual formal procedures;
- (iii) Provision (where possible) of a clear 4 metres wide shared footway/cycleway along the Penistone Road frontage (and associated signage/markings);
- (iv) Highway landscaping to the rear of the shared footway/cycleway along the Penistone Road frontage between Herries Road and Herries Road South;
- (v) Accommodation works to street furniture and Statutory Undertakers equipment, including street lighting columns, moving them to the new rear of shared footway/cycleway;
- (vi) Bus shelter upgrade/replacement to South Yorkshire Passenger Transport Executive specification on the Penistone Road frontage with kerb upstand and tactile paving to assist boarding/alighting
- (vii) Retail Park direction signage on the local highway network.

Reason: To enable the above-mentioned highways to accommodate the increase in traffic, which, in the opinion of the Local Planning Authority, will be generated by the development, and in the interests of protecting the free and safe flow of traffic on the public highway it is essential that this condition is complied with before any works on site commence.

13. Prior to the improvement works indicated in the preceding condition being carried out, full details of these improvement works shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the amenities of the locality.

14. No development works shall commence until a 'construction management plan', which shall include details of the means of ingress and egress of vehicles engaged in the construction of the development and details of any site compound, contactor car parking, storage, welfare facilities and delivery/service vehicle loading/unloading areas has been submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and the amenities of the locality.

Other Pre-Commencement, Pre-Occupancy and other Stage of Development Condition(s)

15. Details of all proposed external materials and finishes, including samples when requested by the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority before that part of the development is commenced. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: In order to ensure an appropriate quality of development.

16. A sample panel of the proposed masonry shall be erected on the site and shall illustrate the colour, texture, bedding and bonding of masonry and mortar finish to be used. The sample panel shall be approved in writing by the Local Planning Authority before any masonry works commence and shall be retained for verification purposes until the completion of such works.

Reason: In order to ensure an appropriate quality of development.

17. The Local Planning Authority shall be notified in writing upon completion of the green walls.

Reason: To ensure that the Local Planning Authority can confirm when the maintenance periods specified in associated conditions/condition have commenced.

18. Before each of the following structures are constructed on site, details of their external appearance shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the structures shall be provided in accordance with the approved details.

- (i) electricity sub-stations;
- (ii) refuse store enclosures;
- (iii) mechanical plant compound enclosure;
- (iv) finish colour of the fence enclosing the storage area to Unit 11;
- (v) external lighting;

Reason: In the interests of the visual amenities of the locality.

19. Large scale details, including materials and finishes, at a minimum of 1:10 of the items listed below shall be approved in writing by the Local Planning Authority before that part of the development commences:

- (i) windows and window reveals;
- (ii) doors including level thresholds;
- (iii) eaves and verges;
- (iv) external wall construction;
- (vi) entrance canopies;

Thereafter, the works shall be carried out in accordance with the approved details.

Reason: In order to ensure an appropriate quality of development.

20. Before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority, full details of proposals for the inclusion of public art within the development shall have been submitted to and approved in writing by the Local Planning Authority. Such details shall then be implemented prior to the occupation of the development.

Reason: In order to satisfy the requirements of Policy BE12 of the Unitary Development Plan and to ensure that the quality of the built environment is enhanced.

21. Before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority, full details of suitable inclusive access and facilities for disabled people to enter the building(s) and within the curtilage of the site, shall have been submitted to and approved in writing by the Local Planning Authority and the buildings shall not be used unless such inclusive access and facilities have been provided in accordance with the approved plans. Thereafter such inclusive access and facilities shall be retained. (Reference should also be made to the Code of Practice BS8300).

Reason: To ensure ease of access and facilities for disabled persons at all times.

22. The approved landscape works shall be implemented prior to the development being brought into use or within an alternative timescale to be first approved in writing by the Local Planning Authority. Thereafter the landscaped areas shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation and any plant failures within that 5 year period shall be replaced.

Reason: In the interests of the visual amenities of the locality it is essential for these works to have been carried out before the use commences.

23. The Local Planning Authority shall be notified in writing when the landscape works are completed.

Reason: To ensure that the Local Planning Authority can confirm when the maintenance periods specified in associated conditions/condition have commenced.

24. Before the use hereby permitted commences, the applicant shall submit for written approval by the Local Planning Authority a report giving details of the impact of light from the development on adjacent dwellings. The report shall demonstrate that the lighting scheme is designed in accordance with The Institution of Lighting Professionals documents GN01: 2011 'Guidance Notes for the Reduction of Obtrusive Light', and PLG05: 2014 'The Brightness of Illuminated Advertisements'. The development shall be carried out and thereafter retained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

25. No externally mounted plant or equipment for heating, cooling or ventilation purposes, nor grilles, ducts, vents for similar internal equipment, shall be fitted to the building unless full details thereof, including acoustic emissions data, have first been submitted to and approved in writing by the Local Planning Authority. Once installed such plant or equipment shall not be altered.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

26. Neither commercial food uses in Unit 4 and Unit 12 hereby permitted shall commence unless a scheme for the installation of equipment to control the emission of fumes and odours from the premises is submitted for written approval by the Local Planning Authority. These details shall include:

- a) Drawings showing the location of the external flue ducting and termination, which should include a low resistance cowl.
- b) Acoustic emissions data for the system.
- c) Details of any filters or other odour abatement equipment.
- d) Details of the system's required cleaning and maintenance schedule.

The use shall not commence until the approved equipment has been installed and is fully operational and shall thereafter be installed, operated, retained and maintained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

27. Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Sheffield City Council policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with.

28. Before the development is brought into use details of mitigation measures described in paragraph 6.2.5 of the Air Quality Assessment Report (Report no. 001 Version V0.1) dated January 2019 prepared by Wardell Armstrong including a green travel plan, the installation of low NO₂ boilers and the installation of electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved measures shall be provided before the development is brought into use.

Reason: In the interest of the amenities of the locality.

29. No demolition and/or construction works shall be carried out unless equipment is provided for the effective cleaning of the wheels and bodies of vehicles leaving the site so as to prevent the depositing of mud and waste on the highway. Full details of the proposed cleaning equipment shall be approved in writing by the Local Planning Authority before it is installed.

Reason: In the interests of the safety of road users.

30. The development shall not be used unless details have been submitted to and approved in writing by the Local Planning Authority, showing how surface water will be prevented from spilling onto the public highway. Once agreed, the measures

shall be put into place prior to the use of the development commencing, and shall thereafter be retained.

Reason: In the interests of highway safety and the amenities of the locality.

31. Prior to occupation of the development, or an alternative timeframe to be agreed in writing by the Local Planning Authority, a Detailed Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Detailed Travel Plan shall include:

- (i) Clear & unambiguous objectives to influence a lifestyle that will be less dependent upon the private car.
- (ii) A package of measures to encourage and facilitate less car dependent living.
- (iii) A time bound programme of implementation and monitoring in accordance with the City Councils Monitoring Schedule.
- (iv) Provision for the results and findings of the monitoring to be independently validated to the satisfaction of the Local Planning Authority.
- (v) Provisions that the validated results and findings of the monitoring shall be used to further define targets and inform actions proposed to achieve the approved objectives and modal split targets.

Prior to occupation of the development, or an alternative timeframe to be agreed in writing by the Local Planning Authority, evidence that all the measures included within the approved Detailed Travel Plan have been implemented or are committed shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of delivering sustainable forms of transport, in accordance with the Unitary Development Plan for Sheffield (and/or Core Strategy) Policies.

32. Notwithstanding the submitted plans, prior to the development becoming occupied, suitable and sufficient short-stay and long-stay secure and sheltered bicycle/motorcycle parking accommodation (plus storage/changing/shower facilities) shall have been provided in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority (avoiding the use of 'butterfly' systems which have a tendency to buckle wheels). Thereafter, the bicycle/motorcycle parking shall be retained/maintained for the sole purpose intended.

Reason: In the interests of delivering sustainable forms of transport, in accordance with the Unitary Development Plan for Sheffield (and/or Core Strategy) Policies.

33. The development shall not be used unless all redundant accesses have been permanently stopped up and reinstated to kerb and footway, and any associated changes to adjacent waiting restrictions that are considered necessary by the Local Highway Authority including any Traffic Regulation Orders are implemented.

Reason: In the interests of highway safety and the amenities of the locality.

34. Notwithstanding the submitted plans, before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority, a revised car parking layout with amendments to improve circulation and the provision of electric charging spaces (to the minimum standards required by the Automated & Electric Vehicle Act 2018) shall have been submitted to and approved in writing by the Local Planning Authority. The car parking accommodation shall

have been provided in accordance with the aforementioned approved details (along with internal direction signage advising motorists of the correct turning manoeuvres upon re-joining the public highway) prior to the development being brought into use. The car parking accommodation and signage shall thereafter be retained/maintained for the sole purpose intended.

Reason: To ensure satisfactory parking provision in the interests of traffic safety and the amenities of the locality.

35. Prior to occupation, all vehicle and pedestrian areas within the site shall have been surfaced, sealed and drained in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory parking provision in the interests of traffic safety and the amenities of the locality.

36. No development shall commence until the improvements (which expression shall include traffic control and cycle safety measures) to the highways listed below have either;

- a) been carried out; or
- b) details have been submitted to and approved in writing by the Local Planning Authority of arrangements which have been entered into which will secure that such improvement works will be carried out before the development is brought into use.

Highway Improvements:

(i) the dedication of land identified on submitted drawing number SCP/18445/F15 Revision E required to accommodate capacity improvements at the junction of Herries Road South with the A61 (together with cycling infrastructure improvements) to the City Council from the land owner at no cost to the City Council, to occur when the highway improvement scheme is commenced.

Reason: To enable the above-mentioned highways to accommodate the improvements in cycle facilities and in the interests of protecting the free and safe flow of traffic on the public highway.

37. Notwithstanding the indication given on the submitted drawings, details of the siting of Unit 2 and Unit 3 are not hereby approved. No construction works (including foundations or the laying of services) shall commence on Unit 2 or Unit 3 until full details of the siting and foundation design of Unit 2 and Unit 3 has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include but not be exclusive to evidence (via trial holes) of the route of the 30 inch treated water main that is located within the vicinity of Units 2 and 3 and the means of ensuring that access to the water main for the purpose of repair and maintenance by the statutory undertaker is retained at all times.

Reason: In the interests of protecting the existing large diameter water main on the site.

Other Compliance Conditions

38. The soft landscaped areas shall be managed and maintained for a period of 5 years from the date of implementation and any plant failures within that period shall be replaced in accordance with the approved details.

Reason: In the interests of the visual amenities of the locality.

39. Unless otherwise indicated on the approved plans no tree, shrub or hedge shall be removed or pruned without the prior written approval of the Local Planning Authority.

Reason: In the interests of the visual amenities of the locality.

40. During all phases of the development (construction and operational), no buildings/structures shall be erected within 3 metres of the 30 inch diameter water main that is located within the site boundary and no trees shall be planted within 5 metres either side of the aforementioned water main.

Reason: To ensure there is no obstruction to the 30 inch water main for the statutory undertaker for the purposes of and maintenance and repair.

41. Surface water and foul drainage shall drain to separate systems.

Reason: To ensure satisfactory drainage arrangements.

42. No piped discharge of surface water from the application site shall take place until surface water drainage works including off-site works have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory drainage arrangements.

43. Prior to being discharged into any watercourse, surface water sewer or soakaway system all surface water drainage from parking areas and hardstandings shall be passed through a petrol/oil and grit interceptor/separator designed and constructed in accordance with details to be approved in writing by the Local Planning Authority.

Reason: Prevent pollution of the water environment.

44. All vehicle servicing, maintenance and repair associated with the use of the B2 unit shall be carried out within the building. No such activities shall be carried out in the open air at any time.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

45. Commercial deliveries to and collections from each of the units hereby permitted shall be carried out only between the hours of 0600 to 2300 on Mondays to Saturdays and between the hours of 0800 to 2200 on Sundays and Public Holidays.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

46. No vehicular on-site movements of stock, goods, waste or other materials shall take place in the open air and no use of audible alarms or other warning systems shall take place at any of the units hereby permitted outside the hours of 0600 to 2300 on Mondays to Saturdays, or the hours of 0800 to 2200 on Sundays and Public Holidays.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

47. No amplified sound or live music shall be played within the units hereby permitted at above background levels, nor shall loudspeakers be fixed externally nor directed to broadcast sound outdoors at any time. Any external intercom units used for the purpose of communicating food orders, or otherwise, shall be operated in such a manner so as to remain inaudible at the nearest off-site noise sensitive receptor facade at all times.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

48. All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works should cease and the Local Planning Authority and Environmental Protection Service (tel: 0114 273 4651) should be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: In order to ensure that any contamination of the land is properly dealt with.

49. No goods or materials shall be stored within the storage yard of Unit 11 above a height of 5 metres above ground level.

Reason: In the interests of the visual amenities of the locality

50. The development shall be carried out in accordance with the recommendations contained in Section 2 of the Flood Risk Assessment (ref: 37834: Issue 1) dated 22.10.18 prepared by Eastwood and Partners.

Reason: In the interest of mitigating flood risk.

51. No doors/windows shall, when open, project over the adjoining footpaths within the development.

Reason: In the interests of pedestrian safety.

52. The cumulative total of gross internal floorspace of units on the application site whose use is primarily for retail purposes within Use Class A1 shall not exceed 3,199 sq metres, of which:

(i) the cumulative total of gross internal floorspace of units on the application site whose use is primarily for convenience food retail shall not exceed 1,899 sq metres;

- (ii) Unit 1 as shown on the approved plans shall only be used primarily for convenience food retail purposes and shall not be used for any other use within Use Class A1;
- (iii) Unit 2 and Unit 3 shall not be used primarily for convenience food retail purposes.

Reason: In the interests of the vitality and viability of nearby District and Local Shopping Centres.

53. For a period of five years from the date of grant of this permission, none of the retail floorspace hereby approved shall be occupied by any Class A1 retailer who at the date of grant of this planning permission, or within a period of 24 months immediately prior to the occupation of the retail floorspace hereby approved, occupies retail floorspace within the Hillsborough District Centre (as shown delineated in blue on plan number HDC1) unless such Class A1 retailer has submitted a scheme which includes a legally binding obligation on them to retain that presence as a retailer within the Hillsborough District Centre for a minimum period of 5 years following the date of their occupation of any retail floorspace hereby approved, and such scheme has been approved in writing by the Local Planning Authority.

Reason: In the interests of the vitality and viability of the Hillsborough District Centre and nearby local shopping centres.

54. Unit 2 and Unit 3 shall not be used for the sale of the following goods:

- (i) footwear;
- (ii) fashion goods.

Reason: In the interests of the vitality and viability of the Hillsborough District Centre and nearby local shopping centres.

55. The retail units (namely Unit 1, Unit 2 and Unit 3) shall not at any time be subdivided into smaller units.

Reason: In the interests of the vitality and viability of the Hillsborough District Centre and nearby local shopping centres.

56. The development hereby approved shall be constructed to achieve a minimum rating of BREEAM 'very good' and before the development is occupied (or within an alternative timescale to be agreed) the relevant certification, demonstrating that BREEAM 'very good' has been achieved, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of mitigating the effects of climate change, in accordance with Sheffield Development Framework Core Strategy Policy CS64.

Attention is Drawn to the Following Directives:

1. The Local Planning Authority has dealt with the planning application in a positive and proactive manner and sought solutions to problems where necessary in accordance with the requirements of the National Planning Policy Framework.

2. The required CEMP should cover all phases of demolition, site clearance, groundworks and above ground level construction. The content of the CEMP should include, as a minimum:
 - (i) Reference to permitted standard hours of working:
0730 to 1800 Monday to Friday
0800 to 1300 Saturday
No working on Sundays or Public Holidays
 - (ii) Prior consultation procedure (EPS & LPA) for extraordinary working hours arrangements.
 - (iii) A communications strategy for principal sensitive parties close to the site.
 - (iv) Management and control proposals, including delegation of responsibilities for monitoring and response to issues identified/notified, for:
 - Noise - including welfare provisions and associated generators, in addition to construction/demolition activities;
 - Vibration;
 - Dust - including wheel-washing/highway sweeping; details of water supply arrangements.
 - (v) A consideration of site-suitable piling techniques in terms of off-site impacts, where appropriate.
 - (vi) A noise impact assessment - this should identify principal phases of the site preparation and construction works, and propose suitable mitigation measures in relation to noisy processes and/or equipment.
 - (vii) Details of site access & egress for construction traffic and deliveries.
 - (viii) A consideration of potential lighting impacts for any overnight security lighting. Further advice in relation to CEMP requirements can be obtained from SCC Environmental Protection Service; Commercial Team, Fifth Floor (North), Howden House, 1 Union Street, Sheffield, S1 2SH: Tel. (0114) 2734651, or by email at eps.admin@sheffield.gov.uk.
3. Plant and equipment shall be designed to ensure that the total LAr plant noise rating level (i.e. total plant noise LAeq plus any character correction for tonality, impulsive noise, etc.) does not exceed the LA90 background sound level at any time when measured at positions on the site boundary adjacent to any noise sensitive use.
4. For larger commercial kitchens or cooking types where odour and noise risk is higher, reference should be made to the updated guidance document; 'Control of odour and noise from commercial kitchen exhaust systems' (EMAQ; 05/09/2018). Appendix 2 of the document provides guidance on the information required to support a planning application for a commercial kitchen.
5. Where highway schemes require developers to dedicate land within their control for adoption as public highway an agreement under Section 38 of the Highways Act 1980 is normally required.

To ensure that the road and/or footpaths on this development are constructed in accordance with the approved plans and specifications, the work will be inspected by representatives of the City Council. An inspection fee will be payable on commencement of the works. The fee is based on the rates used by the City Council, under the Advance Payments Code of the Highways Act 1980.

If you require any further information please contact:

Mr S Turner

Highway Adoptions
Highways Maintenance Division
Howden House, 1 Union Street
Sheffield
S1 2SH

Tel: (0114) 273 4383
Email: stephen.turner@sheffield.gov.uk

6. You are required, as part of this development, to carry out works within the public highway. You must not start any of this work until you have received formal permission under the Highways Act 1980 in the form of an S278 Agreement. Highway Authority and Inspection fees will be payable and a Bond of Surety required as part of the S278 Agreement.

You should contact the S278 Officer for details of how to progress the S278 Agreement:

Mr J Burdett
Highways Development Management
Highways Maintenance Division
Howden House, 1 Union Street
Sheffield
S1 2SH

Tel: (0114) 273 6349
Email: james.burdett@sheffield.gov.uk

7. Before commencement of the development, and upon completion, you will be required to carry out a dilapidation survey of the highways adjoining the site with the Highway Authority. Any deterioration in the condition of the highway attributable to the construction works will need to be rectified.

To arrange the dilapidation survey, you should contact:

Highway Co-Ordination

Telephone: 0114 273 6677
Email: highways@sheffield.gov.uk

8. As the proposed development abuts the public highway you are advised to contact the Highways Co-ordination Group prior to commencing works:

Telephone: 0114 273 6677
Email: highways@sheffield.gov.uk

They will be able to advise you of any pre-commencement condition surveys, permits, permissions or licences you may require in order to carry out your works.

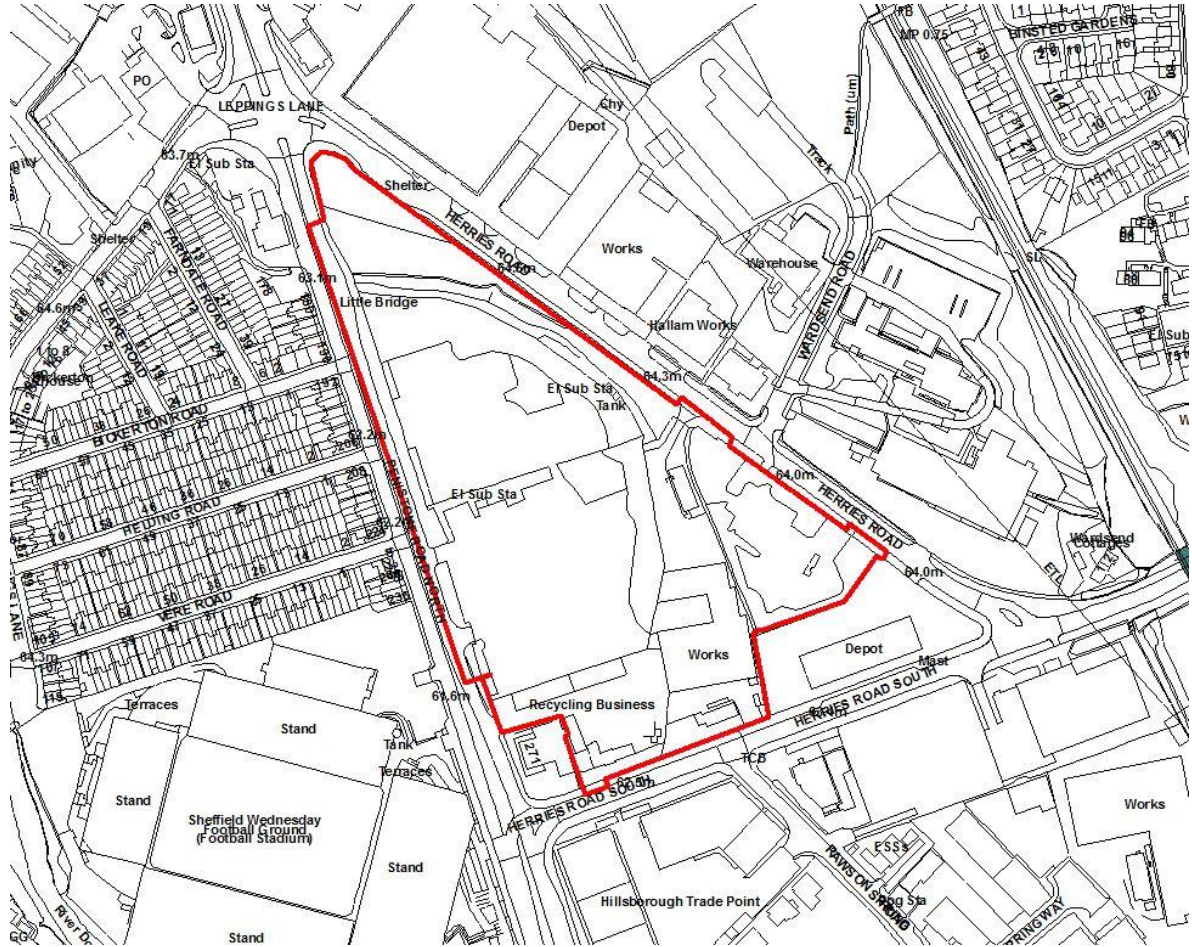
9. By law, this development requires the allocation of official, registered address(es) by the Council's Street Naming and Numbering Officer. Please refer to the Street Naming and Numbering Guidelines on the Council website here:

<https://www.sheffield.gov.uk/content/sheffield/home/roads-pavements/address-management.html>

The guidance document on the website includes details of how to apply, and what information we require. For further help and advice please ring 0114 2736127 or email snn@sheffield.gov.uk

Please be aware that failure to apply for addresses at the commencement of the works will result in the refusal of statutory undertakers to lay/connect services, delays in finding the premises in the event of an emergency and legal difficulties when selling or letting the properties.

Site Location



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INTRODUCTION

This application was deferred at the meeting of the Committee held on 19 November 2019 to enable Members to visit the site.

LOCATION

The application site comprises approximately 4.9 hectares of land bounded in the main by Penistone Road, Herries Road and Herries Road South.

The majority of the application site comprises three large areas of open hard standings (two fronting Penistone Road, and one fronting Herries Road). The former buildings on this part of the site were demolished several years ago. The open hard standings have been used for occasional temporary uses including 'match day' car parking associated with the nearby stadium.

There is an area of trees to the north end of the site and a couple of rows of trees across and down the centre of the site.

The remaining part of the application site, towards the centre of the site and at its southern end, comprises buildings and their associated yards. Most of these buildings have been vacated, whilst one was recently occupied by a vehicle recovery business.

Excluded from the application site are the vehicle repair premises at the corner of Penistone Road/Herries Road South (currently vacant), and the timber yard on Herries Road South/Herries Road (occupied).

There are no significant gradients on the site.

A watercourse (part open, part in culvert) runs through the site from the northwest corner, across to the eastern side of the site, and is then piped southwards across the site and under Herries Road South.

The area of trees between this watercourse and Herries Road are subject to a tree preservation order.

There are residential properties opposite the site on the west side of Penistone Road including off Vere Road, Fielding Road, Bickerton Road, Farndale Road and Leake Road.

The remainder of the surrounding area is predominantly mixed industrial, with some commercial premises. Hillsborough Stadium is opposite the southwest corner of the site.

PROPOSAL

This application has been amended since its original submission. The amendments include adjusting the site layout to provide a wider landscape buffer

at the northern end of the proposed car parking area, and slightly repositioning the proposed access off Herries Road.

As amended the proposal seeks full planning permission for the demolition of the remaining buildings on the site, and to redevelop the site for a mixed use development comprising:

- 3 retail units (within use class A1);
- 8 storage and distribution units (within use class B8);
- 2 drive through restaurants (within use class A3/A5);
- 1 vehicle maintenance and repair unit (within use class B2);

It also includes:

- provision of car parking and servicing;
- junction improvements to Penistone Road and Herries Road;
- a new access onto Herries Road and Herries Road South;
- landscaping, pedestrian access and associated on and off site works.

The proposed buildings to be demolished total approximately 3,722 sqm of gross internal floorspace.

The proposal would provide a vehicle access for customers from each of the three road frontages into the development. These internal access roads would converge at a central roundabout on the site and give access to the various car parking areas and most of the servicing yards within the site.

An additional service yard access off Herries Road is also proposed.

The southern part of the site would accommodate the proposed B2 and B8 units and one of the A3/A5 units. The proposed A1 units and the other A3/A5 unit would be on the northern part of the site.

The proposed development would provide approximately 3,199 sqm of floorspace within use class A1, 8,660 sqm (use class B8), 343 sqm (use class A3/A5) and 409 sqm (use class B2).

Car parking for 287 cars including 26 accessibility spaces is proposed together with 34 cycle stands.

The main elevations of the proposed retail units would be faced in brickwork (a buff multi brick) with silver feature panels, glazed shop fronts and a green wall between units 2 and 3. The secondary elevations would be faced in pale blue/grey cladding panels. The units would have higher eaves at the front with a shallow sloping roof declining to the lower rear eaves.

The larger storage/distribution and vehicle maintenance units would have shallow hipped roofs. These and the proposed A3/A5 units would also have a similar palette of external finishes to the retail units, albeit in differing proportions, with standing seam cladding being the primary material.

The proposed hours of opening are:

A1 use: 0800 to 2200 Monday to Saturday, 1000 to 1800 Sunday;

A3 use: 0500 to 2300 Monday to Sunday;

A5 use: not stated;

B2 use: 0830 to 1800 Monday to Friday, 0830 to 1700 Saturday, 1000 to 1600 Sunday;

B8 use: not stated.

The applicant has submitted various documents in support of the application including a Planning Statement (including a sequential assessment and a retail assessment), an Addendum Report to the Retail Impact Assessment, a Design and Access Statement, a Transport Assessment and additional Microsimulation Traffic Modelling Report, Travel Plan, an Air Quality Assessment, Noise Impact Assessment, a Preliminary Ecological Appraisal and Additional Survey, Tree Survey, Flood Risk Assessment, and a Phase 1 Geotechnical and Geo-environmental Site Investigation.

RELEVANT PLANNING HISTORY

The site was subject to several planning applications in the 1980s, the 1990s and one in 2003 for various combinations of development.

Five planning applications were refused during the 1980s (of which two were approved on appeal):

- In 1986 two planning applications for a superstore, retail unit, petrol filling station and car parking (one full, one outline) were refused. Appeals against both these refusals were dismissed on the grounds of the harmful effect on the Hillsborough district centre (application nos. 86/0209P and 86/1405P refer).

- In 1988 outline planning permissions was refused for the erection of a food store, petrol filling station and associated parking areas for reasons of impact on the Hillsborough district centre and loss of a small woodland (application no. 88/2559P).

- In 1990 outline planning permission was allowed on appeal (with a condition restricting the sale of a range of comparison goods) for the erection of non-food retail store, fast food restaurant, tyre and exhaust centre, petrol filling station and associated parking areas. This planning application had earlier been refused by the Council in 1988 (application no. 88/2560P). No application for approval of reserved matters was submitted and this permission subsequently lapsed.

- Also in 1990 outline planning permission was allowed on appeal (again with a condition restricting the sale of a range of comparison goods) for erection of non-food retail unit, auto centre and fast food unit, petrol filling station and provision of car parking accommodation. This planning application had earlier been refused by the Council in 1989 for reasons of being contrary to the Council's interim policy on major out-of-centre retail development and loss of mature woodland (application

no. 89/2090P refers). No application for approval of reserved matters was submitted and this permission subsequently lapsed.

In the 1990s three planning applications were approved:

- Firstly in 1991 outline planning permission was granted for erection of a petrol filling station, drive-in restaurant, motor showroom and buildings for classes B1, B2 and B8 uses (business, general industrial and storage and distribution) on the southern part of the open land fronting Penistone Road (application no. 91/0493P refers). This permission was later renewed in 1996 under application no. 94/1201P refers). No application for approval of reserved matters was submitted and this permission subsequently lapsed.

- Also in 1991 full planning permission was granted for erection of petrol filling station and associated facilities on part of the open land fronting Penistone Road (application no. 91/1585P refers). This planning permission was not implemented and subsequently lapsed.

Two applications in the 1990s and one in 2003 were withdrawn prior to their determination:

- An application for the erection of a DIY store/garden centre, electrical store, drive through fast food restaurant and car wash and provision of car parking accommodation on the northern part of the open land fronting Penistone Road was withdrawn prior to determination in 1993 (application no. 93/0193P refers).

- An appeal against the non-determination of an outline planning application for erection of food retail unit and coffee shop (50,000 sq ft) with petrol filling station, car parking accommodation and landscaping works on the open land fronting Penistone Road was withdrawn in 1996 (application no. 94/0939P refers).

Finally, in 2003 an outline application for the erection of a retail store (class A1) and provision of car parking accommodation on the open land fronting Penistone Road and was withdrawn prior to its determination (application no. 03/01422/OUT refers).

SUMMARY OF REPRESENTATIONS

This application has been publicised by the display of site notices, newspaper advert, and by letters of notification to nearby properties.

Upper Don Walk Trust has made 2 representations:

Firstly, the Upper Don Trust commented:

- the Trust has an interest in creating a cycle and walking route segregated from traffic along the River Don between the city, Oughtibridge and towards Stocksbridge and are currently investigating improvements to Club Mill Road towards Herries Road close to its junction with Herries Road South;

- the development boundary along Herries Road would form a desire line for a missing link between Herries Road and Penistone Road North/Claywheels Lane;
- the Trust would welcome the developer incorporating measures that contribute to the development of this sustainable route, and cycle measures along Herries Road as part of mitigation of transport impact offering wider sustainable travel choices;

Secondly, the Upper Don Trust has objected in relation to the following matters:

- the development has a direct access from Herries Road which will not accommodate a cycle facility until an unspecified date in the future;
- as the traffic generated by this application will add to existing congestion it seems reasonable for the developer to provide cycle facilities to encourage travel to be made by modes other than by car;
- unless a fit for purpose cycle facility along Herries Road is delivered at the same time as the development the Upper Don Trust wish to maintain their objection to this application.

Cycle Sheffield welcome the regeneration of the area:

- opportunity to benefit the population through improved provision for walking and cycling required to help mitigate the extra traffic the development will generate;
- points below for inclusion in the planning conditions:
 - ensure this development does not degrade the existing shared cycling and walking path along Penistone Road, the path should remain continuous, at least as wide as it currently is, and no extra street furniture/clutter should be added;
 - upgrades to this walking and cycling facility should be delivered and funded as part of the development, the crossing over Herries Road South could be signalled and be part of a network of segregated cycle paths;
 - parking on the cycle/footpath is a problem on match day, the land is used as fan parking, which will worsen if the development goes ahead, the development will need to include improved car parking restrictions for this area.

8 representations of objection including 1 representation from a local resident, and 7 from businesses have been received relating to the following matters:

The local resident states their property is on the main highway. During early morning and early evening rush hour they cannot park outside their property and it's difficult to find parking on side roads so they try to park on pavement opposite. If planning permission is granted this option will no longer be possible, where will residents park? On match days upwards of 500 cars park on that land, where will these park? Will local residents be offered permits to park on that land or on side roads?

Not opposed to a development, just concerned as to where we can park.

A local business states that they have a license to operate a mobile trading van on the pavement off Herries Road adjacent to the development which is their sole source of income, concerned that once the development is undertaken there will be no place to park.

Killultagh Estates Ltd object (4 documents have been received):

Firstly, Killultagh Estates Ltd objected in relation to the following matters:

- Killultagh Estates Ltd state they are the freeholder of the Hillsborough Exchange Shopping Centre within Hillsborough District Centre;
- since the Hillsborough Exchange Shopping Centre was developed in 1988 a lack of investment in the shopping centre has led to it becoming unsuited to modern retailer requirements and unattractive to customers, it is significantly in need of new investment to ensure its long term viability;
- the Shopping Centre benefits from a resolution to approve an outline planning permission which includes the provision of an additional 638 sqm of retail floorspace as well as 77 apartments, the development represents a total investment of approximately £10m;
- the applicant has failed to demonstrate that the proposed development will not result in a significant adverse impact upon the planned investment in Hillsborough District Centre, accordingly the application is in conflict with Policy CS14 of the Sheffield Core Strategy, Policies S4 and S5 of the Unitary Development Plan and paragraph 90 of the National Planning Policy Framework;
- regarding the policy status of the investment, the Shopping Centre is allocated as part of a District Centre (Core Strategy Policies CS34 and CS36, Policy S12 of the UDP), the planned investment represents consolidating development in Hillsborough District Centre which is an objective supported by the development plan and a primary objective of national policy;
- regarding progress made towards securing the investment, planning permission has been granted for the redevelopment of the Shopping Centre, the Shopping Centre will be rejuvenated by the development and provide a new hub for residents, there is a clear objective to bring forward the development, that objective would be undermined with an associated loss of investor confidence if the current application were proposed to draw trade away from the Hillsborough District Centre towards a newly developed out-of-centre retail park;
- regarding the extent to which an application is likely to undermine planned investments, if the proposal is developed it will have a preventative and detrimental effect on the ability for Killultagh Estates to deliver the planned investment at the Shopping Centre, without this investment the future viability of the Shopping Centre will be thrown into question, particularly if retailers with a requirement to trade in Hillsborough are able to find purpose-built accommodation in an out-of-centre location, the application does not propose to limit the range of goods to be sold from the proposed units and therefore it will compete directly with the Shopping Centre and Hillsborough District Centre for trade as well as future tenants, most importantly the viability of the planned investment is marginal, the retail floorspace will not come forward until a commercial deal to deliver the social housing units is completed, the retail portion of the investment is underpinned by the delivery of the residential units, if the current application makes the planned investment unviable the social housing units will not be deliverable.

Secondly, Killultagh Estates Ltd object in relation to the following matters:

- whilst the officer's report contends that Policy IB6 is not fully up to date, this relates to the policy requirement to undertake both the sequential and impact tests for retail development and not the designation of the land as a Fringe Industry and

Business Area which states that large shops are specifically unacceptable, further Policy IB6 continues to be fully applied by the Council in relation to other recent applications (ref: 18/02964/FUL).

- there is no justification in the officer's report which demonstrates why the proposed development should be permitted despite non-compliance with Policy IB6.
- whilst the maximum floorspace cap and non-poaching conditions are welcome, they only cover impact on the vitality and viability of the District Centre. The proposed conditions fail to protect planned investment in the Centre because they don't provide any control over retailers who are not already trading there.
- the ability to attract new tenants will be severely compromised by the proposed development which provides modern retail warehouse units supported by free surface car parking.
- Killultagh Estates have made a firm commitment to regenerate the shopping centre, the proposed development by Jaguar Estates will put that investment firmly in jeopardy, the proposal has not been appropriately justified in relation to the impact test for retail development under paragraph 89 of the NPPF.

Thirdly, Killultagh Estates Ltd has stated:

- Killultagh will be delivering the regeneration of Hillsborough Exchange Shopping Centre with a registered provider taking the social housing element of the scheme on a leasehold basis. Killultagh state that at no point do they make any observation that a social housing provider will be implementing the scheme.
- proposing a substantial amount of retail floorspace on a site outside the town centre has a significant impact on Killultagh's planned and committed investment, it takes occupiers who would otherwise come to the scheme away from it, the no-poaching condition can only cover impact on existing vitality and viability by preventing poaching of existing retailers, there is no condition that could prevent a significant adverse impact on planned and committed investment, the policy has been misapplied and the suggested mitigation in the form of the condition is not relevant to that test, on that basis the application should be refused.

Fourthly, Killultagh Estates Ltd object in relation to the following matters:

- the requirement to undertake a full sequential test and impact test to justify the proposal in terms of retail uses does not negate the need to justify the loss of designated employment land.
- there is no evidence provided to show that the application site is no longer required to be used for employment purposes by reference to Policy CS1 or the Council's Employment Land Review (2015), no justification provided which demonstrates why the proposed development should be permitted despite non-compliance with Policy IB6.
- the proposed 'no poaching' condition is designed only to protect town centre vitality and viability and would have no effect upon the potential to impact on planned investment, the proposed condition must be retained for that purpose.
- the proposed condition on restricted goods (footwear and fashion) does not prevent occupation of the application site by a number of other high street retailers, there is still significant overlap as to the number and types of tenants that could be attracted to the application site and drawn away from the redeveloped Hillsborough

Exchange Shopping Centre, the potential for adverse impact upon planned investment remains.

- if the Council is minded to approve the application a more restrictive planning condition be imposed limiting the use of Units 2 and 3 to traditional bulky goods.

Karali Group object:

- Karali Group state they own a number of commercial premises in Sheffield District and elsewhere on Penistone Road particularly;

- the planning application does not accord with the development plan, there are no material considerations which indicate that a decision should not be made in accordance with the prevailing plan policies and therefore planning permission should be refused;

- long standing development plan policy commitment which identifies the application site for continued employment use while resisting a range of uses which are not considered acceptable;

- the Sheffield Unitary Development Plan (Policies IB6, IB9) allocates the site within an important fringe industry and business area, states that large shops would take up too much industrial land and undermine shopping policies and that they are best located in existing shopping centres, seeks to maintain dominance of industry and business uses;

- the Sheffield Core Strategy (Policies CS1, Key Diagram): the site is in an area allocated location for manufacturing, distribution/warehousing and other non-office business uses, CS1 states that land will be made available for office and industrial development principally in existing employment areas, sites will be released for alternative uses where industry or business would no longer be appropriate;

- the Sheffield Pre-Submission Draft City Policies and Sites identifies the site as part of a business and industrial area, part as a site allocation where preferred uses are B1(b) research and development, B1(c) light industrial or B8 warehouses/storage representing almost 50% of the planning application site area, Draft CPS Policy H1 states that preferred uses are to cover at least 70% of the area;

- contrary to the claims of the applicant that the scheme is B8 led, this range and extent of uses does not accord with existing Sheffield Unitary Development Plan policy IB6 or IB9 or Core Strategy Policy CS1, in particular the proposed retail units and the two proposed drive-thru units, these are non-preferred uses;

- it is not accepted that the development plan is out-of-date, the age of the development plan is irrelevant, the question is one of substance, both CS and UDP Policies are wholly consistent with the [National Planning Policy] Framework and the application must be determined in accordance with Policies IB6, IB9, CS1 unless there are material considerations which indicate otherwise, no such considerations have been promoted by the applicants and the planning application should be refused;

- proposals are contrary to key Framework guidance which identifies an economic objective as one of three overarching objectives that contribute to achieving sustainable development, the development plan's objective to ensure preferred uses are the main use of the site is consistent with this Framework guidance.

- the application fails to provide an appropriate range of mix of uses to a site identified primarily for industrial uses in both the existing and emerging development plan;

- the loss of an extensive area of land to predominantly non-employment class uses is contrary to development plan policies, the emerging development plan and Framework guidance.

Wm Morrison Supermarkets plc (Morrisons) object (4 documents received relating to planning, highway and turnover matters):

- conflict with the development plan and national policy as it proposes a significant amount of out-of-centre retail floorspace at a location outside the town that has the potential to have a significantly adverse impact on the vitality and viability of Hillsborough District Centre and will make planned redevelopment of the Hillsborough Exchange Shopping Centre less likely to happen;
- Morrisons state that they trade from a store in the district centre of Hillsborough, the store effectively anchors the district centre generating footfall for the centre's other shops and services, the store and wider district centre are vulnerable to trade diversion from this and other out-of-centre proposals particularly as the Morrisons store is not trading at the high levels suggested by the applicant's retail impact assessment, the store operates from within a listed building which brings unique cost and operational challenges, in recent years footfall has fallen particularly in response to new out of centre retail developments (Flora Street Aldi, Sainsburys and Lidl on the A61, Kilner Way Retail Park), further out of centre retail development will continue to weaken Hillsborough District centre;
- the impact on Hillsborough district centre has the potential to be significantly adverse;
- the site is just over 1km from the edge of Hillsborough district centre, unlikely to generate linked trips to the town centre given the distance along a heavily trafficked route;
- the approach of paragraph 89 of the NPPF is supported by Policy CS14 of the Sheffield Core Strategy;
- question the applicant's reliance on the Sheffield and Rotherham Joint Retail and Leisure Study from 2017 based on a household survey of shopping patterns in 2016 whether it is still up to date in the light of ongoing change in shopping patterns;
- the Morrisons store is only achieving a company average turnover and there is no evidence of overtrading, this questions the validity of the applicant's Retail Impact Assessment, a new bespoke household survey should be carried out to properly understand the impacts of the proposal;
- the impact of the proposal would be to reduce the turnover of the Morrisons store to below company average with the resultant reduction in the number of shoppers making linked trips to other shops and services of Hillsborough District Centre;
- the proposal to develop new units at Penistone Road would make it less likely for the new development of the Hillsborough Exchange Shopping Centre to come forward as it will directly compete with Hillsborough Exchange for retail units;
- the site is within an area allocated for industry and business and allowing a significant quantum of retail development will reduce the city's supply of employment sites, contrary to the local development plan allocation for the site;
- significant flaws in the assessment result in significantly underestimating the effect of the proposal on the highway network, the applicant has not provided any evidence that the effect on the highway network would not be severe allowing the network to continue to operate in a safe manner;

- the proposed operation of existing and proposed access points to the development site has not been tested as part of the transport assessment, the operation of the internal mini roundabout has not been assessed and is likely to have an effect on the A61 which would be unacceptable;
- it is not clear whether the proposed car parking provision adheres to adopted parking standards, no quantitative assessment of the proposed parking provision to demonstrate it adequately meets the operational requirements and does not lead to indiscriminate parking on local streets, effect of removing match day parking without quantitative assessment;
- layout does not include provision for ultra-low emission vehicles, without charging facilities the site does not support local and national policies to encourage sustainable travel and meet clean air targets;
- the traffic survey data used is four years old and unrepresentative of current traffic conditions, use of traffic counts on a Thursday has not been qualified, the busiest retail weekday is Friday;
- there are some discrepancies in the trip rates, smaller format stores generating higher trip rates per sqm, omission of secondary trip generation related to the drive-thru unit, surveyed sites not compatible;
- omission of trip types related to commercial land uses;
- turning patterns are based on 2015 survey and not fully representative of current conditions, traffic counts should be undertaken, distribution of pass by traffic discrepancies;
- issues with trip generation, types, distribution and assignment result in junction impact assessments are flawed, results of junction impact assessments have not been provided, the results of the AIMSUM modelling would result in further delay to the new smart route junction at Leppings Lane/Herries Road, severe impact on journey times including Herries Road/A61 route, no evidence that the effect on the highway network would not be severe;
- effect on journey times show increases for some routes exceeding 2 minutes between do-minimum and do-something scenarios, largest impact predicted on Herries to A61N route, difference between base and do minimum/do something scenarios are substantial on some routes and likely to have large real world impact for example the Herries to/from A61N routes;
- significant flaws in the assessment, significantly underestimates the effect on the highway network, refuse in line with the Local Development Plan and NPPF.

Stocksbridge Regeneration Company Ltd (SRCL) object:

- SRCL state they are the developer responsible for the Fox Valley retail, office, restaurant and leisure scheme, supporter of Sheffield's centres;
- the retail and centre use element of the scheme is contrary to the development plan policy allocation for the site, fundamentally the expectation is that this should be a location for employment, important that a balanced portfolio of sites to deliver 'B' class use is derived, the proposal undermines that objective;
- concerns about urban design not addressed, important gateway, site occupies a prominent location, where a step change in quality of the built environment is needed, difficult to see how the proposal could have responded less well, no meaningful attempt to address Penistone Road, presents an expanse of open car parking, the layout will only reinforce and perpetuate the existing weakness in the built environment in this part of Sheffield, no reason why this layout could not be

re-arranged to bring buildings towards Penistone Road creating a more integrated feel;

- the retail catchment area would extend somewhat northwards in the corridor towards Stocksbridge and overlap the catchment of Fox Valley, it would not be truncated to the 5 minute drive time suggested in the application, would encompass areas beyond the main urban fringe as well as appealing to those who commute along this route, the sequential test should have considered potential sites within Stocksbridge;

- at least 2,573 sqm of accommodation could be provided on the current vacant plot at Fox Valley, this location is sequentially preferable, the application fails the sequential test, it should be refused;

- concern that the impact analysis is submitted on a solus basis without consideration of the cumulative effect of other development, the application cannot be determined other than in the context of an assessment which properly considers the cumulative effect on centres, the real impact on Hillsborough and other relevant trading locations will not be that expressed in the Planning and Retail Statement, the real impact will be greater and that needs to be understood for an informed decision to be made.

Asda Stores Limited object:

- the application site is out of centre, Asda operate two in centre stores within the vicinity 700 metres to the west at Catch Bar Lane and 2.3 miles to the northeast at Chaucer Road, these two stores are important anchors within their centres;

- the Planning and Retail Statement identifies convenience goods trade draw of £1.46m from Asda's Chaucer Road superstore and £0.07m Asda's Catch Bar Lane supermarket, will result in these two anchor stores trading at 89% and 62% of their benchmark turnover, trade draw from Asda's Catch Bar Lane store could be higher than claimed given the percentage draw to this store from the study area (80%) the similarities between the offer of these stores and trade draw from Sainsbury's store at Claywheels Lane could be lower than claimed owing to the difference between the two offers;

- the proposed A1 does not accord with the development plan which allocates the site for employment uses, Policy IB6 is not wholly consistent with the NPPF which says at paragraph 120 that where there is no reasonable prospect of an application coming forward for the use allocated in a plan applications for alternative uses should be supported where the proposed use would contribute to meeting an unmet need for development in the area, it has not been demonstrated that the site of the proposed A1 units is no longer appropriate for employment, conversely the applicant considers the rest of the site suitable for employment use, occupiers have been found for Unit 11 and Unit 13A, the applicant is willing to speculatively develop further employment units, the Sheffield and Rotherham Joint Retail and Leisure Study concludes that there is no particular need to plan for new convenience goods stores or centres in Sheffield but there is likely to be on-going demand from discount food operators, the proposed A1 use would not contribute to meeting an unmet need for development in the area, the proposal is contrary to Policy IB6 and not supported by the policies in the NPPF;

- the sequential test is inadequate and has not been passed, it omits the drive-thru restaurants, the sequential assessment should consider disaggregation, it has not

been demonstrated that each of the proposed units for main town centre uses are required to come forward together for viability purposes or for any other reason;

- the trading philosophy of Aldi is not a material consideration when consent is being sought for open A1 use and the unit could be occupied by any retailer, notwithstanding this in the event of the Council being minded to support the development suitable enforceable and robust planning conditions should be applied to ensure that the character of the development is controlled, the store will draw trade from existing in-centre stores within the vicinity;
- essential highways information is missing from the application, it has not been demonstrated that the proposal will not have a severe impact on highway safety, little discussion of service management, it has not been demonstrated that the units can all be simultaneously serviced, the Transport Assessment notes that traffic counts are to be undertaken in the new year [2019] and modelling is to be undertaken, none is available for consideration by all interested parties.

Derwent Group has objected:

- Derwent Group has significant property interest in local area which comprises Kilner Way Retail Park;
- retail policy implications of the development have not been properly assessed, the applicant's retail impact assessment does not appear to have regard for major commitments which would have commenced trading after the 2016 datum of the household survey which informed the Council's Retail Study including a permitted foodstore and non-food floorspace at Kilner Way, IKEA, and Meadowhall extension.
- no analysis has been made by the applicant in respect of cumulative convenience impact.
- the applicant's cumulative comparison impact assessment does not account for the assessment of retail floorspace in relation to the latest permission at Kilner Way (19/01652/FUL).
- the applicant's suggested trade draw from Kilner Way (35%) is too high and considers that a more realistic analysis of retail impact would have highlighted a more significant impact of the trade diversion on Hillsborough District Centre.
- the effect on planned investment at Hillsborough District centre alongside the extent of cumulative impact are likely to be substantial, the proposal does appear to prejudice the planned investment at Hillsborough Exchange.
- conflict with employment land policy.
- there are no substantial benefits which would outweigh these negative matters.
- this scheme should be recommended for refusal and that it is not feasible for that conclusion to be overturned through the use of planning conditions.

PLANNING ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The Government's planning policies and guidance contained in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance

(NPPGs) are a material consideration in planning decisions. The NPPF states that the purpose of the planning system is to achieve sustainable development which means that the planning system has three overarching objectives: economic, social and environmental. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (NPPF paragraphs 7 to 10).

For decision taking this means (c) approving development proposals that accord with an up-to-date development plan without delay; or (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: (i) the application of policies in this Framework that protect assets or assets of particular importance provides a clear reason for refusing the development; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole (NPPF paragraph 11).

NPPF paragraph 213 states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

NPPF paragraph 117 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. NPPF paragraph 120 states that planning policies and decisions need to reflect changes in the demand for land ... Where local planning authorities consider there to be no reasonable prospect of an application coming forward for the use allocated in a plan: ... (b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

Policy Issues

The relevant development plan for the site is the Sheffield Local Plan which includes the Sheffield Core Strategy and the saved policies and proposals map of the Sheffield Unitary Development Plan (UDP).

Sheffield Unitary Development Plan (UDP)

The UDP Proposals Map identifies the site as being mostly within a Fringe Industry and Business Area. The strip of land between the watercourse and Herries Road is identified as an Open Space Area.

The proposed built development does not encroach into the Open Space Area identified on the UDP Proposals Map.

UDP Policy IB6 relating to development in fringe industry and business areas states that uses for business (B1), general industrial (B2) and warehousing (B8 excluding open storage) are preferred uses and that food and drink outlets (A3 – since subdivided into the A3, A4 and A5 classes) and small shops (A1) are acceptable uses in principle.

The UDP defines small shops as usually with not more than 280 sqm sales area or which are ancillary to other acceptable uses in the Area.

For larger shops over 280 sqm sales area, UDP Policy IB6 states that these 'other shops' are unacceptable unless at the edge of the Central Shopping Area or a District or Local Shopping Centre.

UDP Policy IB6 also states that all new development must also comply with Policies IB8 to IB14 and S5 as appropriate. These policies are considered in the assessment of the industrial and retail issues below.

Industry and Business Policy

The site lies within a Fringe Industry and Business Area in the UDP where class B1, B2 and B8 (excluding open storage) uses are the preferred uses and should remain dominant under UDP Policies IB6 and IB9. The Core Strategy continues this general approach, whilst introducing some flexibility and encouraging a wider range of employment uses.

Core Strategy Policy CS1, relating to land for employment and economic development, states that land will be made available for office and industrial development principally in existing employment areas. The Core Strategy does not specifically define or identify 'employment areas', but in terms of business and industrial uses, they are as described in Core Strategy Policy CS5 (outlined below) and shown on the Core Strategy Key Diagram.

Policy CS1 is broadly consistent with the requirement in NPPF paragraphs 8(a) and 117 relating to achieving sustainable development and making effective use of land, and 20(a), 23, 81(b) relating to plan making. Making land available for office and industrial development and safeguarding land and sites for these uses will meet anticipated objectively assessed needs and ensure sufficient land is available. So the principle of safeguarding land and sites is in conformity with the NPPF. However, the level of requirement set out in the policy is now unlikely to be appropriate and we are over ten years into the Core Strategy plan period. The need to update the requirement is been addressed through Employment Land Reviews (ELRs) that are more up to date than the one used for the Core Strategy. These suggest a lower requirement. There is, however, still a significant land requirement and a need to protect sites from non-B Class uses in order to meet this requirement.

The most recent Employment Land Reviews set out the latest need and supply figures (2013, updated 2015). There are, effectively, no allocated sites within the current plan, as the UDP sites are now largely developed and the Core Strategy did not allocate sites. This means sites have to be assessed as to their suitability

for retention for employment based on the most recent ELR evaluation. The application site has been identified in the latest Employment Land Review as suitable for an employment allocation. The site is one element of the supply identified in the ELRs that suggests there is currently around a ten-year supply of employment sites as promoted by Policy CS1. The partial use of the application site for non-business and industrial/storage/distribution uses would not significantly jeopardise this supply of land for employment uses and will deliver appropriate employment and industrial and business uses as promoted in Policy CS10.

Core Strategy Policy CS2 states that priority for new business and industry will be given to previously developed land and locations where it would be accessible by public transport.

Core Strategy Policy CS3 identifies locations for office development with a strong emphasis on the city centre and its edge. This supersedes the element of the UDP policy that promotes class B1 offices as a preferred use in this area.

Core Strategy Policy CS5 promotes manufacturing, distribution/warehousing and non-office business in, amongst other locations, the Upper Don Valley, whilst Policy CS10 states that industrial and business uses will be promoted in the Upper Don Valley.

These policies ensure that sufficient land of the right type is available in the right places in accordance with the NPPF (paragraph 8).

Specifically:

- The site is not identified as a priority location for major office development in Core Strategy Policy CS3 so the requirement for B-Class uses relates only to B1c, B2 and B8;
- Core Strategy Policy CS5(b) continues to promote manufacturing, distribution and warehousing in the Upper Don Valley, but not office uses; and
- Core Strategy Policy CS10 encourages a wider range of employment uses in the area which the proposed development would deliver across the whole site.

UDP Policy IB6 states that proposals must also comply with UDP Policy S5 which seeks to protect the vitality, viability and private sector investment in District Shopping Centres, and UDP Policies IB8 to IB14 as appropriate.

As written, the text of UDP Policy IB6 is not consistent with the thrust of the NPPF as it appears to place an embargo on retail development that is not in or at the edge of a local centre (for appropriately sized food stores) or other out of centre locations, other than in a Retail Park or in Meadowhall. The NPPF does allow such development subject to the sequential and impact test requirements (paragraphs 86 to 90).

In respect of the weight to be given to UDP Policy IB6, one of the representations reference planning application 18/02964/FUL (a proposal for an out-of-centre leisure use in a fringe industry and business area that whilst acceptable in principle under Policy IB6 would not retain the dominance of preferred uses under Policy

IB9). In considering application 18/02964/FUL the officer report noted that the proposal was contrary to IB6 due to the dominance test in IB9(a), acknowledged that the acceptability of a leisure use under IB6 does not overrule up-to-date planning Government guidance on main town centre uses, and went on to consider the sequential and impact tests in the NPPF. In granting that permission it was considered that the benefits of supporting the application outweighed the negative impact on dominance.

UDP Policy IB6 is given less weight as taking an absolute approach to refusing permission for large shops would not be consistent with the NPPF, unless it was also considered in the context of the sequential and impact tests. This was the view of the Inspector for the Next Home appeal in 2013 (APP/J4423/A/13/2189893) in relation to Core Strategy policy that sought a similar absolute approach to restricting the expansion of Meadowhall. Ultimately, the application needs to be assessed in relation to the sequential and impact tests in the NPPF. The sequential test and impact tests are considered below.

UDP Policy IB6 also requires compliance with UDP Policies IB8 to IB14 and S5 as appropriate.

UDP Policy IB8 seeks to protect specified industrial and business sites for their preferred uses. In this instance the application site is not a specified industrial and business site in the context of the UDP.

UDP Policy IB9 relates to conditions on development in industry and business areas and includes criterion (a) that new development or change of use will be permitted provided that it would not lead to a concentration of uses which would prejudice the dominance of industry and business in the area or cause the loss of important industrial sites. Whilst the proposal would result in the redevelopment of some of the existing industry and business uses on the site, the extent of the proposed new industry and business uses together with the extent of off-site preferred uses in the area would ensure that preferred uses (covering approximately 65% of the area) would maintain their dominance in this Fringe Industry and Business Area. As noted above the proposal does not involve loss of an important industrial site.

The remaining criteria of UDP Policy IB9 relate to matters of amenity, design, transport facilities and highway safety which are considered below.

UDP Policies IB10 and IB11 specify the criteria for permitting residential uses in industry and business areas. In this instance the proposal does not include such uses and it is confirmed that these policies are not relevant. Similarly, UDP Policy IB12 which encourages training centres and appropriate community facilities in industry and business areas, is not relevant in this instance.

UDP Policy IB13 seeks to protect and provide open space in industry and business areas. The proposal does not encroach into the existing Open Space Area. The proposal also includes soft landscaping throughout the site.

UDP Policy IB14 requires an environmental buffer between industry and sensitive uses. The proposed layout locates the industry and business uses on the southern half of the site. There would be sufficient separation between the existing housing on the west side of Penistone Road and the nearest industrial units (Unit 13A and 13B - vehicle maintenance and repair) to ensure that the proposed uses would not significantly harm the living conditions of nearby residents.

The proposed class B2, B8 and A3/A5 uses comply with UDP Policy IB6. The proposal as a whole is considered to comply with Core Strategy Policies CS5 and CS10, and UDP Policies IB9(a), IB13 and IB14.

The proposed class A1 use and UDP Policy S5, and the remaining criteria of Policy IB9, are considered in the sections below.

Retail Policy

The Government's National Planning Practice Guidance (NPPG) on Town Centres and Retail was updated in July 2019 and replaced the previous guidance on Ensuring the Vitality of Town Centres (2014).

The proposal includes a discount food store (1,899 sqm), two units intended for comparison goods (557 sqm and 743 sqm), and two drive through restaurant units (176 sqm and 167 sqm). These are 'main town centre uses' as defined in annexe 2 of the NPPF.

UDP Policy IB6 states that 'other shops (A1)' (ie. larger shops over 280 sqm sales area) are unacceptable unless at the edge of the Central Shopping Area or a District or Local Shopping Centre. The retail element of the proposal (3,199 sqm of retail floorspace) exceeds the floorspace threshold in Policy IB6. As discussed above, the absolute approach to refusing permission for large shops in Industry and Business Areas under IB6 is not consistent with the NPPF, unless it is also considered in the context of the sequential and impact tests.

UDP Policy S4 states that food retail development will be promoted within District Shopping Centres and, where there are no suitable sites within such Centres, at their edges. As the proposed development is not within or at the edge of a District Shopping Centre, the proposed development is not promoted by Policy S4 as it identifies the Central and District Shopping Areas as the main areas for shopping facilities.

However UDP Policy S5, which relates to shop development outside the Central Shopping Area and District Shopping Centres, provides some policy support for such development and has three parts to it.

The first part of Policy S5 relates to retail development on the edge of the Central or District Shopping Centres and so is not relevant to the determination of this application.

The second part of Policy S5 states that retail development other than within or at the edge of the Central Shopping Area or District Shopping Centres will be

permitted if the proposed development is (a) of a small shop; or (b) in or at the edge of a local centre for appropriately sized foodstores and other facilities to serve the day-to-day needs of the local population; or (c) in a retail park subject to Policy S9, or (d) in Meadowhall subject to policy S8.

The current proposal does not satisfy items (a) to (d) of Policy S5 and is in conflict with this aspect as it represents a wholly new out-of-centre development which is not of small scale.

The third part of Policy S5 lists seven criteria that all retail development outside the Central Shopping Area and District Shopping Centres (which the proposal is) must satisfy, including: not undermining the vitality and viability of the City Centre or any District Shopping Centre as a whole, either taken alone or cumulatively with other recent or proposed development; and not jeopardising private sector investment needed to safeguard the vitality and viability of centres. It should also be easily accessible by public transport and on foot, not harmfully effect public transport or movements on the highway network, not generate traffic that would result in a significant increase in trips; not take up land where other uses are required nor give rise to shortages of land for preferred uses; and comply with other relevant policies.

The highways and transport and the land use issues identified in Policy S5 are considered in the relevant sections of this report.

UDP Policy S5, like IB6, is not however considered to be fully up to date or reflective of the sequential and impact tests set out in paragraphs 86 to 90 of the NPPF as outlined below. When considering this proposal Policy S5 requires an assessment to be made of the cumulative impacts of other recent or proposed development, the NPPF does not. Secondly, as written, the text of UDP Policy S5 appears to place an embargo on retail development that is not in or at the edge of a local centre (for appropriately sized food stores) or in other out of centre locations, other than in a Retail Park or in Meadowhall. This is not consistent with the thrust of the NPPF as it does allow such development subject to the sequential and impact test requirements (paragraphs 86 to 90).

The High Court Judgement (Aldergate/Mansfield) does however make it clear that even out-of-date policies still remain part of the development plan, and that any decision is required to assess whether the proposal accords with it, as the starting point. This means the criteria in Policy S5 need to be considered. Nevertheless, it is considered that Policy S5 in this instance carries less weight in light of the more up to date guidance contained in the NPPF and NPPG.

Core Strategy Policies CS34, CS36 and CS39 are supportive of District and Local Centres.

Core Strategy Policy CS34 states that District Centres will be encouraged in fulfilling their role of providing for everyday needs with a range of retail, leisure and community facilities appropriate in scale and function to the role of the centre. Core Strategy Policy CS36 states that Hillsborough District Centre will be

maintained and supported at around its present size by consolidating development and by continuing environmental improvements and centre management.

Core Strategy CS39 states that, in Neighbourhood Centres (or Local Centres as they are referred to in the NPPF), new developments for local shops and community facilities to serve the everyday needs of the community will be encouraged.

All three policies are supportive of the sequential approach to ensuring the vitality of town centres (which includes district and local centres) and so broadly align with the aims of the NPPF.

Sequential Test

The NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation (NPPF paragraph 85).

The NPPF (paragraphs 86 to 90) describe the circumstances where-by local planning authorities should apply a sequential test to planning applications for main town centre uses, and require an impact assessment which should include impact on investment and on town centre vitality and viability. Paragraph 90 states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.

The applicant's Planning Statement submitted with this application includes a sequential test which has been considered by officers. An independent review of the applicant's sequential, commissioned by the Council, has also been carried out.

The NPPF states that main town centre uses should be located in town centres, then in 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 86).

When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. The NPPF is clear that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored (paragraph 87).

In this instance, the application site is not within or at the edge of a town centre. The proposal's main town centre uses comprise a food store (1,899 sqm), two units intended for comparison goods (557 sqm and 743 sqm), and two drive through restaurant units (176 sqm and 167 sqm).

Reference to convenience goods normally refers to everyday essential items such as food, whereas reference to comparison goods normally refer to retail items not bought on a frequent basis (source: Planning Portal).

The purpose of the sequential test is to ensure that the suitability of more central sites to accommodate the development have been fully considered. In this case the area of search for sequentially preferable sites is limited to the proposal's primary catchment area (where it would expect to draw 90% of its trade from).

The applicants identify that the proposed development will have a 5 minute drive time catchment area. This includes the densely populated areas of Wisewood, Foxhill, Southey, Hillsborough and the corridors along Penistone Road towards the city centre and Halifax Road towards Chaucer. Hillsborough District Centre, Malin Bridge Local Centre, Dykes Hall Road Local Centre, Herries Road Local Centre, Halifax Road Local Centre and Southey Green Local Centre fall within this area.

For the sequential test purposes, Chapeltown, High Green and Stocksbridge town centre (including Fox Valley) are beyond even a 10 minute drive time from the application site and are not within the primary catchment area of the proposed development.

Officers consider and the independent review concurs that the 5 minute drive-time catchment area is suitable for the food store and the proposed units alongside it. Shoppers will generally travel to the retail destination that is closest to them and a 5 minute drive-time catchment avoids significant overlap with catchments of other existing destinations that are similar in size to this proposal (of which there are several in north and north-west Sheffield).

In search for suitable opportunities in the catchment, the applicant has applied a 20% allowance either way to the proposed developable retail area (which results in a minimum site area threshold of 0.97 ha and an upper site area of 1.45 ha) and to the proposed floorspace (which results in a minimum floorspace threshold of 2,559 sqm and an upper floorspace threshold of 3,838 sqm). These parameters demonstrate flexibility over the format and scale of the development and are considered to be reasonable and to accord with the NPPG which advises that it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form being proposed.

The applicant has also considered disaggregating the proposal which would mean splitting it into different parts to fit onto more than one in-centre site, or it would locate a part of the proposal (e.g. Units 2 & 3) onto a smaller in-centre site. If disaggregation were applied then it could mean Units 2 and 3 or the drive-through units could be located on the Hillsborough Exchange proposal site. There is no reference to disaggregation in the NPPF or NPPG but nor is there a specific prohibition of it either. The most recent wording of paragraph 87 of the NPPF (February 2019) is clear that opportunities to utilise suitable town centre or edge of centre sites should be fully explored, and this has not completely removed the prospect of applying disaggregation for the sequential test as shown in appeal decisions and Court Judgments.

Appeal decisions on disaggregation by the Planning Inspectorate and the Secretary of State suggest that the circumstances of a case indicate whether it is reasonable to disaggregate a proposal, and it is a matter of judgement. In two

cases where disaggregation has been considered appropriate (Hull (APP/V2004/W/17/3171115) and Tollgate (Application Ref:150239)) the proposals were open-ended and proposed in outline with no occupiers signed up.

There are some recent (February 2019) comments made by an Inspector for an appeal decision for three proposed retail units in Warwick (APP/T3725/W/18/3204311) suggesting that disaggregation would be suitable for the two units that did not have occupiers signed up, even though it was for a full application and not in outline. Officers consider that taking this approach to disaggregation, however, would not fit well with the Aldergate Properties (2016) High Court Judgement (Aldergate Properties Ltd v Mansfield District Council and Regal Sherwood Oaks Ltd CO/6256/2015) which concluded that a site should accommodate the broad type of retail development proposed in terms of approximate type, size and range of goods. The Cribbs Causeway (2018) call-in Inquiry concurred with this approach.

In conclusion, the weight of case law and Secretary of State decisions suggest that disaggregation is not appropriate in this case. It is a detailed proposal in terms of design, layout and unit size, with a specific operator targeted for Unit 1, and it forms part of a larger proposal for other uses for whom operators have been identified. This suggests disaggregation is not required in this case because the majority of case law suggests it is unreasonable to apply that much flexibility to a detailed scheme. Further, removing two units and locating them at Hillsborough Exchange would change the broad nature of the development at Penistone Road, and the two units in isolation would be a very different proposal in its own right.

Hillsborough District Centre is the largest centre in the catchment area. Out of the 15 vacant units in Hillsborough District Centre only one could potentially be considered suitable for the purposes of the sequential test: the proposed redevelopment of Hillsborough Exchange (comprising the existing indoor shopping Arcade, the Wilko store and the site of the former Old Blue Ball public house). In December 2018 Members resolved to grant outline planning permission, subject to the completion of a legal agreement, for partial demolition of the existing shopping centre and erection of five-storey building to provide additional ground floor commercial units (use classes A1 to A5 2,643sqm total floorspace) and up to 77 social housing apartments (application no. 18/03405/OUT).

The legal agreement for this scheme has not yet been signed and outline permission not yet been formally granted, but the site is in single ownership and could be developed within a 'reasonable period' (wording in the NPPF paragraph 86). Officers and the independent review therefore consider the Hillsborough Exchange scheme to be available for the purposes of the sequential test.

The gross floorspace of the Hillsborough Exchange scheme falls within the size range specified by the applicants, although the actual net increase in floorspace in the Hillsborough Exchange scheme, when taking into account of the existing retailers who could potentially take units in the development, is only 638sqm. It is not known how much of the proposed floorspace within the Hillsborough Exchange scheme will actually be available for new retailers as it is possible that existing retailers (which include Home Bargains, Wilko and Clintons) could remain but have

not signed up at this stage – however, for the purposes of the sequential test it is considered that there could feasibly be enough floorspace to accommodate the proposal.

The applicant argues that Hillsborough Exchange is unsuitable for a number of reasons. As the internal layout of the development in Hillsborough is a reserved matter the size of the proposed units are unknown and, taking into consideration the anticipated existing units which are to remain, the level of available floorspace will reduce to below minimum threshold and so the site is not large enough to accommodate the proposed development. The applicant states that the Hillsborough Exchange redevelopment involves the extension of the existing covered shopping centre with a car parking provision of 58 customer parking spaces, and that the characteristics of the proposed redevelopment as presented would not suit the operational requirements or trading model of a discount foodstore which requires ample car parking easily connectable to the store and a prominent roadside location that is capable of attracting passing trade. The application notes that the Hillsborough redevelopment is not being actively marketed and is not similar in its characteristics to that of the proposal.

Officers note that the Hillsborough Exchange site provides less car parking and could not physically accommodate the retail element of the proposed development. It would have half the amount of car parking provision compared to that for the retail units proposed under application 19/00037/FUL. Whilst it is appropriate to consider flexibility in format and scale, including car parking provision, and that the Hillsborough Exchange site is in a highly accessible location, regard must be had to the business model and operational requirements of discount supermarkets which require a high proportion of sales to storage space and efficient movement of goods, and sufficient surface level car parking, in this instance twice that which would be available at Hillsborough Exchange. The development lacks prominent visibility from a main road and, while the ground floor layout of Hillsborough Exchange is not fixed at this stage, officers consider that there will be limited road frontage due to the physical constraints of the site and its location. Furthermore, the format of the proposed drive-through restaurants could not be accommodated in the Hillsborough Exchange redevelopment.

Taking account of the above officers conclude, as does the independent review, that whilst Hillsborough Exchange might become available within a reasonable time period, it does not represent a suitable site to provide for the broad type of development proposed by this application by approximate size, type, and range of goods. This conclusion is drawn in line with the principles associated with the High Court Judgement in respect of Aldergate Properties Ltd v Mansfield District Council and Regal Sherwood Oaks Ltd (issued July 2016) in which Mr Justice Ouseley gives clarity to the level of flexibility required when assessing a sequential test.

A site located on the edge of Hillsborough District Centre, on the north east side of the junction with Livesey Street and Penistone Road, has been assessed but at 0.52ha the site is considered to be too small and there are utilities running through part of the site which will further reduce the developable area.

There are no other opportunities for sites in or on the edge of the Hillsborough District Centre that would be available within a reasonable period and which would be suitable for accommodating the proposed retail development and drive-through restaurants.

The Chaucer District Centre is within the catchment area of this proposal. A site at 'Wordsworth Avenue/Buchanan Road' is available within the Chaucer District Centre. However it is considered that this site is too constrained in size and shape to accommodate the proposed main town centre uses even if all of the required car parking was removed.

The development could not be located within Malin Bridge Local Centre as none of the five vacant units in the Local Centre are of a sufficient scale to be suitable for the development.

There are no available opportunities within the Halifax Road Local Centre or other local centres in the catchment area.

A planning application has been submitted on land at Parkers Yard off Stannington Road outside the Malin Bridge Local Centre for demolition of existing buildings and erection of a Class A1 retail foodstore including car parking, access, landscaping, ball stop netting and supporting structures and sports field parking facility. This application is consideration elsewhere on this agenda (application no. 18/02802/FUL refers). It is an edge of centre site but is not large enough to accommodate the proposed main town centre uses sought for the Penistone Road/Herries Road proposal.

In conclusion, there are not considered to be any sequentially preferable sites and premises within the proposal's primary catchment which would become available within a reasonable period and which could reasonably accommodate the development proposed or a reduced scale/modified development as identified in the parameters which were used when applying an appropriate degree of flexibility in order to carry out the sequential test. The application therefore passes the sequential test.

Impact Assessment

The NPPF (paragraph 89) states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sqm of gross floorspace). In this instance there is no locally set floorspace threshold. The proposal exceeds the 2,500 sqm threshold and so an impact assessment is required.

The impact assessment should include (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 viability and vitality, 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) (NPPF paragraph 89).

UDP Policy S5 requires an assessment of issues relating to impact. Policy S5 part (b) states that all retail development outside the Central Shopping Area and District Shopping Centres must not jeopardise private sector investment needed to safeguard vitality and viability of the Central Shopping Area or District Shopping Centres. Policy S5 is not fully up to date with the NPPF for the reasons identified earlier in this report but the aforementioned *Aldergate/Mansfield High Court* Judgement makes it clear that even out-of-date policies are still part of the development plan, and that any decision is required to assess whether the proposal accords with it, as the starting point. The local planning authority may give less weight to Policy S5 but only after it has been considered.

In order to assess the retail impacts of the development, the Council commissioned the independent review to carry out an impact assessment of the development in line with paragraph 89 of the NPPF and to address the requirements of Policy S5. The independent review covers: (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 viability and vitality, 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) (NPPF paragraph 89).

The cumulative impacts of the proposed scheme, the proposed Parker's Yard (Malin Bridge) scheme, and a recently opened food store (Jacks at Kilner Way Retail Park) have also been considered as required by Policy S5. It is again noted, however, that S5 carries less weight as it is not consistent with the NPPF, which does not require the cumulative impacts of other recent or proposed developments to be assessed.

The applicant's Planning Statement submitted with this application includes a retail assessment.

Impact of the Development on Existing, Committed and Planned Investment

The applicant briefly addresses part (a) of paragraph 89 of the NPPF (and Policy S5(a)) by considering the proposed investment at Hillsborough Exchange by Killultagh Estates Ltd. The applicant states that the proposal at Hillsborough Exchange will encourage shopper visits and, on that basis, increase its turnover. The applicant concludes that the viability of the centre will not, therefore, be undermined by the proposed development at Penistone Road/Herries Road.

In relation to part (a) of paragraph 89 of the NPPF, the independent review identifies the proposed redevelopment of part of the Hillsborough Exchange shopping centre as a significant in-centre planned investment in the proposal's catchment area.

The investment at Hillsborough Exchange by Killultagh Estates is a planned investment in Hillsborough Centre that comprises partial demolition of the shopping

centre and construction of a five-storey building containing 78 social housing apartments, together with ground floor commercial units in Use Classes A1 to A5 (2,634sqm floorspace, an increase of 639sqm on the existing).

The developer for Hillsborough Exchange stated in their original objection (dated 17 October 2019) that the planned investment in the Shopping Centre is marginal, but they described the development as being underpinned by the registered social housing provider, which suggests the development itself was not reliant on the commercial retail units at ground floor. As a result, it was not initially convincing that the proposal at Penistone Road would have a significant adverse impact on the planned investment. However, Killultagh's further representation (letter dated 12 November 2019) clarifies that investor confidence would indeed be affected by the proposal at Penistone Road to the extent that it would put their investment 'firmly in jeopardy'.

Although a no poaching condition is welcomed by Killultagh, they have firmly made the point that it will not provide any control over retailers who are not already trading in the Centre. Killultagh state that Hillsborough Exchange will be attempting to attract new tenants and will have to compete with the proposal at Penistone Road. They argue that this will affect operator demand and investor confidence in the investment in Hillsborough District Centre, which are two key considerations in the National Planning Practice Guidance (NPPG) on Ensuring the Vitality of Town Centres.

Officers have considered the impact of unrestricted sale of non-food goods at the two proposed comparison goods units (Units 2 and 3) and potential competition they would create, both for trade and future tenants, with the Hillsborough Exchange shopping centre and with Hillsborough District Centre as a whole.

The proposal only includes two comparison goods units (with a recommended condition to prevent sub-division) and as such only two tenants would be attracted to the proposed Penistone Road scheme (in addition to the discount convenience goods retailer) thereby reducing the potential competition with the Hillsborough Exchange redevelopment scheme. A restriction on the sale of fashion and footwear goods further reduces the competition for tenants between the two proposed developments.

The independent review has advised that the restricted sale of non-food goods at the two proposed comparison goods units (2 and 3) should be secured by both a condition restricting the sale of fashion and footwear goods as well as a 'no poaching' condition. Both the 'no poaching' condition and the comparisons goods restriction aim to address the harm to investor confidence in existing, committed and planned investment. The restricted comparison goods condition will also mitigate impact on vitality and viability of the centres.

Officers consider that the above concern – that the proposal will undermine the support, maintenance and improvement of Hillsborough District Centre that the investment by Killultagh will bring – can be addressed by restricting the sale of fashion and footwear goods (these goods have high sales density and high turnovers) in Units 2 and 3 of the proposal at Penistone Road which together with

other restrictive conditions on the proposal would prevent a significant adverse impact on existing, committed and planned investment.

An objector has asked that, should the Council be minded to approve the application, a more restrictive planning condition be imposed limiting the use of Units 2 and 3 to traditional bulky goods typically sold from retail parks only (eg. sale of DIY goods, gardening products, furniture, carpets, floor coverings, camping goods, motor vehicle goods, bulky electrical items).

The competition for tenants between the proposal and Hillsborough Exchange would be reduced by the condition to restrict the sale of fashion and footwear at the proposal. It would increase Hillsborough Exchange's chances of securing fashion and footwear occupiers which would diversify their retail offer; turnovers are typically higher than other comparison goods retailers' and as such rental values higher; and the pool of potential tenants in fashion and footwear is small in the current market so competition is high. The proposed condition to restrict fashion and footwear at the Penistone Road proposal will, therefore, give Hillsborough Exchange an advantage over the proposal at Penistone Road, and it will reduce the impact on vitality and viability to the point that officers are satisfied that it is not likely to be significant adverse.

Applying a bulky goods condition in addition to the restriction on fashion and footwear and the no poaching condition would give Hillsborough Exchange scheme an even greater advantage. However, officers consider that such a restriction is not necessary to avoid a likely significant adverse impact on the planned investment at Hillsborough Exchange, for the following reason.

The Penistone Road proposal includes only two units that would compete for tenants in Hillsborough Exchange. In their latest objection, Killultagh point to 19 tenants that the two schemes would be competing for unless a condition to only sell bulky goods was imposed; this is a large selection of occupiers. Of those 19 occupiers, 8 are already in Hillsborough District Centre so they would be covered by the recommended no poaching condition. Of those 8 occupiers, 4 are actually in Hillsborough Exchange so they could be signed up to the planned redevelopment without competing with the Penistone Road scheme (again, a result of the no poaching condition). Any remaining available units in Hillsborough Exchange will compete with the remaining 11 potential tenants listed by Killultagh's that aren't currently represented in Hillsborough. Again, officers consider this to be a large selection. Officers therefore consider that there are insufficient grounds to agree with Killultagh's claim that there would be insufficient tenants to occupy Hillsborough Exchange unless a bulky goods condition is placed on the proposal at Penistone Road.

Furthermore, Killultagh fall short of stating that work on the investment would cease and nor do they suggest that discussions to secure a registered social housing provider and to secure commercial tenants at the ground floor would break down if the proposal at Penistone Road was approved. It was these types of situations that were described by Bristol Alliance Limited Partnership in the Cribbs Causeway call-in Inquiry (ref: APP/P0119/V/17/3170627) that led the Inspector and Secretary of State to conclude that the impact on investment in Bristol City Centre

would be significant adverse if the extension to Cribbs Causeway Shopping Centre was approved.

Pegasus Group on behalf of Asda Stores Limited request that a condition is applied to ensure that the Unit 1 can only be occupied by a discount retailer such as Aldi and not another type of supermarket that may increase trade draw from nearby Centres even more. Officers consider that such a condition is not justified given the limited size of the proposed convenience goods unit and that the named occupant already has a high sales density compared to other similar operators which has been taken into account in the assessment of this application.

In summary, the restrictive conditions recommended include a total cap on the total Class A1 retail area of 3,199 sqm gross, a cap of 1,899 sqm on convenience food, limiting convenience retailing to Unit 1 only, a 'no poaching' condition which seeks to ensure that existing comparison goods retailers in Hillsborough District Centre retain a presence in the centre for at least five years, and restricting the sale of fashion and footwear goods in Units 2 and 3 of the proposal at Penistone Road. On this basis, officers and the independent review do not consider that the proposal will threaten the Hillsborough Exchange scheme or other existing, committed or planned investment in a centre in the catchment area of the proposal.

Impact on Vitality and Viability

The second consideration, part (b), of paragraph 89 of the NPPF relates to the impact of the proposal on town centre viability and vitality, 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). The NPPG provides guidance on retail impact, including steps to be taken in applying the impact test.

The applicant's submissions reference the Council's Joint Sheffield and Rotherham Retail and Leisure Study (2017). Their assessment assumed that 90% of the proposed retail turnover would be derived from within the 5 minute drive time catchment area with the remaining 10% from outside the catchment area with a total convenience turnover of Unit 1 anticipated to be £13.11m and a total comparison turnover of Units 2 and 3 anticipated to be £7.72m (at year 2023).

The applicant's impact assessment anticipates that trade will be principally drawn to the new convenience store from other foodstores in the catchment area such as the discount foodstores on Flora Street (Aldi) and the Local Centre on Halifax Road (containing a Lidl) and the larger foodstores at Morrisons in Hillsborough and Sainsburys at Claywheels Lane. Trade to the new comparison stores would be drawn from Hillsborough, Meadowhall, Stocksbridge and the City Centre.

The applicant has reviewed the level of trade diversion in their Retail Impact Assessment Addendum Report particularly the trade diversion from the Flora Street (Aldi) and Halifax Road (Lidl) discount stores.

The applicant's assessment is that the Halifax Road Lidl store is significantly overtrading and at an assumed level of trade diversion of 40% it would continue to trade at or around its benchmark turnover. The existing Flora Street Aldi store is

significantly overtrading against its company benchmark and, with an assumed moderate trade diversion of 15%, would continue to overtrade.

The applicant's assessment concludes that the impact on existing convenience and comparison floorspace will not be significantly adverse and that the relevant centres will continue to trade healthily against benchmark turnover figures and will remain vibrant and viable retail centres.

The independent review's retail impact assessment also includes reference to the Council's Joint Sheffield and Rotherham Retail and Leisure Study (2017).

There are some anomalies in the evidence base from the Retail and Leisure Study (2017) which affect the estimated turnover of Hillsborough District Centre reported in the study. Morrisons is a major retailer in Hillsborough District Centre and the 2017 Study ascribed it a turnover of £103.27m based on a household survey of residents across Sheffield and the surrounding areas. However, £33.6m of that turnover is likely to belong to a Morrisons at Penistone Road in Huddersfield. There is also £6m ascribed to Morrisons from the area around Doncaster, Bawtry and Finningley which seems unlikely given the actual distance from the store. Taking account of the above Morrisons turnover is more likely to be around £63.67m, £4.82m above its benchmark of £58.85m.

Hillsborough District Centre's turnover as a whole (according to the 2017 Study) is £162.95m. Taking into account the above anomalies with Morrisons, the Centre's turnover would be reduced to £123.35m. Hillsborough District Centre would however continue to trade above its benchmark of £109.51m based on the various companies' benchmarks operating in within the centre.

This position resonates with one of the objections (from Peacock and Smith on behalf of Morrisons), which suggests that the Morrisons in Hillsborough District Centre '...does not over-trade and is in fact achieving a company average turnover'. Peacock and Smith has not shared turnover information with the local planning authority but the independent review agrees that it is not achieving twice its benchmark turnover as the 2017 Study showed.

The independent review advises that Morrisons is likely to still be trading above company average, though, because it does appear to be performing better than some of the Morrisons stores that they have visited during the course of audits undertaken for other local authorities in the West Midlands and the North-East. The adjusted turnover figure for Morrisons and Hillsborough DC as a whole (£63.67m and £123.35m respectively) reflect this view.

The independent review's assessment of the retail impact fully acknowledges and takes account of the turnover anomalies in the 2017 Study retail study related to Hillsborough and Morrisons.

An objection on behalf of Asda Stores Limited includes that, according to the applicant's assessment, the two Asda stores at Chaucer District Centre and Catch Bar Lane Local Centre would be trading at 89% and 62% of their benchmarks respectively (for the sale of convenience goods). The objection also states that a

higher trade draw from the two Asda stores should be applied which would result in an even greater impact against their benchmarks. Officers have considered these points and advise that the applicant's calculation of the benchmark for the Asda store is in fact too high. For both stores the applicant calculated a benchmark turnover using a sales density of £18,051 per sqm which is much higher than £11,024 per sqm (2017/18) that is recommended by Mintel, a market research company widely used in retail impact assessments. The lower sales density equates to a benchmark of £27.56m. With a trade draw of 10% for each of the Asda stores (7% higher than the applicant's assessment), the Asda at Chaucer would be operating at 143% of its benchmark. The Asda at Catch Bar Lane would be operating at 82% of its benchmark, which is not as significant as 62% as calculated by the applicant. The independent review has considered whether this constitutes a significant adverse impact on Catch Bar Lane Local Centre as a whole which is outlined later in the report under the heading 'Impact on Vitality and Viability'.

Paragraph 90 of the NPPF identifies that when assessing impact, development should be refused where it has a significant adverse impact on one or more of the considerations in paragraph 89.

Significant adverse is not however specifically defined in the NPPF. In assessing whether a significant adverse impact is likely to occur, comparing Local and District Centres' post-impact turnovers with their benchmarks is considered an appropriate starting point. A judgement then needs to be made about how significant the impact would be and local circumstances ie. the existing health and vitality of the Centre is an important factor as described in the NPPG. For example, a small impact on an already struggling Centre is more likely to be significantly adverse than on a Centre that has fewer vacancies, a good range of shops and high footfall.

The impact figures for each Centre in the catchment of the proposal are outlined below followed by an assessment of how each Centre would be affected by those impacts. All of the impact figures are based on the recommended conditions being imposed, namely, restricting the total Class A1 retail area to 3,199 sqm gross, a cap of 1,899 sqm on convenience food, limiting convenience retailing to Unit 1 only, a 'no poaching' condition which seeks to ensure that existing comparison goods retailers in Hillsborough District Centre retain a presence in the centre for at least five years, and restricting the sale of fashion and footwear goods in Units 2 and 3 of the proposal at Penistone Road.

The first set of impact figures (below) are of the proposal on its own (convenience and comparison goods). The second set (cumulative) include the impact of the proposal together with the Parkers Yard (Malin Bridge) scheme (ref: 18/02802/FUL), and the recently opened Jack's discount food store at Kilner Way Retail Park, which is treated as a commitment (at September 2019).

The Impact of the Proposal (convenience and comparison goods)

The proposed development (as restricted by the imposition of the above recommended conditions) but not including the cumulative impact of the proposal

at Parkers Yard (Malin Bridge) and Jack's at Kilner Way would have trade draw impacts (expressed as a %) on the following centres:

Hillsborough District Centre	4.5% (mostly from the Morrisons store and the comparison goods stores in the District Centre taking account of the anomalies in the 2017 Study noted above)
Halifax Road Local Centre	21.4% (mostly from the Lidl store)
Catch Bar Lane Local Centre	14.0% (mostly from the Asda store)
Southey Green Local Centre	8.2% (from the Co-op store)
Herries Road Local Centre	3.8% (from the Tesco Metro store)
Chaucer District Centre	3.3% (mostly from the Asda store)
Dykes Hall Road Local Centre	1.3% (from the Tesco Express store)
Malin Bridge Local Centre	0.8%

The remainder of the trade draw would be from out of centre stores including:

Kilner Way Retail Park	10.0% impact
Sainsburys store at Claywheels Lane	7.3% impact
Flora Street Aldi	5.7% impact

The highest monetary diversions are from:

Hillsborough District Centre	£5.5m
the Morrisons store	(£3m)
Halifax Road Local Centre	£3.86m
Kilner Way Retail Park	£2.64m
Claywheels Lane Sainsburys store	£2.55m
Chaucer District Centre	£1.78m
Catch Bar Lane Local Centre	£1.70m

The Centres that would compare least favourable to their benchmarks are:

Herries Road Local Centre	-£5.95m (below its benchmark)
Halifax Road Local Centre	-£3.27m (below its benchmark)
Catch Bar Lane Local Centre	-£1.55m (below its benchmark)

Hillsborough District Centre, taking into account the anomalies in the 2017 Study, will be trading £8.34m above its benchmark.

Cumulative Impact

As noted above the NPPF and the NPPG do not require an assessment of the cumulative impacts of developments but Policy S5 does (in relation to the City Centre and District centres). The independent review has assessed the cumulative trade draw impacts (expressed as a %) of the proposed development with restrictions on the type of goods sold, floor space and no poaching conditions, the recently opened Jack's at Kilner Way Retail Park, and the Parkers Yard (Malin Bridge) application the recommendations for which also propose floor space

conditions. It has considered the following centres (including Local Centres as cumulative impact is a material consideration in its own right):

Hillsborough District Centre Study noted above)	11.0% (accounting for the anomalies in the 2017
Catch Bar Lane Local Centre	25.0%
Halifax Road Local Centre	24.9%
Southey Green Local Centre	10.8%
Dykes Hall Road Local Centre	8.3%
Herries Road Local Centre	5.0%
Chaucer District Centre	3.8%
Malin Bridge Local Centre	2.7%

The remainder of the cumulative trade draw would be from out of centre stores including:

Sainsburys store at Wadsley Bridge	10.1% impact
Kilner Way Retail Park	9.9% impact
Flora Street Aldi	7.3% impact

The highest monetary diversions are from:

Hillsborough District Centre	£13.55m
the Morrisons store	(£9.34m)
Halifax Road Local Centre	£4.50m
Kilner Way Retail Park	£3.74m
Claywheels Lane Sainsburys store	£3.52m
Catch Bar Lane Local Centre	£3.03m
Chaucer District Centre	£2.06m

The Centres that would compare least favourable to their benchmarks are:

Herries Road Local Centre	-£5.99m (below its benchmark)
Halifax Road Local Centre	-£4.42m (below its benchmark)
Catch Bar Lane Local Centre	-£2.88m (below its benchmark)

Hillsborough District Centre, taking into account the anomalies in the 2017 Study, will be trading £0.29m above its benchmark.

Assessment of Likely Significant Adverse Impact

Hillsborough District Centre

Hillsborough District Centre is characterised by the dominance of the Morrisons store at Hillsborough Barracks and the concentration of comparison goods retailers in the remaining part of the Centre. There is no major clustering of vacancies in Centre and the proportion of vacancies – 8.2% in September 2019 – has been consistently below the national average (11.7%) since 2015. The independent review concludes that it is a healthy District Centre, well anchored by Morrisons and provides an appropriate range of comparison shops and other retail services

expected of a District Centre. The level of impact for such a Centre will, therefore, need to be high in order for it to be considered to undermine its vitality and viability (Policy S5) and to be significantly adverse under paragraph 89 of the NPPF.

The impact of this proposal at Penistone Road on its own, with the recommended restrictions on the type of goods sold, floor space and no poaching conditions, is 4.5% which, given the very good health of the Centre, is not considered to be significantly adverse. The Centre as a whole (even accounting for the anomalies in the 2017 Study) will be trading £8.34m above its benchmark.

In terms of the cumulative trade impact (of the proposed development, Parkers Yard (Malin Bridge) proposal and Jack's at Kilner Way Retail Park), an impact of 11% is predicted resulting in the turnover of Hillsborough Centre operating just above its benchmark by £0.29m.

Officers do not consider the cumulative impact on Hillsborough District Centre to be sufficient to undermine its vitality and viability because it will still be operating above its benchmark. Moreover Hillsborough is considered to be a healthy centre by the independent review, with a low vacancy rate and a large and well established anchor store.

Catch Bar Lane Local Centre

The Catch Bar Lane (also known as Middlewood Road) Local Centre is the largest of the local centres in the catchment area. It is anchored by a small well established Asda store and contains many independent operators. It is a reasonably healthy centre with four vacant units (out of 67 units). The independent review considers that the impact of the proposal at Penistone Road, on its own, will not be 'significant adverse' (14%).

The cumulative impact of the proposals (25%), taking into account Jack's and the Parker's Yard (Malin Bridge) scheme, is likely to have significant adverse impacts on the overall vitality and viability of Catch Bar Lane Local Centre.

However, there are no grounds to refuse the proposal under Policy S5 as the policy only requires the consideration of cumulative impact in relation to the City Centre and District Shopping Centres. Catch Bar Lane is a Local centre.

Furthermore, the Asda store also serves a small local catchment (unlike Morisons in Hillsborough or the Lidl on Halifax Road for example) and is therefore not competing directly with the proposal in the same way.

Halifax Road Local Centre

Halifax Road Local Centre is a healthy and attractive local centre with a low vacancy rate. The existing Lidl store is the largest of the units in the centre and there is a range of independent convenience and comparison shops. The independent review considers the impact of the Penistone Road proposal on its own (21.4%) will not be 'significant adverse' because of the very good health of the

Centre and because of the likelihood that the Lidl store will continue to trade satisfactorily, despite bearing the brunt of the impact.

The cumulative impact of the proposals (24.9%) taking into account Jack's and the Parker's Yard (Malin Bridge) scheme, is likely to have significant adverse impacts on the overall vitality and viability of the Halifax Road Local Centre.

However, as above, there are no grounds to refuse the proposal under policy S5 as the policy only requires the consideration of cumulative impact in relation to the City Centre and District Shopping Centres. Halifax Road is a Local Centre.

Southey Green Local Centre

This Local Centre contains a small selection of small convenience stores (<280sqm), food drink services and a pharmacy and library. It serves a small local catchment and the cumulative trade draw is only £0.16m. The Centre is operating just under its expected benchmark but the small amount of trade draw from the proposal on its own (8.2%) is not considered to be significantly adverse.

The cumulative impact of the proposals (10.8%), taking into account Jack's and the Parker's Yard (Malin Bridge) scheme, is not likely to have significant adverse impacts on the overall vitality and viability of the Southey Green Local Centre due to the health of the centre and it is considered that the centre will continue to serve a very local catchment.

Dykes Hall Road Local Centre

Dykes Hall Road is anchored by a Tesco Express store and serves a local small catchment. The Tesco store and the Centre as a whole will continue to trade above the expected benchmarks as a result of the proposal with an impact of 1.3%.

The cumulative impact of the proposals (8.3%), taking into account Jack's and the Parker's Yard (Malin Bridge) scheme, is not likely to have significant adverse impacts on the overall vitality and viability of the Dykes Hall Road Local Centre due to the health of the centre and it is considered that the centre will continue to serve a very local catchment.

Herries Road Local Centre

Herries Road Local Centre has a Tesco Metro, a Post Office, pharmacy and a range of independent shops, services and food and drink outlets. There are no vacancies (out of 11 units) and the Centre is highly accessible by public transport and provides dedicated on-street car parking. The impact of the proposal on its own would be 3.8%.

The cumulative impact of the proposals (5%), taking into account Jack's and the Parker's Yard (Malin Bridge) scheme, is not likely to have significant adverse impacts on the overall vitality and viability of the Herries Road Local Centre given the very good health of the Centre.

Chaucer District Centre

Chaucer District Centre is establishing itself as a successful District Centre with scope for expansion and is anchored by the Asda store. The impact on the Chaucer District Centre (3.3%) is not 'significant adverse'.

The cumulative impact of the proposals (3.8%), taking into account Jack's and the Parker's Yard (Malin Bridge) scheme, is not likely to have significant adverse impacts on the overall vitality and viability of the Chaucer District Centre given recent growth and prospects for further expansion.

Malin Bridge

Much of Malin Bridge Local Centre comprises residential development. There are two convenience units, these being a vape shop and Malin Bridge Mini Market. The latter is the only shop in Malin Bridge that is likely to suffer any loss of trade as a result of the proposal. The other comparison retailers in Malin Bridge are quite specialist, including an ammunition/weapons shop and motor dealers. The most important of the three leisure service units is the Malin Bridge Inn.

Whilst the independent review concludes that Malin Bridge is quite a weak and dysfunctional centre, its retail, leisure and services offer is not considered to be materially affected by the proposal and an impact of 0.8%. Nor will the cumulative impact be significant (2.7%) when considering the application at Parkers Yard (Malin Bridge) and the recently opened Jack's at Kilner Way.

Retail Policy Conclusion

It is considered that the retail element of the proposed development is contrary to UDP Policy IB6. However Policy IB6 carries less weight because taking an absolute approach to refusing permission for large shops under Policy IB6 would not, as described above, be consistent with the NPPF unless it was also considered in the context of the sequential and impact tests (paragraphs 86 to 90).

As described above, there are not considered to be any sequentially preferable sites in the developments catchment area that are suitable and available.

The first part of Policy S5 is not relevant to the determination of this application.

The proposal does not satisfy items (a) to (d) of the second part of Policy S5 and is in conflict with this aspect as it represents a wholly new out-of-centre development which is not of small scale.

In order to satisfy the third part of S5, in particular the requirement for retail development to not undermine the vitality and viability of District Centre as a whole, either taken alone or cumulatively with other recent or proposed development; and to not jeopardise private sector investment needed to safeguard the vitality and viability of centres, an assessment of the cumulative impacts of other recent or proposed development was undertaken. This concluded that the only Centres

likely to suffer from significant adverse impacts are Catch Bar Lane and Halifax Road Local Centres.

However, Policy S5 specifically refers to the vitality and viability of the City Centre or any District Centres as a whole and does not concern itself, on this point, with Local Centres. Policy S5 is not up-to date as it is not reflective of the sequential and impact tests set out in paragraphs 86 to 90 of the NPPF. The local planning authority is therefore entitled, having considered S5 as the statutory starting point, to give less weight to an out-of-date policy if it is inconsistent with the NPPF.

Officers have, therefore, given reduced weight to Policy S5 and concluded that the significant adverse impacts on Catch Bar Lane and Halifax Road should not be determinative because Policy S5 is not concerned with the protection of Local Centres.

While S5 is given less weight, officers are minded that the cumulative impacts of a development are still a material consideration. However, both the NPPF and NPPG are silent on cumulative impacts and so it can only be afforded little weight. On that basis, a refusal on the grounds of cumulative impact (including the proposal, the Parker's Yard (Malin Bridge) Road scheme and Jack's) on Local Centres is not considered to be a reason for refusal.

In isolation, officers and the independent review conclude that the proposal, when considered on its own (i.e. not including, the Parker's Yard (Malin Bridge) scheme and Jack's), is not likely to result in any adverse impact on any District or Local Centres in the catchment.

Officers have given full weight to paragraphs 86 to 90 of the NPPF. The proposal (subject to appropriate conditions) complies with paragraphs 86 to 90 in that it passes the sequential test, and it will not result in a significant adverse impact on existing, committed and planned investment in centre(s) in the catchment area of the proposal, and nor will it have a significant adverse impact on the vitality and viability of the Hillsborough District Centre and Local Centres in the catchment area.

In light of the above, the retail element of the proposal is considered to be acceptable, subject to appropriate conditions, and complies with Core Strategy Policies CS34 and CS36, and the Government's planning policy guidance contained in NPPF paragraphs 85 to 90.

For clarity, the appropriate conditions are a restriction on the sale of fashion and footwear goods at the two proposed units 2 and 3 as well as a 'no poaching' condition (which seeks to ensure that existing comparison goods retailers in Hillsborough District Centre retain a presence in the centre for at least five years), and a total cap on the Class A1 retail area of 3,199 sqm gross, and a limit to convenience retailing to Unit 1 only. A condition prohibiting the sub-division of the units into smaller units is required to limit the impact on the viability and vitality of the existing centres particularly the local centres at Catch Bar Lane and Halifax Road is also recommended.

Effect on the Amenities of Residents in the Locality

UDP Policy IB9 relating to conditions on development in industry and business areas also includes criteria (b) which seeks to ensure that new development or change of use will not cause residents to suffer from unacceptable living conditions.

NPPF (paragraph 180) states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health includes (a) mitigating and reducing to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Policy IB9 (b) aligns with the NPPF and so is given significant weight.

The proposed development is separated from the nearest residential properties by Penistone Road.

These houses would be mainly opposite the proposed customer car park serving the retail units. The retail buildings would be set back from this road frontage. One of the proposed A3/A5 drive-thru units would be sited opposite the row of houses at nos. 208 to 224 Penistone Road. The proposed access into and out of the site off Penistone Road would be opposite the row of houses at nos. 226 to 236 Penistone Road.

The boundary to the proposed development along this part of Penistone Road would comprise soft landscaping, intermittent trees and a low boundary wall.

The proposal would generate a significant amount of traffic accessing the site and vehicle movements within the car park which would create noise and disturbance from the manoeuvring of vehicles and at times from headlights.

A Noise Report has been submitted with this application. The report finds that the range of proposed uses will not have a significant noise impact on nearby noise sensitive receptors and that there is already a generally high level of daytime and early evening traffic noise and therefore a relatively low risk from most aspects of the proposed development.

It is considered that such noise and disturbance is unlikely to be so great as to cause significant harm to the living conditions of nearby residents. A condition would be required to prevent outdoor activities at the proposed vehicle servicing unit (Unit 13A). A condition to control daytime only servicing would, as a precautionary measure, also help mitigate noise impact.

There is potential for noise issues to arise if inappropriate practices are adopted during night-time hours for the A3/A5, B2 and B8 uses such as from reversing alarms, service bay warning systems or external intercoms. Appropriate conditions to mitigate such noise impacts would be beneficial to the living conditions of nearby residents.

It is considered that the proposal would not significantly harm the living conditions of nearby residents subject to the imposition of appropriate conditions.

The proposal is considered to comply with UDP Policy IB9(b).

Impact on the Character and Appearance of the Locality

UDP Policy IB9 relating to conditions on development in industry and business areas includes criteria (c) and (d) which seek to ensure that buildings are well designed and of a scale and nature appropriate to the site and seek to protect the built and green environment . UDP Policy IB9 (e) seeks to ensure that new development does not harm the quality of the environment to such an extent that other new industry and business development would be discouraged. UDP Policy BE5 and Core Strategy Policy CS74 seek good quality design.

The NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make developments acceptable to communities (NPPF paragraph 124). It also states that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history while not preventing or discouraging appropriate innovation or change, establish and maintain a strong sense of place, optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and create places that are safe, inclusive and accessible ... (NPPF paragraph 127).

Policies IB9 (c), (d) and (e), BE5 and CS74 generally align with paragraph 124 of the NPPF and so are given significant weight.

The application site is in a highly prominent location and on a gateway route into the city from the north and a connector route to the east. The site faces onto existing buildings of contrasting scale.

Four of the proposed buildings are sited close to the Penistone Road frontage to provide a positive frontage to the street. Similarly the larger units alongside Herries Road and Herries Road South are sited close to the site frontage. Quality boundary treatments are also proposed with a 1 metre high brick wall and railings along the frontage to Penistone Road, between Units 13A and 13B, and on part of the built frontages to Herries Road and Herries Road South. The layout of the proposed development is acceptable. As noted below a condition is recommended to secure details of the siting of Units 2 and 3 alongside an existing water main that crosses the site. Conditions are also recommended to secure appropriate quality in the detailing of the buildings, provision of public art and the landscaping of the site.

The proposed scale and massing of the proposed buildings and the contemporary approach to their design is acceptable and provides a legible form. The design approach, which emphasises the primary elevations and prominent corners of the buildings, is supported.

It is considered that the proposal would enhance the quality of the existing environment and would not serve to discourage industry and business development in the area.

It is considered that the proposed development of this site would make a positive contribution to appearance of the locality and the streetscene. The proposal therefore complies with UDP Policies IB9(c), (d) and (e) and BE5, Core Strategy Policy CS74 and the NPPF and will improve the appearance of this rather untidy site.

Sustainable Design

Core Strategy Policies CS63 to CS65 relating to responses to climate change seeks to reduce the impact of climate change through reducing the need to travel, supporting sustainable transport and sustainable design and development. Policy CS65(a) in particular states that all significant development will be required to provide a minimum of 10% of their predicted energy needs from decentralised and renewable or low carbon energy.

A condition is recommended to ensure the development incorporates appropriate sustainability measures.

Highway and Transportation

UDP Policy IB9 relating to conditions on development in industry and business areas also includes criteria (f) concerning matters of transport facilities and highway safety. It seeks to ensure that new development or change of use would be adequately served by transport facilities and provide safe access to the highway network and appropriate off-street parking and not endanger pedestrians.

UDP Policy T28 relating to transport infrastructure and development seeks to ensure that new development which would generate high levels of travel would be served adequately by public transport services and infrastructure and by the existing highway network. Where transport improvements will be needed to enable the proposal to go ahead, these should normally be provided, or commitment entered into to secure their provision, before any part of the development comes into use.

Core Strategy Policy CS51 relating to the strategic priorities for transport include maximising accessibility, containing congestion levels and improving air quality and road safety. Core Strategy Policy CS53 relating to the management of demand for travel includes implementing travel plans for new developments to maximise the use of sustainable forms of travel and mitigate negative impacts of transport, particularly congestion and vehicle emissions.

Core Strategy Policy CS55 states that improvement and development of the cycle network will be given priority on strategic links, mainly to key employment locations particularly on, amongst other routes, through the Upper Don Valley with a network of links to neighbouring residential areas.

The NPPF (paragraphs 102 to 111) promotes sustainable transport. The NPPF also states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (NPPF paragraph 109). The above policies are considered to broadly align with the NPPF and therefore carry weight in the determination of the application.

The site lies alongside the A61 Penistone Road which is a strategic route for vehicles on the road network.

Penistone Road and Herries Road are bus routes with bus stops alongside and opposite the site.

A shared pedestrian/cycle route currently runs alongside the Penistone Road frontage.

Traffic Modelling

This planning application has been supported by a full transport assessment undertaken by Fore Consulting Ltd, who had access to the Council owned micro-simulation model of the Upper Don Valley. The micro-simulation is a 'real-time' model which replicates the build-up and dissipation of traffic on the highway network throughout the day and during the peak periods. The peaks considered for the development were AM weekday 0800 to 0900 hrs, PM weekday 1700 to 1800 hrs, and Saturday Peak (no football taking place) 1200 to 1300 hrs.

The cordon for the modelling included the A61 junctions with Clay Wheels Lane, Leppings Lane/Herries Road, Herries Road South, Parkside Road and Beulah Road. The model also picked up the junction of Herries Road with Herries Road South, the three site accesses proposed, and the internal layout of the development site including the roundabout. Traffic surveys were undertaken during March 2019 and the model was calibrated to reflect observed queue lengths and traffic flows for the current base conditions.

For the development as a whole, the AM peak hour primary trips are predicted to be 15 arriving, 13 departing, with the total two-way of 28 trips. The AM peak hour pass-by trips arriving are predicted to be 40, 30 departing and a total two-way of 70.

The PM peak hour primary trips arriving are predicted to be 18, 19 departing, total two-way 37. The PM peak hour pass-by trips arriving are predicted to be 73 arriving, 77 departing, total two-way 150.

The Saturday peak hour primary trips arriving are predicted to be 33, 31 departing, total two-way 64. The Saturday peak hour pass-by trips arriving are predicted to be 78, 77 departing, total two-way 155.

These arrivals and departures would be spread across the three new accesses. To give a sense of perspective, the two-way flow along the A61 near Herries Road South for the 2019 base conditions (before factoring to the year 2024 and adding development traffic) is 2513 vehicles in the AM peak hour, 2624 vehicles in the PM peak hour, and 2404 vehicles during the Saturday peak hour.

The micro-simulation model gives a visual display of traffic moving around on the network contained within the chosen cordon, where the build-up (queues) and dispersal of traffic at different junctions can be observed for different periods of the day.

For this proposed development, the biggest difference in the way the network behaves occurs not as a consequence of development trips, but when the existing base flows are grown from 2019 to the year 2024. When the 'primary' trips are then added to the 2024 flows, the additional queues on the approaches to most of the junctions modelled showed very little change. There are three approaches to junctions where average queue lengths would increase slightly though, which were at:

- Herries Road/Leppings Lane junction on the Herries Road east arm, weekday PM, an increase of 12 vehicles.
- Herries Road/Leppings Lane junction on the Herries Road east arm, Saturday Peak, an increase of 9 vehicles.
- A61/Herries Road South on the A61 south arm, weekday AM, an increase of 11 vehicles.

The model also gives an assessment of average journey times along selected routes:

- Travelling south along the A61 from Wardsend Road, past Clay Wheels Lane, past Herries Road, past Herries Road South to Broughton Road: AM peak hour 2019 base flows 4 mins 15 secs; factored to 2024 flows 7 mins 49 secs; with the highway improvement works and development trips added to 2024 flows 6 mins 39 secs.
- Travelling in the opposite direction northbound along the A61 between the same points: PM peak hour 2019 base flows 4 mins 11 secs; factored to 2024 flows 5 mins 30 secs; with the highway improvement works and development trips added to the 2024 flows 5 mins 46 secs.

The pattern for journey times on other routes is broadly the similar, in that the largest increase is associated with shear growth in traffic from 2019 to 2024, rather than development trips.

The new junctions providing access to the site and the internal layout and roundabout all perform comfortably within capacity when subjected to the anticipated development trips. There are no highway objections to the proposed accesses for service vehicles. The impacts of this development have been extensively modelled and then scrutinised by highways officers from the different disciplines within the division, all of which demonstrates no material negative impacts on the local highway network should planning permission be granted. A condition is recommended to secure details of the access and highway accommodation improvements.

The proposed development would not cause unacceptable impact on highway safety or severe residual cumulative impacts on the road network.

Cycling

The Upper Don Valley cycle route (NCN627) passes, off-carriageway, across the A61 development site frontage. It runs from the City Centre, out along Clay Wheels Lane, through Oughtibridge, Wharnccliffe Side, Deepcar and Stocksbridge. Across the site frontage it is a shared pedestrian/cycle route varying in width between approximately 3 and 3.5 metres. This frontage currently has three vehicular accesses, with no planning restrictions on hours of use or intensity of use. The development proposal would close these accesses and create one new vehicular access allowing traffic to turn left in from the A61, and re-join turning left out. This access will be audited to afford cyclists and pedestrians the maximum priority, whilst not creating a false sense of safety.

It is considered that whilst the application site currently benefits from vehicular access directly to/from the A61 Penistone Road, in three locations, and there is a commercial requirement to gain an access from the A61, the proposed consolidation of the three accesses into one will derive immediate benefits to the pedestrian/cycle route. The detailed design of the proposed access will seek to maximise pedestrian/cycle priority, subject to road safety audits.

The existing shared pedestrian/cycle facility alongside Penistone Road will be widened to 4 metres over much of its length between Herries Road and Herries Road South. It will be resurfaced, and the lighting columns repositioned to the new rear of the route. The existing block paving that cars tend to park on (bouncing over the cycle route in the process) will be landscaped, incorporating a trip-rail, or similar. This will prevent cars and mobile trading vans parking off carriageway on this part of the frontage. There currently is not the space available to provide a signalised crossing for pedestrians/cyclists at Herries Road South. For this reason it was not provided when the off-carriageway shared pedestrian/cycle route was constructed in 2015.

The vacant garage premises on the corner of Penistone Road and Herries Road South is outside the application site but within the ownership of the applicant, and is not currently available for re-development.

A preliminary highway design has been worked up that provides extra lanes at the A61 Penistone Road/Herries Road South junction to improve capacity, that provides a signalised crossing for pedestrians/cyclists, and also provides off-carriageway segregated cycle paths along the three sides of the development site. The applicant has agreed to accept a 'highway improvement line' which is indicated on the approved plans. When the garage site becomes available for re-development, it is intended that no built development will occur in front of the highway improvement line.

When the Council has secured funding to implement the scheme (which currently is not justified in planning terms on the back of the current proposed development) the land required to accommodate it will be dedicated to the Council at no cost to the Council (barring legal costs). A condition is recommended to secure this provision. None of the proposed constructed development would prevent delivery of the highway scheme although some of the car parking and landscaping would need rearranging.

Consideration has been given to provision of off-road cycle facilities along Herries Road. Owing to width constraints by the woodland at the northern end and the restricted width of the footway, combined with the bus lay-by, is not possible to provide a continuous link through to the A61 without loss of woodland.

However, to allow for the possibility of future widening and delivery of an appropriate cycle route, a highway improvement line has been accepted by the developer.

If delivered, a future cycle route along Herries Road would form part of a wider strategic route being promoted by the City Council as part of their Transport Strategy. To ensure that the cycle route is safe and continuous, it would need to connect to the rest of the cycle route via a new crossing facility (such as a Toucan crossing) on Herries Road South together with a new link towards the Five Arches bridge.

It is considered that requiring the developer to provide this link would be disproportionate, in both extent and cost, to the impact of the proposed development and cannot be justified.

In terms of cycle trips, the submitted Transport Assessment used TRICS survey data to estimate that the proposed foodstore would generate the following cycle trips:

Weekday AM Peak Hour	Arrivals 1 Departures 0
Weekday PM Peak Hour	Arrivals 1 Departures 1
Saturday Peak Hour	Arrivals 2 Departures 1

While the proposed retail park would generate:

Weekday AM Peak Hour	Arrivals 2 Departures 0
Weekday PM Peak Hour	Arrivals 2 Departures 3
Saturday Peak Hour	Arrivals 2 Departures 2

Moreover, providing a cycle route solely along the Herries Road site frontage without the continuous links and the crossing facility which would be needed by cyclists in order to negotiate the busy Herries Road and its junction with Herries Road South, raises significant highway safety concerns.

In mitigation the applicant has agreed to improvements to the shared pedestrian/cycle route along Penistone Road and to dedicate land on the fringes of the development to the Council so that the Council is in a position to comprehensively upgrade the off-road cycle facilities when funding has been secured.

Parking

The proposed car parking provision within the development site accords with Council guidelines.

The proposed development will displace some existing parking that occurs on and alongside the site.

The proposed landscaping protected by trip-rails along Penistone Road will prevent indiscriminate parking along the strip adjacent to Penistone Road and the footpath/cycle route. There are existing parking restrictions along Herries Road and Herries Road South that seek to prevent such parking.

The loss and displacement of the occasional match day car parking that currently occurs on the site is likely to cause a ripple effect in terms of where on-street parking occurs. It is considered that if current on-street parking restrictions are observed, this displacement should not create significant issues. Vere Road, Fielding Road and Bickerton Road were left out of the Hillsborough Parking Permit scheme because, when consulted, the majority of residents wanted to be excluded from the scheme. The residents also delivered a similar verdict when offered a match-day permit parking scheme.

The Council's Highway Service has advised that the development delivers some immediate benefits, it does not worsen the existing situation, and it offers some protection for future improvements. There are no highway objections to the proposed development subject to the imposition of appropriate conditions.

The proposal complies with UDP Policies IB9(f) and T28 and Core Strategy Policies CS51, CS53 and CS55.

Air Quality

UDP policies include Policies GE22 and GE23 relating to pollution and air pollution which seek to ensure development is sited so as to prevent or minimise the effect

of pollution on neighbouring land uses or the quality of the environment and people's appreciation of it, while Core Strategy Policy CS66 promotes action to protect air quality.

NPPF paragraph 170 also seeks to prevent new and existing development from contributing to, being put at risk from, or being adversely affected by, unacceptable levels, amongst other matters, of air pollution.

The local development plan policies align with the NPPF's aim of reducing and mitigating the impacts of development on air quality and are therefore afforded weight.

The site is located within the Sheffield city-wide Air Quality Management Area for exceedances of nitrogen dioxide and particulate matter.

The applicant has undertaken an air quality assessment and has modelled the impact of the proposed development on annual mean levels of nitrogen dioxide (NO₂) and particulate matter (PM₁₀ and PM_{2.5}) concentrations at various receptor locations around the site including alongside the existing residential dwellings on Penistone Road.

For the construction phase of the proposed development, the assessment highlights the risk of dust and recommends mitigation measures to reduce any potential impacts based on practice guidance including water suppression during demolition operations.

For the operational phase of the development, the assessment concludes that the development will result in concentrations of NO₂, PM₁₀ and PM_{2.5} remaining below the air quality objectives/target values. The impact of the development is predicted to be negligible (1% or less change) at all of the local receptors. The report recommends that mitigation measures could include utilisation of low NO₂ boilers, implementation of a green travel plan and provision of electric vehicle charging points

The air quality effects are therefore considered to be not significant. A condition is recommended to secure positive mitigation measures.

The proposal complies with Core Strategy Policy CS66 and UDP Policies GE22 and GE23.

Ecology

UDP Policy GE11 seeks to protect the natural environment and UDP Policy GE15 seeks to encourage and protect trees and woodland. UDP Policy GE17 seeks to protect and enhance streams and rivers.

These policies strongly align with the NPPF (paragraph 170), which states that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other measures, minimising impacts on and

providing net gains for biodiversity including by establishing coherent ecological networks that are more resilient to current and future pressures.

The applicant's preliminary ecological appraisal notes that this is a brownfield site with foundation hardstanding of demolished industrial buildings covering much of the site, and that the north of the site is predominantly woodland and is traversed by a small watercourse.

The report states that the site has few opportunities for bats apart from limited foraging and commuting within the trees checked for the potential to support roosting bats and were considered to fall within the low or negligible risk categories. The site provides opportunities for a range of birds within the wooded area although no nests were recorded. There were no signs of recent activity by other protected species on the site. The report highlights the requirement for appropriate mitigation measures prior to and during construction work.

The proposal retains the wet woodland habitat along the stream and retains some of the adjacent mixed deciduous woodland to act as a buffer between the wet woodland and the proposed built development.

Whilst the proposal would result in the removal of several groups of trees on the site, the protected woodland belt towards the north and northeast boundaries of the site would be retained. The applicant's proposed landscaping scheme for the site provides some replacement planting between the retained woodland and the car parking areas and the rear of the proposed retail buildings. Conditions are recommended to mitigate the impact of the development during and post construction works.

The proposal complies with UDP Policies GE11, GE15 and GE17.

Land Quality

NPPF (paragraph 178) states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

The applicant has submitted a Phase 1 geo-technical and geo-environmental desk study report for the site. The report identifies various past industrial uses on the site (including saw mill, cutlery works, coach building works, scrap yard, steel stockyard) and recommends that an intrusive site investigation is required.

The Council's Environmental Protection Service has advised that the submitted report is acceptable and that its recommendations are secured by conditions. Conditions are recommended to secure the intrusive site investigation and appropriate remediation where required.

Flood Risk and Drainage Strategy

Core Strategy Policy CS67 relating to flood risk management seeks to reduce the extent and impact of flooding.

The NPPF (paragraphs 156 to 165) relating to planning and flood risk state that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, and where development is necessary in such areas the development should be made safe for its lifetime without increasing flood risk elsewhere and sets out the principles for assessing the suitability of sites for development in relation to flood risk including the sequential and exception tests where appropriate.

The eastern part of the site lies within flood zone 1 where there is a low risk of flooding. The remaining part of the site lies within flood zone 2 where there is a medium risk of flooding.

As part of the site lies within flood zone 2 the applicant's flood risk assessment has considered the sequential test to the allocation of land suitable for development. The sequential test aims to steer new development to areas with a lower probability of flooding. If, following application of the sequential test, it is not possible for the development to be located in zones with a lower probability of flooding the exception test can be applied if appropriate.

In this instance there are no reasonably available sites appropriate for the proposed development in areas of lower risk of flooding. The proposed development is classed as a less vulnerable development which is compatible with flood zones 1, 2 and 3a.

The applicant's flood risk assessment report states that flood mitigation measures include raising floor levels in some areas by up to 500mm above existing ground level, raising pavement levels within the site where appropriate and having a flood warning system in place. Surface water discharge will be attenuated to the brownfield rate less 30% with provision for attenuation storage for events up to the 1 in 100 year plus climate change.

Yorkshire Water Services Ltd has advised that there is a large diameter water main running through the site which requires a 6 metre protective strip on either side of the centre line of the pipe to be kept free from development to allow future access to the pipeline. The proposed development shows a 3 metre protective strip to either side of the pipeline.

Following discussions between the applicant and Yorkshire Water, Yorkshire Water Services advised that, providing suitable protection measures are implemented, a 3 metre offset may be sufficient through most of the development due to its open nature. The applicant has clarified that they intend to pile the building foundations and ground slabs of the two units (Units 2 and 3) either side of the water main with the nearest pile to the water main being 3 metres away and that any pile within 10 metres would be bored to reduce disturbance from vibration. Yorkshire Water have advised the applicant that they in principle have no issues with this approach subject to a series of trial holes excavating across the area first to prove beyond reasonable doubt that there will be no disturbance to the water main.

Yorkshire Water Services Ltd has confirmed that they have no objection to the proposed development subject to a condition to safeguard the existing water main.

Conditions are recommended to secure appropriate mitigation measures for flood risk and surface water discharge. A condition to secure the particular details of the siting of Units 2 and 3 in relation to the existing water main, including the foundation design of these two units, laying of services to them and trial hole evidencing is also recommended.

Community Infrastructure Levy

The Community Infrastructure Levy (CIL) is applicable to the major retail scheme element of this development.

In this instance there is a CIL charge of £60 per sq m of gross internal floorspace plus an additional charge associated with the national All-in Tender Price Index for the calendar year in which planning permission is granted, in accordance with Schedule 1 of The Community Infrastructure Levy Regulations 2010.'

The funds generated through CIL will be used in connection with strategic infrastructure.

The Planning Balance

Full planning permission is sought for the erection of 3 retail units (Class A1), 8 storage and distribution units (Class B8), 2 drive-thru restaurants (Class A3/A5) and 1 vehicle maintenance and repair unit (Class B2) along with 2 substations, the provision of car parking and associated on and off-site works, including junction improvements to Penistone Road and Herries Road.

The site lies mostly within a Fringe Industry and Business Area as defined in the UDP. Policy IB6 of the UDP is not consistent with the thrust of the NPPF as it appears to place an embargo on retail development that is not in or at the edge of a local centre (for appropriately sized food stores) or other out of centre locations, other than in a Retail Park or in Meadowhall. The NPPF does allow such development subject to the sequential and impact test requirements (paragraphs 86 to 90).

Policy S5 (District and Local Shopping Areas) is not reflective of the sequential and impact tests in the NPPF and NPPG. Policy S5 also requires consideration of cumulative impacts; the NPPF is silent on this matter. The local planning authority is mindful that the cumulative impacts are a material consideration.

In light of the more up to date guidance in the NPPF Policies IB6 and S5 can only be afforded little weight.

The remainder of adopted local plan policies, which are the most important for determining this application, when considered as a 'basket' of policies, closely align with the NPPF.

Nevertheless, paragraph 11 of the NPPF (the 'tilted balance') is considered to be triggered and so the positive and negative elements of the proposed development need to be considered.

Paragraph 8 of the NPPF states that, in achieving sustainable development, the planning system has three overarching objectives: economic, social and environmental.

In pursuing an economic objective, the proposed development would:

- promote inward investment to the area;
- bring forward development on this underused previously developed land in a location where it would be accessible by public transport;
- provide new industrial and business units and jobs on the site;
- provide a wider range of employment from the proposed retail uses on the site;
- provide short term employment on the site during the construction phase of the development;
- provide opportunities for businesses to relocate from unsuitable premises elsewhere in the valley and the city centre;
- be liable for the community infrastructure levy charge.

However:

- some of the employment provided, particularly in the retail sector, may be a combination of new jobs and jobs transferred from elsewhere;
- the proposal will impact on the Hillsborough District Centre (although not to the extent that it would cause significant adverse impact) and the Catch Bar Lane and Halifax Road Local Centres;
- the proposal would result in the loss of some of the site to non-industrial and business uses (but would not jeopardise the supply of land for employment uses).

In pursuing a social objective the proposed development would:

- provide safe access to and from the site for staff, customers and visitors;
- provide accessible buildings for all users;
- provide cycle access and safeguard land for future cycle schemes;
- not significantly impact on air quality during the operational phase; and
- comprise development that would not harm the living conditions of residents in the locality.

However:

- there would be an increase traffic movements on nearby roads;
- there would be a risk of dust during the demolition and construction phases of the development (although with a condition to mitigate the risk from dust it is not a significant impact); and
- the proposal would displace some existing temporary car parking from the site.

In pursuing an environmental objective the proposed development would:

- regenerate the site;
- make a positive contribution to the appearance of the local streetscene;
- provide soft landscaping within the development;
- provide a green vegetated wall;
- incorporate sustainable measures; and
- remediate land contamination from historic uses on the site.

However:

- the proposal would result in the loss of existing trees within the developable part of the site (although some new tree planting is proposed and the TPO'd wooded area at the northern end of the site would be retained).

While the High Court Judgement (Aldergate/Mansfield) makes it clear that even out-of-date policies remain part of the development plan, and that any decision is required to assess whether the proposal accords with it, as the starting point, it is considered that the benefits of the proposal significantly and demonstrably outweigh the adverse impacts of the proposal when assessed against the policies in the NPPF taken as a whole.

SUMMARY

Whilst the proposal would result in the redevelopment of some of the existing industry and business buildings on the site, preferred uses maintain their dominance in this Fringe Industry and Business Area.

The proposed class B2, B8 and A3/A5 uses comply with UDP Policy IB6, but as development includes new out-of-centre retail development which is not small scale, the current proposal does not satisfy UDP Policies IB6 and S5.

Policies IB6 and S5 are not fully up to date or reflective of the sequential and impact tests set out in the NPPF paragraphs 86 to 90 and so carry less weight.

The application passes the sequential test.

The impact tests concluded that the only Centres likely to suffer from significant adverse impacts are Catch Bar Lane and Halifax Road Local Centres.

As Policy S5 is not up-to date, the local planning authority is entitled, having considered S5 as the statutory starting point, to give it less weight and concluded that the significant adverse impacts on Catch Bar Lane and Halifax Road should not be determinative.

While officers are minded that the cumulative impacts of a development are still a material consideration, a refusal on the grounds of cumulative impact (including the proposal, the Parker's Yard (Malin Bridge) Road scheme and Jack's) on Local Centres is not considered to be a reason for refusal in this instance.

In isolation, officers and the independent review conclude that the proposal, when considered on its own (i.e. not including, the Parker's Yard (Malin Bridge) scheme

and Jack's), is not likely to result in any significant adverse impacts on any District or Local Centres in the catchment.

The proposal (subject to appropriate conditions) will not result in a significant adverse impact on existing, committed and planned investment in centre(s) in the catchment area of the proposal.

In light of the above, the retail element of the proposal is considered to be acceptable.

The proposal would not significantly harm the living conditions of nearby residents subject to the imposition of appropriate conditions.

The scale and massing of the proposed buildings and the contemporary approach to their design is acceptable and will make a positive contribution to the appearance of the locality and the streetscene.

The highway impacts of this development have been extensively modelled and then scrutinised and it is considered that they would not cause unacceptable impact on highway safety or severe residual cumulative impacts on the road network.

Whilst the proposal would result in the removal of several groups of trees, the main woodland belt towards the north and northeast boundaries of the site would be retained.

Appropriate conditions are recommended to secure remediation of the site, sustainability measures, drainage and flood risk measures.

It is considered that the benefits of the proposal significantly and demonstrably outweigh the adverse impacts of the proposal when assessed against the policies in the NPPF taken as a whole.

The proposed development complies with UDP Policies IB9, IB13, IB14, GE11, GE15, GE17, GE22, GE23, Core Strategy Policies CS5, CS10, CS63 to CS66, CS67 and the Government's planning policy guidance contained in the NPPF.

RECOMMENDATION

It is recommended that planning permission is granted subject to conditions.

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