



Planning and Retail Assessment

On behalf of:

High Peak Developments

In respect of:

Hogs Yard site, Buxton Road,
Whaley Bridge

Date:

December 2017

Reference:

MA/HPD/002-2/R001

1.0 Introduction

- 1.1 This Planning and Retail Assessment is submitted in support of a planning application by High Peak Developments in respect of land at Hogs Yard with extant consent for two units for mixed use development both over 2 floors.
- 1.2 The extant approval proposed a mixed-use scheme of two units which are designed to provide the opportunity for sub-division horizontally and vertically. In terms of end uses, the consent provides for (B1) offices, (A3) food and drink and (D2) assembly and leisure. It is therefore in essence a consent with inherent flexibility by use and by form.
- 1.3 This application has been submitted as the landowner (responding to market signals) also wants to introduce the opportunity for non-food retailing into the ground floor of these two units. The timing of this is important as the construction of the approved B & M store is now underway and with an anticipated opening in mid-2018. The opportunity to provide more flexibility increases the prospects of securing pre-lets which will in turn advance the construction and occupation of these units.
- 1.4 Whilst the NPPF encourages that new demand should ideally be met in town centres, it does not place an embargo on out of centre retail development where there is a latent future demand, where no suitable and more central sites are available and where it can be demonstrated there is no significant adverse impact to existing centres.
- 1.5 The assessment demonstrates that that the development sought would not result in an impact on the vitality and viability of defined centres which would be material, and certainly would not approach the threshold of significant adverse. It also demonstrates that there remain no more centrally located sites to accommodate the requirement.

2.0 Background

Site Location and Use

- 2.1 The application site comprises the southern parcel of land at Hogs Yard situated to the west of the River Goyt and to the east of Buxton Road. It sits within the defined built up area of Whaley Bridge to the Bingswood Industrial Estate further to the west on the opposite side of the River Goyt.
- 2.2 Access would be obtained from the existing internal access road from Buxton Road which provides access to the existing Tesco Store. It is an area of cleared vacant land extending to 0.48 hectares.

Existing Uses and Allocations

- 2.3 The site itself is vacant, save for preparatory works undertaken in connection with the extant consent. The application site was previously allocated under TC14 in the 2005 Local Plan, but now falls part of a wider allocation policy in the recently adopted 2016 Local Plan. The relevant policy adopted policy is DS11 and supports a broad range of uses under a criteria-driven framework. Policy DS11 creates no impediment to retail uses on the site subject to cross-reference and justification in respect to specific retail policies in the 2016 Local Plan.

Planning History

- 2.4 There has been a complex planning history for both the subject site and on adjacent plots, and we focus solely upon the key issues arising in relation to this development.
- 2.5 Outline planning permission HPK/2004/0590 was granted in 2005 for offices, food and drink and leisure and assembly on this site. Reserved matters consent reference HPK/2008/0360 was granted in August 2008.
- 2.6 A subsequent planning permission was granted on 19 July 2010 (HPK/2010/0206) for the extension of the time limit for the renewal of the planning permission enabling development to commence by 19 July 2013.
- 2.7 This consent was renewed using applicable powers under 2013/0268. Thereafter the relevant conditions were discharged and the consent has been lawfully implemented- this

consent remains extant. It is this permission to which this application relates.

2.8 Condition 6 on the 2013 consent states:

"No part of the development shall be occupied until the amount of floorspace to be used for offices (B1) food and drink (A3) and leisure and assembly (D2) has been submitted to and approved in writing by the Local Planning Authority. No part of the building occupied as an A3 Use shall at any time be used for retail (A1) purposes."

2.9 This application seeks to vary condition 6 as stated below:

*"No part of the development shall be occupied until the amount of floorspace to be used for offices (B1) food and drink (A3), **retail (A1)**, and leisure and assembly (D2) has been submitted to and approved in writing by the Local Planning Authority. No part of the building ~~occupied as an A3 Use~~ shall at any time be used for **the principal purpose of food retailing (A1) purposes**."*

Other relevant history

2.10 The wider Hogs Yard site has a complex planning history which we do not intend to repeat here. One specific scheme which is of relevance was planning permission HPK/2003/0791 (granted in 2009) for mixed-use development of retail, business and restaurant on part of the wider Hogs Yard site.

2.11 An application to renew that consent (HPK/2012/0087) was refused on design grounds and ultimately won at Appeal (appeal ref APP/H1033/A/2187670) in April 2013. In reaching his decision, the Inspector concluded that:

"All in all, for the above reasons, I do not consider there has been a material change in policy or other circumstances since permission was granted in 2009 that merits refusal of the present application. The advice in Greater flexibility for planning permissions is therefore entirely pertinent and there is no justification in all the relevant circumstances for taking an alternative view as the Council has done."

2.12 Ultimately, that part of the site is now being built out as a single unit for B & M. The format of the Appeal scheme are comparable with this application insofar that it includes for a number of retail units for non-food use as opposed to the larger format offers of B & M and indeed the Tesco store..

2.13 Consent for the adjacent Tesco store was originally secured in 2001 (HPK/0003/9795). We also note that the 2011 approval for a rear extension to the Tesco store (2010/0603) has since lapsed without being implemented.

3.0 Proposed Development

- 3.1 The proposed development seeks approval for the introduction of more flexible uses for the ground floor of the two consented units, to allow for non-food retail uses. The existing consent already allows for the use of these units for A3, B1 and D2 uses.
- 3.2 The application seeks no increase in floorspace for town centre uses than have been previously approved and thus found acceptable in planning terms. This is of course a highly material consideration in terms of matters pertaining to town centre uses policy and transportation effects.
- 3.3 However, the application does seek the opportunity for the ground floor of these units to be used for retailing. As such there is a prospect for additional retail floorspace above the threshold set out in policy CF1, and as such there is a need to test this in retail policy terms.
- 3.4 Subject to compliance with the requirements of policy CF1 and other planning policy considerations, it must follow that the presumption will be that the proposed development will also be acceptable in those planning terms.

4.0 Planning Policy

- 4.1 As per Section 38 of the Town and Country Planning Act, development control decisions must be taken in accordance with the adopted Development Plan unless material considerations indicate otherwise. For the purposes of this application the Development Plan comprises of the saved policies of the 2016 High Peak Local Plan.

Development Plan Policy

- 4.2 The Development Plan is comprised of those policies of the Local Plan. The RSS has been formally revoked. The following Local Plan policies are considered relevant to the determination of the planning application:
- CF1- Retail and Town Centres
 - DS11- Bingswood, Whaley Bridge

Policy CF1

"The Council will seek to maintain and enhance the vitality and viability of town centres and local centres as defined on the Policies Map in accordance with their function and scale as identified in Policy S2 (Settlement Hierarchy) and identified development needs:

This will be achieved by:

- *Permitting appropriate retail, leisure, cultural and business development in centres of a scale and type appropriate to the role and function of that centre*
- *Strengthening the vitality and viability and enhancing consumer choice to serve defined centres by supporting the provision of new retail floorspace consistent with their function and scale in accordance with identified needs:*
- *New Mills - proposals for additional A1 convenience floorspace will be supported in order to address the lack of provision within the town. No town centre or edge of centre site has been identified. Out-of-centre proposals will therefore be supported in accessible locations that are well connected to New Mills town centre by public transport and which comply with the impact and sequential tests set out in this policy*
- *Glossop, Whaley Bridge, New Mills and Chapel-en-le-Frith - proposals within the defined centres will be supported subject to their accordance with relevant Local Plan and Neighbourhood Plan policies.*
- *Buxton - proposals within the Primary Shopping Area will be supported subject to their accordance with other relevant Local Plan policies*
- *Harpur Hill - proposals for small scale A1 retail convenience development (less than 200m² net sales) and wider uses including business, non-residential institutions and leisure within the Local Centre as defined in the Policies Map will be supported subject to their accordance with other relevant Local Plan policies. The total floorspace for the Local Centre shall be less than 2500m². This relates to town centre uses only, as defined by the NPPF. Policy DS20 specifies further policy requirements for this site. Town centre proposals above these thresholds must be supported by an appropriate impact*

and sequential site assessment that consider Buxton's centre.

- *Requiring major town centre use developments (including large extensions to existing stores) of 200m² (net sales for A1) or more outside the defined centres of Buxton, Glossop, Chapel-en-le-Frith, New Mills, Whaley Bridge and Harpur Hill to comply with the sequential approach to site selection. Applicants should demonstrate that there are no suitable and available sites within the defined centre that could accommodate development. Preference will be given to accessible, edge-of-centre sites that are well related to the centre and accessible by public transport. Out-of-centre proposals will only be supported when there are no suitable in-centre or edge-of-centre sites available.*
- *Requiring proposals for town centre uses of 200m² (net sales for A1) or more outside defined centres of Buxton, Glossop, Chapel-en-le-Frith, New Mills, Whaley Bridge and Harpur Hill to be supported by an impact assessment. Developer contributions may be sought to mitigate identified impacts on defined centres where appropriate. Proposals with significant adverse impact will be refused.*
- *Creating safe, attractive and accessible town and local centres, providing a range of shopping, food and drink uses, services, offices, entertainment and leisure facilities, and high quality public spaces*
- *Proposals that would create a concentration of evening economy uses (A3, A4 & A5) that would give rise to social and environmental issues will not be supported*
- *Ensuring that there are adequate parking facilities in suitable locations to serve town centre developments and they are accessible by public transport, walking and cycling. Town centre regeneration proposals should seek to connect to and where appropriate,*
- *improve existing or proposed Public Rights of Way and multi-user trails. Suitable and safe provision should also be made for servicing and deliveries*
- *Supporting proposals that seek to deliver qualitative environmental improvements and support the local distinctiveness of town centre environments through high quality design. Supporting proposals that would help to deliver regeneration programmes and implement relevant town centre initiatives*
- *Requiring active ground floor frontages to be maintained and created within town centres with appropriate town centre uses*
- *Protecting the vitality and viability of the small town centres, larger villages, other settlements and other local centres within the towns by supporting proposals for town centres uses, including retail, leisure and office development of less than 200m². Proposals above this threshold should comply with the identified sequential test and impact assessment requirements. Applications for a change of use from A1 retail within these centres should demonstrate that the current use is no longer required to serve the local community and is not viable*
- *The vitality and viability of the main town centres will be supported by the designation of the Buxton Primary Shopping Area and primary frontages within Glossop and Buxton town centres.*
- *The extent of the Town Centres and the Buxton Primary Shopping Area are defined centres in the Policies Maps. For the purposes of retail impact assessments and sequential site assessments in the Buxton area, the Buxton Primary Shopping Area represents the defined centre. During the consideration of impact assessment and sequential site assessment for all other town centre uses in Buxton, the town centre boundary denotes the defined centre. The defined town centre boundaries in Glossop, New Mills, Chapel-en-le-Frith and Whaley Bridge should be interpreted as in-centre during the consideration of proposals for retail and other town centre uses."*

Policy DS11

- 4.3 This site-specific policy (titled Bingswood, Whaley Bridge) provides a framework for development management proposals in a wider area to the east and to the west of the River Goyt. For clarity, the land to the east of the Goyt is comprised partly of an existing industrial estate whereas the subject site is west of the Goyt. It states:

Land amounting to 6.8ha is allocated for business and mixed use development. The majority of the area to the south and east of the River Goyt, comprising the existing industrial estate and undeveloped brownfield area to the north of the estate, should be developed for business use. Residential development of approximately 75 dwellings may be permitted on 2.5ha within the site. Development will be subject to compliance with other relevant Local Plan policies, and:

- *Provision of new access to the Bingswood Industrial Estate. This access to be constructed before any further development of the site;*
- *Preparation of a comprehensive masterplan and phasing programme, including the protection of existing employment on the site;*
- *Provision of the required proportion of affordable housing (currently 30%). Any reduction in this amount will be subject to financial assessment;*
- *Contributions towards infrastructure, greenway improvements, services and other community needs as required;*
- *Provision of a comprehensive landscaping plan, including the retention of mature trees;*
- *Contamination and ground condition survey;*
- *A site specific Flood Risk Assessment in accordance with the findings of the High Peak Viability Assessment: Level 2 Strategic Flood Risk Assessment and provision of flood mitigation measures in consultation with the Environment Agency;*
- *An assessment to consider and address impact on the adjacent wildlife site and ancient woodland;*
- *Archaeological desk-based assessment;*
- *Buildings appraisal and assessment of non-designated heritage assets.*

Appropriate uses for the area to the north and west of the River Goyt (Hogs Yard) may include business, hotel, assembly and leisure, food and drink, tourist accommodation and facilities. Town centre uses should accord with Policy CF1.

Development should not prejudice the construction of the Goyt Bridge and associated access road as identified on the Policies Map.

National Planning Policy

- 4.4 The NPPF provides national level planning guidance, but the interpretation of specific advice and/or the weight to be attached to it should consider the influences of material planning judgments at local and national level, including legal challenges as appropriate. At paragraph 24 of the NPPF, which is concerned with the sequential approach to development management (i.e. planning applications) it states:

Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

- 4.5 At paragraph 26 of the NPPF, concerned with the assessment of retail impact, it states:

When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local 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 sq m). This should include assessment of:

- *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*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.*

- 4.6 Paragraph 27 of the NPPF provides a summary analysis in terms of the decision that would ordinarily be reached, save for the weight to be applied to other material considerations as is required by s38(6) of the Act. Paragraph 27 states:

"Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused."

- 4.7 The NPPF also sets out the government's guidance in terms of the much-heralded presumption in favour of sustainable development. At para 14 it sets out that proposed development in accord with an up-to-date development plan should be approved without delay. Specific advice in terms of proposals for retail and leisure development is provided through paragraphs 24-27, and this is largely consistent with the principles which underpinned PPS4.

- 4.8 The NPPF also sets out the core planning principles that underpin plan-making and decisions (paragraph 17). These core planning principles state that planning should help to promote mixed-use developments and proactively drive and support sustainable economic development. Paragraph 19 of the NPPF states that '*significant weight should be placed on the need to support economic growth through the planning system*'.

Planning Precedents

- 4.9 In terms of the genuine requirements of the sequential approach, this has been clarified through recent judgments and recent Appeal decisions relating to the creation of new non-food retail units at an out-of-centre site in Barnsley and thereafter a SoS decision in relation to an out-of-centre scheme in Northamptonshire (Rushden Lakes).

Dundee Case as amended by Zurich

- 4.10 The Dundee case was concerned with two competing proposals to meet an identified need for new foodstore provision, and largely focused upon the proper interpretation of policy and guidance in relation to the sequential approach to site selection. The Council had given significant weight to the need to give detailed consideration of opportunities for the disaggregation of floorspace that could therefore be readily met in more central locations.
- 4.11 Para 38 of the Dundee decision states *'the whole exercise [Sequential Assessment] is directed to what the developer is proposing, not some other proposals which the planning authority might seek to substitute for it which for something less than that sought by the developer'*.
- 4.12 The need for flexibility requires the developer to give consideration to the scope for accommodating the development in a different form, and to have assessed sequentially preferable locations on that basis. This approach was followed in *R (Zurich Assurance Ltd) v North Lincolnshire Council* [2012 EWHC 3708 (Admin)], the Court finding that it was sufficient for a developer to have assessed the possibility of relocating an out of town proposal to one or two smaller town centre sites and to conclude that the alternatives were neither suitable for its business model or commercially viable. The imposition of a highly artificial disaggregation, certainly in this instance, would fail to meet the applicant's business model or deliver against the objectives of the emerging policy.

The Barnsley appeal

- 4.13 This decision (November 2013) was concerned with proposals for six new build retail units in an out-of-centre location. Whilst much of the debate focused upon the proper interpretation of its catchment, the other key matter was the Council's contention that the proposal should be disaggregated and could therefore be more easily located upon a more central site.
- 4.14 The following provides a very useful summary of the position which has been reached in respect of Dundee as amended by Zurich. Paragraph 13 of the Inspector's decision states:

"The scope of the sequential test has been clarified by the Courts since 2009. In Tesco Stores Ltd v Dundee

City Council [2012 UKSC 13] it was held that "suitable" meant suitable for the development proposed by the applicant rather than (as PPS4) suitable to accommodate the need or demand which the proposal is intended to meet. The Council claims that the recently published draft NPPG, which represents the up-to-date exposition of policy and refers to "suitability" in terms of the need or demand which the proposal is intended to meet, is intended to reverse the Supreme Court's decision and ensure that the sequential test regains its previous utility. But even if practice guidance could contradict a Court judgement in the manner claimed, the NPPG is currently in draft "Beta" test mode and - as stated therein - is likely to have limited weight in decision taking. At present, the Tesco v Dundee interpretation of "suitable" must stand."

Rushden Lakes Decision

- 4.15 This is a Secretary of State decision published June 2014 following a Call-In Inquiry. It was concerned with proposals for new retail and leisure units and ancillary A3 and hotel in an out-of-centre location.
- 4.16 Whilst much of the debate focused upon the proper interpretation of its catchment (and the extent to which this complied with the spatial planning objectives of relevant LPAs), the other key matters were focused upon the Council's contention that the proposal should be disaggregated and could therefore be easily located upon a more central site, and that there was potential that the proposal could impact upon planned investment.
- 4.17 In terms of identifying an area of search for the sequential assessment, it advises that there is clear merit in identifying a core opportunity area which best represents the opportunity to meet the identified need. Within that area of search, candidate sites must be able to accommodate development of sufficient critical mass to meet that planning purpose. In the properly defined area of search the task is to identify sequentially preferable sites that are suitable and available which necessarily includes consideration of deliverability/viability.
- 4.18 The decision clarifies that the NPPF requires developers to identify the purpose of their proposal and to demonstrate reasonable flexibility in terms of format and scale. This plainly excludes reference to the disaggregation of such proposals and also confirms that the test is to ascertain whether the proposed development can be had on a more central site as opposed to a scheme so considerably amended that it would fail to meet the real world requirements of the applicant. In terms of the assessment of what is suitable, it advises:

"In similar vein, there is nothing in the sequential test as set out in NPPF that states that the concept of "suitable" sites means suitable in terms of the scale of the nearest centre to the site in question and/or its place in the "hierarchy" of centres. The sequential test relates entirely to the application proposal and whether it can be accommodated e.g. on a town centre site. It is also important to be clear that NPPF is entirely related to plan making and it has nothing to do with decision making"

- 4.19 In terms of matters of scale and catchment, the Rushden Lakes decision concluded that whilst the scheme would draw from an extended area and that there would be resultant impacts, there was a deemed opportunity to provide additional facilities that would make the area more self-sufficient and create sustainability benefits in terms of mileage savings and local employment opportunity.
- 4.20 In terms of planned investment, the decision confirms that whilst it is appropriate and necessary to consider the potential for any proposal to impact upon the delivery of planned investment in centres it must firstly be clear that this alternate development is genuinely capable and have realism of delivery in the absence of the new proposal. Thereafter, it is important to be establish the extent to which the proposal would seek to compete with the planning purpose of the deemed planned investment opportunity.

5.0 Retail Provision and Trends

- 5.1 This section of this Statement provides a summary of the shopping patterns which are established by the empirical data and analysis provided by the Council's 2013 Quantitative Retail Study Update and the Addendum published February 2014. This remains the most up-to-date High Peak study covering the High Peak administrative area.

Quantitative Retail Study Update Addendum

- 5.2 This was a joint study undertaken for High Peak Borough Council and Staffordshire Moorlands District Council (published February 2014) by GVA, principally considering floorspace requirements for the principal centres. Whaley Bridge falls within the High Peak Central area and the report concludes that the three main towns in this area have a relatively limited comparison goods retail offer which is reflected in the poor level of trade retention and market share that the three towns achieve.
- 5.3 The report states that whilst a status quo approach (i.e. on-going extensive trade leakage) would suggest no requirement for substantive new development in the High Peak Central area "given existing commitments", this should not prevent developer-led proposals from being promoted subject to addressing wider national policy retail issues such that proposals can be supported given the low market share retained within the High Peak Central catchment at present. It must also be the case that if the identified commitments were to change over time, then those Plan-led conclusions might also need to be reconsidered.

The Catchment

- 5.4 The purpose of a catchment in NPPF terms (as was the case for PPS4 and PPS6 and PPG6) is to identify a physical area from which the substantial majority of a scheme's trade will be drawn. In this instance, the catchment area put forward has been based largely upon information contained within the 2014 Retail Study, and partially upon a common-sense approach based on knowledge of the surrounding area.
- 5.5 The Study included 11 geographical zones covering the Study Area. To assist analysis, these zones are then identified as being representative of generic areas such as Buxton, Bakewell and High Peak Central (zone 2).
- 5.6 Zone 2 (High Peak Central) includes the centres of Whaley Bridge and New Mills as well as smaller retail facilities. Through our review of the shopping patterns from the 2014 Study it is evident that zone 2 provides a strong proxy for the primary catchment for this proposal

given that the substantial majority of spend attracted to local stores is sourced from zone 2. We would however point out that for the purposes of the sequential assessment and in light of the previous applications, it is not considered necessary to assess opportunities in or close to Chapel-en-le-Frith.

Shopping Patterns

- 5.7 As mentioned above, this choice of catchment area is strengthened by the evidence within the retail study which found that 92% of Whaley Bridge Town Centre's convenience turnover comes from within Zone 2 (and 100% of its comparison turnover). This suggests that shoppers are unlikely to travel to Whaley Bridge from outside zone 2 to undertake shopping trips. Although this is partly because of a lack of facilities in the area, this will also be because of the distances between Whaley Bridge and other zones.
- 5.8 In addition to this, the retail study highlights that the vast majority of convenience trade attracted to the adjacent Tesco Store (99%) comes from Zone 2. It is therefore considered that the use of zone 2 as the catchment is highly appropriate.
- 5.9 Main comparison goods retail provision within the primary catchment area (albeit that this is hugely limited) is provided by the town centres of Whaley Bridge and New Mills with minimal comparison goods retail provision provided by the Tesco Store at Whaley Bridge. There are no retail parks within the catchment area. Due to the lack of comparison goods provision it is perhaps inevitable that the extent of leakage is very substantial.
- 5.10 The figures below are on the basis of a 2020 design year, with available expenditure extrapolated from the 2014 figures using the advice of Experian Briefing Note 14 (October 2016). Retained spend and inflow figures then utilise the market share percentages from the Council Study.

ZONE	2014 AVAILABLE COMP SPEND IN ZONE	2014 RETAINED COMP SPEND IN ZONE	% RETENTION	INFLOW TO ZONE 2 STORES	% OF TURNOVER FROM ZONE
2	£132.04m	£16.88m	12.8%	£1.78m	90.5%
ZONE	2020 AVAILABLE COMP SPEND IN ZONE	2020 RETAINED COMP SPEND IN ZONE	% RETENTION	INFLOW TO ZONE 2 STORES	% OF TURNOVER FROM ZONE
2	£157.84m	£20.20m	12.8%	£1.93m	90.5%

- 5.11 The huge majority of expenditure is drawn outside the primary catchment area, particularly to the town centres and retail parks within Stockport, Macclesfield, Buxton and Cheadle. Expenditure is also drawn to the Trafford Centre and Manchester City Centre. It is therefore reasonable to conclude that there is a need for enhanced provision within the catchment in terms of non-food shopping.

6.0 Retail Issues

- 6.1 This application seeks permission to relax the existing consent to allow the ground floor of the two approved commercial units to meet the needs of non-food retailers, in addition to the other approved town centre uses.
- 6.2 The extant consent provides approval for 2 flexible use units. In total, the ground floor spaces of these two approved units would provide 684m² floorspace. Whilst we are seeking to extend the flexibility of the consent (which therefore means that there is a prospect that the space may still be used for non-retail purposes), for robustness we will model that the entirety of the ground floor area will be used for non-food retailing.
- 6.3 We therefore model it to trade at typical retail park levels (£4000/m² for the net sales area at the 2020 design year). We also note that the consent does not restrict sub-division, and for robustness we again model that the ground floor of the larger unit would be sub-divided. As such, this assessment models a proposal for three units split as follows:
- Unit A1 - 209m²
 - Unit A2 - 209m²
 - Unit B - 266m²
- 6.4 The applicant is currently constructing the B & M store and seeks to commence a marketing campaign shortly to develop out this space with the flexible consent proposed. As such, at this time we are not able to specify an end occupier other than to confirm that we understand that they will be capable of trading within the consent which is sought.
- 6.5 The huge majority of comparison expenditure is drawn outside the primary catchment area, particularly to the town centres and retail parks within Stockport, Macclesfield, Buxton and Cheadle. Ordinarily it would be assumed reasonable to conclude that there is a need for enhanced provision within the catchment in terms of non-food shopping.
- 6.6 Nonetheless, we would accept that it is evident from the Council Study that its assessment of residual capacity is very largely based upon an assumption of ensuring that market share is retained i.e. where levels of retention are particularly low then it does not seek to arrest that process. However, it does also have regard for commitment schemes as were known at that time.
- 6.7 The principle of retail development in this broad location is established. It is also the case

that the commitment comprised of the Tesco store extension has lapsed. In essence, the principle to be considered is whether the turnover driven by this floorspace is comparable to that of the Tesco extension. Thereafter, it is simply comprised of the introduction of the new operators and the range of goods that can be sold within it and any additional issues arising.

- 6.8 This assessment will therefore identify what was assessed through the Council Retail Study within the wider DS11 site (which in effect provides the fallback position) and undertake a cumulative impact assessment of the trading effects it would likely deliver. It will then undertake a cumulative assessment of the trading effects of the proposed development and then the magnitude and the significance of those impacts can be compared.

Impact Assessment Base Assumptions

- 6.9 The base position for the numeric assessment largely comprises the population and per capita expenditure from the 2014 Retail Study and its shopping patterns evidence. The following provides a summary of the base assumptions which have been used:

- Base Year: 2017
- Design Year: 2020
- Per Capita Expenditure and Floorspace: Experian Briefing Note 14
- Turnover Efficiencies: Experian Briefing Note 14
- Population Data: 2014 Council Retail Study

- 6.10 In order to assess trading patterns/levels at the base year, monetary flows are estimated principally through the survey and the available zone-based expenditure. The base year per capita expenditure has been taken to the 2020 design year using more recent advice from Experian (Briefing Note 14) to account for macro-economic trends and to reflect their assumptions of change in terms of the role of online shopping.

- 6.11 Design year turnover levels are then projected through use of an annualised efficiency factor for investment and improved working methods (Experian Briefing Note 14).

- 6.12 It is confirmed that the datum for the household survey does not take account of schemes which have latterly been built out and commenced trading (the key example being the Aldi store at Chapel). As such, these are treated as commitment and built in as phases in the cumulative impact exercise undertaken.

Lapsed Schemes

- 6.13 The 2014 Retail Study seeks to identify the scope and extent of any residual requirement for

future retail development as part of the Local Plan process, as well as providing a tool for the development management process.

- 6.14 In respect of the High Peak Central area, it has regard for permissions which were extant at the point it was written. This includes the Tesco extension at Whaley Bridge and the Morrisons extension at Buxton. Both store extensions would have provided additional convenience and comparison floorspace, and in both cases the consents have lapsed.
- 6.15 These should not be strictly treated as commitments for impact and capacity analysis. However, as set out above we will have reference to the modelled turnover of the Tesco extension as it sets a context for what was deemed acceptable through the Council's Retail Study and this should be afforded weight.

Tesco Whaley Bridge

- 6.16 The 2011 consent for a rear extension (2010/0603) was issued on 31st March 2011, subject to a number of conditions and a time period for implementation. It is evident from the planning file and conditions on site that the consent is unimplemented and has therefore lapsed.
- 6.17 The submitted RIA clarified that the development would provide 1113m² additional net sales space allocated 56/44 in favour of convenience goods. This would have generated additional turnover circa £6.5m split £3.4m to convenience and £3.1m to comparison goods turnover.

Morrisons Buxton

- 6.18 This approval was also issued in 2011 for a rear extension (2010/0664), subject to conditions and a 3 year time period for implementation. It is similarly evident from the planning file and conditions on site that the consent has not been implemented and has therefore lapsed.
- 6.19 The submitted RIA clarified that the development would provide 695m² additional net sales space allocated 79/21 in favour of convenience goods. This would have generated additional turnover circa £4.1m weighted considerably towards convenience goods.

Committed Developments

- 6.20 Research from ATP has sought to assess the likely trading impacts of both the Hogs Yard proposal and several other retail schemes with the benefit of approvals that were not trading at the point of the 2009 household survey. This underpins the cumulative impact assessment which has been undertaken to ascertain the cumulative impacts upon centres.

Dealing firstly with the effects of commitment schemes, this cumulative impact assessment is provided for the design year of 2020 and is enclosed at Tables 9 and 10 of **Appendix 1**.

- 6.21 We have used the retail assessments undertaken for each of these schemes, where available, to determine the level of trade diversion expected from the facilities in the catchment area.

Aldi, Chapel-en-le-Frith

- 6.22 This development opened in January 2015, which follows the datum of the household survey. The submitted retail assessment identifies a net floorspace of 1140m² and patterns of trade diversion. Through application of currently applicable densities for Aldi, we estimate that a benchmark performance for this foodstore will generate a convenience turnover of £8.1m and comparison turnover of £1.4m in the 2020 design year.
- 6.23 The principal sources of trade are the Morrisons store already serving Chapel (35%), followed by the Tesco store at Whaley Bridge (25%). A further 25% of the store's trade is estimated to be drawn from other Aldi stores in the High Peak area.
- 6.24 All the above stores are established and these impacts will not prejudice their ongoing operation. In any event, they are all located outside defined centres, and are therefore afforded no policy protection.

Aldi, New Mills

- 6.25 This is a discounter scheme providing additional food retail choice for New Mills. Whilst it was approved in outline in December 2015 we are not aware of any further submission of reserved matters or discharge of conditions information. As such, we see potential that it could open in the latter part of 2018 but perhaps more likely to open during 2019. This store is expected to have a design year convenience turnover in the order of £8.9m.
- 6.26 The proposed store has three principal sources of trade which comprise:
- the Tesco store at Whaley Bridge (20%);
 - the Morrisons store already serving Chapel-en-le-Frith (18%); and
 - the Aldi store which recently opened in Chapel-en-le-Frith (20%).

Lidl, Woods Mill, Glossop

- 6.27 This scheme has developed over a considerable period and is a mixed-use development which comprises a range of uses including residential, employment and retailing. The retail

elements comprise of a new Lidl store and remodelling and extensions to non-food retailing. The Lidl store is expected to have a design year convenience turnover in the order of £7.3m.

- 6.28 In terms of comparison turnover, the development will generate in the region of £1.0m additional turnover including the Lidl and the other non-food shop units.
- 6.29 The proposed Lidl store has three principal sources of trade which are all in the Glossop area and dominated by the existing discounter (Aldi). They comprise:
- the Aldi store (65%);
 - the Tesco store at Wren's Nest (17%); and
 - stores in Glossop town centre (13%).

B & M, Hogs Yard, Whaley Bridge

- 6.30 This development has not yet opened but is under construction, and the target opening is mid-2018.
- 6.31 The submitted retail assessment identifies a net floorspace of 1784m² and patterns of trade diversion. We estimate that a benchmark performance for this variety discount store will generate a convenience turnover of £1.1m and comparison turnover of £4.5m in the 2020 design year.
- 6.32 The store is principally a non-food retailer, which sells ancillary ranges of convenience goods largely for impulse purchases. The principal source of convenience trade is the nearby Tesco store at Hogs Yard. Residual convenience trade is anticipated to be had from a range of Aldi stores within the periphery and just beyond the immediate catchment.
- 6.33 In terms of comparison trade, the key sources include the Tesco at Hogs Yard and also some impulse non-food purchases undertaken at Aldi stores. In addition to that, it will stem the leakage to other areas as there are no stores of this type in the High Peak area at all.
- 6.34 All the above stores are established and these impacts will not prejudice their ongoing operation. In any event, they are all located outside defined centres, and are therefore afforded no policy protection.
- 6.35 There is some very limited trade diversion from the town centre traders in Whaley Bridge and New Mills but in reality the product and shopping offers from the B & M and the stores already trading in these towns are quite distinct.

Turnover of Proposal

- 6.36 In respect of the proposed units, as set out earlier we seek a more flexible consent but this does not preclude the potential that they could be used for non-A1 purposes. We therefore model all the ground floor space as non-food retail for robustness. We model this 684m² of floorspace to achieve a net of 547m² (80% net to gross) for robustness.
- 6.37 In terms of sales densities, we assessed the B & M on the basis of £3000/m² turnover per annum (equally for convenience and comparison goods). For robustness, we model turnover for this floorspace at £4000/m² more typical of general non-food retailing performance.
- 6.38 This will generate turnover of £1.74m in the 2020 design year. The submitted assessment anticipates that 90% of this trade is catchment-derived.

Scenario Testing

- 6.39 As has been referred to earlier, the wider Hogs Yard site has established use and planning history in terms of retail development and other town centre uses. In terms of the latter, through a prolonged period it has been clarified that the site itself could be utilised for town centre uses (excluding retail). Having regard to the lapsed consent at the adjacent Tesco store, this provides a context for what would have been deemed acceptable in impact terms in terms of the ongoing vitality of centres.
- 6.40 This provides a contextual fallback position which can be used to set a benchmark in terms of what is acceptable in planning terms. As such, these should be afforded material weight which would support the case for this development.
- 6.41 The information in the previous section sets out the turnover levels estimated in relation to the proposed development. However, turnover levels alone represent only a component of what would be acceptable, as the key point in planning terms is the relative impact upon the vitality and viability of defined centres and the magnitude of effect on plan-led investment.
- 6.42 As such, the submitted economic work provides clarification in terms of the turnover to be associated with the contextual fallback scheme and a cumulative retail impact assessment arising. The attached tables provide a Retail Impact Assessment for two scenarios. It should be noted that the majority of the cumulative impact is as a result of other retail commitments already approved by HPBC and as such the solus effects of the scheme are lesser in magnitude.

- 6.43 In summary terms, the economic work undertakes assessment of two distinct schemes (Scenario 1 being a contextual fallback and Scenario 2 being the proposal). The contextual fallback scheme (Scenario 1) comprises the lapsed Tesco extension as per the impact assessment for that consent. Through that scheme, it created considerably more retail floorspace and increased comparison turnover than is proposed here.

Impact

- 6.44 In terms of retail impact, it is important to firstly evaluate the current trading performance of existing facilities and the patterns of expenditure flow. It is also important to try and build in the likely trading implications of other competing retail developments which have either not yet been built out, or not yet established.
- 6.45 The proposal seeks to vary the nature of the proposal to allow use of the units for non-food retailing. The end occupiers are as yet unknown, but given the proximity to the Tesco and the B & M under construction we think it likely that the majority of trade will be drawn back from other freestanding stores or retail parks. Whilst some trade will inevitably be drawn from centres, it is felt that more trade will be drawn from out-of-centre locations. Tables 9 and 10 set out the solus and cumulative¹ impact of both scenarios on defined centres, large standalone stores and retail parks. Whilst the impact assessment considers trade diversion and resultant impact on out of centre stores, these locations are not afforded any policy protection by the NPPF.

Scenario 1

- 6.46 Table 9 sets out the solus and cumulative impact of Scenario 1. This is a contextual fallback, given that the consent has lapsed but is still material given that it sets a context for what has previously been concluded to be acceptable in planning terms.
- 6.47 The additional floorspace which would have been provided through the Tesco extension would have included convenience and comparison floorspace, split broadly equally. The existing store is very much dominated by a convenience offer, so it would have had the effect of changing that floorspace mix.
- 6.48 Referring back to the original assessment, the turnover for the extension space was modelled at 50% of benchmark performance. For the comparison goods element, this would equate to circa £3.1m turnover per annum.

¹ taking account of committed developments

- 6.49 In terms of Whaley Bridge town centre, this creates centre-based solus impact in the order of 1% at the design year. In cumulative terms, the centre-based impact would be 5%.
- 6.50 The key source of trade (for the comparison element) was the previously approved Hogs Yard development which is currently under construction and will deliver a B & M store in the middle of 2018.
- 6.51 Given that this proposal was in essence improving the non-food offer within a foodstore, it is unsurprising that the majority of the residual comparison trade will be drawn from the non-food offer within other competing foodstores. This will include the Morrisons at Chapel-en-le-Frith and several Aldi stores within and on the periphery of the immediate catchment.
- 6.52 In terms of New Mills, this solus impact is likely to be in the order of 1.5%. In cumulative terms, the centre-based impact would be 13%.
- 6.53 In terms of other centres, the following provides a summary of the cumulative impact position based upon the fallback position and taking account of the identified commitments. This scenario will result in an overall cumulative impact of:
- 11% on Glossop (0.0% solus impact); and
 - 3.5% on Chapel-en-le-Frith (1.5% solus impact).

Scenario 2- Proposal

- 6.54 Table 10 sets out the solus and cumulative impact of Scenario 2. The floorspace is comprised of the ground floor of the two proposed units. These will be used for the sale of non-food goods. We are not able to identify end occupiers at this time, but we model as a typical non-food retail unit in terms of turnover potential at £4000/m².
- 6.55 In terms of Whaley Bridge town centre, this also creates centre-based solus impact in the order of 1% at the design year. In cumulative terms, the centre-based impact would be 5%.
- 6.56 In respect of the adjacent Tesco store, the solus impact would be 0.9% whilst the cumulative impact would be 26.6%. This is still notable, but lesser than set out by the fallback position. It is worth noting that the majority of this is resultant from other proposals and the site is located out of centre and thus has no policy protection.
- 6.57 In terms of New Mills, this solus impact is likely to be in the order of 1.5%. In cumulative terms, the centre-based impact would be 13%.

6.58 In terms of other centres, the following provides a summary of the cumulative impact position based upon the fallback position and taking account of the identified commitments. This scenario will continue to result in an overall cumulative impact of:

- 11.0% on Glossop (0.0% solus impact); and
- 3.5% on Chapel-en-le-Frith (1.5% solus impact).

Summary

6.59 Whilst the proposal does seek consent for 547m² net retail floorspace, it excludes the introduction of a food retailer.

6.60 Read in isolation, the impact assessment would conclude that it would result in centre-based impacts on Whaley Bridge and New Mills of 1% and 1.5% respectively. At this magnitude, the trading effects will not be discernible and we would conclude that this is very far below the threshold of significant impact on vitality and viability on either of those two centres.

6.61 Read in a more contextual manner, the impact assessment demonstrates that the Council has previously found acceptable a retail scheme within the wider site (which has since lapsed) but would have resulted in considerably more retail floorspace and more turnover than is proposed here.

6.62 It is also clear that under that contextual fallback scenario, the extent of impact on centres was greater. As such, the extent of overall retail goods impact is now much lesser than which was previously found acceptable in planning terms.

6.63 The cumulative impact exercise demonstrates that, whilst there will be cumulative impact on existing centres, it would be minimal in scope and extremely unlikely to have material adverse impacts on their ongoing vitality and viability. The impacts of the proposals are lower than which would be caused by the fallback scheme, and provide the opportunity for early occupation of the proposed unit which delivers opportunity for local employment.

7.0 Sequential Approach to Site Selection

- 7.1 The NPPF requires a sequential assessment for planning applications for ***additional floorspace devoted*** to town centre uses that are not in an existing centre and not in accordance with an up to date development plan (ATP emphasis).
- 7.2 The site has the benefit of recent and extant planning consent, and the current benefit of a Development Plan allocation which supports retail uses subject to justification. The leading *Tesco Stores v Dundee City Council* case clarifies that there is no proper requirement for arbitrary use of the disaggregation approach if this entirely fails the business model of end occupiers and developers.
- 7.3 This application seeks to introduce the opportunity for retail uses to the ground floor of two approved commercial units. The larger unit has a ground floor area of 418m² which is readily sub-divisible. The smaller unit provides 266m² floorspace at ground floor level. The retail space is a ground floor of a commercial unit which also has space for servicing, parking and other associated works.
- 7.4 The subsequent sequential search should focus on "Dundee" suitable opportunities in more central locations in in-centre and edge-of-centre sites around the defined centres within the realistic catchment area.
- 7.5 The units for consideration are therefore those which can provide 418m² and 266m² at ground floor level, with other commercial space above with associated space for parking. It should also provide for the opportunity for the larger unit to be sub-divided to respond to market signals.
- 7.6 It is envisaged that the location should be prominent (which could therefore include retail park locations) with good access to principal routes, with associated areas for parking and servicing. The imposition of a highly artificial disaggregation, certainly in this instance, fails to meet the applicant's business model or deliver against the objectives of maximising investment and employment.
- 7.7 In order to demonstrate flexibility on this we have sought to identify units and sites that can accommodate a single retail unit 15% smaller or larger than those proposed. Therefore, the sequential site search has sought to identify units and sites that could accommodate two units which provide between 226m² - 481m² each.

- 7.8 Paragraph 24 of the NPFF sets out the circumstances when a sequential test assessment should be required with a planning application for main town centre uses including retail uses (Use Class A1) stating that these are required where the proposals; '*are not in an existing centre **and**² not in accordance with an up-to-date Local Plan*'. Whilst the application site is not located within an existing defined centre, as already highlighted above the proposals do accord with a Local Plan policy with the proposed use class specifically supported. Nevertheless, the following provides a brief sequential test assessment.
- 7.9 Before moving on to look at specific alternative sites, it is important to set the parameters and context for such an exercise in order to demonstrate flexibility on format and scale as required by the NPFF (para. 24). In order to assess whether sequentially preferable sites can (or should) be identified to meet the need which has been shown, it is first necessary to confirm an area of search and then to confirm other key search parameters.
- 7.10 The sequential site search focuses within the defined catchment area which is Zone 2 of the High Peak Retail Study but with a principal focus on Whaley Bridge itself. It is noted however that this zone includes Disley at its western periphery. In reality, the separation distance is substantial and Disley is a small centre. Through previous analysis, it has been agreed that there were no suitable sites in that area to accommodate development of this form or quantum. It was also agreed that the Chapel area could be excluded by consequence of separation distance.
- 7.11 This sequential search therefore focuses on in-centre and edge-of-centre sites around the defined key centres in this zone which comprise:
- Whaley Bridge; and
 - New Mills.
- 7.12 Given that the proposals are intended to attract a known operator which requires on-site car parking provision as part of their business model, the need to identify a site or existing unit with parking provision and servicing is considered vital to the proposed retail unit.

Whaley Bridge

- 7.13 It is our understanding that there are currently 2 vacant units in the town centre (out of 44 i.e. 5% vacancy level).
- 7.14 These comprise a vacant office premises at 105 Buxton Road, and an occupied retail unit on

² Our emphasis

Buxton Road being sold as a going concern.

- 7.15 The vacant office unit is a single floor unit of 233m². It fronts directly onto the road and there is no feasible opportunity for servicing and no dedicated parking. Whilst it falls within the lower parameters of the retail unit identified in terms of floorspace it is unsuitable as:
- There is no parking
 - There is no servicing; and
 - There is no upper floor to provide the mixed use development.
- 7.16 The residual unit is a retail unit (wine shop) which is at ground floor with residential accommodation above under leasehold. The unit and the residential letting is being sold as a going concern.
- 7.17 The online letting particulars advise that the ground floor unit measures only 9m². We do have some reservations as to whether that is accurate, but it does nevertheless seem extremely unlikely that the unit is far too small. In addition, there is no feasible opportunity for servicing and no dedicated parking.
- 7.18 None of the vacant units within Whaley Bridge town centre are suitable to accommodate the retail unit due to their scale and the absence of workable parking and servicing space. Taking into account the above parameters, there are no existing sites within or to the edge of an in-centre location that could accommodate the units as sought.
- 7.19 Subsequent to an extensive review of opportunity sites, only one site in or near to Whaley Bridge town centre is adjudged to have any opportunity to be deemed preferable and therefore justify more detailed assessment against NPPF criteria (set out at paragraph 24).

Wharf Road, Whaley Bridge

- 7.20 The site is located at Wharf Road, Whaley Bridge bounded to the north by Reservoir Road and to the east by the railway line. The site is located to the west of the town centre and whilst technically adjoining the town centre there is significant segregation as a result of the railway line. The site therefore can at best be classed as edge of centre due to the barriers (visual and in terms of compromised access) between the retail core and its location.
- 7.21 The site has limited access, with Wharf Road being the only access/egress point into the site. This road is narrow and passes under the railway bridge where it narrows even further. This

type of access arrangement would be unsuitable without substantial investment, which would itself adversely affect the character of this area. Given the level differences between the site and Reservoir Road there is no potential to create a new workable access point.

- 7.22 The site suffers from numerous in-principle constraints which weigh against its use for large format retailing or indeed any retailing or town centre uses. On a commercial level, visibility is poor and this will impact considerably upon most business models. This lack of visibility and general prominence is hugely compounded by its substandard access.
- 7.23 We also note that through consultation on the (now published) Local Plan this was originally identified for housing development. It was then removed from allocation and cited clear constraints as set out above, which would be equally applicable now. In conclusion, this site is not considered a suitable sequentially preferable site.

New Mills

- 7.24 The catchment is focused upon Whaley Bridge but is also comprised of New Mills for robustness. The following sites have been considered in terms of whether they are suitable and available to accommodate the entire scheme proposed when flexibility is exercised. New Mills is heavily constrained due to the presence of Green Belt land, flood plains, green wedges and the local topography, which means that there are a limited number of potential development sites in the area. The town centre itself is constrained as the majority of the town centre comprises small scale, historic properties, which do not meet the requirements of the majority of modern food retail operators.
- 7.25 Three sites have been identified within and close to New Mills town centre. These comprise:
- Torr Vale Mill regeneration area;
 - Torr Top Street car park; and
 - Land to west of Market Street.

Torr Vale Mill

- 7.26 Torr Vale Mill regeneration area is allocated in the High Peak Local Plan as a regeneration opportunity, under policy DS13. It is understood to occupy in the region of 1.8-2.2 hectares. In terms of physical size therefore, it is significantly larger than the application site. Whilst the site is located close to the Town Centre given the level differences and access, the site is not within easy walking distance (i.e. 300m or less) of the town centre boundary and therefore should be considered as an out-of-centre site. Significant works to the access

could potentially be carried out to create an easy walking route to the town centre resulting in the site being classed as edge of centre.

- 7.27 The opportunity site is dominated by Torr Vale Mill, which is a prominent Grade 2* listed structure. The DS13 policy seeks the retention of this building, and identifies the need for a comprehensive development of the wider site.
- 7.28 Retail use on this site is not supported by this policy and the location of the proposed development on this site would inevitably require the demolition of the grade 2* listed mill complex which is unlikely to be supported by the local planning authority.
- 7.29 In summary, the use of this edge-centre site (assuming access works being carried out) would fail to adhere to other planning requirements, or achieve the broad-based benefits that could be delivered through a scheme as envisioned by Policy DS13. In addition to this the site is too large to accommodate the development and would represent an inefficient use of the land. The Torr Vale Mill site is therefore wholly unsuitable and can be discounted in terms of the sequential site assessment.

Torr Street Top Car Park

- 7.30 This Torr Top Street Car Park is located within the New Mills Conservation Area, and is located within the defined New Mills town centre. This is a Council owned car park, providing 50 spaces. It is understood to occupy in the region of 0.5 hectares. In terms of physical size therefore, it is possible that it could accommodate the development.
- 7.31 However, it would lead to the loss of a key town centre car park. Car parks represent important facilities which contribute to the vitality of town centres and the attraction provided by the retail and other town centre services therein. The loss of this car park is likely to harm the vitality and viability of the town centre by reducing the attractiveness of the centre through reduction of available car parking for visitors and short-stay shoppers.

Land to West of Market Street, New Mills

- 7.32 The land is set back to the west of Market Street (0.7 hectares) is occupied by a range of active uses including a medical centre, Council owned car park, telephone exchange, nursery and residential properties. The site is not currently being marketed and given the active use and absence of marketing we conclude that the site is not currently available for the proposed use.

- 7.33 We would also note that the planning effect of using this land for the commercial use proposed would result in the loss of a number of important local facilities by way of town centre medical facilities, car parking and other facilities which positively contribute to the vitality of New Mills.
- 7.34 In summary, the land to the west of Market Street is not available for development. There are a range of active uses present on the site, the site is not being marketed and it is not considered that a site of a sufficient size could be assembled to accommodate the proposed use. In addition, the site constraints, in terms of its topography, size and multiple ownerships render the site unsuitable and unviable for the proposed use.

Summary

- 7.35 The extant approvals and planning history show that the site has long established use and approvals for mixed commercial uses for a range of formats and end users. These approvals must lead to a conclusion that there was no material conflict with the requirements of the sequential approach, and it is logical that the same conclusion should be drawn now.
- 7.36 In conclusion with regard to the sequential test, none of the identified sites are suitable to accommodate the proposed use and therefore the application passes the sequential test as required by paragraph 27 of the NPPF.

8.0 Compliance with Policy

NPPF Policy

Sequential Approach

- 8.1 In retail terms, the application site is in an out-of-centre location as it falls outside a defined centre and is not located within 300m of a defined centre. As such, and in accordance with Paragraph 24 of the NPPF, the proposals have been assessed against the sequential test. A selection exercise has been undertaken to ascertain whether the development could be accommodated in a more central location. This has been undertaken reflective of the advice within the NPPG and later case law.
- 8.2 In practice, we have applied flexibility and realism and demonstrated that it is not realistic that any more central site could accommodate the development in any manner that would be acceptable to the business model of the target occupier. In reflection of what is now established case law, this means that the sequential approach has been properly undertaken and is passed. The requirements of paragraph 24 are satisfied.

Impact

- 8.3 The NPPF (paragraph 26) sets out requirements in respect of the preparation of impact assessments, for main town centre uses. The proposed development provides for retail floorspace well below the 2,500m² threshold set out in the NPPF, but we recognise that the Council has previously imposed a lower floorspace threshold in the 2016 Local Plan and has also imposed a condition in terms of the use of retail floorspace which this development would breach. To meet the requirements of the Local Plan policy and to provide comfort to the Council, an impact assessment has been undertaken taking account of the guidance within the NPPF and NPPG.
- 8.4 Paragraph 26 of the NPPF sets out the criteria that applications must be assessed against to ascertain the impact of a proposal on existing centres. These are as follows;
- 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
 - The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.
- 8.5 This assessment is supported by the economic tables which are presented at Appendix 1. In terms of the two key tests set out at para 26 of the NPPF, we deal firstly with investment.

The impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal

- 8.6 Commitment schemes have been identified for the purposes of the cumulative impact assessment, but (by and large) those pertinent to the proposal have been completed, under construction or otherwise out of centre. The nature of this proposal is to provide a larger format unit well suited to this type of locations rather than those in tightly defined centres.
- 8.7 In summary, the proposals will not harm the viability of any plan-led commitments or prevent them from coming forward for development. As such, it is considered that the proposals accord with the first criterion set out in the NPPF.

The impact on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area

- 8.8 As set out in the guidance within the NPPF, this section assesses the impacts on town centre vitality and viability and the impact on trade in centres and the wider area. This takes into account the cumulative impact of identified commitments, including the Aldi stores at Chapel and New Mills (the Chapel store is now trading). Given that the impact on town centre vitality and viability is largely affected by the turnover of centres, this section first sets out the likely sources of trade diversion to the proposed development and the resultant impact on turnovers of centres and stores within and beyond the Catchment Area.

Impact on in-centre trade and turnover

- 8.9 The applicant has prepared a retail impact assessment, which assesses the numeric implications of the proposal's implementation upon in-centre turnover (and out of centre provision). These implications also factor in the implications of other extant consents. This assessment provides an assessment of the health of key centres, and a judgment as to the likely extent of cumulative impact. This allows a reasoned judgment as to the probability of material adverse impacts upon the vitality and viability of specific centres. In some instances, the impact upon centres is noteworthy but is not principally caused by the implementation of the proposal subject of this application.
- 8.10 We also point out here that vacancy levels for Whaley Bridge are low (5%) compared to the national average and that there is no substantive evidence in terms of change of role or performance over time- there is no credible evidence to suggest that the centre is vulnerable and/or that the proposal would create any material impact. Even if that was argued to be the case, the extent of impact is clearly less than would be had in the context of the fallback.

- 8.11 More detailed analysis in terms of impact is provided through the accompanying Economic Tables at **Appendix 1**. This clarifies that it is extremely unlikely that there will be material adverse impacts upon the ongoing vitality and viability of centres resultant from this proposal, based upon a cumulative impact approach.

Summary

- 8.12 As highlighted in this section of the report, there are no sequentially preferable sites and the proposals will not harm the on-going vitality or viability of any existing defined centre.
- 8.13 The proposed development, through its ability to create new jobs and attract new businesses to the area will help to deliver those objectives set out within the Local Plan, and the NPPF provides further support for development that can deliver economic development stating that '*significant weight should be place on the need to support economic growth through the planning system*'.

2016 High Peak Local Plan

- 8.14 The key policies for consideration are CF1 and DS11 from the 2016 Local Plan. We deal with these in turn in the following section.

Policy CF1

"The Council will seek to maintain and enhance the vitality and viability of town centres and local centres as defined on the Polices Map in accordance with their function and scale as identified in Policy S2 (Settlement Hierarchy) and identified development needs:

This will be achieved by:

- *Permitting appropriate retail, leisure, cultural and business development in centres of a scale and type appropriate to the role and function of that centre*
- *Strengthening the vitality and viability and enhancing consumer choice to serve defined centres by supporting the provision of new retail floorspace consistent with their function and scale in accordance with identified needs:*
 - *New Mills - proposals for additional A1 convenience floorspace will be supported in order to address the lack of provision within the town. No town centre or edge of centre site has been identified. Out-of-centre proposals will therefore be supported in accessible locations that are well connected to New Mills town centre by public transport and which comply with the impact and sequential tests set out in this policy*
 - *Glossop, Whaley Bridge, New Mills and Chapel-en-le-Frith - proposals within the defined centres will be supported subject to their accordance with other relevant Local Plan and Neighbourhood Plan policies.*
 - *Buxton - proposals within the Primary Shopping Area will be supported subject to their*

accordance with other relevant Local Plan policies

- *Harpur Hill - proposals for small scale A1 retail convenience development (less than 200m² net sales) and wider uses including business, non-residential institutions and leisure within the Local Centre as defined in the Policies Map will be supported subject to their accordance with other relevant Local Plan policies. The total floorspace for the Local Centre shall be less than 2500m². This relates to town centre uses only, as defined by the NPPF. Policy DS20 specifies further policy requirements for this site. Town centre proposals above these thresholds must be supported by an appropriate impact and sequential site assessment that consider Buxton's centre.*
- *Requiring major town centre use developments (including large extensions to existing stores) of 200m² (net sales for A1) or more outside the defined centres of Buxton, Glossop, Chapel-en-le-Frith, New Mills, Whaley Bridge and Harpur Hill to comply with the sequential approach to site selection. Applicants should demonstrate that there are no suitable and available sites within the defined centre that could accommodate development. Preference will be given to accessible, edge-of-centre sites that are well related to the town centre and accessible by public transport. Out-of-centre proposals will only be supported when there are no suitable in-centre or edge-of-centre sites available.*
- *Requiring proposals for town centre uses of 200m² (net sales for A1) or more outside the defined centres of Buxton, Glossop, Chapel-en-le-Frith, New Mills, Whaley Bridge and Harpur Hill to be supported by an impact assessment. Developer contributions may be sought to mitigate identified impacts on defined centres where appropriate. Proposals with a significant adverse impact will be refused.*
- *Creating safe, attractive and accessible town and local centres, providing a good range of shopping, food and drink uses, services, offices, and entertainment and leisure facilities, and high quality public spaces*
- *Proposals that would create a concentration of evening economy uses (A3, A4 & A5) that would give rise to social and environmental issues will not be supported*
- *Ensuring that there are adequate parking facilities in suitable locations to serve town centre developments and they are accessible by public transport, walking and cycling. Town centre regeneration proposals should seek to connect to and where appropriate,*
- *improve existing or proposed Public Rights of Way and multi-user trails. Suitable and safe provision should also be made for servicing and deliveries*
- *Supporting proposals that seek to deliver qualitative environmental improvements and support the local distinctiveness of town centre environments through high quality design. Supporting proposals that would help to deliver regeneration programmes and implement relevant town centre initiatives*
- *Requiring active ground floor frontages to be maintained and created within town centres with appropriate town centre uses*
- *Protecting the vitality and viability of the small town centres, larger villages, other settlements and other local centres within the towns by supporting proposals for town centres uses, including retail, leisure and office development of less than 200m². Proposals above this threshold should comply with the identified sequential test and impact assessment requirements. Applications for a change*

of use from A1 retail within these centres should demonstrate that the current use is no longer required to serve the local community and is not viable

- *The vitality and viability of the main town centres will be supported by the designation of the Buxton Primary Shopping Area and primary frontages within Glossop and Buxton town centres.*
- *The extent of the Town Centres and the Buxton Primary Shopping Area are defined centres in the Policies Maps. For the purposes of retail impact assessments and sequential site assessments in the Buxton area, the Buxton Primary Shopping Area represents the defined centre. During the consideration of impact assessment and sequential site assessment for all other town centre uses in Buxton, the town centre boundary denotes the defined centre. The defined town centre boundaries in Glossop, New Mills, Chapel-en-le-Frith and Whaley Bridge should be interpreted as in-centre during the consideration of proposals for retail and other town centre uses."*

- 8.15 The policy provides a framework for when technical assessments are required in general terms, and also with specific direction in terms of those assessments in and close to the five defined town centres.
- 8.16 The policy also provides clarity in terms of particular points which will be directly supported i.e. the policy provides a basis to afford positive weight on meeting specific criteria.
- 8.17 For the sake of completeness, it is confirmed that this proposal is located outside a defined centre and proposes more than 2000m² net floorspace. As such, an impact assessment is agreed to be required. On a similar basis, a sequential assessment is needed.
- 8.18 The earlier analysis within this assessment has provided a robust impact assessment and proper consideration of the sequential approach to site selection with due regard for flexibility and realism. This analysis has led us to the clear conclusions that there are no sequentially preferable sites and there is no prospect of significant adverse impact on the vitality and viability of defined centres.
- 8.19 Existing levels of comparison trade retention within zone 2 are exceptionally low (17%) with excessive trade leakage to stores, centres and retail parks further afield. This is not convenient for local residents and represents a clear qualitative deficiency in the local offer. The previous approval on this site gives a strong indication that the planning authority has found it appropriate that greater shopping choices should be provided which allows an appropriate increase in comparison expenditure retention.
- 8.20 The Council has previously found acceptable a form of retail development that would provide more substantial retail floorspace within the same policy area- the consent is no longer extant but provides a helpful contextual framework for what has been previously

found acceptable in planning policy terms.

8.21 The Council's Retail Study identifies future capacity requirements and in its "with commitments" scenario the Hogs Yard scheme is included. We identify for completeness that we have prepared an updated comparison capacity analysis (provided at **Table 11b** of **Appendix 1**) which takes account of resident spend retention under three different scenarios which are:

- No development
- Post commitments (including all commitments i.e. with 2013/0300)
- Post proposal (including all commitments excluding 2013/0300, and the proposal)

8.22 It is evident from the above that retention levels at the point of survey were circa 17.5%, and that taking account of all current extant commitments retention levels would increase modestly to 22.5% at the 2020 design year.

8.23 We set out that in the context of the lapsed consent scheme (and excluding this proposal), overall turnover would be higher and by consequence the comparison retention level would increase to circa 24.2% at the same design year.

YEAR	2017	2020
ZONE 2 AVAILABLE RESIDENT SPEND	148.98	160.55
RETAINED RESIDENT SPEND	26.12	27.40
NO DEVELOPMENT RETENTION %	17.5%	17.1%
COMMITMENT TURNOVER EX HOGS YARD	4.60	4.66
HOGS YARD COMMITMENT	3.85	4.07
RETAINED SPEND POST COMMITMENTS	34.58	36.13
RETENTION % POST COMMITMENTS	23.2%	22.5%
LAPSED CONSENT TURNOVER	2.64	2.79
RETENTION % POST COMMITMENTS AND LAPSED CONSENT	25.0%	24.2%
PROPOSAL TURNOVER	1.48	1.56
RETENTION % POST COMMITMENTS AND PROPOSAL	24.2%	23.5%

8.24 The submitted retail work has demonstrated that this fallback scheme would result in greater turnover and greater impact on centres than the proposal now before the Council. This should be afforded substantial positive weight.

8.25 In summary, there is no conflict with any of the requirements of policy CF1 so on that basis the positive presumption from the NPPF paragraph 14 should apply, subject to conclusions in terms of site-specific policy DS11.

Policy DS11

- 8.26 This site-specific policy (titled Bingswood, Whaley Bridge) provides a framework for development management proposals in a wider area to the east and to the west of the River Goyt. For clarity, the land to the east of the Goyt is comprised partly of an existing industrial estate whereas the subject site is west of the Goyt. It states:

Land amounting to 6.8ha is allocated for business and mixed use development.

The majority of the area to the south and east of the River Goyt, comprising the existing industrial estate and undeveloped brownfield area to the north of the estate, should be developed for business use.

Residential development of approximately 75 dwellings may be permitted on 2.5ha within the site.

Development will be subject to compliance with other relevant Local Plan policies, and:

- *Provision of new access to the Bingswood Industrial Estate. This access to be constructed before any further development of the site;*
- *Preparation of a comprehensive masterplan and phasing programme, including the protection of existing employment on the site;*
- *Provision of the required proportion of affordable housing (currently 30%). Any reduction in this amount will be subject to financial assessment;*
- *Contributions towards infrastructure, greenway improvements, services and other community needs as required;*
- *Provision of a comprehensive landscaping plan, including the retention of mature trees;*
- *Contamination and ground condition survey;*
- *A site specific Flood Risk Assessment in accordance with the findings of the High Peak Viability Assessment: Level 2 Strategic Flood Risk Assessment and provision of flood mitigation measures in consultation with the Environment Agency;*
- *An assessment to consider and address impact on the adjacent wildlife site and ancient woodland;*
- *Archaeological desk-based assessment;*
- *Buildings appraisal and assessment of non-designated heritage assets.*

Appropriate uses for the area to the north and west of the River Goyt (Hogs Yard) may include business, hotel, assembly and leisure, food and drink, tourist accommodation and facilities. Town centre uses should accord with Policy CF1.

Development should not prejudice the construction of the Goyt Bridge and associated access road as identified on the Policies Map.

- 8.27 The policy provides a very clear framework for development on land to the east of the Goyt in terms of new employment space, residential uses and consideration of access and infrastructure. The existing access to the industrial estate is deemed problematic and there is a long-held aspiration to deliver a new bridged access to the land east of the Goyt relying on land in the ownership of this applicant.

- 8.28 The application proposed here does not consider land to the east of the Goyt, save for ensuring that there is no impediment to the identified route for the access road should that be brought forward as part of a masterplanned scheme for land to the east of the Goyt as envisaged and required by those bulleted elements of the DS11 policy. As such, there is no breach of the final element of the DS11 policy as there is no prejudice to the construction of the Goyt Bridge and associated access road.
- 8.29 In regard to land to the west of the Goyt, the policy is much less prescriptive. It identifies a range of commercial uses which are positively encouraged and town centre uses will be supported subject to cross-reference to policy CF1. We have already shown above that there is no conflict with the requirements of policy CF1.
- 8.30 In summary, there is no conflict with any of the requirements of policy DS11 so on that basis the positive presumption from the NPPF paragraph 14 should apply.

9.0 Conclusions

- 9.1 Section six demonstrates that the associated impact resulting from the development will not be of such a level that would be harmful to the ongoing viability of any centre or anchor store. Again, the levels of impact do not put any facilities, or other strategic aspirations of the Development Plan, at risk. The proposal is therefore entirely compliant with the requirements of Local Plan Policy CF1.
- 9.2 Section 7 demonstrates that the requirements of the sequential approach needs to be informed by the business model of the applicant which is clearly set out. It then goes on to refer the Council to the key advice of the NPPF and leading cases on this matter. Through this approach and proper recognition of what has been previously approved on the site and the lack of credible opportunity to replicate this in spatial terms on a more centrally located site, the requirements of the sequential approach are plainly met.
- 9.3 Section 8 provides an analysis of the CF1 requirements and addresses the specific requirements of site policy DS11. This covers a wide geographic area and provides a prescriptive approach to land east of the Goyt but allows a more flexible and pragmatic approach to land west of the Goyt. This site is west of the Goyt and has an extant consent for retail development of the same quantum and will be occupied by a discount retailer.
- 9.4 As highlighted in this section of the report, there are no sequentially preferable sites and the proposals will not harm the on-going vitality or viability of any existing defined centre. To provide additional comfort to the Council, we would also propose the following end user condition which ensures that the development can be controlled in accord with what has been assessed and meets the requirements of likely end occupiers.
- "No part of the development shall be occupied until the amount of floorspace to be used for offices (B1) food and drink (A3), **retail (A1)**, and leisure and assembly (D2) has been submitted to and approved in writing by the Local Planning Authority. No part of the building ~~occupied as an A3 Use~~ shall at any time be used for **the principal purpose of food retailing (A1) purposes**."*
- 9.5 The proposed development, through its ability to create new jobs and attract new businesses to the area will help to deliver the objectives set out within the Local Plan and the NPPF provides further support for development that can deliver economic development stating that '*significant weight should be place on the need to support economic growth through the planning system*'.