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**APPLICATION DETAILS**

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<b>Application No:</b>	<b>20/0510/OUT</b>
<b>Location:</b>	<b>Land At Low Lane Middlesbrough TS5 8EH</b>
<b>Proposal:</b>	<b>Outline planning application for commercial development (Use Class E), including access, parking, and associated infrastructure and development (all matters reserved except for access, layout and scale)</b>
<b>Applicant:</b>	<b>ML Retail (Development) Limited</b>
<b>Agent:</b> <b>Company Name:</b>	<b>Mr Alistair Ingram Savills (UK) Limited</b>
<b>Ward:</b>	<b>Trimdon</b>
<b>Recommendation:</b>	<b>Refuse</b>

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**SUMMARY**

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The application seeks outline planning consent for a commercial development (Use class E) including access, parking and associated infrastructure at land at the A1044 in Middlesbrough. The proposal is for all matters to be reserved except for access, layout and scale.

Following consultation, there have been 66 letters of objection received from nearby residents and a petition submitted from Andy McDonald MP with 386 signatures (some of whom have individually sent in objection comments) and 4 letters of support.

Objection comments have been received from Ward Councillors Ron Arundale and Dennis McCabe, and Stainton and Thornton Parish Council.

The objections and concerns are based on matters including the requirement for commercial development given the proximity of existing retail facilities, impact on existing retail centres, pedestrian and vehicle access, highway safety, the unsustainable location, loss of a greenfield site, overdevelopment, impact on character and appearance, lack of adequate survey information, noise, pollution and litter, anti-social behaviour, impact on amenity of local residents, impact on existing services such as water and gas and the negative impact on house prices.

Support comments refer to the development providing new local businesses on the site and employment opportunities for local residents.

It is considered that the proposed development is within an unsustainable location and is outside of any defined centres identified within the adopted local development plan. The impact assessment submitted is considered not to have fully assessed the potential planned investment within the new centre which forms part of the wider Brookfield housing allocation or the proposed investment in the new retail facilities on the south side of Coulby Newham District Centre, including the proposed defined local centre within the Brookfield allocation of the Local Plan. With the sequential test having not demonstrated flexibility in terms of both scale and format in consideration of alternative sites within the Coulby Newham District Centre.

The layout and design of the proposed development has failed to provide adequate pedestrian and cycle link provision to the existing and proposed housing estates, with the result being a segregated development that is not well integrated with the existing community and fails to achieve a sense of place. In addition, the overall scale and layout of the proposed commercial development will be visually dominant and is considered to be out of character with the existing residential character of the street scene.

The amenity of the existing residential properties has been considered in relation to potential privacy, noise, light and health impacts and, subject to conditions, the potential impact in terms of amenity is not considered to be significant.

Significant highway concerns remain with regards to the potential impact of the development in terms of traffic build-up on the surrounding strategic networks which has not been fully addressed within the Transport Assessment. With the severed location of the site and lack of sustainable transport options ensuring the development will dependant on private car use which the associated highway implications. The internal layout of the units, service areas, car /cycle parking is considered to result in a detrimental impact on highway safety and the free flow of traffic.

The Flood Risk Assessment identifies the surface water and foul water drainage provision from the site. Northumbrian Water, the Environment Agency and the Local Lead Flood Authority have assessed the revised plans and consider the proposal reasonably demonstrates adequate foul and surface water provision and have raised no objections, subject to relevant surface water drainage and management conditions.

The development is considered to be contrary to the NPPF and the Local Plan policies, specifically NPPF paragraphs 7-12,47,75-77,81-82,86-88,90-92,119,126-127,129; 134, 180 and Local Plan Policies H1,H5,H21,CS4,CS5,CS7,CS13,CS17,CS18,CS19,REG12 and DC1; the Council's Urban Design Supplementary Planning Document and the Tees Valley Highway Design Guide.

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## **SITE AND SURROUNDINGS AND PROPOSED WORKS**

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The application site is an area of grassland located between the A174 and Low Lane (A1044) in Middlesbrough, an area of approximately 1.7 hectares. The site is located to the north of the A174 with the slip road from the A174 to Low Lane located along the eastern boundary of the site. Along the northern and western perimeters of the site is Low Lane.

Residential housing is located to the east along Low Lane with a modern housing development located to the north and west of the site, which forms part of the Brookfield allocation.

The site itself is an area of grassland of approximately 1.7 hectares, with established trees and hedges located along the southern and eastern boundaries. There is a level change

across the site of approximately 4 metres, with a gradual downward slope towards the south-west corner of the site.

The application seeks outline planning consent for a commercial development (Class E) including access, parking and infrastructure with all matters reserved except for access, layout and scale. The proposed development is for the following:

- 1,899 square metres floor space for a Limited Assortment Discount (“LAD”) food store;
- 1,858 square metres variety store, or variety store and food store;
- 552 square metres floor space for 6 no commercial units of 92 square metres each; and
- 180 square metres drive thru unit.

The agent within the April 2021 Memorandum has suggested conditions to control the proposed floor space. The suggested conditions are:

- Unit 1 be used as a Limited Assortment Discount food store with maximum sales area of 1,256 sq.m. net.
- Unit 2 shall be either a variety store or general variety store and food store with maximum net sales area of 1,456 sq. m. and maximum convenience sales area of 808 sq.m. maximum comparison foods sales area shall be 1040 sq. metres. The unit may not be subdivided into more than 2 units.
- Units 3-6 and 8-9 shall not be used as a convenience store within Class E
- Unit 7 shall only be used as a drive thru café/restaurant within Class E

The proposed vehicular access into the site would be from the existing roundabout located to the north of the site, which currently connects Low Lane and the residential housing at Brookfield. The development includes an additional section of footpath to be provided on both sides of the vehicle access with a Toucan Crossing proposed to the east of the Low Lane/Jack Simon Way roundabout. The proposal will provide 218 car parking spaces, including 11 disabled spaces and 9 parent and child spaces with 54 cycle spaces.

The site layout shows the proposed commercial units positioned around the perimeter of the site around a central car park area. Each of the units will be single storey with a flat roof design, with specific details being subject to a further reserved matters application.

Drainage provision within the site will include the insulation of a cellular storage crate beneath the central car park area for surface water and a package pumping station treatment system for foul water. The foul water will drain to the existing manholes to the north-east of the site with the surface water drainage to the existing manholes to the west of the site.

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## **PLANNING HISTORY**

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There have been no previous planning applications for the site.

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## **PLANNING POLICY**

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In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as

amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

#### Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- Housing Local Plan (2014)
- Core Strategy DPD (2008, policies which have not been superseded/deleted only)
- Regeneration DPD (2009, policies which have not been superseded/deleted only)
- Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)
- Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)
- Middlesbrough Local Plan (1999, Saved Policies only) and
- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

H1 - Spatial Strategy  
H5 - Brookfield  
H21 - Brookfield  
CS4 - Sustainable Development  
CS5 - Design  
CS7 - Economic Strategy  
CS13 - Town Centres etc. Strategy  
CS17 - Transport Strategy  
CS18 - Demand Management  
CS19 - Road Safety  
DC1 - General Development  
REG12 – Employment Land Allocations  
UDSPD - Urban Design Supplementary Planning Document  
Tees Valley Highways Design Guide

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.  
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

#### National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for

sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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Consultation letters were sent to local residents, a press notice issued and site notices posted around the site.

Objections were received from 66 residents with a petition being submitted by Andy McDonald MP with 386 signatures (some of whom have already individually sent in objection comments) with 4 support comments.

The objection comments are summarised below:

### **Requirement for Development**

- a. No requirement for additional food retailers given the following are within 5km :- Co-op Local (400m), Spar Local (1km), Tesco Express (1km), Aldi Thornaby (2km), Lidl Thornaby (2.5km), Asda Thornaby (2.5 km), Aldi Coulby (2.5km), Tesco Extra (2.5 km), Lidl Middlesbrough (4.5km) and Aldi Middlesbrough (4.7km).
- b. No requirement for fast food outlets as have the following within 5km;- Greggs (2km), McDonalds Thornaby (2.5km), McDonalds Coulby (2.5km),Burger King Coulby (2km), KFC Coulby (2.5km), McDonalds, KFC, Burger King, Pizza Hut at Teesside Park (3.5km), and 10s of independent takeaways.
- c. Parkway Centre is only 5 minute drive, Trimdon Avenue shops and takeaways only 5-10 minute walk, The Oval convenience store and chemist is only a 2-3 minute walk or 1 minute drive.
- d. Empty units in Coulby Newham's Parkway centre, Viewley Centre in Hemlington so business opportunities at these sites and no requirement for new units.
- e. Why not make these retailers use empty commercial units in the town centre to avoid ghost towns and encourage people back to the town centres.
- f. No requirement for drive thru facility as every house has a car and can drive to other drive-thru facilities.
- g. The Planning, Economic and Retail Statement (paragraph 2.9) states 'there is an absence of convenience goods retail provision in this area'. This is untrue as abundance of food retailers and takeaways.
- h. Planning Statement (paragraph 1.4 b) states no significant impact on the 'town centre' and overlooks impact on The Oval and Virginia Gardens. The Savills retail impact report does acknowledge a consumer draw to the site from the town and The Oval

through suggests no financial impact on the latter (between £11 and £12m adverse impact for the former) – is this in line with Council's aim to strengthen the town centre.

- i. Too much competition for local businesses such as in the Parkway centre, Co-op at the oval in Acklam and Teesside Park.
- j. Council could provide reduce council tax to encourage these units into the town centre and if fast food outlet provide free cooking lessons.
- k. Increase consumerism and will further damage our planet.
- l. Why is there no discussions on the using this land for housing and building a true local shopping centre within the Brookfield Development.
- m. Area should be children's play area as already food and retail areas within the proposed catchment area.
- n. Negative effect on new housing estate as popular with first time buyers and young families and will detrimentally effect the region's economic prospects in the long term.
- o. Downmarket budget stores plans and not meeting demand for the local residents.

### **Land allocation**

- a. Conflicts with Local plan as not highlighted as a development area with the Brookfield allocation that shows a local centre within the next phase. The application site is not part of this area. In the context of sequential development the subject development should not supersede this 'Local Centre' nor the Town Centre.
- b. On greenfield site forming a natural noise and visual barrier between the A174 and the housing estate based off Low Lane.
- c. Greenfield site does not comply with sustainable development as set out in Middlesbrough Council's Core Strategy 2008.
- d. Field could be utilised as a nature reserve and teach children about the environment. Council could look for donations from public to make this a wild flower area or plant trees to assist in reducing the carbon footprint.
- e. Loss of greenfield site and resultant harm to the local environment and ecology.
- f. Insufficient time of 1 hour conducted for the Environmental Impact.

### **Character and Appearance**

- a. Loss of greenfield site and visual impact.
- b. Unsightly with commercial bins and neon lights and traffic.
- c. Residential area with Brookfield being particularly for older residents.
- d. Size, nature and overall scope will clash with attractive housing development.
- e. Unsightly views from houses to the development.

### **Highway issues**

#### **Traffic/Parking**

- a. Increase in traffic to unsustainable levels at busy junction of the A174 and roundabout of the housing estate and Low Lane.
- b. Traffic will increase significantly when the proposed Stainton Way Western extension will connect to Mandale Road adjacent to the A19 Mandale Interchange.
- c. Spine road which will run to Mandale not taken into consideration as this will massively increase traffic through the estate, no true image until housing estate and the spine road completed.
- d. Generate more congestion and parking within the nearby housing estate.
- e. Will attract significant number of cars via the A174 which already has plans for a commercial area near Wilton within 5 miles of the site.
- f. Fast food and convenience stores will increase vehicle and footfall in the nearby housing estate that will become a 'rat run'.

- g. Issues with stationary traffic accessing fast food outlet and backing up onto the A1044 Low lane roundabout.
- h. Issues with traffic gridlock at similar developments at Coulby Newham and Thornaby, particularly the drive thru with pedestrian and vehicle accidents.
- i. Initiatives to reduce the need to travel cannot be justified when there is a drive through restaurant proposed which will be car reliant.
- j. Trust Cleveland Police Road Traffic Unit will have looked at the proposal.
- k. Area already has heavy speeding near a family estate will cause more accidents.
- l. Large lorries cause particular safety concerns.
- m. Traffic assessment completed in last 6 months (during Covid) is not representative of normal activity as all school and commuter traffic not been running in this time frame.
- n. Road traffic survey should reflect not only traffic flow but speed of vehicles, particularly Jack Simon Way which will become a through road.
- o. Already traffic issues trying to access the right lane to the housing estate from the slip road as only a short stretch of road.
- p. Dangerous bend off the A174 as generally people not understanding the inside lane is a filter lane and this proposal will see the filter lane become the entrance to the development.
- q. Will council be upgrading the junction of the A174 as this is confusing?
- r. Travel Plan by Cora IHT is incomplete and inconclusive.
- s. Further assessment of the traffic impact including committed and future development are to be assessed separately using the Council's AIMSUN transport model, which will be critical in terms of whether development is acceptable on safety grounds.
- t. Coraiht report overlooks accident data for the section of Low Lane from Lincombe Drive to the Bluebell Roundabout.
- u. Increase in traffic especially after 6 pm when normally reduces.

#### Footpath/cycle

- v. No footpaths on proposed development side of A1044 so pedestrians would have to cross busy carriageway without a dedicated crossing point, contrary to objectives of CS4 and CS17.
- w. Residents at Stainton are unlikely to walk to this facility as requires crossing roads carrying fast traffic and some parts of the verge remain as grass not tarmac.
- x. Road crossing on Low Lane is dangerous with only one zebra crossing towards the Blue Bell/Tesco roundabout.
- y. If pedestrian crossing was added then another pedestrian crossing would be required adding to existing difficulties of road users.
- z. Path development on Low Lane created to connect the homes and families riding bikes and walking to local areas could be hampered by the development due to the increase in traffic.
- aa. Increase in children crossing the road will mean more accidents.
- bb. Pedestrian and cycle access is going to be difficult.
- cc. Contrary to the Travel Assessment there is no pedestrian access to the site.

### **Amenity issues**

#### Privacy

Loss of privacy to house and gardens which overlooked.

#### Noise

- a. Location of fast food development towards the northern end of the site 50 metres from housing estate will impact in terms of noise and pollution from standing/slow moving vehicles.
- b. Businesses proposed 24/7 (even if opening hours are not) thus traffic, deliveries, noise and pollution will be 24/7.

- c. Noise survey completed 13/14 June should be discounted and void as over a weekend during COVID lockdown so not a fair or accurate assessment and should be completed when usual traffic resumes as less traffic currently with people working from home.
- d. Existing noise from the Parkway and the A19 and any further noise will affect the residents quality of life.
- e. Noise levels mean not able to enjoy garden area or open windows.
- f. Fact MBC Environmental Protection suggest limits to working hours for HGV servicing the units suggests the noise expected will be excessive.

#### Odour / litter and light pollution

- g. Litter levels will increase and no reference to litter control outside of site along Low Lane.
- h. Noxious fumes and odours will increase.
- i. Pest numbers will increase including vermin and foxes.
- j. Light pollution from the development and traffic into the nearby houses.
- k. How will nuisance be addressed when site will be multiple occupancy and noise, litter complaints will be referred to Councillors?

#### Health impacts

- l. Increase in traffic fumes will impact my asthma.
- m. Traffic and transport is UK's biggest air and noise pollution to around a quarter of the UK CO2 Emissions so close to our doorstep.
- n. Obesity levels in children high on government agenda. Large number of children on the estate would have easy access to the fast food outlets on their doorstep. Seek government views on this.
- o. Obesity levels twice as high in Middlesbrough as national average. 2016-2017 65.4% of adults aged 18 yrs + were classed as obese and 22.7% of 6 years olds with COVID crisis emphasising the requirement for healthy diet and active lifestyle.
- p. Stress the shops create at Ingleby where residents were not aware shops were planned as is the case here.
- q. Not support health and well being in the community, shops this close will decrease motivation when encourage to walk 10-15 minutes to the shops we already have.
- r. Park for the children would be a better idea.
- s. This greenfield site has recently been used by the Air Ambulance as emergency landing spot.

#### **Anti-social behaviour**

- a. Fast food and convenience stores will increase anti-social behaviour.
- b. Open car parks will have congregation of boy racers on evenings.
- c. Anti-social behaviour with Coulby Newham McDonalds requiring security.
- d. Security issues with more people cutting through the estate.

#### **House prices/Council tax**

- a. Fast food and convenience stores in the area will devalue house prices.
- b. Would not have purchased property on the edge of town if knew there were retail units nearby.
- c. If approved will need to reduce council tax given decline in property value caused.

#### **Impact on utilities**

- a. Water pressure already low on the housing estate this will add further strain on it.
- b. Potential to affect services like gas, electric and water.

Resident objection comments received from:-

5, 14, 17, 18, 21, 28 Baron Close  
37, 38, 43, 67, 39 Stein Grove



3, 14, 19, 26, 45, 65, 68, 69, 71 Jocelyn Way  
1, 3, 7 Jack Simon Way  
11, 17, 28, 37 Lord Close  
7, 21 Farmstead Street  
18, 19, 22, 27 Hampstead Way  
6, 7, 13, 17, 36, 39, 65, 68, 75, 76 Brookfield Avenue  
7, 20, 31, 52 Salis Close  
6, 7, 8, 9, 17, 24, 35, 43, 52, 53, 65 Holt Close  
1 Leckfell Close  
10 Cradley Drive  
91, 93, 95, 138 Low Lane  
7 Rowan Grove  
23 Malltraeth Sands

The support comments are summarised below:-

- a. Great for new estate nice to see few local businesses on the site and employ people from the surrounding area.
- b. Great for the area and ever growing housing estate would be good to see local businesses but if there are chains this would still be good to see.
- c. New jobs created and more shops for growing community.

Resident support comments received from:

62 Farmstead Street,  
25 Baron Close  
Cunningham House, Low Lane  
24 St Johns Grove Redcar

## **Public Responses**

Number of original neighbour consultations	78
Total numbers of comments received	88
Total number of objections	84
Total number of support	4
Total number of representations	0

## **Andy McDonald MP and petition with 386 signatures (Appendix 1)**

I wish to object to this planning application on the following grounds.

- The area does not need more options for shopping or retail. There is ample shopping provision with The Viewley Centre in Hemlington, The Oval Shopping parade, the Blue Bell Tesco Express within a mile of the site and Thornaby Asda within 3 miles.
- There is also ample takeaway provision in the local area with McDonalds, Burger King, KFC and Greggs all within 2 miles of the proposed site not including many independent takeaways in the surrounding area.
- The extra pressure that such a development will add to the local transport networks will be significant. The road network is already busy as the new developments in Brookfield continue to expand and there is further expansion yet to be delivered. Adding several shop units and a drive thru food takeaway would simply exacerbate the already increasing traffic volumes.

- The presence of a takeaway and food retail stores will lead to increased anti-social behaviour littering and noise issues for the local community.
- I would request that further noise and environmental surveys be completed as there has been only limited survey work carried out thus far and for such a significant development more work should be done to determine these impacts.

### **Councillor Arundale**

Although in Trimdon ward it is very close to Kader and could affect residents on Low Lane. Is it possible for a plan view and any at present information to be forwarded to me so as to take a view? I have seen one document showing the proposed layout and am concerned about what appears to be a fast food drive through and the associated smell generated by that type of outlet. Noise and light pollution also are a concern.

### **Councillor Dennis McCabe**

I would like to put in my formal objection to this planning on the grounds of noise, air pollution, litter, increase in traffic congestion. We have takeaways within 1km.

### **Stainton and Thornton Parish Council**

On behalf of Stainton and Thornton Parish Council, I would like to object to the above planning application.

Even though the planning application site lies just outside our parish boundary I feel that the impact of the development will have an adverse effect on both the environment and road safety/traffic in general and into the parish.

The type of businesses that have been outlined as prospective tenants/occupiers have the potential to create further litter and environmental problems. Stainton Way and Low Lane already see significant litter from the nearby McDonald's drive through at Coulby Newham (1.5 miles away) and other take away establishments so building further unnecessary establishments will only exacerbate the situation.

The amount of extra traffic this development will create on an already busy section/junction will cause road safety issues. The drive-thru at McDonald's in Coulby Newham at busy times can have traffic backed up onto Stainton Way, so the potential for standing traffic from a similar establishment onto Low Lane at a very sharp left hand bend, is a very real possibility causing major road safety problems.

The footpaths in and around the area are poor or non-existent and therefore there are further pedestrian road safety issues that need addressing before any further development is allowed in the area.

I understand from the Stainsby Hall development master plan, that a commercial hub/centre is planned for that site with its own range of retail facilities, that coupled with the fact that The Oval, Virginia Gardens, Tesco Express at Blue Bell are less than a mile away and the Coulby Newham Parkway centre is one and a half miles away with its extensive range of facilities, the area is more than adequately served and therefore I would ask that you refuse the planning application.

### **Environment Agency**

We have assessed the updated drainage strategy and we now wish to remove our previous objection of the 17<sup>th</sup> June 2022. The applicant has now supplied updated information on their revised plans to connect to the foul sewer, via a private pumping station.

### **National Highways (In Summary)**

The application site is in the vicinity of the A174 that forms part of the Strategic Road Network. National Highways formal recommendation is that a condition should be attached to any planning permission that may be granted.

#### **Recommended condition**

Prior to the commencement of works on the development, a detailed scheme for the off-site improvement works at A174/B1380 Low Lane Junction, shown indicatively on drawing Cassidy & Ashton Drawing Job No 9354 Drawing LO2, REV 28, shall be implemented.

Reason: To ensure that the A174 continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980, in the interests of road safety.

### **Northern Gas Networks (in summary)**

Northern Gas Networks has no objections to these proposals, however there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversionary works be required these will be fully chargeable.

### **Northumbrian Water Limited (In Summary)**

We note a drainage plan has been submitted with the application. However, the proposed discharge point of the combined foul and surface water flows is to an unknown manhole. We would therefore need to know where this manhole connects to on the wider public sewerage network. Consequently the planning application does not provide sufficient detail with regards to the management of foul and surface water from the development for Northumbrian Water to be able to assess our capacity to treat the flows from the development. We would therefore request a condition that prior to the commencement of development a detailed scheme for the disposal of foul and surface water should be submitted and approved by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority.

### **Secure By Design Officer – Cleveland Police**

The applicant should contact Steve Cranston at Cleveland Police to discuss Secure By Design Standards at Stephen.Cranston2@cleveland.pnn.police.uk.

### **Stockton Borough Council (In summary)**

No objections. The retail statement adopts a 5 minute drive time, it is respectfully suggested that due to the scale and nature of the development, which is likely to have a wider draw, a 10 minute drive time would give a more accurate representation. In adopting a 10 minute drive time Stockton Town Centre should be included within the assessment.

### **Tees Valley Wildlife Trust**

The site is considered to have been intensively farmed (cropped and sprayed) over a number of years. The habitats present are of a low quality and it is very unlikely that any protected species will be present. There are no biodiversity constraints on the sites development.

**Evolve Estates Limited (owners of the Coulby Newham District Centre) comments provided by Pegasus Group (In summary) dated 27<sup>th</sup> August 2021 (Appendix 2)**

Object to the proposal as new owners of the Coulby Newham Centre which includes an extant consent for erection of 5 no additional unit (3997 sq m) for use as either retail (A1), office/financial (A2), restaurant/Café (A3), drinking establishment (A4) and reconfiguration of the car park and demolition of Dalby house. (M/FP/0665/16/P).

NPPF 2021 seeks town centre first approach and outside town centres requires a sequential test and if required an impact assessment in accordance with paragraphs 87-91 of the NPPF and broadly reflected in Policy CS13.

Sequential test information not robust and the development would have significant adverse impact on the vitality and viability of centres in Middlesbrough and future investment in the centres. We support previous objections prepared by Williams Gallagher on behalf of previous owners.

Scale of total 4,489 sq m floor spaces is significant and larger than a number of local centres shown in the Middlesbrough Retail Study and Stockton Town Centre Study. Even through the applicant states the development will serve a localised requirement in Trimdon, Kader and Brookfield. Lack of evidence for 5 minute drive time when the largest trade diversion draw is from centres beyond the catchment area such as Coulby Newham, Thornaby and Teesside Park.

Lack of information on the levels of comparison and convenience goods expenditure within the catchment area does not allow a meaningful analysis of the proposed turnover of the development compared to expenditure levels within the catchment area. The extent of the catchment area is not justified and believe based on the details provided is too small to provide a robust assessment of the scheme and so the application fails on this basis alone.

Small catchment area means it reduced the scope of the sequential test and so not properly considers Coulby Newham and Thornaby. The assessment made of these centres lacks detail. The interpretation of the sequential approach and desegregation is selective with the NPPF para 88 requiring 'sufficient flexibility'. Evidence in both appeal and case law decisions that disaggregation cannot be disregarded.

Extant consent at Coulby Newham for the retail development not mentioned in the applicant's Planning Statement but have in subsequent discussions dismissed the site as not being large enough to accommodate the proposal. Believe this is flawed as whilst not providing a precise match in layout and form with some flexibility it can be accommodated in a sequentially preferable location.

In assessing impact the health checks on the centres were undertaken in July 2020 and as this was only the first few months of the Covid pandemic these studies should be updated given the large fall in turnover and closure of high street businesses, so not an accurate depiction of the current vitality and viability.

Impact assessment does not use the latest assumptions for growth and turnover contained in Experian Retail Planner's Briefing Notes 18 and seeks to rely on householder information from the Middlesbrough Retail study which is 5years old. The Council's retail study is based on broad zones and not specific catchment areas and so applying market share and thus trade diversion will not be accurate.

Impact on Coulby Newham is understated based on the 2016 study. We calculate Coulby Newham enjoying a market share of 29% for convenience goods within the wider zone 7 of the Council's 2016 Retail Study based on the catchment areas, which is more than the 20% trade diversion/draw assumption.

For comparison goods impact the percentages provided have little justification as to how they have been apportioned given the lack of data specifically for the catchment area itself.

Paragraph 90 of the NPPF requires an assessment of the proposal on existing, committed and planned public and private investment in a centre or centres. There has been no assessment of the extant consent within Coulby Newham which will prejudice our clients planned investment given the similarities of the schemes. The proposed scheme is for retail and not DIY uses.

The Planning Statement disregards the planned local centre at Brookfield. It is clear from the development plan that a local centre was proposed here and needs to be included within planned investment.

The application site is divorced from the Brookfield development by road infrastructure so represents a less sustainable option so cannot be regarded as a suitable alternative to the Brookfield Local Centre.

Job opportunities set out in the Planning Statement are 'gross' and not 'net; and do not take account of the displacement of existing jobs or the investment and job creation which may have taken place anyway. Job figure is overstated as is the benefit attached in terms of the economic contribution.

Transport issues in terms of sustainability with applicant commenting local shopping facility but if this was the case priority should be given to non-car methods of transport and undermines paragraphs 8-11 of the NPPF.

**Evolve Estates Limited (owners of the Coulby Newham District Centre) comments provided by Pegasus Group (In summary) dated 26<sup>th</sup> November 2021 (Appendix 3)**

Object to the development as it fails to satisfy the sequential test and will have a significant adverse impact ; including on Coulby Newham District Centre given its current health and will impact on planned investment in the District Centre and should be refused in accordance with paragraph 91 of the NPPF 2021.

Applicant has stated the proposal could not be accommodated within the Coulby Newham Centre due to lack of parking provision, limited retail frontage, awkward servicing arrangements, overdevelopment with design impacts resulting in poor pedestrian links, result in a compromised scheme that is not commercially attractive or viable to retailers.

Believe the applicant has not shown flexibility as required in the NPPF and provide a plan to show the scheme can be accommodated in a prominent and commercially attractive location that leaves adequate parking provision which supports view the development fails the sequential test.

The assessment provided of the health of the Coulby Newham centre is flawed and overestimated as provided pre-covid and in recent months the health of the centre has deteriorated with the loss of several businesses e.g. Post Office, Tui, Comfort and Care and Peacocks. Resulting in the loss of footfall and impacting on the vitality and viability of the centre.

In terms of impact not assessed the investment Evolve Estates making within the Coulby Newham and bringing forward a previously extant consent M/FP/0665/1/16/P which includes within the design a variety store retailer and as this is mentioned as a tenant for the proposal could impact future investment in Coulby Newham.

**Williams Gallagher on behalf of Ellandii LLP (owners of the Coulby Newham District Centre at time that planning application was submitted) (in summary) dated 6<sup>th</sup> November 2020 (Appendix 4a and 4b)**

- the proposed development is not of an appropriate scale to meet any local convenience needs in the Low Lane / Brookfield area and as a result will draw trade from an extensive area, increasing unsustainable travel patterns;
- the Applicant has not demonstrated compliance with the sequential test as there is at least one suitable and available sequentially preferable site / location available within the area that could accommodate the development proposed (namely Coulby Newham District Centre);
- the proposed development will have an adverse impact on a number of designated centres in the area and, even if these are not considered to be significantly adverse as defined by the NPPF (which for the avoidance of doubt we consider they will be), the considerable harm that the application proposal will have has to be weighed against any positive benefits of the scheme;
- the economic benefits of the scheme and particularly the employment benefits have been significantly overstated as no allowance has been made for the inevitable job losses that will occur elsewhere, the majority in policy compliant and sustainable town centre locations; and
- the proposal is likely to prevent the local plan allocation for a local centre at Brookfield from coming forward - whilst the Applicant makes a technical (and not necessarily correct) case why this allocation does not have to be considered when undertaking the sequential and impact tests, it remains the case that development that prevents this allocation from coming forward, must be considered to be contrary to Policy H5 of the Middlesbrough Housing Local Plan.

We also wish to make it clear that our client does have major concerns regarding the highway aspects of the current application and these are the subject of a separate review by Exigo Project Solutions.

**Exigo Project Solutions highway comments submitted on behalf of Williams Gallagher (owners of the Coulby Newham District Centre at time that planning application was submitted) (in summary) dated 29<sup>th</sup> October 2020 - Appendix 5**

It is our opinion that the application in its current state does not meet local and national policy. Specifically, Exigo outlines several fundamental issues within the supported transport information:

- Vehicular Access;
- Access by Non-car modes;
- Servicing;
- Trip Generation;
- Traffic Impact Assessments.

The proposed access arrangement is deemed unsafe and further information must be provided by the applicant to demonstrate it meets the adopted design standards.

The development site is not accessible by all modes of transport and caters only for trips by private car. The application falls contrary to local and national policy as it does not provide safe and suitable access for pedestrians and cyclists.

The results of the junction impact assessments have not been provided, but this correspondence has outlined significant issues with the trip generation figures used as part of the assessment. Any subsequent junction impact results cannot be relied upon until a suitable assessment of trip generation is provided by the applicant.

As such the application in its current state should be refused in line with the Local Development Plan and the NPPF, as the application has not demonstrated that the cumulative impacts of this application would not lead to a severe impact on the public highway network.

### **MBC Highway Officer**

Development proposals seek outline consent for a retail/commercial development. We are being asked to consider the principle of development and the detail relating to the access, layout and scale.

Vehicular access is proposed to be provided through the provision of an additional fourth arm to the A1044 Low Lane / Jack Simon Way roundabout.

### **Highways Assessment**

As part of the scoping exercise discussions were held in order to agree common parameters prior to the highway assessment being undertaken. Agreement could not be reached between the applicants and the authority with regards to the likely trip rates and as such the Aimsun model was run with the following scenarios:

#### **Retail Park (Test 1)**

The applicant's position is that a lower trip rate is appropriate as development proposals are not for a "local centre" and will be more consistent with a retail park such as the Parkway Centre. It is envisaged by the applicant that the smaller retail units will be pods occupied by retailers such as Greggs, Subway etc. and are ancillary to the main larger units on the site. The applicants position is that appropriate conditions could be put forward to limit the operation of the proposed units so that they cannot be used by betting shops, newsagents, vets, hairdressers, beauty salons, chip shops, etc.

#### **Local Centre (Test 2)**

The position of the authority is that the location and design of the development in conjunction with the small size of the ancillary units makes the development more akin to a local centre such as Marton/Acklam Shops. The view of the Highway Authority is that the small size of the supporting retail units (92m<sup>2</sup> each) that they would be attractive to Local Centre type uses and that the location in a residential area creates a demand for this. Assessing the development on this basis results in a higher trip rate but is considered more representative.

#### **Cumulative Assessment**

There are a number of developments which the authority are aware of and need to be included within the modelling assessment in order to ensure that the model output provides a realistic representation of the operation of the network. The applicant's position is that the development should be considered in isolation, which is not considered appropriate as such an approach assumes that no other development occurs and therefore will underplay the impact of development activity on the network.

Based upon this approach the highway work presents a range of impact between the applicants position (Test 1) and the authorities position (Test 2).

It is agreed that not all trips associated with the development will be new to the network and development traffic will be made up of:

- New trips – trips that are new to the network (20%).
- Pass-by trips – trips already passing the site and call in as part of another journey (40%).
- Diverted trips – trips already on the adjacent network but change route to call in as part of another journey (40%).

This approach is a nationally recognised approach and the proportions for each type of journey are consistent with other retail schemes.

The Aimsun assessment has therefore tested the impact of development traffic on the above basis in the 2025 future year scenario as this is when it is projected that the development will be complete.

The table below sets out the level of traffic generated by the proposals;

	TEST 1		TEST 2	
	AM	PM	AM	PM
New	23	54	59	100
Pass-By	47	108	119	201
Diverted	47	108	119	201
TOTAL	117	270	297	502

In simplistic terms the modelling reports at the following levels:

#### 1. Network wide

When assessed purely in isolation, the proposed development would give rise to an increase in overall network delay of no more than 3.3s and 5.1s per km during the AM and PM peak period, respectively. Such a level of increase is not likely to be considered a material change to overall network delay and network capacity.

When assessed cumulatively, the results show that the proposed development, alongside other cumulative development, would give rise to an increase in delay of 7.2s and 5.7s per km during the AM and PM peak periods, respectively, resulting in a maximum increase in delay of 17.4%.

During the modelled period the network is already predicted to operate close to or above capacity and as such the addition of traffic associated with the proposed development and the cumulative development sites may give rise to more noticeable impacts across the network.

#### 2. Journey Time along routes

Journey times along key routes within the subnetwork for the modelled area are assessed against those without the development in place. The impact of development and number of routes affected is set out below:

	Test 1	Test 2	Cumulative
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Impact	Material	Potentially Severe	Material	Potentially Severe	Material	Potentially Severe
AM Peak	1 route	0	1 route	0	4 routes	1 route
PM Peak	0	0	2 routes	0	2 routes	0

Interrogation and analysis of the model has identified that primarily the main areas of congestion/delay and hence concern are seen at the following locations;

- Blue Bell roundabout – delays due to the increase in demand using the roundabout and the extensive queueing and congestion as a result of this increase.
- B1365 / Stainton Way roundabout – Eastbound approach to the roundabout from Stainton Way will see the majority of the impact at this junction due to capacity issues at the roundabout and the link capacity of the northbound B1365.
- Newham Way/Stainton Way/Lingfield Way roundabout – due to issues with link capacity travelling northbound, traffic frequently blocks back towards Stainton Way which results in significant queueing and congestion on all approaches.

### 3. Individual Junction Assessment

In order to understand the impact of the proposed development on the modelled area, an initial screening exercise was undertaken. This exercise identified areas of the model where the proposed development would give rise to an impact of 30 two-way development-generated trips or more **and** an increase in delay for vehicles of 15% or more.

This assessment identified 18 junctions which required further assessment and analysis in detail. From this process it was demonstrated that;

Test 1 – a potentially significant impact at 1 of the junctions assessed

Test 2 – a potentially significant impact at 2 of the junctions assessed

Cumulative – a potentially significant impact at 8 of the junctions assessed

Due to the volume of information it is difficult to provide full reporting of the output. However to summarise, the Aimsun modelling demonstrates that the proposed development (either Test 1 or Test 2) will have a material impact on the operation on parts of the network. The main impacts of development are seen in the area surrounding the Blue Bell roundabout, the Sandy Flatts Lane junction then heading South to the B1365/Stainton Way roundabout. When the model tests the cumulative impact of development, of which this scheme is one, the additional traffic gives rise to more significant impacts at a greater number of locations across the network.

The applicants have put forward proposed mitigation schemes at two locations. These mitigation schemes have not been agreed by the Highway Authority for a number of reasons including that they do not mitigate the harm created by the development, they are not suitable for implementation due to the local highway environment and that they have been assessed using traditional empirical junction software outside of the Aimsun model so do not accurately represent the operation of the network with them in place.

### Summary and recommendation

Development proposals have been demonstrated through the use of the authorities strategic Aimsun model to have a detrimental impact on the operation of the highway network. This harm manifests itself as increases in journey time along key routes, increases in queuing and junctions operating above their capacity. The development proposals do not offer any funding package nor mitigation works to address this harm and as such will have an unacceptable impact on the operation of the highway network.

This is contrary to local and national transportation and planning policies including the NPPF and Local Policies CS4(g) and CS17. Refuse.

### Sustainability

The site is located to the South of the A1044 Low Lane/Jack Simon Way roundabout and is surrounded on all sides by main highways being;

A1044 to the Northern half of the site

A174 and A174 Eastbound exit slip road to the Southern half of the site.

These roads are set out as dual carriageways and carry high volumes of traffic. By their nature and associated classification (A classified) these routes are strategic arterial routes whose predominant function is the movement of traffic.

Residential areas exist to the North of the A1044 and South of the A174, as such these routes create a high level of severance between residential areas and the proposed development for those arriving by non-car travel.

When assessing the sustainability of the proposed development, the supporting information has been based upon accessibility isochrones which use a very simplistic distance audit. No assessment of the provision or quality of any infrastructure to demonstrate that routes are viable or attractive has been carried out. Therefore whilst a number of residential properties are theoretically within nationally recognized walking/cycling distances the infrastructure to enable these journeys to occur is either very poor or does not exist.

Examples of this are:

- Between the roundabout junction of Stainton Way/Low Lane there are no footways/cycleways or crossing points meaning pedestrians/cyclists travelling from Stainton/Hemlington cannot access the site by anything other than by car.
- For those who may arrive from Hemlington via the overbridge over the A174 onto Low Lane, will need to cross multiple traffic lanes a number of times including Low Lane.

The local environment is dominated by vehicular infrastructure and has very little non-motorised infrastructure creating a hostile environment for these users to the detriment of highway safety and sustainable travel.

The assessment of non-car accessibility is not considered realistic and no mitigation or supporting works to encourage sustainable travel are proposed.

In terms of the internal layout of the scheme, the layout has been designed in such a way as to place priority to those who arrive by car. There are very limited pedestrian/cycle facilities within the site and those who may walk/cycle to the site or within the site have to cross multiple roads/access lanes and car parking.

Footways around buildings are narrow and are disjointed/do not connect to each other.

Cycle parking is remote from building entrances and has been placed on an island surrounded by traffic/vehicles at the main vehicular junction within the site.

No consideration has been given to locating the cycle parking adjacent to the units intended to serve nor the differing needs of cycle users (staff, customers, provision for panniers/trailers etc).

Such an approach will lead to a reliance on the private car thus increasing the level of traffic generated by the site. The lack of appropriate non car facilities is also contrary to both local and national policies.

### Summary and recommendation

The surrounding highway network creates severance between the proposed development and adjacent residential areas. This environment does not currently provide facilities for those traveling by non-car modes to the proposed site. Such an environment is hostile to non-motorised highway users and would present a dangerous environment given the lack of facilities, particularly for vulnerable highway users. When assessing the alternative forms of travel, given the lack of facilities and environment, against the convenience of taking their own car it is not likely to prove attractive. Development proposals have not addressed these shortcomings and are not proposing any funding packages nor mitigation works to ensure that sustainable travel is a safe viable option.

In addition the internal development layout is considered to provide poor access arrangements and facilities for customers and staff arriving by foot/cycle and public transport. Those arriving by sustainable means are likely to be placed in conflict with motor vehicle traffic associated with the site including manoeuvring service traffic. The combination of poor access arrangements, lack of suitable facilities, and potential safety implications for those not arriving by car is unlikely to be conducive to encouraging sustainable travel.

This is contrary to local and national transportation and planning policies including the NPPF and Local Policies CS4(g) and CS17. Refuse.

### Design and Layout

It is considered that the internal layout of the proposed development has a number of deficiencies which will affect both users of the proposed development and highway users on the adjacent network in terms of both safety and free flow of traffic.

### Deliveries

Only Unit 2 has a dedicated servicing area clear of the internal layout. All servicing traffic associated with the remaining units must manoeuvre within public car parking areas. In addition to this these vehicles will then park/wait whilst servicing units and during this time will be either obstructing access aisles or preventing access to/from car spaces.

### Car Parking Numbers

When assessing the scheme against the Tees Valley Highway Design Guide the development requires between 247 and 286 car spaces, 218 are proposed.

The difference in car parking numbers when assessed against the Design Guide arises as the scheme is seeking a flexible use of Unit 2 which could be all or part food retail. These figures do not include any provision for the drive thru.

No assessment has been provided to demonstrate that the proposed level of parking is adequate. Whilst linked trips between units will occur should inadequate levels of parking be provided the operation of the internal layout of the site will become increasingly inefficient and become more congested as customers park randomly or have to circulate repeatedly hunting for spaces. Such a situation will result in vehicles stacking back out onto the adjacent highway network. In turn this internal congestion within the site will also prevent servicing of the units occurring as raised above.

This also needs to be considered against the lack of sustainable travel alternatives and location which further increases dependence on the private car, thus increasing the demand/number of parking spaces required.

### Cycle Parking

The aforementioned design guide also advises that the scheme should provide 59 cycle spaces.

The proposed cycle parking consists of Sheffield stands spaced at 750mm centres within an island arrangement surrounded by car parking, with 54 spaces provided. Alongside the remote location of the cycle spaces set away from the units which does not encourage their usage, the physical number of spaces provided is below the Tees Valley Design Guide,

As addressed previously in the report, in addition to the physical number of spaces the cycle parking is very poorly designed and located which will not encourage use.

### Drive Thru

Presently the authority are aware and have tried to address, on-going issues with the McDonalds drive thru at the Parkway Centre. The combination of the restricted internal site layout and number of vehicles entering the site is greater than the available throughput (time for customers to choose what they want, place orders, pay then collect). As a result of this vehicles are regularly queuing out of the site, onto Dalby Way and back to Stainton Way, impacting on the operation of Stainton Way and adjacent junctions. The proposed scheme is comparable to this and there are significant concerns that the proposed scheme will replicate this situation with the following outcomes;

Vehicles queuing to enter the drive thru area will obstruct servicing traffic accessing the service yard for unit 2.

These vehicles will also obstruct access into/out of car parking associated with the drive thru and unit 2, this rendering the parking unavailable.

Should queues extend further back into the internal junction larger swathes of car parking will be inaccessible with significant potential for queues to quickly escalate back to Low Lane as drive thru traffic becomes mixed with other development traffic and general traffic on the adjacent network.

### Car Park

The internal layout of the car park has the junction to the drive thru just within the site and car parking spaces beyond this junction which are accessed directly from the main internal access road. This leads to a situation where vehicles entering the site are mixing/being confronted with other vehicles which are either stationary, very slow moving as motorists hunt for spaces and/or sharply braking and maneuvering into/out of spaces to the detriment of safety and free flow of traffic.

The main block of car parking is served from the end of this internal access road with no alternative entry/exit and as such the aforementioned traffic conditions are likely to detrimentally affect the ability of vehicles to easily enter and exit the site. Coupled with the limited available stacking space within the site (the space required for vehicles to clear the roundabout), such a situation would again lead to the likelihood of queuing traffic being displaced out onto the adjacent public highway.

#### Summary and recommendation

Generally the internal layout is poorly designed with a number of conflicts between servicing traffic, access lanes and car parking bays. Due to inadequate servicing arrangements and the layout of car parking the internal stacking space is limited. It is this internal stacking which will enable vehicles to efficiently enter, park and leave the site. As presented the scheme will;

- Reduce the available car parking within the site due to internal queuing and servicing;
- Reduce the ease at which traffic can clear the adjacent highway network;
- Introduce road safety issues internally from vehicles undertaking sudden manoeuvres or being placed in conflict with manoeuvring servicing traffic; and
- Introduce road safety issues on the immediate highway network from traffic blocking back out of the site and disrupt the free flow of traffic on the highway.

This is contrary to local and national transportation and planning policies including the NPPF and Local Policies CS4(g) and CS17. Refuse.

Taking into account the above the Highway Authority consider that the development proposals as presented are unacceptable and recommend refusal for the three reasons set out in the report above being:

- 1) Impact upon the Highway Network
- 2) Lack of sustainable travel creating dependence on the private car with the associated safety implications
- 3) Inadequate internal layout resulting in inadequate car parking and servicing leading to detrimental impact on highway safety and the free flow of traffic.

#### **MBC Environmental Protection – (In summary)**

No objections subject to conditions relating to the development being in accordance with the Noise Assessment report, restriction on hours of opening to between 7am and 11pm Monday to Sunday, restriction on deliveries to between 8am and 7pm Monday to Saturday and 9.30 am and 6.30 pm Sunday, restriction on refuse collection to between 8am and 7pm Monday to Saturday and 9.30 am to 6.30 pm Sunday, ventilation and extraction, odour and particulate impact assessments and detail of any floodlighting.

#### **MBC Waste Policy**

No comments

### **MBC Flood Risk Officer (in Summary)**

I have looked at the new information provided and with the separation of the foul and surface water I am happy to remove my objection.

I have also looked at the documents provided and we still need the following information to be provided or conditioned:

Plan showing Finished floor levels

- Plan showing Finished floor levels
- Plan showing Flow Route, where flooding occurs from manholes (locations, depth and conveyance routes of flood water up to the 1 in 100 year event)
- Plan showing Exceedance Routes (*locations, depth and conveyance routes of flood water of the 1 in 200 year event*)
- What is the build program of the critical surface water drainage infrastructure?
- How will control structure and surface water storage structures be managed during construction to prevent silt build up?
- Details on how surface water runoff from site will be managed during construction
- Measures to control silt levels entering the system
- Plan clearly identifying the arrangements for the adoption of the surface water system 104 Agreement (if applicable)
- Clarification on who will pay for maintenance costs i.e residence through management fee or NWL

### **Technical Details (Design Drawings)**

- SuDS Features (ponds, swales)
- Control Measures
- Drainage Infrastructure
- Manhole Construction
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Clarification is also required on the existing manhole in the corner of the site in which the surface water network is proposed to be discharged into. Details of the connections into this manhole and the condition of any existing sewers (CCTV) is required to ensure that this is not part of any important infrastructure linked to the A174.

Conditions Required relate to Surface Water Drainage Scheme, Surface Water Drainage Management Plan and Surface Water Management and Maintenance Plan. Informatives required for discharging into a watercourse/culvert, sustainable drainage systems and permeable surfacing.

### **MBC Spatial Policy (In summary)**

In accordance with Policy CS5 and DC1 consideration should be given to whether the proposed development would integrate well with the surrounding area and would protect existing residential amenity.

In accordance with Policy CS7 no sequential information has been provided by the applicant with regards to the impact on employment allocations although reference is made to the ability to control the use of the individual premises by condition. In order to prevent the scheme being contrary to the Local Plan Policy in respect of Employment Land allocation, were this

application to be supported, conditions would need to be included to limit the uses within the E use classification to be non-employment uses.

Contrary to Policy CS13 and the NPPF chapter 'Ensuring the vitality of Town Centres' the application fails to apply the sequential assessment, by not demonstrating flexibility and fully exploring the opportunities to utilise suitable town centre or edge of centre sites at Coulby Newham District Centre.

In addition the further supporting information fails to meet the criteria of paragraph 89 of the NPPF in respect to the impact assessment upon existing, committed and planned public and private investment at Coulby Newham and Brookfield Centre.

Consideration should be given to the overall sustainability of this site as an allocation for commercial development. Contrary to Policies CS4, CS17 and H1 the proposal fails to demonstrate how it would contribute to achieving the spatial vision and objectives identified in the Local Plan, with all development required to ensure that it contributes to, and fully integrates with a sustainable transport network.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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1. This is an outline planning application for a commercial development (Use class E) including access, parking and associated infrastructure and development (all matters reserved except for access, layout and scale).
2. The principle issues to be considered in respect to this application centre upon the appropriateness and sustainability of the site, place making, retail impacts such as sequential assessment and impact on the existing, proposed and planned centres, allocated employment sites, impacts on the highway network, drainage infrastructure, layout and design, residential amenity and a number of residual matters.
3. The proposal essentially takes the form of a retail park, with units occupied by town centre uses. However, as the application is for Use Class E, other employment uses could also be potentially accommodated unless these were to be conditioned as restricted use units. As such, the application has also been assessed using relevant employment policies.

### **Policy Framework**

4. In assessing the principle of the development of the application site consideration needs to be given to both Local and National Planning Policies. Where the proposal does not accord with the Local Plan, material considerations, including National Planning Policies, will be taken into account to determine the suitability of the proposal.
5. The Local Plan Core Strategy, which was adopted in February 2008, sets out the Council's strategy in terms of housing, economy, community facilities and infrastructure until 2023. This was supplemented and amended by the spatial strategy of the Housing Local Plan (2014) which extended the plan period to 2029 for some aspects of the plan. Elements of the Regeneration DPD (2009) are also relevant.
6. The National Planning Policy Framework (NPPF) sets out the national planning policies. The Planning Practice Guidance (PPG) provides further guidance on how the NPPF should be interpreted and applied.

### **Local Plan Policies**

7. The Council's spatial vision and strategic objectives for the area are set out in the adopted Core Strategy and Housing Local Plan. Together these aim to reinforce the economic, social and environmental objectives as set out within the NPPF. The key priorities the Council aims to address through the planning system are set out in Section 1 Background (paragraph 1.4) of the Core Strategy. Particularly relevant to this outline commercial development are:
- the ambitions to create sustainable communities;
  - meeting local transport needs more efficiently;
  - promoting the economic vitality of Middlesbrough;
  - reinforcing the role of Middlesbrough Town Centre within the Tees Valley city region;
  - improving health; and
  - transforming the local environment.
8. The following Local Plan Policies are considered relevant to this application:

#### Core Strategy DPD

9. Policy CS4 (Sustainable Development) aims to ensure that any new development contributes to achieving sustainable development. It establishes that the effects of new buildings on the locality and community will be assessed to ensure the location of the development enhances the character, activity and vitality of the neighbourhood.
10. To promote social cohesion and sustainable transport, Policy CS4 (g) sets out that new development should be located so that services and facilities are accessible on foot, bicycle and public transport to minimise car use and promote sustainable transport methods.
11. In terms of development that will attract large numbers of people, such as this proposal, Policy CS4 (i) states that development should be sited within areas which are accessible by sustainable forms of transport and will contribute most to social inclusion.
12. Policy CS5 (Design) sets out the Council's approach to delivering high quality design in all new development and enhance both the built and natural environment.
13. Policy CS7 sets out the Council's approach in supporting and encouraging employment proposals which assist in providing economic prosperity setting out key strategic locations where development will be supported with development outside of the identified areas requiring a sequential approach. Priority for development outside of the identified areas will be given to previously developed land.
14. Policy CS13 (A Strategy for Town, District, Local and Neighbourhood Centres) aims to protect and enhance the hierarchy of vital and viable district and local centres. Specifically in relation to sustainability and this retail proposal.
15. Policy CS13 (e) sets out that retail shopping facilities should be 'accessible by a range of means including car, walking, cycling and public transport'. Core Strategy CS13 (d) encourages convenient and accessible retail spaces within 'district, local and neighbourhood shopping facilities to meet the day to day needs of residents and contribute to social cohesion'.



16. Further emphasis on encouraging sustainability principles is provided within Policy CS13 (g) that sets out 'where appropriate seeking to consolidate retail and other uses into a more sustainable compact and viable centre core'.
17. Policy CS17 Transport Strategy sets out the Council approach to delivering a sustainable transport network for the borough.
18. Policy CS18 Demand Management sets out the criteria and priorities which are within development proposals to improve the choice of transport options available.
19. Policy CS19 Road Safety aims to reduce the impact of traffic and improve safety and quality of the environment in residential and commercial areas.
20. Policy DC1 General Development requires all new development to be a high quality design in terms of layout, form and contribution to the character and appearance of the area.

#### Regeneration DPD

21. Policy REG12 sets out the employment land allocations for where some Use Class E (previously Use Classes B1, B2 & B8) would be acceptable.

#### Housing Local Plan

22. Policy H1 (Spatial Strategy) determines proposals outside of strategic locations will need to be sited within the urban area where they are accessible to the community they serve and satisfy the requirement for sustainable development, such proposals should demonstrate how they would achieve the spatial vision and objective identified within the local plan. All development is required to ensure that it contributes to, and fully integrates with, a sustainable transport network.
23. The adopted Housing Local Plan policy H5 and H21 (Brookfield) sets out the aspirations for the Brookfield development, which lies immediately to the north and north-west of the application site. Policies H5 and H21 set out that, in addition to the residential use, the Brookfield development will provide the provision of a primary school and local centre to be situated in a central location, which maximises accessibility for future residents.

#### Emerging Local Plan

24. The Council commenced a review of its Local Plan in 2016, reaching the publication stage in 2018. However, preparation of the plan was paused in 2019 to allow reconsideration of the key strategic aspects of the emerging plan and to provide an opportunity to update the evidence base. As part of this process, a new Middlesbrough Town Centres and Retail/Leisure Study has been undertaken (September 2020). This study will be used to inform the new Local Plan and is a material consideration for this application.

#### National Planning Policy Framework

25. The National Planning Policy Framework (NPPF) sets out the Government's planning policies and how these should be applied to new developments. The NPPF should be taken into account when preparing the development plan and is a material planning consideration when assessing planning applications. Developments which are

considered to be in accordance with an up-to-date Local Plan should be approved. Where a proposed development conflicts with the Local Plan it should be refused unless there are other material consideration that indicate otherwise.

26. One of the key objectives set out within the NPPF is that all new development should be sustainable and is a fundamental consideration in terms of this outline commercial development.
27. Chapter 2 (Achieving Sustainable Development) of the NPPF sets out that both plans and decisions should apply a presumption in favour of sustainable development. The objective of sustainable development is summarised in paragraph 7 of the NPPF as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs'.
28. Paragraph 8 sets out the approach to deliver sustainable development through economic, environmental and social objectives. Each of the three objectives are defined as being interdependent, but with the requirement to be pursued in a mutually supportive way.
29. Paragraph 9 of the NPPF sets out that the three objectives should be delivered through the preparation and implementation of plans and the application of the policies within the NPPF. In addition, the NPPF sets out that local circumstances need to be taken into account to reflect the character, needs and opportunities of each area.
30. Paragraphs 10 and 11 of the NPPF set out that both plans and decisions should apply a presumption in favour of sustainable development. In relation to decision making this means approving development proposals that accord with an up to date development plan without delay. Paragraph 12 of the NPPF goes on to set out that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Paragraph 12 comments that Local Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
31. In relation to determining planning applications, chapter 4 (Decision making) of the NPPF establishes the requirement to approve applications for sustainable development where possible, with paragraph 47 advising that planning applications should be determined in accordance with the local development plan, unless material considerations indicate otherwise.
32. Chapter 6, particularly paragraphs 81 & 82, set out the approach to building a strong competitive economy.
33. Chapter 7 deals with ensuring the vitality of town centres whilst paragraphs 87 & 88 set out the approach to applying a sequential test for proposals involving town centre uses that are not located within the defined centres. Paragraph 90 requires an impact assessment to be undertaken for relevant proposals outside of town centres.
34. Chapter 12, and in particular paragraphs 126,127 & 129, set out the approach to achieving well-designed places.

#### Relevant Policy Summary

35. The application is located on a site that is not allocated for development. As such, consideration will need to be given to the retail policies contained within the Local Plan and NPPF, which promote this type of development within town, district and local centres, and set out an approach for considering applications not in defined centres
36. Given the application is for Use Class E, other E uses, that are not town centre uses, will also need to be considered against the relevant employment policies within the Local Plan and the NPPF.
37. The site is in close proximity to the strategic Brookfield allocation, which aims to deliver new housing alongside key facilities and infrastructure, including a new local centre. The impact on this proposal will be taken into account.
38. Other key policy considerations include highway issues, layout, flooding/drainage and residential amenity. This report will consider each in turn.

### **Retail Considerations**

39. In considering this commercial development the relevant policies of the Council's Local Plan will need to be considered alongside the NPPF. With the outline application being for potential retail development which is outside of the existing defined centres set out in the adopted local plan, a sequential test and impact assessment are required to be submitted and assessed as part of the application.
40. The location of the application site on the boundary of the Brookfield allocation means further consideration is required on the impact of the scheme on the proposed investment at Brookfield local centre.
41. The principle issues to be considered within this retail section of the report will be as follows:
  - a) Relevant national and local plan retail policies; and
  - b) Impact on the vitality and viability of the existing centres, including:
    - i) Sequential test and impact assessment requirements;
    - ii) Assessment of the Sequential Test and Impact Assessments and potential alternative sites for the development;
    - iii) Legal opinions on the Brookfield allocation and the requirements for sequential and impact assessments;
    - iv) Impact on the deliverability of the Brookfield Local Centre;
    - v) Assessment of trade diversions/impacts; and
    - vi) Impact on investment.

### **Middlesbrough Local Plan** (relevant retail policies)

42. The retail policies of the Local Plan are considered to be consistent with those of the NPPF and, as such, up to date, carrying considerable weight in the decision making process. Matters concerning the role of the proposed local centre as part of the Brookfield allocation, and the weight that can be attributed to it, will be dealt with later within this report.
43. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, if regard is to be had to the development plan, applications must be determined in accordance with that plan unless material considerations indicate otherwise.

44. Core Strategy Policy CS13 (A Strategy For the Town, District, Local and Neighbourhood Centres) sets out the retail hierarchy for Middlesbrough. Policy CS13 aims to protect and enhance the hierarchy of vital, viable town, district, local and neighbourhood centres. Middlesbrough Town centre is identified as the main town centre followed by district centres and then local centres which are subdivided into medium and small scale centres.
45. In terms of assessing retail proposals the NPPF definition of a town centres is:
- ‘Area defined on the Local Authority’s policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in the development plan, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres.’*
46. Policy CS13 sets out clear aims on ensuring the vitality and viability of the hierarchy through:
- Encouraging development of town centre uses within a centre of an appropriate type and scale commensurate with its current and future function;
  - Safeguarding the retail character and function of centres by resisting developments that detract from their vitality and viability;
  - Ensuring shopping facilities are accessible by a range of means including by car, walking, cycling and public transport; and
  - Ensuring new developments are of an appropriate high quality design particularly in the Town Centre.
47. Given the location of the application site, Housing Local Plan Policy H5 (Brookfield) and H21 are applicable to the consideration of the proposal. Policy H5 states that land to the west of Brookfield will accommodate 1,650 dwellings that will be developed to provide a mixed and balance community of a high quality design. Alongside the residential provision within the Brookfield allocation the policy specifically references the provision of a local centre, primary school and local park to enable the aspirations for the Brookfield site as having a mixed and balanced community provision.
48. Policy H21 contributes further details on the scale and nature of the Brookfield allocation and reiterates the aspirations of the site to deliver a development that is of a sufficient scale to create a new community. Within Policy H21(iii) reference is made to the provision of a local centre within the development to be provided when the need arises.
49. Policy H21 (d) provides further guidance on the position of the local centre and the school that should be within the centre of the site to enable maximum accessibility for future residents. The indicative site layout of the Local Plan shows the local centre location to be at the heart of the site and to the west of Hesleden Avenue. The Council adopted the Stainsby Country Park and Masterplan in June 2022 which within Section 5 ‘Central Hub’ refined further the layout and position of the proposed Local Centre. Whilst not in the exact location indicated within the Local Plan, it remains central to the Stainsby Scheme and will provide a sustainable hub for the community.

#### National Planning Policies (retail relevant)

50. Within Chapter 7 of the NPPF the government sets out specific guidance on the methods planning policies should provide to ensure the vitality of town centres. The overarching principle is that planning policies and decisions should support the role that town centres play at the heart of communities. With the NPPF encouraging Local Authorities, through local plans, to take a positive approach to town centre growth, management and adaption by establishing a hierarchy of town centre and their extent to promote their long terms vitality and viability with a mixture of uses that reflects their local distinctiveness.
51. Specific reference is made within Chapter 7 of the NPPF to the allocation by the Local Authority of suitable sites in the town centre to meet the scale and types of development required. The NPPF paragraph 86 (e) sets out that where suitable sites are not available within the town centre Local Authorities should allocate appropriate edge of centre sites that are well connected to the town centre. Where sufficient edge of centre sites cannot be justified then policies should explain how identified needs can be met in other accessible locations which are well connected to the town centre.
52. The government's policy in ensuring the vitality of the town centres requires that a sequential test be provided for main town centre uses that are not proposed within an existing centre, which is the case for this proposal. Paragraph 86 of the NPPF sets out that 'main town centre uses should be located in town centres, then edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
53. Paragraph 87 of the NPPF establishes that, 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, which would apply to this current out of centre proposal.
54. Paragraph 88 of the NPPF emphasises that both the applicant and the local authority should demonstrate flexibility on issues such as format and scale so that suitable town centre and edge of centre sites are fully explored.
55. In assessing out of centre applications, paragraph 90 of the NPPF requires an impact assessment where the total floor space provision is over 2,500 square metres floor space. The guidance within paragraph 89 is that out of centre proposals should consider the impact on existing, committed and planning public and private investment in a centre or centres within the catchment area of the proposal. Furthermore, should assess the impact of the proposal on town centre vitality and viability, including local consumer choice and trade within the town centre and wider retail catchment area.
56. The NPPF guidance in paragraph 91 is clear that where an out of centre application fails to satisfy the sequential test or is likely to have an adverse impact on one or more of the considerations set out in paragraph 86 then the application should be refused.

### The Sequential Test

57. As the proposals are not in accordance with an up-to-date plan and would be located outside of the defined centres set out in the Council's adopted Local Plan, they should be subject to the sequential test. In this respect, NPPF paragraphs 87 and 88 state that:  
  
'Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. 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.'

'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. 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.'

58. Paragraph 011 of the Planning Practice Guidance (PPG), 'Town Centres and Retail', sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test. In particular, it states that:
- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly;
  - Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal; and
  - If there are no suitable sequentially preferable locations, the sequential test is passed.
59. Paragraph 012 of the PPG confirms that the use of the sequential test should recognise that certain town centre uses have particular market and locational requirements, which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide justification.
60. Paragraph 013 of the PPG goes on to confirm that, whilst the sequential test supports the government's town centre first policy, as promoting new development in town centre locations can be more expensive and complicated than building elsewhere, local planning authorities need to be realistic and flexible in terms of their expectations.

### **Case Law and Key Decisions**

61. A number of judgements by the Supreme Court, Court of Appeal and High Court, along with decisions made by the Secretary of State and Inspectors on 'Called-In' planning applications and appeals, have commented on the interpretation and application of the sequential test.
62. Firstly, the Supreme Court Judgment – Tesco Stores Ltd v Dundee City Council (dated March 2012) UKSC13 provides clarity on the lawful meaning of the sequential test in Scottish policy. The Judgment rules that the sequential test, and its limb concerning 'suitable' sites closer to the town centre, is about explaining why alternative sites for the developer's scheme are not more suitable.
63. Developers should have regard to the circumstances of the particular town centre when preparing their proposals, as regards the format, design and scale of the development. As part of such an approach, they are expected to consider the scope for accommodating the proposed development in a different built form, and where appropriate adjusting or sub-dividing large proposals, in order that their scale may fit better with existing development in the town centre. Provided the applicant has done so,

however, the question remains whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.

64. The broad application of Dundee in England has been confirmed by the High Court R (on the application of Zurich Assurance Ltd (t/a Threadneedle Property Investments)) v North Lincolnshire Council [2012] EWHC 3708 (Admin) and more recently Aldergate Properties [2016] EWHC 1670 (Admin). The latter judgement confirms that the sequential test should be applied to the type of retail development proposed, rather than the requirements of the particular operator, and that sites cannot be excluded because the proposed operator has a store elsewhere. It also confirms that a site might still be classed as available, even though it is controlled by another retailer.
65. The Court of Appeal held in Warners Retail (Moreton) Ltd v Cotswold District Council [2016] that the NPPF contains no requirement to demonstrate need and/or commercial justification.
66. The Secretary of State's decision of 11 June 2014 in relation to the application by LXB RP (RUSHDEN) Limited on land at Northampton Road, Rushden (APP/G2815/V/12/2190175) which included a mixture of commercial and retail uses, is also relevant. This decision follows Dundee, stating clearly that it is not necessary for disaggregation to be considered and confirming that, if the Government had intended to retain disaggregation as a requirement, it would have explicitly stated this within the NPPF.
67. A further decision by the Secretary of State, to grant planning permission in December 2016 for a factory outlet shopping centre at Scotch Corner in Richmondshire (North Yorkshire) is relevant (Refs. APP/V2723/V/15/3132873 and APP/V2723/V/16/3143678). The Secretary of State agreed with his Inspector, who noted that, in carrying out the sequential test, whilst paragraph 24 of the NPPF indicates that applicants should demonstrate flexibility on issues such as format and scale, it does not require them to disaggregate the scheme. It was confirmed that the sequential test seeks to establish whether the application (i.e. what is proposed) can be accommodated on sequentially preferable sites.
68. The decision letter of the Secretary of State in 2017 granting permission for an out of centre retail and leisure development at Tollgate in Colchester (Ref: APP/A1530/W/16/3147039) confirmed this interpretation of the sequential test in terms of suitability and appropriate flexibility. The Secretary of State's decision indicated that the potential alternative site put forward by the Council and Rule 6 parties would not be closely similar to the appeal scheme and hence the site was not suitable.
69. Although the Inspector did not specifically comment on the requirement for disaggregation as part of the sequential test, they did consider the extent to which proposals could be split into smaller parts and spread over a number of sites in/on the edge of the town centre. In particular, they stated that;
  - the extent of flexibility should not be constrained by policy or guidance, and there is nothing in the PPG that suggests that sub-division is not to be considered;
  - there will be circumstances where sub-division is not appropriate and not a requirement to demonstrate flexibility, for example, taking into account the applicants' business model or development plan policy;

- in this case, there was no evidence that the proposed format was necessary or fundamental to the proposal - whilst the proposal was in outline, no retailers had been identified, the size and location of units within the site had not been established, and there was no defined timescale or phasing; and
  - in these circumstances, disaggregation within the sequential test would be justified.
70. A more recent Secretary of State call-in decision that comments on disaggregation is Cribbs Causeway (APP/P0119/V/17/3170627) in October 2018. The Inspector (in paragraphs 567 & 568 of their report) confirmed that whilst disaggregation was adopted in past policy it was not embodied in either the Framework or the PPG.
71. In the context of the above, it is clear that the Secretary of State decisions has generally taken the view that disaggregation is not required to be considered when applying the sequential test. Notwithstanding this, however, there remains a need for the applicant to demonstrate flexibility in terms of both scale and format, when assessing the suitability of alternative sites to accommodate the proposed development.

#### **Assessment of Potential Alternative Sites**

72. On behalf of the applicant, Savills prepared a Planning, Economic and Retail Statement (PERS) to accompany the application in September 2020, along with a subsequent memorandum note (dated April 2021), which responded to issues raised by Council Officers in respect of the original statement.
73. The sequential assessment undertaken as part of the PERS identified a five-minute drive time from the application site, which extended towards, but did not include, Coulby Newham and Thornaby District Centres. Whilst the PERS considered these centres in broad terms, it did not assess any individual sites within/on the edge of the former and argued that these centres would not be able to meet the same market requirements to provide new retail facilities which serve residents on the western area of Middlesbrough, to the north of the A174.
74. The April 2021 Memorandum sought to justify the use of a five-minute drive time on the basis that a number of the intended tenants for the proposed development – including Lidl, Home Bargains/B&M and a drive-through coffee-shop - already had representation in Coulby Newham and/or Thornaby District Centres. However, this approach runs contrary to the Aldergate High Court decision set out above, which confirmed that sites in centres elsewhere cannot be excluded simply because the end tenant already has representation in that centre.
75. In practice, whilst drive-times are an important consideration, the catchment areas of individual proposals will be influenced by a range of factors. In this instance, given the scale and nature of the proposals, the Primary Catchment Area of the proposed development is considered likely to extend beyond five minutes in some directions, to include, amongst other locations, Coulby Newham District Centre. Consultation comments from Stockton Council (neighbouring authority) and from the management company for Coulby Newham raised concerns on the same basis.
76. Notwithstanding the applicant's arguments on catchment areas, Savills' April 2021 Memorandum included a more detailed assessment of sites within/on the edge of Thornaby and Coulby Newham District Centres, as well as various Local Centres on the western and southern sides of Middlesbrough, and the south side of Stockton-on-Tees. These centres included the following:



- Coulby Newham District Centre;
- Thornaby District Centre;
- Myton Way Local Centre, Ingleby Barwick;
- Acklam Road/Mandale Road Local Centre;
- Trimdon Avenue Local Centre;
- Viewley Road Local Centre; and
- Hall Drive Local Centre.

77. A summary of the applicant's assessments of potential alternatives opportunities is set out below.

*Coulby Newham*

78. Coulby Newham District Centre has a catchment area which includes large parts of southern and western Middlesbrough, including the area around the application site, as confirmed through the household surveys undertaken to underpin the Council's most recent (2020) retail study. The scale and nature of the application proposals at Low Lane are also consistent with the role and function of this district centre.

79. The initial PERS submitted by Savills provided no assessment of any individual sites within/on the edge of Coulby Newham District Centre, including the potential option to develop two sites that had previously benefited from planning permission for commercial development. Following discussions with the Council, however, the April 2021 Memorandum did consider both of the sites.

80. In relation to the first of these sites, comprising 2.4 ha in total, planning permission was previously granted on land immediately to the south of the Parkway Centre (and North of Dalby Way) in October 2016 for the following development (application ref. M/FP/0665/16/P):

"the erection of 5 no additional units (3,997 square metres) for either use as retail (A1), office/Financial (A2), restaurant/cafe (A3), drinking establishment (A4), Hot food takeaway (A5) and reconfiguration of car park and demolition of Dalby House"

81. Savills' assessment of the above site concludes that it is too small to accommodate the proposed development. It also includes two plans (prepared by Space architects) which seek to demonstrate why the development could not fit on the site. Based on these plans, it is argued that the schemes would:

- result in a significantly reduced level of parking for the occupiers;
- provide limited retail frontage/visibility or awkward servicing arrangements, and conflict with existing units at the centre (for Option 1);
- result in overdevelopment of the site that would be unacceptable in design terms and would result in poor pedestrian links/circulation; and
- result in a significantly compromised scheme that would not be commercially attractive.

82. However, whilst all of the units proposed are illustrated on the above plans, they are presented in the same shape and size as on the Low Lane site, and no consideration has been given to how the development could be adapted - in order to arrive at a scheme which both meets operator needs and is appropriate to the site in planning and highways terms. This is contrary to the requirement set out in the NPPF to demonstrate flexibility in terms of both scale and format, when assessing the suitability of alternative sites to accommodate the proposed development.

83. A letter from one of the prospective end tenants (Lidl) has been provided by the applicant as part of the April 2021 Memorandum which indicates that retailer has a lease in place with the landowner of the development site for 15 years. However, the fact that Lidl have a lease and/or consider that this is an appropriate location for a new store does not mean that other (sequentially preferable) sites elsewhere should automatically be ruled out as unsuitable.
84. The site identified on the plans within the April 2021 Memorandum is just one part of the district centre and there may be other land with potential to accommodate new commercial uses. Evolve Estates Limited (Evolve) recently made a planning application for two retail units (comprising 5,111 sqm gross) on land to the south of the Parkway Centre (in a broadly similar position to permission ref. M/FP/0665/16/P). Furthermore, around 0.2 ha land to the north of the medical centre off Cropton Way was subject to permission granted in November 2017 for a restaurant/drinking establishment, with access, parking and landscaping (ref. 17/0853/FUL). Whilst the permission has since expired, the site is currently being marketed to potential developers. In the context of the above, Evolve have submitted a number of objections to the application which, amongst other things, set out their view that the proposed development could be provided at Coulby Newham District Centre – using both the previous application site (which includes the vacant Dalby House office building) and other areas of car parking immediately to the east.
85. Notwithstanding this, however, it remains unclear as to whether there is sufficient available land on the south side of the Parkway Centre to accommodate all of the proposed uses in a satisfactory manner. In this context, while the applicant has not satisfactorily addressed the requirements of the NPPF – in particular the need to apply flexibility when applying the sequential approach to site selection. The applicant has not clearly demonstrated that there is insufficient land in Coulby Newham District Centre to accommodate all of the various elements being promoted within the application scheme.

#### *Centres in Stockton-on-Tees*

86. The assessment undertaken as part of the April 2021 Memorandum concluded that there were no units within either Thornaby District Centre or Myton Way (Ingleby Barwick) Local Centre (both in Stockton-on-Tees) which both were of a suitable size and currently available to accommodate the scale of the proposals at Low Lane.
87. Only three vacant units, with a floor space of 590 sqm combined, were identified in Thornaby. The only other potential site there is the Northumbrian Water offices and associated car parking on Trenchard Avenue (comprising 0.8 ha), however, this building is still occupied, and there is no indication of potential disposal.
88. In relation to Myton Way, based on the applicant's assessment, there is only one available unit (the former Co-operative funeral care), comprising around 130 sqm, which is too small for the proposed development. This centre also includes an area of land immediately to the east of the Tesco store, located in between the store and Barwick Way, comprising around 0.9 ha. However, although it could accommodate some of the proposed floorspace, the site is subject to a number of constraints, including the difficulties in gaining access, existing trees (subject to Trees Preservation Orders) and being within the ownership of Tesco. On this basis, given its location around 4 km to the west of the application site and – and to the west of the A19 – it is accepted that it is not suitable and available to accommodate the proposed development at Low Lane.
89. Stockton-on-Tees Borough Council have commented on the application to state that, whilst they have no objections, the use of a ten-minute drive time for the purposes of this assessment would be more appropriate, and that Stockton Town Centre should be

included. Having checked the drive times from the application site to Stockton Town centre, however, this is beyond the ten-minute drive-time and it is not, in any event considered that the catchment area of the Low Lane development could reasonably extend as far as this centre, given the distance - as well as a number of physical and perceptual barriers - between the two.

### **Summary of Sequential Assessment**

90. As part of their original PERS, as well as the subsequent Memorandum, the applicants have provided information which seeks to rule out sites within a number of district and local centres in both Middlesbrough and Stockton, in terms of their suitability and availability to accommodate the proposed development.
91. In relation to Coulby Newham District Centre, in Officers' view, the applicants have not demonstrated sufficient flexibility, in terms of scale and format, when considering whether land on the south side of the centre could accommodate the proposed development, as required by the NPPF. Notwithstanding this, however, it remains unclear as to whether there is sufficient available land on the south side of the Parkway Centre to accommodate all of the proposed uses in a satisfactory manner – and it is not clear, therefore, whether there is sufficient land available within the District Centre to accommodate each of the various elements proposed in the subject application.
92. It is accepted that there are no sites within or on the edge of existing local centres in Middlesbrough, or indeed centres in Stockton-on-Tees (including Thornaby and Myton Way/Ingleby Barwick), which are suitable and available to accommodate the proposed development.

### **Impact**

93. Paragraph 90 of the NPPF confirms that, when assessing planning applications for retail use outside of town centres, which are not in accordance with an up-to-date plan, an impact assessment should be required if the development is over a proportionate, locally set floor space threshold (or a default threshold of 2,500 square metres where none exists). The impact assessment should include an 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 retail catchment (as applicable to the scale and nature of the scheme).
94. Paragraph 91 of the NPPF determines that where an application is likely to have 'significant adverse impact' the development should be refused.
95. Policy CS13 of the Middlesbrough Core Strategy also states that the retail character and function of centres will be safeguarded by resisting developments that detract from their vitality and viability, although it does not specify a threshold for undertaking impact assessments in respect of particular types of town centre uses.
96. In this context, given that the Low Lane application site is located outwith the town centre, the proposals are not in accordance with an up-to-date plan, and are above the NPPF floorspace threshold, an impact assessment which addresses both of the above criteria is required.

### **Impact on Investment**

Coulby Newham District Centre

97. As set out earlier in this report, planning permission was granted in October 2016 on land immediately to the south of the Parkway Centre (and North of Dalby Way) for the following development (application ref. M/FP/0665/16/P):

“the erection of 5 no additional units (3,997 square metres) for either use as retail (A1), office/Financial (A2), restaurant/cafe (A3), drinking establishment (A4), Hot food takeaway (A5) and reconfiguration of car park and demolition of Dalby House”

98. The original PERS did not consider the potential impact of the proposed development upon the above permission, although the April 2021 Memorandum highlighted that no progress had been made towards its implementation, including during more favourable economic conditions, prior to the pandemic. Savills also referred to previous press coverage of the scheme (in February 2017), where it was indicated by the centre owners that there had been limited interest from operators, and that they were looking to focus on DIY retailers, although the permission has since expired in any event.

99. In their latest objection to the Low Lane scheme, Pegasus have confirmed that the owners of the Parkway Centre (Evolve Estates Limited) remain keen to invest in the centre and have recently made a new application, for the following development:

“Erection of 2 units (Class E) with a total floor space of up to 5111 square metres (including a mezzanine floor within one unit) and an adjoining garden centre area. Reconfiguration of the car park and footpath (demolition of Dalby House)”

100. The two units proposed would be located on the southern side of the centre, in a similar position to those previously approved and, allowing for the creation of 5,111 sqm of retail floorspace comprising of around 1,000 sqm from demolition of existing buildings, and the 4,100 sqm new additional floorspace. Evolve have stated that they are looking to accommodate a variety retailer and therefore consider that the Low Lane scheme would prejudice the delivery of their proposals at Coulby Newham. This is on the basis that:

- the provision of two no. units is needed to make the scheme deliverable, and the Low Lane proposals (if approved) would significantly hamper the ability to let the unit which currently does not have an occupier;
- whilst the Range has been identified as an occupier for the other unit, this arrangement has not been finalised, and they have the ability to pull out if they consider that the scheme no longer works for them (with granting planning permission at Low Lane being such a reason); and
- even if The Range occupy one of the proposed units, granting permission at Low Lane could see them exercise a break in their lease, leaving a large unoccupied unit within the centre which would detract from its vitality and viability.

101. As explained in the sequential assessment section, it is Officers' view that Coulby Newham District Centre should have been included within the catchment area for the Low Lane proposals – and therefore, it falls to be considered as part of the first element of the NPPF impact test.

102. The development potential of land at Coulby Newham District Centre has been recognised through a previous planning permission for new retail floorspace, which has now expired. Whilst the current application proposals at the centre have been developed

in full knowledge of Low Lane scheme, the owners of the Parkway Shopping Centre (within the district centre) appear to have reasonable concerns that their proposed development would be impacted by any approval of the Low Lane application. In this context, there is a potential that the application proposals could prejudice currently proposed investment within Coulby Newham District Centre.

103. The Planning Practice Guidance states that, where wider town centre developments or investments are in progress, it will also be appropriate to assess the impact of relevant applications on that investment. Key considerations will include the policy status of the investment (i.e. whether it is outlined in the Development Plan), the progress made towards securing the investment (for example if contracts are established) and the extent to which an application is likely to undermine planned developments or investments - based on the effects on current/forecast turnovers, operator demand and investor confidence. In this context, whilst the current proposals by Evolve are not approved (or therefore committed), given the similarity of the proposed uses, and the location of the Evolve proposals within a defined district centre, the potential impact upon this scheme is a material consideration to be taken into account in determination of the Low Lane application.

#### Brookfield Local Centre

##### *Local Plan Allocation*

104. Housing Local Plan Policies H5 (b) and H21 (iii) (Brookfield) provide details of the proposed local centre within the nearby Brookfield allocation. In summary:
- Policy H5 states that land to the west of Brookfield will accommodate 1,670 dwellings and will be developed to provide a mixed and balanced community of a high-quality design. Specific reference is made for the provision of a local centre, a primary school, a country park and local park, and a linking spine road to be completed by 2025; and
  - Policy H21 states that 130 ha of land is allocated at Stainsby Hall Farm and Stainsby Hill Farm for a mixed and balanced residential community and sets out the uses which are considered appropriate including, amongst other things, a local retail centre, to be provided when the need arises. Part (d) to the policy states that the school and local centre will be provided in a central location, which maximises accessibility for future residents, with the timing to be agreed subject to need.

##### *Position of the Applicants*

105. In the Planning Economic and Retail Statement (PERS) submitted with the application, Savills set out their opinion on the planned Brookfield local centre. It was argued that the planned centre is not included within the hierarchy of centres for Middlesbrough, and therefore not a 'centre' for the purposes of the retail hierarchy against which the impact assessment applies. It was also argued that there has been no identification of the type, scale or range of uses within this centre or timescales for delivery and, therefore, that it cannot be considered as planned investment.
106. In response to the Council's request that the Brookfield local centre allocation be assessed as part of the application (in relation to both the sequential and impact tests), Savills obtained their own legal opinion on the matter. This legal opinion set out the view that:
- Policy CS13 is the only relevant policy, and makes no mention of Brookfield as a planned centre nor as the object of current policy protection, nor does it refer to the protection of planned investment for new centres;

- there is no explicit requirement under the NPPF to assess the impact on a 'centre' that exists only as a policy aspiration (although the wording of the PPG – which refers to impact upon existing town centres - should not be taken to interpret the NPPF as precluding consideration of an impact upon the delivery of a proposed new centre); and
- even if assumed to be a centre, Brookfield is not at a sufficiently advanced stage to carry out a meaningful assessment of the impact upon it, as there is no evidence of progress towards securing the investment, or that the application proposals would be likely to undermine it, if it were classed as planned investment.

*Position of Middlesbrough Borough Council*

107. The Council has sought their own legal opinion on how this allocation should be treated as part of the Low Lane application. In summary, this opinion confirmed that paragraph 90 (a) of the NPPF refers to the impact of the proposals upon existing, committed and planned public and private investment in a centre or centres. The language used is 'centre' and not 'town centre', and as the criteria relates to proposed (as well as existing) investment, it can apply to that in planned centres as well as existing ones. It is therefore relevant to consider the extent to which the application proposals would impact upon this planned investment.
108. The provision of a local centre within a central location as part of the planned new housing development at Brookfield is, in the Council's opinion, an essential part of the wider development. This is on the basis that it would meet day to day shopping and service needs in a conveniently accessible location, reduce the need to travel elsewhere (helping to facilitate sustainable development) and help to create a sense of community. There is also likely to be an overlap between this planned new centre and the current application proposals at Low Lane, in terms of both the likely retail/commercial offer and the catchment areas served (not least given their relatively close proximity).
109. As set out above, a new local centre forms part of the wider Brookfield housing allocation, in the adopted local plan. In the context of the current application at Low Lane, the Council sought their own legal opinion on how this allocation should be treated as part of the Low Lane application.
110. In summary, the legal opinion confirmed that paragraph 90 (a) of the NPPF refers to the impact of the proposals upon existing, committed and planned public and private investment in a centre or centres. The language used is 'centre' and not 'town centre' and as the criteria relates to proposed (as well as existing) investment, it can apply to that in planned centres as well as existing centres. As part of the first element of the impact test at para. 90 of the NPPF, it is therefore necessary to consider the extent to which the application proposals would impact upon this planned investment and, therefore, how much weight should be attached to it in the determination of the application.
111. The provision of a local centre within a central location as part of the planned new housing development at Brookfield is in the Council's opinion an essential part of the wider development. This is on the basis of a number of reasons, including the fact that such a centre would:
  - meet day to day shopping and service needs in a location which is conveniently accessible to residents of the new development;

- in doing so, and reducing the need to travel elsewhere to meet these needs, help to facilitate sustainable patterns of development;
  - enhance the attractiveness of the wider housing development, thereby helping to ensure its overall success; and
  - help to create a sense of community for the new residents, and a focal point for the development.
112. The scale and nature of the uses proposed at Low Lane are such that they could potentially impact upon the Council's ability to achieve the planned new local centre within the Brookfield allocation. This is particularly the case in respect of the smaller units proposed, which are of a similar size to those which could come forward within the Brookfield Local Centre, although there is likely to be an overlap with all of the uses proposed at Low Lane.
113. However, the planned new centre at Brookfield is at an early stage and, whilst subject to a development plan allocation, has not been subject to any planning application proposals, nor is there any evidence as to what the centre may comprise, likely operator/developer interest, or when it might come forward. Whilst there is likely to be some overlap between the two, and notwithstanding the potential significance of the centre, in sustainability terms (i.e. in making provision for day to day needs to be met by local provision within the new development, and it's overall role in place making and achieving a quality living environment), it is therefore not clear at this stage, what level of impact the Low Lane proposals would have upon delivery of the proposed Brookfield Local Centre.

#### Summary

114. The impact assessment submitted by the applicants does not consider the potential impact of the proposed development on the planned investment in the new centre which forms part of the wider Brookfield housing allocation or on the currently proposed investment in new retail facilities on the south side of Coulby Newham District Centre, contrary to paragraph 90 of the NPPF.
115. Whilst there is potential for the application proposals to impact on or prejudice the proposed new local centre at Brookfield, the proposed new centre remains at an early stage, and this needs to be reflected in the weight that can be afforded to the impact upon investment in this centre.
116. However, the proposals at Coulby Newham District Centre are more advanced, and the owners of the Parkway Shopping Centre (within the district centre), who have recently made a planning application, appear to have reasonable concerns that their proposed development would be impacted by any approval of the Low Lane application. In this context, Officers consider that there is potential for the subject application proposals to prejudice the currently proposed investment within Coulby Newham District Centre. Whilst this scheme has not yet been approved, it does appear to be an acceptable scheme in planning policy terms, and given the similarity of the proposed uses, and the location of the proposals within a defined district centre, the potential impact upon this scheme is a material consideration which should be taken into account in determination of the subject planning application.

#### **Impact upon Town Centre Vitality and Viability**

117. A quantitative assessment of the likely impact of the convenience and comparison goods retail floorspace proposed within the Low Lane application as part of the PERS originally submitted with the application. This assessment uses the information on the turnover of existing stores and centres within the Council's 2016 Retail Study (which has since been superseded). It also calculates the convenience and comparison goods turnovers of the proposed units based on two different scenarios in relation to Unit 2 – with the first assuming one large variety store and the second assuming a foodstore plus a smaller variety store.
118. Following the initial review of Savills' PERS, a number of significant concerns were raised in relation to the quantitative assessment. These related to:
- the use of out-of-date population and expenditure data (from the 2016 study) to calculate the turnover of existing stores/centres in the above zones;
  - the base shopping patterns, which were not based on the Council's most recent study (which in turn used a new household shopping survey undertaken in 2019); and
  - the spread of the forecast trade diversion impacts, which under-stated the trade diversion from stores/centres closer to the site and over-stated that from stores/centres further away.
119. Whilst it was prepared to respond to the above comments, the April 2021 Memorandum did not contain any updated quantitative assessment to deal with the above concerns.

#### Base Population/Expenditure Data and Shopping Patterns

120. The April 2021 Memorandum argued that the use of base population/expenditure data and information on shopping patterns contained within the most recent (2020) Council retail study would not materially affect the findings of the impact assessment undertaken as part of the PERS. More recent expenditure base data and forecasts have also been produced by Experian since this study, taking into account the recent pandemic, and are likely to further impact on levels of spending forecast across the area. However, whilst the figures in the assessment should be treated with a large degree of caution, it is accepted that the use of the more recent information on expenditure shopping patterns is unlikely to have any significant impact upon the overall conclusions.

#### Spread of Trade Diversion

121. Notwithstanding the above, Officers still have concerns over the spread of trade diversion assumed, and therefore also the levels of impact forecast upon existing store and centres.

#### *Impact upon Middlesbrough Town Centre*

122. The opinion set out in the PERS is that the levels of impact on the combined (convenience and comparison goods) turnover of existing centres is negligible under both of the scenarios considered by the applicant in terms of potential occupiers. The combined (i.e. convenience and comparison goods) impact forecast upon Middlesbrough Town Centre is circa 0.3%. Whilst Officers continue to have concerns over the methodology, and the town centre is currently experiencing a number of major challenges, including the closure of many large retail stores, the levels of impact forecast are modest, and it is accepted that the impact upon its vitality and viability from these proposals is unlikely to be significant adverse

#### *Impact upon District Centres*



123. Officers consider that the proportion of the convenience goods turnover of the proposed development which has been assumed will be drawn from stores in Coulby Newham District Centre (20%) has been under-estimated, with that upon Thornaby (25%) over-stated. Coulby Newham has a catchment area which covers the area around the application site and the actual trade diversion impact upon existing floorspace there is therefore likely to be higher than 5.2% (or £3.3m) suggested under Scenario 2 (the worst case) within the submitted PERS.
124. In relation to comparison goods, it has been assumed that 50% of the turnover of the proposed floorspace would be drawn from either Thornaby District Centre (20%) or Teesside Park (30%). These proportions are too high when considered in the context of that from Coulby Newham District Centre (20%), particularly given the nature and likely catchment area of the application proposals at Low Lane. It is therefore considered that the comparison goods impact upon Coulby Newham, at 3.6% - or 2.5% under Scenario 2 - has been understated.
125. The combined (i.e. convenience and comparison goods) impacts under the worst-case scenario (i.e. Scenario 2) on Coulby Newham District Centre is forecast to be 4.2% and the PERS concludes that these figures do not comprise a 'significant adverse' impact. As explained earlier, however, on behalf of Evolve, the owners of Coulby Newham District Centre, Pegasus have submitted several objections to the application. Coulby Newham serves a catchment area which, in broad terms, incorporates that of the application site at Low Lane. Evolve states that:
- the health check submitted within the PERS for Coulby Newham should not be taken at face value, and consideration has not been given to the impacts of the pandemic upon the retail sector;
  - some operators at Coulby Newham have recently gone into administration and others are rationalising operations, wishing to either surrender or action break clauses in their leases;
  - whilst some vacant units may be re-let, the trade diversion impact of the proposed development will make retailers less resilient; and
  - the proportion of trade which would be diverted from the centre is likely to be higher than that set out in the PERS.
126. Notwithstanding this, however, whilst the proposals will compete more directly with existing stores within Coulby Newham District Centre and will have some impact upon the centre, the impact of the proposals upon its overall vitality and viability is unlikely to be 'significant adverse', which is the relevant policy test to be applied. These conclusions reflect a number of factors, including the fact that the centre is currently performing strongly, with a low vacancy rate. They also reflect the fact that, whilst some of the assumptions on trade draw are flawed, it is accepted that the trade diversions will be spread across a range of different stores and centres, including those located outside of Middlesbrough.

#### *Impact upon Local Centres*

127. All of the local centres listed as part of the convenience goods impact assessment, including Trimdon Avenue Local Centre, Acklam Road/Mandale Road, Acklam Road/Cambridge Road and the Viewley Centre, are not forecast to experience any impact as a result of the proposed development. This is unrealistic, given the proximity of the development to these centres and the overlap between the proposed new

floorspace and facilities within such centres. However, whilst the assessment fails to adequately consider the impact of the proposed scheme upon these and other local centres, it is considered unlikely that such impacts would be significant adverse.

#### Summary

128. The quantitative impact assessment provided as part of the PERS submitted with the application has a number of deficiencies, including in relation to the base population/expenditure and shopping patterns used, as well as the spread of forecast impacts. However, even taking these deficiencies into account, the impact of the application scheme upon Middlesbrough Town Centre and defined local centres are likely to be modest and unlikely to be significant adverse.
129. The impact upon Coulby Newham District Centre has also been under-stated by the applicant, not least given the similar catchment areas, and the extent to which it would be in competition with the proposed new floorspace, this centre is currently performing strongly, and Officers have reached the conclusion that the impact upon its vitality and viability is also unlikely to be significant adverse.

#### **Conclusions on Impact**

130. In respect of the first element of the NPPF impact test, the potential impact of the proposed development on the current proposals on the south side of Coulby Newham District Centre and the planned new local centre at Brookfield housing allocation have not been considered by the applicants. Officers have done so, and reached the view that, whilst there is potential for the application proposals to impact on or prejudice the proposed new local centre at Brookfield, the proposed new centre remains at an early stage. There is potential for the application scheme to impact upon the currently proposed investment at Coulby Newham, given the similarity of the retail uses proposed.
131. In relation to the second element, the applicants quantitative impact assessment has a number of deficiencies, and the impacts forecast upon some centres are considered to have been under-stated. However, the impacts upon Middlesbrough Town Centre and defined local centres are likely to be modest and, whilst those forecast upon Coulby Newham District Centre will be higher – not least given the similar catchment areas - this centre is currently performing strongly, the impact upon its vitality and viability is unlikely to be significant adverse.

#### **Economic Policies**

132. Given the application is for Use Class E, other E uses, that are not town centre uses, will also need to be considered. The applicant has suggested that conditions can be imposed to restrict uses within premises, however, the application has been submitted for E use class premises and needs to be considered in those terms first and foremost. The application will be considered against the relevant employment policies within the Local Plan and the NPPF.
133. Core Strategy Policy CS13 (A Strategy For the Town, District, Local and Neighbourhood Centres) sets out the retail hierarchy for Middlesbrough and aims to protect and enhance the hierarchy of vital, viable town, district, local and neighbourhood centres. Middlesbrough Town centre is identified as the main town centre followed by district centres and then local centres which are subdivided into medium and small scale centres.
134. The Council's Regeneration Policy REG12 (Employment land Allocations) allocated land for employment uses for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) uses. The changes to the Use Classes Order on the

1<sup>st</sup> September 2020 merged the former class B1 (Business) use into the new use Class E,

135. The proposed development is seeking outline consent for commercial development within Class E which now incorporates retail units, cafes and restaurants, financial services professional services, indoor sport and recreation, health services, creche and day nursery centres, offices for administrative function, research and development and any light industrial process.

136. As set out previously, the application site is outside of the defined centres set out within Core Strategy CS13 and is not within the allocated site for employment uses set out within the Council's Regeneration Policy REG12.

The April 2021 Memorandum from the applicant sets out that the development will provide a limited discount store (1256 sq. metres), General Variety Store/ Food Store (1456 Sq. metres), Coffee shop drive thru/restaurant with units 3-6 and 8-9 having no identified use but suggesting a condition restricting a convenience store use. The broad nature of the uses permitted under class E and the scale/footprint of the units proposed within the development will have an impact in terms of the potential deliverability of the existing employment land allocations which the Council have identified within Regeneration Policy REG12. Taking into account the provisions of the NPPF and Local Policy REG12 and the application site not being allocated as an employment site, the site is not considered to be sequentially preferable when considering the availability of other allocated employment sites. No sequential information has been provided by the applicant with regards to the impact on employment allocations although reference is made to the ability to control the use of the individual premises by condition. In order to prevent the scheme being contrary to the Local Plan Policy in respect of Employment Land allocation, were this application to be supported, conditions would need to be included to limit the uses within the E use classification to be non-employment uses.

### **Highway Considerations**

137. Chapter 9 of the NPPF aims at promoting sustainable transport and actively seeks the consideration of transport issues at the earliest stage of development proposals. Early consideration is to ensure that potential impacts of development on transport can be addressed, the scale, density and location of the development can be accommodated, opportunities to promote walking, cycling and public transport are identified, environmental impacts of traffic/infrastructure can be assessed and patterns of movement, parking etc. which are integral to the design can contribute to making high quality place.
138. The NPPF paragraphs 105 and 106 in summary comments that the planning system should actively manage patterns of growth and significant development should be focused on locations which are or can be made sustainable.
139. Paragraph 110 of the NPPF sets out when assessing applications for development it should ensure that appropriate opportunities to promote sustainable transport modes can be made or taken up, based on the type of development'. That safe and **suitable access to the development site can be achieved for all users** and any significant impacts from the development on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree.
140. When considering applications, NPPF paragraph 111 comments that developments 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 networks would be severe.

141. Paragraph 112 of the NPPF, in summary, establishes that applications for development should give priority first to pedestrian and cycle movements both within the scheme and within neighbouring areas and should promote access to high quality public transport services and encourage public transport uses. The NPPF paragraph 110 requires development to consider the needs of people with disabilities and how they can access the site along with creating attractive, safe and secure places which minimise the scope for conflict between pedestrians, cyclists and vehicles. Whilst ensuring efficient delivery of goods and access for services and emergency vehicles.
142. The National Design Guide paragraphs 75-77 references successful development as being dependant on a well-designed movement network that makes connections to destination, places and communities both within the site and beyond its boundaries. The National Design Guide establishes that a well- designed development should be safe and accessible to all, provides a genuine choice of sustainable transport modes and limits the impacts of car use by prioritising and encouraging walking, cycling and public transport to mitigate the impacts on air quality.
143. The Council's Core Strategy Policies CS17 (Transport Management) and CS18 (Demand Management), CS19 (Road Safety) and the Tees Valley Design Highway Design Guide apply to this outline application for a new commercial development.
144. The principle aim of Core Strategy CS17 is to deliver sustainable transport whilst reducing the need for travel. This aim will be achieved through developments being located where they will not have a detrimental impact upon the operation of the strategic transport network and by promoting alternative methods of transport other than private car and through integrated and safe systems of cycle and pedestrian routes.
145. Core Strategy CS18 (Demand Management) sets out the criteria and priorities which will be required within development proposals to improve the choice of transport options available. With this development being a major application that will generate significant additional journeys a travel plan is required to demonstrate that the strategic road networks will not be worse off as a result of the development alongside the promotion of schemes and opportunities for cycling and walking.
146. CS19 (Road Safety) aims to reduce the impact of traffic and improve safety and quality of the environment in residential and commercial areas. The policy encourages the use of speed restrictions , traffic calming measures and measures to discourage car uses and encourage other means including bus, bike and walking. Development proposals which will have a detrimental impact upon road safety will not be supported.
147. In summary of highway related policy and governments requirements for high quality design, its clear that new development needs to be well designed for public use, pedestrian, cycle and other access, with these being placed firmly as key considerations in the design of layouts of development.
148. The application is for outline consent with all matters reserved except for access, layout and scale. The proposal will create an additional 4,489 square metres of commercial floor space which includes a mixture of retail units and a drive thru located towards the northern boundary. The vehicle access will be taken off the existing roundabout that currently provides access to Jack Simon Way and Low Lane.

149. The layout design includes a central car parking area which will provide a total of 218 car parking (including 11 disabled spaces and 9 parent and child spaces) spaces and 59 cycle spaces with internal pedestrian footpath links. Servicing within the site is provided with a turning area to the west of unit 2 and to the south of the Unit 1. A Transport Statement and Travel Plan has been provided in support of the application.

150. The separate considerations around highway provisions is as follows;

#### Impact on the Strategic Network

151. In assessing the potential impact of this development proposal on the strategic highway network the information provided within the Transport Assessment provided by the applicant is processed through the Council's Aimsun model. The Aimsun model assesses the proposed highway impact of the development alongside already committed developments.

152. The results of the information having been submitted through the Aimsun model is that both Test 1 and Test 2 identifies that the development proposal will have a material impact on parts of the network. Once the overall cumulative impact of the development is included, this impact is greater over a large number of junctions e.g Blue Bell Roundabout, B1365/Stainton Way roundabout and the Newham/Stainton Way/ Lingfield Way roundabout.

153. National Highways were consulted on the proposal given the proximity of the development to the A174 and the associated slip road. National Highways commissioned AECOM to review the contents of the Transport Assessment and requested further information be included within the Transport Assessment. National Highways have issued three non-determination responses throughout the course of the application to enable the applicant to submit additional information.

154. National Highways request for information included further assessment of the following:

- the accident history on the strategic network;
- walking accessibility information to include the lack of formalised pedestrian footways around the site meaning single car trips could be higher and the isochrone plan should be updated to reflect routes pedestrians can access the site;
- clarification of the retail park trips as this differs in main report and appendices and require AM/PM peak hours and weekday/weekend assessment;
- further information on the discount food store trip generation; and
- clarification of the proposed distribution of the new trips and the impact of the proposed development on the Strategic Road Network on delay and congestion.

155. During the course of the application revised plans were sent directly to National Highways for comments and following requests by the Local Authority the final revised site plan was submitted to the Planning Local Authority in July 2022. National Highways removed their holding direction and confirmed they have no objections to the scheme subject to a pre-commencement condition that a detailed scheme for off-site highway works be provided to the Local Authority as indicatively indicated within drawing 9354 Drawing L02 Rev 28.

156. Discussions were held between the applicant and the Council's Highway Engineers to agree common parameters prior to the highway assessment being undertaken. Agreement could not be reached with regards to the likely trip rates and as such the

Aimsun model was run with two scenarios, Retail Park (Test 1) and Local Centre (Test 2).

157. The applicant's position is that a lower trip rate is appropriate as the development proposals are not for a Local Centre and will be more consistent with a retail park such as the Parkway Centre. The applicant envisages that the smaller retail units will be pods occupied by retailers such as Gregg, Subway etc and are ancillary to the main larger units on the site. The applicant's position is that appropriate conditions can be put forward to limit the operation of the units so that they cannot be used by betting shops, newsagents, vets, hairdressers, beauty salons, chip shops etc.

158. The Local Authorities position is that the location and design of the development in conjunction with the small size of the ancillary units makes the development more akin to a local centre such as Marton/Acklam shops. The view of the Highway Authority is that the small size of the supporting units (92m<sup>2</sup> each) means that they would be attractive to Local Centre type uses and that the location within a residential area creates a demand for this. Assessing the development on this basis results in a higher trip rate but is considered to be more representative.

159. There are a number of developments which the authority is aware of and need to be included within the modelling assessment in order to ensure that the model output provides a realistic representation of the operation of the network. The applicant's position is that the development should be considered in isolation, which is not considered appropriate as it assumes that no other development occurs and therefore will underplay the impact of development activity on the network.

160. The highway works present a range of impacts between the applicant's position (test 1 – Retail Park) and the authorities position (Test 2- Local Centre). It is agreed that not all trips associated with the development will be new to the networks and development traffic will be made up of New trips (20%), Pass by trips (40%) and diverted trips e.g trips already on the network which may change route to call in as part of the journey (40%). This is a nationally recognised approach and is consistent with other retail schemes.

161. The Aimsun assessment has tested the impact of the development traffic on the basis in the 2025 future year scenario as this is when the development is projected to be completed. The table below sets out the level of traffic generated by the proposal ;

	TEST 1		TEST 2	
	AM	PM	AM	PM
New	23	54	59	100
Pass-By	47	108	119	201
Diverted	47	108	119	201

TOTAL	117	270		297	502
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162. The modelling reports on three levels, Network wide, Journey time along routes and individual junction assessments. Taking each in turn ;

#### Network Wide

163. When assessing the proposal in isolation the proposed development would give rise to an overall network delay of no more than 3.3s to 5.1 s per Km during the AM and PM peak periods respectively. Such a level of increase is not likely to be considered a material change to overall networks delay and network capacity. However, when assessed cumulatively, the result show that the proposed development, alongside other cumulative development, would give rise to an increase in delay of 7.2s and 5.7 s per Km during AM and PM peak periods, respectively, resulting in a maximum increase delay of 17.4 %.

164. During the modelling period the network is already predicted to operate close to or above capacity and as such the addition of traffic associated with the proposed development and the cumulative development sites may give rise to more noticeable impacts across the network.

#### 165. Journey Time Along Routes

Journey times along key routes within the subnetwork for the modelled area are assessed against those without the development in place. The impact of development and number of routes affected is set out below;

	Test 1		Test 2		Cumulative	
Impact	Material	Potentially Severe	Material	Potentially Severe	Material	Potentially Severe
AM Peak	1 route	0	1 route	0	4 routes	1 route
PM Peak	0	0	2 routes	0	2 routes	0

166. Assessment and analysis of the model identifies that the primary areas of congestion/delay and concerns are seen in the following locations;

Blue Bell Roundabout – delays due to the increase in demand using the roundabout and the extensive queuing and congestion as a result of the increase

B1365/Stainton Way roundabout – Eastbound approach to the roundabout from Stainton Way will see the majority of the impact at this junction due to capacity issues at the roundabout and the link capacity of the northbound B1365.

Newham Way/Stainton Way/Lingfield Way roundabout - due to issues with link capacity travelling northbound, traffic frequently blocks back towards Stainton Way which results in significant queueing and congestion on all approaches

#### Individual Junction Assessment

167. In order to understand the impact of the proposed development on the modelled area, an initial screening exercise was undertaken. This exercise identified areas of the model where the proposed development would give rise to an impact of 30 two-way development-generated trips or more **and** an increase in delay for vehicles of 15% or more.

168. The assessment concluded that there were 18 junctions that required further assessment and analysis in detail. The assessment demonstrated that Test 1 (Retail Centre) a potentially significant impact at 1 of the assessed junctions, Test 2 ( Local Centre) and cumulative impact resulted in a potentially significant impact at 8 of the junctions assessed.

169. The volume of information means it is difficult to provide full reporting of the output. However, in summary, the Aimsun modelling demonstrates that the proposed development (either test 1 or Test 2) will have a material impact on the operation on parts of the network. The main impacts of the development are seen in the area surrounding the Blue Bell roundabout, the Sandy Flatts Lane Junction then heading south to the B1365/Stainton Way roundabout. When the model tests the cumulative impact of the development, of which this scheme is one, the additional traffic gives rise to significant impacts at a greater number of locations across the network.

170. The applicants have put forward proposed mitigation schemes at two locations. These mitigation schemes have not been agreed by the Highway Authority for a number of reasons including that they do not mitigate the harm created by the development, they are not suitable for implementation due to the local highway environment and that they have been assessed using traditional empirical junction software outside of the Aimsun model so do not accurately represent the operation of the network with them in place.

171. Development proposals have been demonstrated through the use of the authorities strategic Aimsun model to have a detrimental impact on the operation of the highway network. This harm manifests itself as increases in journey time along key routes, increases in queuing and junctions operating above their capacity. The development proposals do not offer any funding package nor mitigation works to address this harm and as such will have an unacceptable impact on the operation of the highway network.

172. This is contrary to local and national transportation and planning policies including the NPPF and Local Policies CS4(g) and CS17.

#### Sustainability of the site and mitigation measures

173. As detailed previously in the report, the development site itself is surrounded on all sides by main highway infrastructure that creates severance from the adjacent residential areas. With the site being located to the south of the A1044 Low Lane/Jack Simon Way



roundabout and the main highways being the A1044 to the northern half of the site and A174 and A174 Eastbound exit slip road to the southern half of the site. These roads are set out as dual carriageways and carry high volumes of traffic. By their nature and associated classification (A classified) these routes are strategic arterial routes whose predominant function is the movement of traffic.

174. Residential areas exist to the north of the A1044 and south of the A174 as such these routes create a high level of severance between residential areas and the proposed development for those arriving by non-car travel.
175. In assessing the sustainability of the proposed development, the supporting information has been based upon accessibility isochrones which use a very simplistic distance audit. No assessment of the provision or quality of any infrastructure to demonstrate that routes are viable or attractive has been carried out. Therefore whilst a number of residential properties are theoretically within nationally recognized walking/cycling distances the infrastructure to enable these journeys to occur is either very poor or does not exist.
- Examples of this are;
- Between the roundabout junction of Stainton Way/Low Lane there are no footways/cycleways or crossing points meaning pedestrians/cyclists travelling from Stainton/Hemlington cannot access the site by anything other than by car.
  - For those who may arrive from Hemlington via the overbridge over the A174 onto Low Lane will need to cross multiple traffic lanes a number of times including Low Lane.
176. Given the local environment is dominated by vehicular infrastructure and has very little non-motorised infrastructure this generates a hostile environment for pedestrian and cyclists to the detriment of highway safety and sustainable travel.
177. Taking these factors into consideration, the assessment provided within the Transport Assessment on non-car accessibility is considered to not be realistic with no mitigation or supporting works proposed to encourage sustainable travel. The lack of proposed pedestrian/cycle infrastructure to the site for existing residents will result in residents from Stainton Village and Hemlington being heavily reliant on accessing the proposed development by car.
178. The proposed scheme is considered to be fundamentally flawed in this regard given that sustainability, access via foot and cycle are key aspects to modern, well designed, high quality developments which are advocated by national and local planning policy, guidance and best practice. Instead, the development is the opposite, as it would be heavily reliant and has been designed towards the use of the private car, which, in this segregated piece of land is considered to significantly compound these matters. Contrary to the sustainability principles of promoting alternative modes of transport, set out in paragraphs 105 and 106 of the NPPF and the Council's Core Strategy policies CS17(g) and CS18 (e).

#### Parking/cycle provision & parking layout

179. The parking provision for the site is detailed as 218 car parking (including 11 disabled spaces and 9 parent and child spaces) spaces and 10 cycle spaces. The Tees Valley Design Guide requires, for a commercial development of this scale (excluding the drive thru element), between 247 and 286 car parking spaces based on a proposed flexible use for Unit 2, which could be either all or part food retail as per the submission details. These figures do not include any provision for the drive-thru.

180. The submission has provided no assessment to demonstrate the proposed level of car parking is adequate. It is acknowledged that linked trips between units will occur should inadequate levels of parking be provided the operation of the internal layout of the site will become increasingly inefficient and become more congested as customers park randomly or have to circulate repeatedly to look for spaces. Such a situation will result in vehicles stacking back out onto the adjacent highway network. In turn this internal congestion within the site will also prevent servicing of the units occurring. The parking provision also needs to be considered against the lack of sustainable travel alternatives and the severed location of the site from the nearby residential properties, which further increases dependence on the private car, thus increasing the demand/number of parking spaces required.
181. It is considered that the internal layout of the proposed development has a number of deficiencies which will affect both users of the proposed development and highway users on the adjacent network in terms of both safety and free flow of traffic. The car park layout is central within the site with units positioned around the perimeter. There is one vehicle access point from the roundabout off Jack Simon Way and Low Lane.
182. The internal layout of the car park has the junction to the drive thru just within the site and car parking spaces beyond this junction, which are accessed directly from the main internal access road. This leads to a situation where vehicles entering the site are mixing/being confronted with other vehicles which are either stationary, very slow moving as motorists hunt for spaces and/or sharply braking and maneuvering into/out of spaces to the detriment of safety and free flow of traffic.
183. The main block of car parking is served from the end of this internal access road with no alternative entry/exit and as such the aforementioned traffic conditions are likely to detrimentally affect the ability of vehicles to easily enter and exit the site. Coupled with the limited available stacking space within the site (the space required for vehicles to clear the roundabout), such a situation would again lead to the likelihood of queuing traffic being displaced out onto the adjacent public highway.
184. As part of the submission documentation there has been no evidence provided to demonstrate that sufficient stacking and circulatory capacity is available within the site (particularly the drive-thru) to ensure that the traffic from the development will not spill out onto the adjacent highway and impact on the free flow of traffic. As servicing vehicles move along the same routes as customers, any stacking will include service vehicles. Whilst it is noted that service vehicle access could be controlled by site management to be at times when the premises are closed, in practice this doesn't always happen as late vehicles still need to offload and there is no HGV stacking area which wouldn't require access through the car park.
185. The Tees Valley Design Guide advises that the proposed development should provide 59 cycle spaces. The proposed cycle provision consists of 54 Sheffield stand spaces at 750mm centres, which is 5 spaces under the Design Guide requirements. Alongside the under provision of cycle spaces, the location of the cycle spaces is within an island arrangement surrounded by car parking and the highway access road away from the retail units, which will not encourage the use of the facility, particularly those wanting to cycle with children. It by no means suggests sustainable travel has been made a priority in this design and appears to be an afterthought. The proposal does not comply with the cycle space requirements of the Tees Valley Design Guide and is therefore considered not to provide suitable, desirable or adequate alternative sustainable

transport options, contrary to the principles of paragraph 112 (a) and (c) of the NPPF and Core Strategy Policy CS17, as it would place almost complete dependence on the private car.

#### Drive- thru unit

186. This outline application includes consideration of the proposed layout alongside the access arrangements. The proposed layout for the site identifies a drive-thru unit to the north of the application site immediately adjacent to the new vehicle access junction off the Jack Simon and Low Lane roundabout. The councils Highway Engineers have raised concerns regarding the location of the drive thru unit and the associated parking / access layout taking into account the vehicle stacking and queuing capacity within the site.
187. Presently the authority are aware and have tried to address, on-going issues with the McDonalds drive thru at the Parkway Centre. The combination of the restricted internal site layout and number of vehicles entering the site is greater than the available throughput (time for customers to choose what they want, place orders, pay then collect). As a result of this vehicles are regularly queuing out of the site, onto Dalby Way and back to Stainton Way, impacting on the operation of Stainton Way and adjacent junctions. The proposed scheme is comparable to this and there are significant concerns that the proposed scheme will replicate this situation with the following outcomes;
- Vehicles queuing to enter the drive thru area will obstruct servicing traffic accessing the service yard for unit 2.
  - These vehicles will also obstruct access into/out of car parking associated with the drive thru and unit 2, this rendering the parking unavailable.
  - Should queues extend further back into the internal junction larger swathes of car parking will be inaccessible with significant potential for queues to quickly escalate back to Low Lane as drive thru traffic becomes mixed with other development traffic and general traffic on the adjacent network.
188. Generally the internal layout is poorly designed with a number of conflicts between servicing traffic, access lanes and car parking bays. Due to inadequate servicing arrangements and the layout of car parking the internal stacking space is limited. It is this internal stacking which will enable vehicles to efficiently enter, park and leave the site. As presented the scheme will;
- Reduce the available car parking within the site due to internal queuing and servicing
  - Reduce the ease at which traffic can clear the adjacent highway network
  - Introduce road safety issues internally from vehicles undertaking sudden maneuvers or being placed in conflict with maneuvering servicing traffic
  - Introduce road safety issues on the immediate highway network from traffic blocking back out of the site and disrupt the free flow of traffic on the highway.
189. As identified above, the internal layout of the car parking / cycle parking and location and design of the drive-thru unit is considered to have a detrimental impact on the highway network with no infrastructure mitigation measures proposed. The proposal is considered to be contrary to local and national transportation and planning policies including paragraph 110 of the NPPF and Core Strategy Policies CS4(g) and CS17.

## Site Layout

190. The proposal is for outline consent with all matters reserved except for access, layout and scale. The internal layout of the site places the priority of the design on those who arrive by car. This is demonstrated by the significantly limited provision within the site of pedestrian and cycle facilities and through the lack of a safe and established pedestrian and cycle routes into the proposed site.
191. The internal site layout provides limited pedestrian and cycle facilities. The internal site design shows footpath areas to the front of the units and across the main car park area but these internal footpaths are not interlinked to each other and are narrow. The cycle facilities provided are remote from the main building entrances and have been placed within an island area located in close proximity to the main vehicular entrance and moving traffic/vehicles. The design layout has failed to consider the various needs of the cycle users in terms of provision for staff and customers.
192. In relation to the lack of safe and established pedestrian and cycle routes into the proposed site this has been mentioned previously within the report. Both pedestrians and cyclists accessing the site or walking/cycling around the site would have to cross multiple roads/access lanes and car parking to access the site.
193. Both the proposed site layout and the car parking layout for the development is vehicle dominated and has not been designed to give priority to pedestrian and cycle movements within the site or the neighbouring areas. The overall site layout design is considered to be car dominated. In addition, the location of cycle storage and lack of connectivity for the pedestrian footpaths means the proposal is not considered to provide a safe, secure and attractive development that minimises conflict between pedestrians, cyclist and vehicles. The proposals is therefore contrary to the guidance set out in paragraph 112 of the NPPF, National Design Guide paragraphs 75, 76 and 77 and Core Strategy Policy CS17.

## Layout and Scale

194. The NPPF paragraph 126 sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 130 of the NPPF requires new development to function well and add to the overall quality of the area and be ‘...visually attractive as a result of good architecture layout and appropriate and effective landscaping’.
195. The National Design Guide paragraph 41 references well designed places as responding not only to the features within the site and the surrounding context beyond the site boundary with consideration needing to be given to layout, form, scale and appearance alongside the views into and out of the site and how the development functions.
196. Core Strategy Policy CS5 (Design) and Core Strategy Policy DC1 (General Development) require all new development to be a high quality design in terms of layout, form and contribution to the character and appearance of the area. Core Strategy CS5 (c) requires new development to be well integrated with the immediate and wider context with CS5 (f) requiring development to enhance both the natural and built environment.
197. Although the plans are only indicative with the final design and materials of the units being subject to a reserved matters application, the scale and layout of the development are a material planning consideration, which can be assessed.

198. The existing site is an area of formerly farmed grassland that divides the new housing and the A174. The site has established trees and hedgerows around the edge with the central area being grassland and has some positive visual contribution to the character of the wider area.
199. The layout of the site is constrained given the only access point is from the roundabout junction to the north of the site and the existing highway network which surrounds the boundaries of the site. The site layout comprises units positioned around the perimeters of the site in the form of two larger units towards the western and eastern boundaries and smaller units including a drive-thru located towards the northern and southern boundaries. The car park area for the units is centrally located with service area access provided for the two larger units.
200. The development site area is 1.7 hectares with the total commercial area provided for the units being 4,489 square metres. The scale of the proposed development is considered to be more in-line with the floor space provided within a district centre rather than a local centre. The scale of the proposed commercial development will mean it is highly prominent within the street scene, particularly given the commercial nature of the units within what is establishing itself as a predominantly residential area, albeit with a main road associated. The segregation of the development site from the residential developments will ensure the commercial development is even more prominent and given the scale and number of units proposed within the overall development there are limited landscape options to soften the visual appearance. At many places around the site, the built form and associated hardstanding would abut or very closely align with the site perimeter and landscaping would be very limited. The site would therefore go from an edge of settlement site with a semi-rural character to be a very urbanised character, and with the rear of buildings being particularly prominent to the surrounding road network, would further add a harshness to the overall character.
201. The downward slope of the site towards the A174 has been considered in terms of whether the lower site levels would assist in reducing the visual impact of the development. However, given the scale and position of the units around the boundaries of the site and the commercial nature of the units, they will still be visually dominant when viewed from Low Lane and the surrounding area.
202. Alongside the visual impact of the units to the appearance of the street scene, the internal site layout has a dominant central area of hard standing for car parking areas alongside the footpaths and footprint of the proposed units. Whilst some of the trees and hedgerows will remain, the level of car parking required for the scale of the commercial units within the site is considered not to provide a positive contribution to the existing appearance/character of the street scene, contrary to Core Strategy Policy DC1. The scheme has failed to take the opportunity to green the internal areas of the site and reduce the extent to which it contrasts with the character of the existing site and surrounding area.
203. The scale, layout and location of the proposed development will be dominant within the street scene and out of character with the existing appearance of the area which means it will not be well integrated with the immediate and wider area, contrary to the NPPF paragraph 126 Core Strategy Policy CS5(f) and DC1.

### **Place Making**

204. The NPPF places great emphasis on design within Chapter 12 'Achieving Well-Designed places' with the National Design Guide emphasising the importance of creating high quality building and places.

205. Paragraph 126 sets out the principle of high quality, beautiful and sustainable buildings and places as being fundamental to the planning and development process. A key aspect of good design highlighted within paragraph 126 is 'sustainable development' to create better places in which to live and work which helps make development more accessible to communities.
206. Within paragraph 127 there is an emphasis on a clear design vision which should be developed with local communities and be grounded in an understanding and evaluation of each area's defining characteristics.
207. Specific criteria is set out within paragraph 130 of the NPPF as to the key elements which should be considered in both planning policies and decision making in order to achieve well designed places. Each criteria is considered relevant to this development proposal:
- a) *Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) *Are visually attractive as a result of good architecture, layout and appropriate landscaping;*
  - c) *Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
  - d) *Establish or maintain a strong sense of place, using arrangements of streets, spaces, building type and materials to create attractive, welcoming and distinctive places to live, work and visit;*
  - e) *Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) *Create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*
208. The revised 2021 NPPF has reiterated design as a key reason for the refusal of an application. The NPPF in paragraph 134 comments that development should be refused where it is not well designed and fails to reflect local and government design policies and codes and supplementary planning guidance.
209. In determining planning applications, paragraph 134 of the NPPF sets out that in approving development proposals significant weight can be given to:
- a) *development which reflects local design guides and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides or codes ;*
  - b) *outstanding and innovative designs which promote high levels of sustainability, or raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of the surroundings.*
210. The proposed development, with its poor access, poor layout, inherent lack of positive character and failure to integrate with its surroundings taking into account lack of any meaningful internal planting and the proximity of buildings to the site boundaries, is considered to notably fail all of the design based criteria of paragraph 130 of the NPPF which is considered should have notable weight if any genuinely positive development is to be achieved.

211. The National Design Guide introduced in January 2021 forms part of the Governments planning practice guidance and re-emphasises the importance of well-designed places to the function of businesses, shops and homes. The National Design Guide establishes ten integrated characteristics with the aim to provide social inclusion and a community. Reference within the National Design Guide to well-designed places is not solely relating to materials and appearance but the layout (masterplan), form and scale of buildings, paragraph 20.
212. The Council's Core Strategy Policy CS4 is consistent with the NPPF and National Design Guide in terms of place making and good quality urban design principles. Specifically relevant to this outline application is policy CS4 (i) which requires new developments that 'will attract large numbers of people in those locations to be accessible by sustainable forms of transport' and should 'contribute most to achieving social inclusion'.
213. This outline application is for all matters to be reserved except layout which can be considered as part of the development. In terms of place making, the proposal has been assessed in relation to how the site layout and design integrates with the surrounding housing areas, but also a key consideration is the impact the scale of development will have on delivering the Local Plan and the community facilities proposed as part of the Brookfield allocation. The associated Stainsby Masterplan (Stainsby being the new name for Brookfield) sets out further details on how the allocated site will be delivered.
214. The application site is constrained in terms of connectivity with the existing housing due to the location of the highway network that surrounds the site. The lack of connecting cycle and footpath links and easy access into the site from the surrounding housing developments, particularly Hemlington, Stainsby and to the east along Low Lane to access the facilities within the development means the site will be car dependant. The lack of well-designed access routes fails to accord with the easy accessibility and 'movement' criteria that forms part of the National Design Guide which aims to promote safe access for all and social interaction.
215. The National Design Guide comments on how development should consider the context of the location of the development and how these integrate with the surrounding so they relate well to them. The National Design Guide does promote sustainable places with mixed uses for sites so commercial development can be located near to residential development. However, paragraph 113 of the National Design Guide comments theses mixed uses should be designed so that they are integrated and are ' .. within walking and cycling distance on accessible routes to local homes and other facilities'. The segregated location of the site from the existing residential housing in the immediate area (Brookfield, Low Lane, Hemlington and Stainton) and the current site layout provides no safe and accessible walking/cycling routes into or out of the site.
216. The Stainsby Country Park and Masterplan adopted in June 2022, sets out the development of the area located to the north and north-west of the application site and provides the vision for the allocated site, the policy of which details the provision of housing, community facilities including a school, local centre and country park as set out within Housing Local Plan Policy H21.
217. The Masterplan provides the vision for the area and can be given significant weight. Section 5.0 of the Masterplan addresses the creation of a Central Hub within the wider development. It provides for a local centre and school within the centre of the housing estate, and is seen as integral to providing a sense of place and community within the Stainsby development and key to creating a quality living environment. The sustainability

of Stainsby is increased by locating the school and the local centre within the centre of the site, and the proximity of the facilities promotes linked trips acting as a central hub. The design and layout of the Stainsby Masterplan reflects the NPPF guidance within paragraphs 126 and 127 that set out well-designed places should be sustainable with a clear vision and developed through the community. The scale of the two larger units and six smaller units within the application site would undermine the ability to provide the local centre proposed within the Stainsby Masterplan and the ability to deliver a sustainable well designed and integrated community. The proposal is considered to prejudice the ability to successfully deliver the allocation as set out in policy H21.

218. The proposed development is considered to therefore not accord with the sustainable design principles set out within paragraphs 126 and 127 of the NPPF or the plan-led design aims for integrated and community based development principles set out within the National Design Guide. The layout and form of the proposed development is not well integrated with its surroundings, including the residential areas it purports to serve, and the lack of connectivity to the residential houses and inability of the layout to provide linked trips to other community facilities means the proposal is contrary to the Council's Core Strategy Policy CS4 and Housing Local Plan policy H1 in this regard.

### **Assessment of the Social, Environmental and Economic Sustainability of the Development**

#### **Social Sustainability**

219. The social objective of sustainable development set out in paragraph 8 of the NPPF relates to supporting strong, vibrant and healthy communities by fostering a well-designed and safe built environment with accessible services to reflect current and future needs and to support communities' health, social and cultural well-being.
220. The NPPF paragraph 92(a) sets out that policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meeting between people which can be achieved through mixed-use developments, strong neighbourhood centres and street layouts that allow easy pedestrian and cycle connections within and between neighbourhoods alongside active street frontages.
221. Section 12, Paragraph 130 of the NPPF Achieving Well Designed Places emphasises that planning policies and decisions should ensure that developments establish a strong sense of place and a distinctive and attractive place to work and live. Paragraph 130 of the NPPF emphasises the requirement for development to create places which are safe, inclusive and accessible and do not undermine quality of life or community cohesion and resilience.
222. The Government's National Design Guide (2021) and the National Design Code provides guidance on the criteria which should be considered in terms of creating high quality buildings and well-designed places that are socially inclusive. The National Design Code is part of the Government's planning practice guidance is relevant to this proposal.
223. The National Design Guide sets out within paragraph 43 that well designed new development should be integrated into its wider surroundings, physically, socially and visually. Paragraph 119 states that good design promotes social inclusion by creating balanced and mixed neighbourhoods that are suitable for all and that new development should maximise the potential for social integration through layout, form and appearance. Specific reference is made within paragraph 119 to:



*‘...avoiding features that could create actual barriers or perceived barriers, or contribute to segregation, both within the development and with its surroundings’.*

224. The aims of Core Strategy Policy CS13 (d) is to encourage convenient and accessible shopping facilities to meet day-to-day needs of the residents and to promote social cohesion. Policy H1 requires developments outside of strategic locations and allocated sites to be sited within urban areas where they are accessible to the communities they serve and satisfy sustainable development. It is also recognised within Policy H1 that such developments should also contribute to achieving spatial vision and objectives and that it contributes to and is fully integrated into a sustainable transport network.
225. The proposal is for outline consent with all matters reserved except for access, layout and scale and therefore the layout and design of the proposed development is a material consideration.
226. Consideration has been given to whether the current site layout and design accords with the social sustainability aims set out within the NPPF, National Design Guide and the Council’s Local Plan in relation to the existing and proposed housing developments.
227. The application site is an unallocated site within the Local Plan and falls outside of the defined retail hierarchy of centres set out in Core Strategy CS13. The application site is not included within the strategic sites identified within the Local Plan Spatial Strategy (Policy H1) or within any non-strategic allocations.
228. Given the site is unallocated, consideration has been given to whether the site provides a well-designed and safe built environment, with accessible services that accords with the social cohesion requirements set out in the NPPF, National Design Guide and Local Plan policies.
229. The application site is an area of grassland with highway networks located around the perimeters of the site. The A174 slip road is located along the southern and eastern boundaries, with the B1380 dual carriageway located around the remainder of the site. The highway network currently provides a physical barrier and segregates the application site from the housing developments along Low Lane, Brookfield, and to the south at Hemlington and Stainton.
230. There are no pedestrian/cycle links from the existing housing to the east along Low Lane into the application site or from the existing housing to the south at Hemlington and Stainton. The site layout plan (drawing 9354-LO2 P21D) provides a section of footpath linking the site to an existing footpath and uncontrolled crossing point located on the B1380 to the west of the site.
231. The section of the B1380 where the crossing point is proposed is a dual carriageway and positioned within close proximity of the roundabout junction. The existing unmanned crossing point currently provides the only pedestrian/cycle access to the existing bus stop on the B1380, given the footpath ends at the bus stop.
232. The unmanned crossing point was not designed or intended for the potential volume of pedestrians/cyclists that would be associated with a commercial development of this nature and raises highway safety concerns given the location of the footpath crossing to the roundabout and the fact four lanes of traffic (A174) will need to be negotiated. The location of the crossing is considered not to provide a safe, attractive or accessible

sustainable pedestrian/cycle link between the application site and the housing development at Brookfield and Stainton for a development of this scale.

233. Furthermore, the proposed design of the pedestrian and cycle access provides no continuous and safe footpath/cycle links to the housing located to the south of the A174 at Hemlington and Stainton.
234. The Toucan Crossing proposed to the east of the Jack Simon Way/ Low Lane roundabout will assist in providing some limited pedestrian access from the existing housing at Brookfield. However, given the location of the crossing and the site it will mean crossing multiple traffic lanes a number of times to access the application from the existing housing developments to the east along Low Lane and from Hemlington.
235. The Design and Access Statement references the bus service provision for the nearby residents to access the development, setting out there are two services the 13 and 13A providing two services and hour. Each of these services stop just before 6pm and, given the intended operators of the commercial units and the drive thru facility will be opening beyond 6pm, there will be a proportion of the staff and customers that will be car reliant given the lack of safe pedestrian and cycle provision provided. Bus users accessing the site from the south will be required to cross the uncontrolled crossing with the aforementioned highway safety issues.
236. The NPPF, National Design Guide and the Council's Core Strategy Policy CS13 (d) requires new development to be designed to ensure healthy, inclusive and safe places which promote social interaction. As identified within paragraph 119 of the National Design Guide, well designed developments should avoid physical and features that create actual barriers or perceived barrier or contribute to segregation both within the development and with its surroundings.
237. The location of the application site is physically segregated from the existing housing developments by the existing highway network. The combination of the physical separation and the lack of connectivity to the existing housing within the area has resulted in the development design providing no social cohesion with the existing communities and is considered to be contrary to paragraphs 8, 92(a) and 130 of the NPPF, National Design Guide and the Council's Core Strategy Policy CS13 (d).

#### Environmental Sustainability including Ecology and Biodiversity

238. Environmental sustainability is an objective set out within paragraph 8 (c) of the NPPF. The NPPF sets out that development should protect and enhance the natural, built and historic environment, including making the most effective use of land, helping to improve biodiversity and minimising waste and pollution.
239. NPPF paragraph 180 (a) establishes that planning permission should be refused where there is significant harm to biodiversity from the development and this cannot be adequately mitigated or compensated.
240. NPPF paragraph 180 (d) sets out that developments which primarily support biodiversity should be supported alongside applications where opportunities exist to improve biodiversity in an around development sites and these have been integrated as part of the design, especially to secure biodiversity net gains.
241. The Government's National Design Guide references within paragraphs 90 and 91 the importance nature provides to the quality of place, people's quality of life and is a crucial component of well-designed places. The National Design Guide references that natural

features such as landscaping and trees should be integrated within development to support and enhance biodiversity, alongside providing attractive places for individuals and to promote well-being and social inclusion.

242. The Council's Core Strategy Policy CS4 (h) is aligned to the NPPF guidance by setting out that new development proposals should make the most effective use of land, with priority given to development on

*'....previously developed land and ensuring there a sufficient supply of land of a suitable quality in the right locations to meet the development needs of the people of Middlesbrough.'*

243. Policy CS4 (j) references the importance of protecting biodiversity and geodiversity assets, wildlife species, natural habitats, landscape character, green infrastructure within and outside of Middlesbrough and where possible such assets should be enhanced.
244. The application site is an unallocated site within the adopted local plan. The site is an area of undeveloped grassland that would have historically been farmland. A preliminary Ecological Survey and an Arboricultural Impact Assessment have been submitted in support of the application. The Ecological Survey concludes that the site is of a low conservation standard with no suitable environments for protected species with no ponds being within 250 metres of the site and the surrounding highways limiting any potential for dispersing or foraging newts to be present.
245. The Tees Valley Wildlife Trust has considered the submitted ecology report and confirmed that the site has a low value having been intensively farmed (cropped and sprayed) over a number of years, advising that the habitat is of a low quality and it is very unlikely any protected species are present.
246. The preliminary Ecological Survey identifies the dominant central area of the site as being an area of former arable planting with hawthorn hedging around the eastern and western boundaries of the site and a variety of trees along the southern boundary, which is considered to provide some biodiversity value to the area. The Ecological Survey has provided no assessment of the biodiversity value of the site against the DEFRA Metric which is encouraged as part of the NPPF guidance. The LPA therefore have no specific assessment to consider in regards to impacts on biodiversity although it remains necessary to consider this aspect in line with para 180 of the NPPF. The councils consultee (Tees Valley Wildlife Trust), having assessed the submitted ecological information, considered that there are no biodiversity constraints on the sites development. Whilst this is noted, the site would change from an area of natural / previously farmed land to one mainly covered by tarmac and buildings. Even though the site has limited biodiversity value under para. 180 of the NPPF requires biodiversity net gain to be achieved. Peripheral planting already exists and any mitigation would therefore need to be compensated off site. Given the low ecological value of the site and limited biodiversity value, it is considered providing compensation off site is an acceptable solution although would need to be informed by a more detailed assessment written into a S106 Agreement were permission to be granted.
247. The Arboricultural Impact Assessment references the removal of a group of hawthorn hedges and two trees identified as Group 23 and a small section of mixed hedge with a self-set ash and poplar identified as group 22 with pruning works being required to 6 individual trees within the site and 2 groups. The Arboricultural Impact Assessment was undertaken in August 2020 and is valid for a year so a further survey would be required prior to any works being undertaken.

248. The site has not been included within the adopted Local Plan as an area of public open space or as forming part of the existing and proposed green links, mainly due to the site being segregated by the highway and its unsustainable location. Visually the application site provides an area of grassland with established hedgerows/trees around the perimeter of the site and forms a landscaped area between the A174 strategic network and the residential housing development. The position and scale of the grassland area and the established tree and hedges is considered to visually contribution to the overall natural environment within this area.
249. The site layout design will retain the majority of the existing ribbon of trees located along the southern boundary of the site which are outside of the red line boundary and the majority of the existing boundary hedgerows. Core Strategy Policy CS4 (j) requires new development to not only protect biodiversity and landscape character, but sets out a requirement for these assets to be enhanced. The proposed site plan provides no additional landscaping for the hedgerows and natural biodiversity lost within the site. Visually the site layout provides large scale buildings around the perimeter of the site with parking located centrally. The scale, height and location of the units will be highly visible and dominant.
250. The internal layout of the development site provides limited areas of landscaping/grass to the sides of parking bays. No consideration has been given to the requirements of the National Design Guide to integrate natural features such as landscaping and trees throughout the development to support and enhance biodiversity, alongside providing attractive places for individuals and to promote well-being and social inclusion.
251. In view of these matters, the proposal is considered not to have a significant impact on any protected species within the site. However, the site is an established grassland area which is considered to contribute to the amenity value and character of the area. Rather than enhance the natural and built environment, the overall scale, height and positioning of the units, alongside the levels of hard standing within the site, means the proposal is considered to fundamentally alter the existing green open landscape character of the area of this section of Low Lane. The proposal is therefore considered to be contrary to paragraphs 8 (c) and 180 of the NPPF, paragraphs 90 and 91 of the National Planning Guidance and Core Strategy Policy CS4 (j).

#### Economic Sustainability

252. The application is for a number of units, with a total commercial floor space of 4,489 square metres, falling within Use Class E. The applicant has subsequently confirmed the intended users for some of the units, which are divided into two large food and variety/foodstores, 6 individual commercial units and a drive-thru. Whilst it remains unclear what the intention is for the 6 commercial units, the proposal appears to be for small ancillary units that are akin to those found within a local centre. However, given the broad definition of Class E, consideration will also be given to other employment uses within the context of the policies in the Local Plan and the NPPF.
253. NPPF paragraph 8(a) sets out the economic objectives of sustainable development, with the aim to build a strong, responsive and competitive economy. The NPPF sets out this should be achieved by ensuring sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved activity and by identifying and coordinating the provision of infrastructure.
254. NPPF paragraph 81 identifies that planning policies and decisions should help create conditions where business can invest, expand and adapt with significant weight placed

on the need to support economic growth and productivity taking into account local business needs and wider opportunities for development.

255. The guidance within paragraph 82 states that planning policies should set out a clear economic vision and strategy that positively and proactively encourages sustainable economic growth, having regard to other Local Industrial Strategies and other local policies for economic development and regeneration. In addition, policies should identify strategic sites for local and inward investment to match the strategy and to meet the needs over the plan period.
256. NPPF Paragraph 86 states that planning policies should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption. Planning policies should define the network and hierarchy of town centres to promote their long-term vitality and viability. Paragraph 86 (b) states planning policies should define the extent of town centres and primary shopping centres and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre.
257. Core Strategy Policy CS4 (a) requires all new development to contribute to achieving sustainable economic development to support efficient, competitive and innovative business, commercial and industrial sectors.
258. Core Strategy Policy CS7 aims to support and encourage employment opportunities that assist in delivering economic prosperity and developing Middlesbrough's role as part of the heart of a vibrant and prosperous Tees Valley City region. The aim of the strategy is to focus employment development (that previously fell within use classes B1, B2 & B8) within key employment sites such as Greater Middlehaven, Riverside Park, Greater Hemlington and Middlesbrough Town Centre.
259. Within the criteria of Core Strategy Policy CS7, development outside of these identified locations will require a sequential test. Priority will be given to those sites that utilise previously developed land and will contribute to the implementation of the economic strategy and be of a scale and nature appropriate for the location.
260. The Council's approach to development proposals that support the town centre economy is set out in Policy CS13. This sets out a hierarchy of centres where town centre uses should be located. To support the economic sustainability of our centres, a sequential approach is applied for relevant uses not within these centres, or otherwise in accordance with the Local Plan (see Retail Policies and Sequential Test/Impact Assessments section, earlier within the report).
261. The Housing Local Plan Development Policy H5 states that on land to the west of Brookfield (Stainsby Hall Farm and Stainsby Hill Farm) will accommodated 1,650 dwellings and will be developed to create a mixed and balanced community of a high quality design. In addition to the residential use the development will include a primary school, local centre, country park and local park, and a linking spine road to be completed by 2025.
262. Policy H21 provides further details on the scale and nature of the development proposed as part of the Brookfield allocation. It includes reference to the provision of a local retail centre being appropriate with the school and the local centre being positioned centrally within the site to maximise the accessibility for future residents and to provide a high quality scheme. Figure 3.2 of the Policy H21 identifies the community facilities being provided within the heart of the site to the west of Hesleden Avenue.

263. The fundamental issue in terms of this proposed development is the location of the application site. NPPF paragraph 82 sets out that local planning policies should identify sites which are considered appropriate/suitable for economic sustainable growth. The site is unallocated, and is not identified either within Core Strategy Policy CS13 for town centre development.
264. The overall scale of the footprint of the units and the known intended users of (particularly) the larger retail units, one of which has been indicated as being Lidl, means the proposal is considered to extend beyond the immediate catchment area for the housing allocation at Brookfield and is therefore beyond the scale of retail development that would be required to support the Brookfield Housing allocation.
265. The Planning Economic and Retail Statement submitted by the applicant in support of the application confirms the wider catchment area to be served by the development in paragraph 2.9 commenting :-
- ‘ ...the western areas of Middlesbrough to the north of the A174 including Trimdon and Kader Wards and the new development in the Brookfield Allocation.’*
266. The overall scale and the nature of the development is considered to be more in line with the level of a district centre and is beyond the scale and nature considered appropriate within an unallocated site outside of a defined centre and is considered contrary to Core Strategy Policy CS13.
267. The Council's Local Plan Policies CS4, and CS13 reflect the NPPF guidance set out in paragraph 82 requiring a clear economic vision and strategy for sustainable economic growth. CS13 identifies the retail hierarchy where town centre uses will be acceptable. The aim of both the NPPF and the Council's Local Plan is to boost and ensure the economic growth and future investment within the designated employment areas, and town, district and local centres. Given the location of the application site outside of the allocated employment areas, or defined centres alongside the scale and the intended occupiers of the units, the proposed development is considered to have a negative impact on the existing and future economic growth of the district and local centres.
268. The National Design Guide paragraph 41 recognises that the non-physical positive attributes of well-designed and integrated development is the economic benefits which can be gained by considering not only the application site but the surrounding area beyond the application site. Within this southern area of Middlesbrough, Housing Local Plan Policies H5 and H21 (Brookfield) identifies a local centre to be provided within the new residential housing development, when the need arises. The new local centre will be centrally located within the Brookfield housing development with integrated pedestrian footpaths and cycle ways to promote non-car modes of travel. The overall scale of the proposed development within this unsustainable location will prevent any future economic development of a local centre within the Brookfield housing allocation.
269. Section 4 of the Planning Economic and Retail Statement (PERS) submitted on behalf of the applicant examines the economic benefits of the proposed development in this location placing significant weight on the potential 82-98 full time positions alongside temporary construction jobs.
270. It is acknowledged that the development will provide some economic employment opportunities to the area in terms of short-term construction jobs and employment opportunities for the units. The weight given to the employment benefits of the development is not considered to outweigh the unsustainable location of the application site. The proposed economic employment opportunities could be provided or created

within sequentially preferable or allocated sites including Coulby Newham District Centre.

271. The application site is located outside of the allocated sites and designated centres, which the Local Plan Core Strategy Policies CS7 and CS13 have identified as being suitable for economic development. The scale, nature and intended occupiers of the development is considered to be more in line with a district centre. The proposal is also not within a centre designated for town centre uses. The proposal is therefore considered to not accord with paragraphs 81 and 82 of the NPPF and The Council's Core Strategy Policies CS4, CS7 and CS13.

### **Flood Risk/Drainage**

272. The Council's Core Strategy Policy CS4 sets out that all new development should provide 'sustainable methods of surface drainage' to 'mitigate against localised flooding, promote water conservation and help protect water quality'.
273. A Flood Risk Assessment (FRA) has been submitted in support of the application with the site area being over 1 ha. The site is within National Flood Zone 1 which is classified as having a low probability of flooding, less than 1 in 1000 annual probability of river or sea flooding (0.1%). Given the development is commercial the Flood Risk Assessment has been based on a 60 year design life.
274. The Flood Risk Assessment demonstrates that based on the information from Northumbrian Water the sewers within the site are separated into surface water and foul water networks, with a private sewer close to the site and a culverted watercourse and an outfall to the south-west of the site.
275. The development proposal includes permeable surfacing for the car parking areas and for the surface water runoffs from the roofs of the building. Revised plans have been submitted to show the surface water drainage from the roofs of the building will be collected and discharged into a cellular storage crate system located centrally beneath the car park area. The collected surface water will then discharge into an existing manhole to the west of the site via a new gravity drain constructed through the existing underpass.
276. Foul water drainage from the site will be through a package treatment system with no public sewers being located within 30 metres of the site that could be utilised. The package treatment system is located to the south of the site (alongside units 8 and 9). The FRA considers the overall discharge rate from the site to be 0.5 l/s. The revised drainage plan shows the treated the clean effluent will be discharged into the existing connection to the north-east of the site with the final connection to the agreed with Northumbrian Water.
277. Northumbrian Water have been consulted and recommended a condition be placed on the application that further details are submitted in terms of the disposal of foul and surface water drainage so they can assess the capacity to treat the flows from the development. Northumbrian Water have advised that only when this condition is discharged can any planning permission be implemented.
278. The Local Lead Flood Officer has removed their initial objection on submission with the proposal now reasonably demonstrating adequate provision for surface water and foul drainage provision but have requested that should permission be granted relevant conditions would be required including a suitable surface water drainage scheme for the site, surface water drainage management plan and maintenance plan. Specifically

further details would be required in relation to finished floor levels, how surface water run-off will be managed during construction, measures controlling silt levels and plans showing the adoption of the Surface water system by the public authority or statutory undertaker.

279. The Environment Agency have removed their initial objection to the scheme and no longer have any objections to the proposed surface water or foul drainage from the site.

### **Residential Amenity**

280. The application is for outline consent including access, parking and infrastructure with all matters reserved except for access, layout and scale.
281. The National Planning Policy Framework within paragraph 130 (f) comments that one of the overarching roles of planning policies and decisions is that development should 'always secure a high standard of amenity for all existing and future occupiers'.
282. Core Strategy DC1 states that any new development should consider the effects on the surrounding environment and the amenities of the occupiers of surrounding properties both during and after completion.
283. Objection comments have been received that the proposed development will impact the privacy of the neighbouring residential properties and would have significant noise impacts, litter and light pollution alongside health issues.
284. The development site will be located a minimum of 35 metres from the residential properties located within the Brookfield Housing allocation and on the opposing side of a busy road and roundabout. Whilst the scheme will clearly change the character of the area, it is considered to be a sufficient separation distance to ensure overlooking and loss of privacy to the nearby residential properties or garden areas would not be so significant as to warrant refusal of the application.
285. The Council's Environmental Health officers have assessed the proposal and considered the noise assessment and have no objections subject to conditions limiting the hours of opening to between 07:00 and 23:00 Monday to Sunday, restricting delivery hours to between 08:00 and 19:00 Monday to Saturday and 09:30 and 18:30 on a Sunday and refuse collections to between 08:00 and 19:00 Monday to Saturday and 09:30 and 18:30 on Sundays. The LPA recognise the notable change to traffic movements and some disturbance that this proposal would lead to although also recognise noise levels and movement of vehicles already have an impact on residential properties in this area. Although it's a notable change to the site, this form of development is typically located near to residential areas and in this regard, the advice from the councils EHO is considered suitably balanced.
286. The Council's Environmental Health officers have considered potential odours from the drive-thru and requested a condition requiring details of all ventilation and fume extraction systems and an odour and Particulate assessment to be submitted to the Local Authority for prior approval. This is considered to adequately deal with this matter.
287. Objections have been raised with regards to light pollution from the development. The Council's Environmental Health officer have requested a condition that details of any proposed floodlighting within the site should be submitted to the Local Authority for approval. Such a condition should detail positions of lighting, lumens, direction and any shielding and as such can be designed to adequately limit undue impact to residential amenity.



288. Objection comments have been received regarding the potential health impacts of a drive-thru with existing high rates of obesity in the area and additional traffic fumes within close proximity of the residential houses. The proposal is for a drive-thru unit and not a hot food takeaway which the Council has an interim policy which relates to food and obesity. However, consideration has been given to the proximity of the site to secondary schools as required by the policy and as the site is more than 400 metres walking distance from a secondary school it falls in line with the thrust of that policy. The nature of the development on an existing area of former farmland will result in an increase in the number of cars accessing the area. The result is a potential increase in the levels of traffic fumes within the area, however, this is particularly difficult to measure given existing trips for accessing retail and other services will already take place within the area.

### **Residual issues**

289. Neighbour objections received which are material planning considerations have been considered in the writing of this report although have not been specifically referenced in all instances.
290. Objection comments have been received regarding devaluation of the properties within the area, requirement for council tax reductions, potential anti-social behaviour and associated security issues for the existing residential properties. Each of these points are not material planning considerations which can be considered.

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## **RECOMMENDATIONS AND CONDITIONS**

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### **Refuse for the following reasons**

#### **Lack of Sustainability**

In the opinion of the Local Planning Authority, the proposed commercial development would be in an unsustainable location, contrary to Policies CS4, CS17 of the Middlesbrough Local development Framework Core Strategy 2008, and guidance within the National Planning Policy Framework as well as failing to comply with the housing spatial strategy as detailed in Policy H1 of the Housing Local Plan in relation to all new development located outside of strategic allocation site being required to contribute and fully integrate with sustainable transport networks.

#### **Lack of adequate Place Making**

In the opinion of the Local Planning Authority, the proposed site layout is not well related to or integrated with its surroundings and does not provide a sense of community or place making in relation to establishing or promoting adequate safe accessible pedestrian or cycle links to either the existing residential development or the proposed Brookfield Housing allocation and is contrary to paragraph 127 of the NPPF and Core Strategy Policy CS4 in these regards and the creation of a sustainable community as set out in policies H1, H5 and H21 of the Housing Local Plan.

#### **Adverse impact on Character of the Area**

The overall scale, height and positioning of the units, along with the extent of hard standing within the site, is considered to fundamentally alter the existing green open landscape character of the area of this section of Low Lane and fails to take the

opportunity to re-provide a positive characteristic into the area. The proposal is therefore considered to be contrary to paragraphs 8 (c) and 180 of the NPPF, paragraphs 90 and 91 of the National Planning Guidance and Core Strategy Policy CS4(j).

**Adverse Impact on investment in established and planned centres**

The applicant has failed to demonstrate to the satisfaction of the LPA that the proposal would not have a detrimental impact upon investment within existing and proposed centres within the Borough and is therefore contrary to NPPF paragraph 90

**Failure of the Sequential Test**

In the opinion of the Local Planning Authority, the proposed commercial development is a main town centre use and in terms of the sequential test the applicant has failed to satisfactorily demonstrate flexibility in relation to other suitable locations for the intended development, particularly with the nearby Coulby Newham District Centre. The proposal is therefore contrary to the National Planning Policy Framework (paras 88), Core Strategy Policy CS13 (test c - vitality/viability).

**Impact on Highway Network**

Development proposals have been demonstrated through the use of the authorities strategic Aimsun model to have a detrimental impact on the operation of the highway network. This harm manifests itself as increases in journey time along key routes, increases in queuing and junctions operating above their capacity. The development proposals do not offer any adequate mitigation works to address this harm and as such will have an unacceptable impact on the operation of the highway network. This is contrary to local and national transportation and planning policies including the NPPF and Local Policies CS4(g) and CS17.

**Failure to provide suitable, realistic and desirable sustainable transport options**

The surrounding highway network creates severance between the proposed development and adjacent residential areas. This environment does not currently provide facilities for those traveling by non-car modes to the proposed site. Such an environment is considered by the Local Planning Authority to be hostile to non-motorised highway users and would present a dangerous environment given the lack of facilities, particularly for vulnerable highway users. When assessing the alternative forms of travel, given the lack of facilities and environment, against the convenience of taking their own car it is not likely to prove attractive. Development proposals have not addressed these shortcomings and are not proposing any adequate mitigation works to ensure that sustainable travel is a safe viable option. This is therefore contrary to local and national transportation and planning policies including the NPPF and Local Policies CS4(g) and CS17.

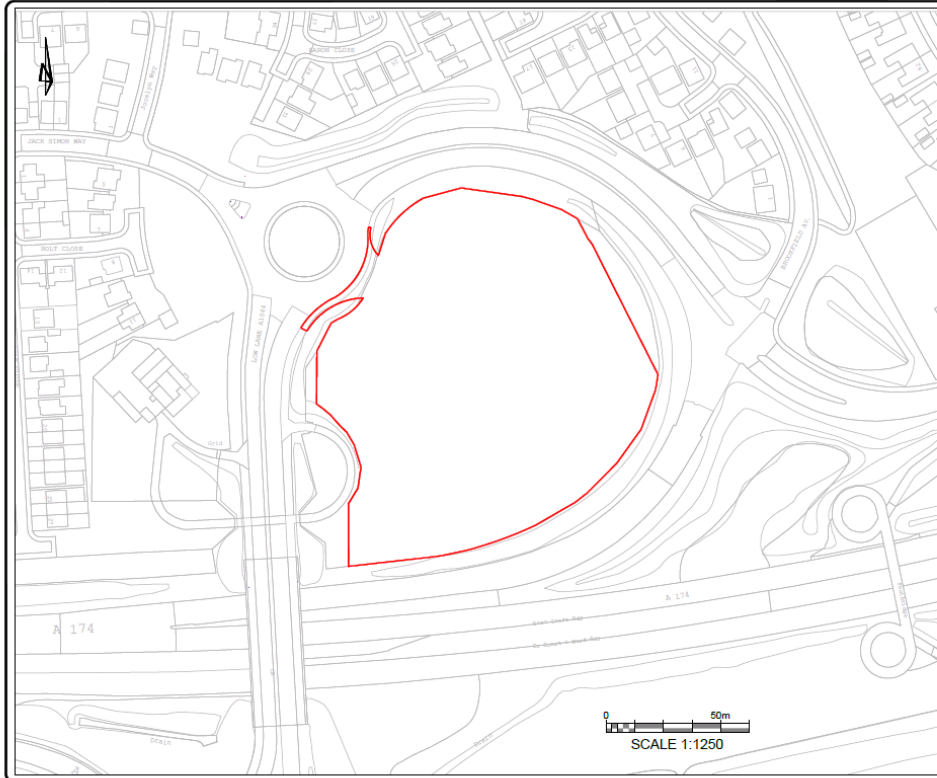
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**INFORMATIVES**

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Case Officer: Debbie Moody

Committee Date: 2<sup>nd</sup> September 2022



**Notes:**

1. All dimensions are to be checked on site before the commencement of work. Any discrepancies are to be reported to the Architect & Engineer for verification. Figure dimensions only are to be taken from this drawing.
2. This drawing is to be read in conjunction with all relevant Engineering and Services Engineering drawings and specifications. This drawing is copyright.

Rev	Date	Description	Drawn	By
<p><b>Cora</b></p> <p>Advertisement Agency, Towns &amp; Business Park Middlesbrough Tel: 01709 455 4455 Email: info@cora.co.uk Web: www.cora.co.uk</p>				
<p><b>Client:</b> ML Retail (Developments) Limited</p>				
<p><b>Project:</b> Land off Low Lane (A1044) Middlesbrough</p>				
<p><b>Title:</b> Site Location Plan</p>				
<p><b>Drawing Status:</b></p>				
<p><b>Job No:</b> 16-1170</p>				
Drawn	Checked	Scale at A3	Date	Issue Date
LB	TC	1:1250	24/08/20	-
<p><b>Drawing No:</b> 001</p>				-



HOUSE OF COMMONS  
LONDON SW1A 0AA

Paul Clarke  
Head of Planning  
Middlesbrough Council  
Civic Centre  
PO Box 504  
TS1 9FY

11<sup>th</sup> December 2020

**Objection to Planning Application: 20/0510/OUT**

**Land at Low Lane Middlesbrough TS5 8EH**

**Outline planning application for commercial development (Use Class E), including access, parking, and associated infrastructure and development (all matters reserved except for access, layout and scale)**

To whom it may concern,

I wish to object to this Planning Application on the following grounds.

- The area does not need more options for shopping or retail. There is ample shopping provision with The Viewley Centre in Hemlington, The Oval shopping parade, the Blue Bell Tesco Express within a mile of the site and Thornaby Asda within 3 miles.
- There is also ample takeaway provision in the local area with McDonalds, Burger King, KFC and Greggs all within 2 miles of the proposed site not including many independent takeaways in the surrounding area.
- The extra pressure that such a development will add to the local transport network will be significant. The road network is already very busy as the new developments in Brookfield continue to expand and there is further expansion yet to be delivered. Adding several shop units and a drive-thru food takeaway would simply exacerbate the already increasing traffic volumes.
- The presence of takeaway and food retail stores will lead to increased anti-social behaviour, littering and noise issues for the local community.
- I would also request that further noise and environmental surveys be completed as there has only been limited survey work carried out thus far and for such a significant development more work should be done to determine these impacts.

*This is the petition statement and link to the online form that the attached signatories signed.*

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### **Low Lane Proposal Petition**

A planning application has been submitted for a drive through fast food restaurant, food shop and other commercial units on land directly adjacent to Jack Simon Way, at the top of Low Lane.

I don't think this is the right place for such a development and plan to lodge an objection. This petition will form part of my submission so please sign if you wish to join me in objecting.

<https://www.andymcdonaldmp.org/low-lane-proposal-petition/>

Name (First Name (Last)	Address (Street Address)	Address (Address: Address (C Addr Address (Z	I oppose the proposed Low Lane development
Martin Jenkins	18 Locelyn way	Brookfield woods TS5 8fa	I oppose the proposed Low Lane development
Theresa Pink		23 Buttercup Grove Middlesbrough TS8 9FG	I oppose the proposed Low Lane development
Judith Peacock			I oppose the proposed Low Lane development
Rebecca Walton	16 Ravensgill Road	Hemlington Middlesbrough TS8 9FZ	I oppose the proposed Low Lane development
Iffat Ali	4 Broad close	Stainton village Middlesbrough TS8 9BW	I oppose the proposed Low Lane development
Charlotte Marshall	68 Holt Close	Middlesbrough TS5 8FG	I oppose the proposed Low Lane development
Peter Muir	17 Tollysby Road	Middlesbrough TS57 ph	I oppose the proposed Low Lane development
Gina Jenkins		18 Jocelyn way TS5 8FA	I oppose the proposed Low Lane development
Martin Jenkins		18 Locelyn way TS5 8FA	I oppose the proposed Low Lane development
Martin Jenkins		18 Locelyn way TS5 8FA	I oppose the proposed Low Lane development
Martin Jenkins		18 Locelyn way TS5 8FA	I oppose the proposed Low Lane development
Stewart Stevenson	14 Priory Drive	Stainton Middlesbrough TS8 9AW	I oppose the proposed Low Lane development
Richard Price	7, Holt Close	Stainsby Hall Par Middlesbrough TS58Fg	I oppose the proposed Low Lane development
Kara Mulgrew-Traynor	20 Farmstead Street	Acklam TS5 8FL	I oppose the proposed Low Lane development
Rebecca Walton	16 Ravensgill Road	Hemlington Middlesbrough TS8 9FZ	I oppose the proposed Low Lane development
Kirsten Stewart	15 Brecon Crescent	Ingleby Barwick STOCKTON-ON-TS17 5DA	I oppose the proposed Low Lane development
Jodi Mellor	36 Earlsdon Avenue	Middlesbrough	I oppose the proposed Low Lane development
Sana Ali	4 Broad Close	TS8 9BW	I oppose the proposed Low Lane development
Susan Baker	27Holbeck Ave	Brookfield Middlesbrough TS58DR	I oppose the proposed Low Lane development
Erica Law	18 Lord Close	Low Lane Middlesbrough TS5 8FF	I oppose the proposed Low Lane development
Claire Hopkins	49 Holbeck Ave	Middlesbrough TS5 8DS	I oppose the proposed Low Lane development
Elaine Gill	75 Brookfield Avenue	Acklam Middlesbrough TS58ha	I oppose the proposed Low Lane development
Robin Gill	75 Brookfield Avenue	Acklam Middlesbrough TS58ha	I oppose the proposed Low Lane development
Robin Gill	75 Brookfield Avenue	Acklam Middlesbrough TS58ha	I oppose the proposed Low Lane development
Christophe Adams	48 Highfield rd	Longlands Middlesbrough TS4 2qr	I oppose the proposed Low Lane development
Irene Swinerton	86 Harvington chase	Middlesbrough TS8otr	I oppose the proposed Low Lane development
Erica Law	18 Lord Close	Low Lane Middlesbrough TS5 8FF	I oppose the proposed Low Lane development
Robert Law	18 Lord Close	Low Lane Middlesbrough TS5 8FF	I oppose the proposed Low Lane development
Andrea Mellor		50 Westminster Ro; Middlesbrough TS5 6ND	I oppose the proposed Low Lane development
Andrew C			I oppose the proposed Low Lane development
Alan Hurst	41 Hesleden Avenue	Acklam Middlesbrough TS5 8RF	I oppose the proposed Low Lane development
Colin Straker	6 Cherryfield Drive	Linthorpe Middlesbrough TS5 5QG	I oppose the proposed Low Lane development

Susan	Trattles	12 Dunkery Close	Ingleby Barwick	Stockton-on-Tees TS17 0FL	I oppose the proposed low lane development
Lynda	Dearlove	54-55 Birkenhead Street	London	WC1H8BB	I oppose the proposed low lane development
Lynda	Dearlove	54-55 Birkenhead Street	London	WC1H8BB	I oppose the proposed low lane development
Anne	Jemmeson	43 Low Lane	Middlesbrough	TS5 8EG	I oppose the proposed low lane development
Catherine	Parks		MIDDLESBROUGH TS5 5pt	I oppose the proposed low lane development	
Fraser	Jemmeson	28 Claude Avenue	43 Low Lane	Middlesbrough TS5 8EG	I oppose the proposed low lane development
Jodi	Mellor	36 Earlsdon Avenue	9 Rowan grove	Middlesbrough	I oppose the proposed low lane development
Nabeela	Ahmad	50 Westminster Road	Stainton	Middlesbrough TS5 6nd	I oppose the proposed low lane development
Ashleigh	Mellor		Middlesbrough TS5 8JH	I oppose the proposed low lane development	
Calum	Dearlove	36 Earlsdon Avenue	Acklam	Middlesbrough TS5 8JH	I oppose the proposed low lane development
Razia	Ali	4 Broad close	Stainton	MIDDLESBROUGH TS8 9BW	I oppose the proposed low lane development
Razia	Ali	4 Broad close	Stainton	MIDDLESBROUGH TS8 9BW	I oppose the proposed low lane development
Tiaba	Ali	4 Broad Close	Stainton Village	Middlesbrough TS8 9BW	I oppose the proposed low lane development
Holly	Crockett	81 Brabourn gardens	TS89JR	I oppose the proposed low lane development	
Peter	Muir	17 Tollesby Road	Middlesbrough TS57ph	I oppose the proposed low lane development	
Marija-Leen Koto		61 Hesleden Avenue	Acklam	MIDDLESBROUGH TS5 8RF	I oppose the proposed low lane development
Paul	Matthews	1 Newby close	Acklam	Middlesbrough TS57nb	I oppose the proposed low lane development
Smith	Michelle	7 Whinstone Drive	Stainton	Middlesbrough TS8 9at	I oppose the proposed low lane development
Rust	Christine	7whinstone Drive	Stainton	TS8 9at	I oppose the proposed low lane development
Lynzi	Sutcliffe	28 Baron close	Middlesbrough TS58fh	I oppose the proposed low lane development	
Jane	Sutherland		19 Lymouth close	Hemlington TS89nh	I oppose the proposed low lane development
Amy	Keegan	61 Southwell Road	Linthorpe	Middlesbrough TS5 6nq	I oppose the proposed low lane development
Sarah	Mcaskill	14 st Austell close	Middlesbrough	TS8 9nq	I oppose the proposed low lane development
Beryl	Murdoch	15 High Rifts	Stainton	Middlesbrough TS89BG	I oppose the proposed low lane development
Helen	Orchel	15 High Rifts	Stainton	Middlesbrough TS89BG	I oppose the proposed low lane development
Lyndsey	Ryan	19 Sails close	Acklam	Middlesbrough TS5 8fb	I oppose the proposed low lane development
Andrea	Holden	80 High Rifts	Stainton	Middlesbrough TS89BQ	I oppose the proposed low lane development
Ben	Ryan	19 Sails Close	Acklam	TS5 8FB	I oppose the proposed low lane development
Caroline	Alexander	29 Brookfield Avenue	Middlesbrough TS58HA	I oppose the proposed low lane development	
Steven	Phillips	34 Finchley Court	Middlesbrough TS5 8EL	I oppose the proposed low lane development	
Malcolm	Rowlands	85 Malvern Drive	Brookfield	TS5 8JF	I oppose the proposed low lane development
Brad	Raistrick		Middlesbrough TS5 8DP	I oppose the proposed low lane development	
Dawn	Bowes	72 Low Lane	Middlesbrough TS8EB	I oppose the proposed low lane development	



Joanne	Horsley	4 Seathwaite	Acklam	Middlesbrough TS5 8TX	I oppose the proposed low lane development
Gillian	Dorman-Smith	11 Church Drive	Acklam	Middlesbrough TS5 7DU	I oppose the proposed low lane development
Susan	Gunn	11 Jocelyn Way	Middlesbrough	TS5 8FA	I oppose the proposed low lane development
graham	swinerton	11 Jocelyn way		Middlesbr	I oppose the proposed low lane development
David smit	David	100 low lane	Low lane	Acklam TS5 8eb	I oppose the proposed low lane development
Steven	Robinson	26 Brookfield Avenue	Acklam Woods	Middlesbrough TS58ha	I oppose the proposed low lane development
Linda	Close	2 Luce Sands	Acklam	Middlesbrough TS5 8UL	I oppose the proposed low lane development
Matthew	Williams	46 Furrow Grange	Brookfield	Middlesbr	I oppose the proposed low lane development
Heather	Robinson	11 Birtley Avenue	Acklam	Middlesbrough TS5 8LH	I oppose the proposed low lane development
Natalie	Brown	43 Stein Grove	Acklam	Middlesbrough TS58DJ	I oppose the proposed low lane development
Kevin	Culley	23 Canton Gardens	Acklam	MIDDLESBROUGH TS5 8BU	I oppose the proposed low lane development
John	white	10 Cradley Drive, Brookfield		Middlesbrough TS5 8HF	I oppose the proposed low lane development
RObert	Paul	58 Brookfield Ave	Acklam	Middlesbrough TA5 8HA	I oppose the proposed low lane development
Craig	Trainor	Acklam		MIDDLESBROUGH TS5 8EW	I oppose the proposed low lane development
Ritchie	Woodley	67 Olympic Way	53 Belmont Aver	MIDDLESBROUGH TS5 8EW	I oppose the proposed low lane development
Alistair	Armstrong	128 low lane	Brookfield	Northampton NN8 3QE	I oppose the proposed low lane development
Julia	Armstrong	128 low lane	Brookfield	Middlesboroug TS5 8EE	I oppose the proposed low lane development
Maureen	Waite	326 Acklam road	Acklam	Middlesborough	I oppose the proposed low lane development
Peter	Lonsdale	6 Carmel Gardens	Brookfield	Middlesbrough TS5 8DX	I oppose the proposed low lane development
Hayley	Lonsdale	6 Carmel Gardens	Brookfield	Middlesbrough TS5 8DX	I oppose the proposed low lane development
Rohan	Khan	65 The Avenue		Middlesbrough TS5 6QU	I oppose the proposed low lane development
Emma	Smith	9 Rudge Mews		Northampton NN5 6YL	I oppose the proposed low lane development
Emily	Hunt	68 Brookfield Avenue		Middlesbrough TS58ha	I oppose the proposed low lane development
David	Hunt	22 Fairy Dell	Marton-in-Clevel	Middlesbrough TS7 8LF	I oppose the proposed low lane development
Hannah	Illingworth	13 chadburn green		Middlesbrough TS43lj	I oppose the proposed low lane development
Dizz	Kirkland	11 rose ave	Rushden	Rushden	I oppose the proposed low lane development
Thomas	Kelly		52 Furrow grange	TS5 8dp	I oppose the proposed low lane development
Becky	Robinson	4 Stewart Park Avenue		Middlesbrough TS4 3FD	I oppose the proposed low lane development
Olivia	Bytheway		31 Salis close	Middlesbrough TS58fb	I oppose the proposed low lane development
Hannah	Illingworth	13 chadburn green		Middlesbrough TS43lj	I oppose the proposed low lane development
Eric	Barrett	35 Hallgarth Close		Middlesbrough TS5 8SX	I oppose the proposed low lane development
Ben	Illingworth	21 Lord Close	Stainsby Hall Par	Middlesbrough TS58FF	I oppose the proposed low lane development
Chapman	Yvonne	4 Severs Drive	Stainton	MIDDLESBROUGH TS8 9BJ	I oppose the proposed low lane development



Alan	Jonee	37 Tollesby Road	Middlesbrough	TSS 7PH	I oppose the proposed Low Lane development
Lauren	Straker	37 Tollesby Road	Middlesbrough	TSS7PH	I oppose the proposed Low Lane development
Brad	Raistrick	59 furrow grange	Middlesbrough	TSS 8DP	I oppose the proposed Low Lane development
Steven	Hunton	4 Holt Close	Holt Close, MIDE	Middlesbrough TSS 8FG	I oppose the proposed Low Lane development
John	Yung				I oppose the proposed Low Lane development
Kelly	Christine	28 Cradley Dr	Brookfield	Middlesbrough TSS 8HF	I oppose the proposed Low Lane development
Adam	Cooper	36 baron Close	Acklam	Middlesbrough ts58fh	I oppose the proposed Low Lane development
Gary	Syms	30, Kennedy Gardens,	Billingham,	TS23 3RF	I oppose the proposed Low Lane development
Kirsty	Metcalfe		48 Hampstead way	Middlesbr	I oppose the proposed Low Lane development
Purvís	Deborah	30 carille Hill	Hemington	Middlesbrough TS8 9sl	I oppose the proposed Low Lane development
Kayleigh	Imiela	21 Spaunton Close	Hemington	Middlesbrough ts89re	I oppose the proposed Low Lane development
Matthew	Atkinson		97 The oval	Middlesbrough TSS 8HR	I oppose the proposed Low Lane development
Daniel	Hodgson	1 Topcliffe Drive		Middlesbrough TSS 8HJ	I oppose the proposed Low Lane development
Stephanie	Jarvis	24 farmstead street	Acklam		Middlesbr I oppose the proposed Low Lane development
Glen	Purvís	24 farmstead street	Acklam		Middlesbr I oppose the proposed Low Lane development
Clare	Williamson		34 Earlsdon avenue	Acklam	TSS 8JH I oppose the proposed Low Lane development
Ann	Tate	52 Low Lane		Middlesbrough TSS 8EA	I oppose the proposed Low Lane development
John	Williamson	34 Earlsdon Avenue	Acklam	Middlesbrough TSS 8JH	I oppose the proposed Low Lane development
Margaret	Rigby	1 Denton Close	Acklam	Middlesbrough TSS 8rl	I oppose the proposed Low Lane development
James	Tate	52 Low Lane		Middlesbrough TSS 8EA	I oppose the proposed Low Lane development
Helen	Chilvers	21 Thorington Gardens	Ingleby Barwick	Stockton-on-Ter	TS17 OUR I oppose the proposed Low Lane development
Lee	Newbold				I oppose the proposed Low Lane development
Graeme	Sutcliffe	28 Baron close	ACKLAM	Middlesbrough TSS8FH	I oppose the proposed Low Lane development
Josh	Hand		10 Sherburn Close	Acklam	Middlesbr I oppose the proposed Low Lane development
Margaret	Jackson	54 Ayresome Green Lane		Middlesbrough TSS 4DN	I oppose the proposed Low Lane development
Daniel	Matthews		Stainton	Middlesbr	I oppose the proposed Low Lane development
Nick	Tinsley		63 Jocelyn way	Middlesbr	I oppose the proposed Low Lane development
Peter	Hobson	1 Rawcliffe Avenue	Brookfield	Middlesbrough TSS 8HQ	I oppose the proposed Low Lane development
Dominic	Hutchinson	3 Jocelyn Way	Stainsby	Middlesbrough TSS 8FA	I oppose the proposed Low Lane development
Tracy	Hobson	1 Rawcliffe Avenue	Brookfield	Middlesbrough TSS 8HQ	I oppose the proposed Low Lane development
Michael	parker		8 Harbourne garde	Brookfield	Middlesbr I oppose the proposed Low Lane development
Thomas	Hughes	20 Rydal Avenue		Middlesbrough Ts57bg	I oppose the proposed Low Lane development
Helen	Reason		330	Amsterdam 1072HC	I oppose the proposed Low Lane development

Amy	Hood		28 Brookfield avenue	Acklam	Middlesbr	oppose the proposed Low Lane development
Rebecca	Taylor	22 Brookfield Avenue	Middlesbrough	MIDDLESBROUGH	TS5 8HA	oppose the proposed Low Lane development
Alison	Arnold	Farthingale Way	Hemington		TS89RW	oppose the proposed Low Lane development
Jennifer	Dowsett	9 Lunefield House	The Crescent, Lir	Middlesbrough	TS5 6SJ	oppose the proposed Low Lane development
Paddy	McDonald	60 Cherryfield drive	Linthorpe	Middlesbrough	TS5 5QG	oppose the proposed Low Lane development
Zanib	Javed	34 Baron Close	Brookfield	Middlesbrough	TS58fh	oppose the proposed Low Lane development
Andrew	Moorhead	49 Sails Close		Middlesbrough	TS5 8fb	oppose the proposed Low Lane development
Victoria	Ackermann	43 sails close			TS58FB	oppose the proposed Low Lane development
Lesley	Chapman	9 Wolsingham road	Tow law	Durham	DL134dz	oppose the proposed Low Lane development
Kevin	Appleby	11 Mayfair Avenue	Normanby	Middlesbrough	TS60SB	oppose the proposed Low Lane development
Natalie	Whitehouse	2 Poppy Fields Close	Stainton	Middlesbrough	TS8 9FR	oppose the proposed Low Lane development
Jessica	Knight	22 baron close		Middlesbrough	TS58fh	oppose the proposed Low Lane development
Christina	Curnow	15 hurworth road		Middlesbrough	TS4 3DW	oppose the proposed Low Lane development
Melissa	Archer	6 Calluna grov				oppose the proposed Low Lane development
Michael	Pugalis	72 baldoon sands	Acklam	Middlesbrough	TS58ha	oppose the proposed Low Lane development
Jillian	Grimwood	33 Kilvington Grove	Nunthorpe	Middlesbrough	TS7 ORL	oppose the proposed Low Lane development
Paul	Sharkey	17 Brookfield Avenue		Middlesbrough	TS58ha	oppose the proposed Low Lane development
Sarah	Green	376 acklam road		Middlesbrough	TS5 8ba	oppose the proposed Low Lane development
Penny	Coyne	20 Stanhope Grove	Acklam	Middlesbrough	TS5 7SG	oppose the proposed Low Lane development
Charles	Rooney	34 Minsterley Drive		Middlesbrough	TS5 8qr	oppose the proposed Low Lane development
Metcalfe	Lorna	57 Northlea Road			Sr7 Odj	oppose the proposed Low Lane development
Sue	Phoenix	41 Asterley Drive	Acklam	Middlesbrough	TS5 8QE	oppose the proposed Low Lane development
Claire	Wales	27 Brookfield Avenue		Middlesbrough	TS5 8ha	oppose the proposed Low Lane development
Susan	Macphrrson	Britain ave				oppose the proposed Low Lane development
FRANCESC	Whisker	25c The Grove	Marton	Middlesbrough	TS78AF	oppose the proposed Low Lane development
Mary	Booth	41 the Avenue	Nunthorpe	Middlesbrough	TS70AB	oppose the proposed Low Lane development
Victor	Dowd	94 Low lane	Brookfield	Middlesbrough	TS5 8EB	oppose the proposed Low Lane development
Denise	Rooney	34 Minsterley Drive		Middlesbrough	TS5 8QR	oppose the proposed Low Lane development
P	Gray		4 Cleveland close	Middlesbrough	TS7 9bx	oppose the proposed Low Lane development
Michelle	Manton	29 Parkfield Ave	Tollshy	Middlesbrough	TS5 7le	oppose the proposed Low Lane development
Andrew	Wright	9 Brookfield Avenue		Middlesbrough	TS5 8HA	oppose the proposed Low Lane development
Rachael	Yalcin	35 bramble close	Stainton	Middlebrough	TS8 9fe	oppose the proposed Low Lane development
Suzanne	Watson	6 jocelyn way	TS58fa	Middlesbr		oppose the proposed Low Lane development

Nicola	Bateman	51 park Rd south		Middlesbrough	TS5 6LE	I oppose the proposed Low Lane development
Appleton	Mark		16 Elwick Ave		TS58NT	I oppose the proposed Low Lane development
Michelle	Lynch	29 Ambleside Grove	Acklam	Middlesbrough	Cleveland	I oppose the proposed Low Lane development
Andrew	Carr	3 Ricknall Close	Acklam	Middlesbrough	TS5 8RR	I oppose the proposed Low Lane development
Nicky	Walker		38 The Viewley Cen	Hemlington	TS89JH	I oppose the proposed Low Lane development
Janice	Williams	5 Priory Drive	Stainton	Middlesbrough	TS8 9 AW	I oppose the proposed Low Lane development
David	Cahill		42 Strait Lane, stair	Middlesbrough	TS89BB	I oppose the proposed Low Lane development
Stephen	Aspery	10 Brookfield Avenue	Acklam Woods	Middlesbrough	TS5 8HA	I oppose the proposed Low Lane development
Rob	Jackson	14 Baron Close		Middlesbrough	TS5 8FH	I oppose the proposed Low Lane development
Graham	Blenkarne					I oppose the proposed Low Lane development
John	Beckley	3 Hampstead Way		Middlesbrough	TS5 8FD	I oppose the proposed Low Lane development
Hobson	Julie	72 runswick avenue	Acklam	Middlesbrough	TS58hy	I oppose the proposed Low Lane development
Edward	Clynch	100 Church Lane	Acklam	Middlesbrough	TS5 7DX	I oppose the proposed Low Lane development
Christina	Harris	21 Baron Close		Middlesbrough	TS5 8FH	I oppose the proposed Low Lane development
Andrew	Harrison	19 Jocelyn Way		Middlesbrough	TS5 8FA	I oppose the proposed Low Lane development
Stephanie	Husband	43 Oldford Crescent			TS5 7EH	I oppose the proposed Low Lane development
Paul	Cassidy	22 Hampstead Way	Stainsby	Middlesbrough	TS58FD	I oppose the proposed Low Lane development
Joanne	Eke	53 Thornfield Road		Middlesbrough	TS5 5DA	I oppose the proposed Low Lane development
Lianne	Trodden	49 Buttercup Grove	Stainton	Middlesbrough	TS8 9FG	I oppose the proposed Low Lane development
Bev	Carter	bevdoherty24@yahoo.co.uk	24 The Ridge	Coulby Newham	Middlesbrough	I oppose the proposed Low Lane development
Lee	Pattison	47 Lord close	Acklam	Middlesbrough	TS5 8FF	I oppose the proposed Low Lane development
Mike	Crager					
Lianne	Robinson					I oppose the proposed Low Lane development
Paul	Pinder		61 Jocelyn way	Acklam	TS5 8fa	I oppose the proposed Low Lane development
Annabelle	Gunn	67 Stein Grove	Brookefield Woods	Middlesbrough		I oppose the proposed Low Lane development
Natalie	Bridge	19 Hampstead way	Middlesbrough		TS5 8FD	I oppose the proposed Low Lane development
Sam	Ivisom	97 trindon Ave	Acklam	Middlesbrough		I oppose the proposed Low Lane development
Terence	Lakin	18 bassenthwaite	Acklam	Middlesbrough	TS5 8UE	I oppose the proposed Low Lane development
John	Severs	7,YEARBY CLOSE ACKLAM	MIDDLESBROUGH	Middlesbrough	TS5 8LY	I oppose the proposed Low Lane development
Dan	Stirk	13 Farmstead Street		Middlesbrough	TS5 8FJ	I oppose the proposed Low Lane development
Deanna	Yalcin		24 The Birches, Cou	Middlesbrough	TS8 Oua	I oppose the proposed Low Lane development
Luke	Brown		89 The oval	Acklam		I oppose the proposed Low Lane development
Debbie	Smith					I oppose the proposed Low Lane development

Karen	Watson		29 Baldoon Sands	TSS8TN	I oppose the proposed Low Lane development
Dan	Stirk	13 Farmstead Street	Middlesbrough	TSS 8FJ	I oppose the proposed Low Lane development
Josh	Graham	15 pexton close	Hemlington	Ts89rb	I oppose the proposed Low Lane development
Sam	Henderson				I oppose the proposed Low Lane development
Matthew	Little	21 skiplam close	Hemlington	Middlesbrough Ts89rg	I oppose the proposed Low Lane development
Valerie	Little		21 Skiplam Close	Hemlington Middlesbr	I oppose the proposed Low Lane development
Carol	Cassidy			Ts89fp	I oppose the proposed Low Lane development
Stephen	Gilmore		14 Sherburn close	Middlesbrough Ts5 8sp	I oppose the proposed Low Lane development
Abi	Corbyn			TS80XT	I oppose the proposed Low Lane development
Catherine	Haigh	31 Lambeth Road	Linthorpe	Middlesbrough TS5 6ED	I oppose the proposed Low Lane development
Ross	Kend Ross	20 baron close		Middlesbr	I oppose the proposed Low Lane development
Brian	Leyshon	6 Thornton road	Thornton	Middlesbrough Ts89bs	I oppose the proposed Low Lane development
Lyndsey	Cunningham		25 Hampstead way	Middlesbrough TS5 8FD	I oppose the proposed Low Lane development
Aakif	Hassan	Farm stead street	Acklam	TS5 8FL	I oppose the proposed Low Lane development
Steve	Jones				I oppose the proposed Low Lane development
Jennifer	Jones	28 Stein Grove		Middlesbrough TS5 8dn	I oppose the proposed Low Lane development
McGloin	Deborah		4 Rawcliffe Avenue Brookfield	TS58hq	I oppose the proposed Low Lane development
Rachel	Gibson	4 furrow grange		Middlesbr	I oppose the proposed Low Lane development
Scott	Pearson	81 The Oval		Middlesbrough TS5 8EZ	I oppose the proposed Low Lane development
Matthew	Carter	7 Lord Close	Acklam	Middlesbrough Ts58FF	I oppose the proposed Low Lane development
Matthew	Carter	7 Lord Close	Acklam		
Graham	Loughborough	6 Hampstead way	Stainsby hall Ack	Middlesbrough TS58FD	
Carol	Jobson	29 Samaria Gardens		Middlesbrough TS5 8DF	I oppose the proposed Low Lane development
Vicky	Beaumont	18 Cotherstone Drive	Acklam	Middlesbrough TS5 8JJ	I oppose the proposed Low Lane development
Paul	Boddy	2 Cawthorn Close	Hemlington	Middlesbrough TS8 9RF	I oppose the proposed Low Lane development
Adam	Gallagher		14	Middlesbrough TS89RW	I oppose the proposed Low Lane development
Thomas	Grant	10 Kimmerton Avenue	Acklam	Middlesbrough TS5 8LD	I oppose the proposed Low Lane development
Lucy	Lodge	11 Lord Close		Middlesbrough TS5 8FF	I oppose the proposed Low Lane development
Karla	White	25 Stein Grove	Brookfield wood	Middlesbrough TS58DJ	I oppose the proposed Low Lane development
Jason	Abbott	16 Rose Cottage gardens	Stainton	Middlesbrough Ts89fa	I oppose the proposed Low Lane development
Karen	Cunneen	28 Fairwood Park	Marton-In-Cleveland	Middlesbrough TS8 9XP	I oppose the proposed Low Lane development
Raegon	Horrigan		30 Darwen court H	Middlesbrough Ts89jf	I oppose the proposed Low Lane development
Levent	Yalcin	23 Brookfield Avenue	Acklam Woods	Middlesbrough TS5 8HA	I oppose the proposed Low Lane development

Christine Barker	23 comfrey	Coulby Newham	Middlesbrough Cleveland	I oppose the proposed low lane development
Sophie Dawson	7 Jack Simon Way	Middlesbrough	Ts58ej	I oppose the proposed low lane development
Louise Hunt	76 Brookfield avenue	Middlesbrough	Ts58ha	I oppose the proposed low lane development
Dennis McCabe	14 Bramble Close	14 Baldoon sands	Thornhill	Middlesbrough I oppose the proposed low lane development
Matthews Darren	3 Chillingham Roa	Middlesbrough	TS89FE	I oppose the proposed low lane development
Grace Suggett	159 Hesleden ave	Acklam	TS12 2GJ	I oppose the proposed low lane development
Julie Chaprman	8 Holt Close	Middlesbrough	TS5 8FG	I oppose the proposed low lane development
Shereen Bate	37 Bramble Close	Stainton	TS89FE	I oppose the proposed low lane development
Helen Akiens	4 Glebe Gardens	Stainton	TS89TD	I oppose the proposed low lane development
Lee Boothby	30 Northleach Drive	Hemlington	TS8 9PP	I oppose the proposed low lane development
Sheelagh Gillespie	144 Baldoon Sands	Acklam	Middlesbrough TS5 8UF	I oppose the proposed low lane development
Janice Bateman	55 Harlsey Road	Hartburn	Stockton TS18 5dj	I oppose the proposed low lane development
Rachel Beadnall	45 Barker Road	Linthorpe	Middlesbrough TS55EW	I oppose the proposed low lane development
Sheila Bearcroft	26 Corporal Roberts Close	Hemlington	Middlesbrough TS8 9SP	I oppose the proposed low lane development
Linzi Relph	1 Jack Simon way	Middlesbrough	Ts58ej	I oppose the proposed low lane development
Scott Dunne	2 waterlily close	Rose cottage far	Stainton TS8 9FT	I oppose the proposed low lane development
Susan Smith	7 Southsea Close	Hemlington	Ts8 9he	I oppose the proposed low lane development
Lindsay Cooke	23 burnet		Ts17 0sf	I oppose the proposed low lane development
Claire Routledge	61 Brookfield Avenue	Acklam	Middlesbrough TS5 8HA	I oppose the proposed low lane development
Liam Brown	19 Trimdon Avenue	Acklam	Middlesbrough TS58LR	I oppose the proposed low lane development
Martin Morris	35 Bramble close			
Fiona McLaughlin	68 Brookfield Avenue	Middlesbrough	TS58ha	I oppose the proposed low lane development
Rachael Valcin	64 adcott road	Middlesbrough	Ts57es	I oppose the proposed low lane development
Emily Hunt	Stein grove	Brookfield Wood	Acklam	Middlesbrough I oppose the proposed low lane development
Carole Mitchell	2 Sanctuary Close	Middlesbrough	TS5 7BF	I oppose the proposed low lane development
Miss Michelle Kelly	92 low lane	middlesbrough	ts5 8eb	I oppose the proposed low lane development
colin o neill	251 Trimdon Avenue	Acklam	Middlesbrough TS5 8TL	I oppose the proposed low lane development
Paimela Hugill	26 Regency Park	Ingleby Barwick	Stockton TS17 0QR	I oppose the proposed low lane development
Andrew Long	3 Ullswater Avenu	Acklam	Middlesbrough I oppose the proposed low lane development	
Joanna Taylor	44 Brookfield Avenue	Middlesbrough	TS5 8HA	I oppose the proposed low lane development
Samantha Charlton	12 Thornton Vale	Thornton	Middlesbrough TS8 9QP	I oppose the proposed low lane development
paul Richardson				

Alison Craig	Richardson Wells	12 Thornton Vale	Thornton Acklam	Middlesbrough	TS8 9QP	I oppose the proposed Low Lane development
Matthew Stacey	Jerz Baillie	65 Brookfield ave	North Skelton	Middlesbrough	Ts5 8ha	I oppose the proposed Low Lane development
Tom	Bieda	32 Blue Bell Way	Skelton	Skelton	TS122FB	I oppose the proposed Low Lane development
Ann	Lovatt	2 beck street	Wiltshire	Middlesbrough	Ts5 8fn	I oppose the proposed Low Lane development
Jeanette Lorraine	Walker Kitson	7 Deweyi <sup>1</sup> / <sub>5</sub> s Place	Hemlington	Middlesbrough	SP79LW	I oppose the proposed Low Lane development
Joanne	oxley	Phoenix park	31 Phoenix Park	Middlesbrough	Ts8 9pu	I oppose the proposed Low Lane development
Chris	Crager	39 staindrop drive	Acklam	Middlesbrough	TS89PA	I oppose the proposed Low Lane development
Sarah	Lovatt	20 faygate court	hemlington	Middlesbrough	Ts5 8nu	I oppose the proposed Low Lane development
Anita	Clark	49 Phoenix Park	Hemlington	Middlesbrough	TS8 9PU	I oppose the proposed Low Lane development
Sam	Haywood	7 Aldwark Close	Brookfield	Middlesbrough	TS5 8HN	I oppose the proposed Low Lane development
Emma	Willingham	24 crosthwaite gardens	Skelton	Cleveland	Ts122zp	I oppose the proposed Low Lane development
Sophie	Wells	25 brookfield avenue	65 Brookfield Aveny	Middlesbrough	Ts5 8ha	I oppose the proposed Low Lane development
Anna	Jerz	32 bluebell way	Skelton	Cleveland	Ts122fb	I oppose the proposed Low Lane development
Alison	Langford	79 Earlsdon Avenue	Acklam	Middlesbrough	TS5 8SU	I oppose the proposed Low Lane development
Alan,	jerz	32 bluebell way	North skelton	cleveland	I oppose the proposed Low Lane development	
Bethany	Hughes	35 Hemlington road	35 Hemlington road	Middlesbrough	Ts89ag	I oppose the proposed Low Lane development
Joanne	Tickle	27 Wellspring close	Acklam	Middlesbrough	TS5 8RG	I oppose the proposed Low Lane development
Graham	Haywood	5 somerset cresi <sup>1</sup> / <sub>2</sub> ent	Skelton	Saltburn	Ts122bp	I oppose the proposed Low Lane development
Rebecca	Wheatley	2 gable court	Skelton	Saltburn	I oppose the proposed Low Lane development	
Graham	Haywood	5 somerset crescent	Skelton	Saltburn	I oppose the proposed Low Lane development	
Stacy	ButteryArcher	3 Gainford Road	Fairfield,	Stockton-on-Tee	TS197AA	I oppose the proposed Low Lane development
Alison	Wilson	8 mead foot drive	brookfield	cleveland	ts58hs	I oppose the proposed Low Lane development
Katrina	Stanwick	18 Bramble Close	Stainton	Middlesbrough	TS8 9FE	I oppose the proposed Low Lane development
Murtaza	Majeed	5 maddison grove		Normanby	Ts6 Ony	I oppose the proposed Low Lane development
Emma	robinson	24 crosthwaite gardens		Skelton	I oppose the proposed Low Lane development	
L	Haywood	71 Lymnouth Close	Hemlington	Middlesbrough	TS8 9NH	I oppose the proposed Low Lane development
Tammy	Andrews					I oppose the proposed Low Lane development
Denise	Blenkiron					I oppose the proposed Low Lane development
Shaun Hay Shaun		3 Jack Simon way		Middlesbrough	I oppose the proposed Low Lane development	
Amy	Harris	5 Shepherd Court		SALT BURN	Ts12 3be	I oppose the proposed Low Lane development

Sam	Watson						I oppose the proposed Low Lane development
Natalie	Mcloughlin	69 weston crescent	Norton	Stickton-on-tee: Ts20 2hu			I oppose the proposed Low Lane development
Sabina	Jerz		3 Jack Simon Way	Middlesbrough TS58EJ			I oppose the proposed Low Lane development
Joanne	Bieda	69 Jocelyn Way		Middlesbrough TS5 8FA			I oppose the proposed Low Lane development
Kathryn	Lunn						
Lauren	Bowen	53 Salis Close		Middlesbrough TS5 8FB			I oppose the proposed Low Lane development
Laura	Barber	5 Barnard Road	Easington	Saltburn by sea TS13 4NF			I oppose the proposed Low Lane development
Brendan	Lewis	23 baron close		Middlesbrough TS5 8fh			I oppose the proposed Low Lane development
Fay	Lewis	23 baron close	Acklam	Middlesbrough TS5 7 YS			I oppose the proposed Low Lane development
John	Campbell	3 Rowanwood Court					
Rebecca	moses						
Clair	Heward	21 Newhaven Close	Hemlington	Middlesbrough TS8 9QG			I oppose the proposed Low Lane development
Joanne	Eddy	54 Lynmouth Close	Stainton Manor	Hemlington TS8 9NH			I oppose the proposed Low Lane development
Katrina	Stanwick	18 Bramble Close	Stainton	Middlesbrough TS8 9FE			I oppose the proposed Low Lane development
Paddy	McDonald	60 Cherryfield Drive	Linthorpe	Middlesbrough TSS 5QG			I oppose the proposed Low Lane development
Scott	Munroe	42 sunflower lane	Stainton	Middlesbrough TS89fs			I oppose the proposed Low Lane development
Michael	Lyons	15 fairydell		Ts78lf			I oppose the proposed Low Lane development
Caroline	Norman	25 Gore Sands		Middlesbrough TS5 8UJ			I oppose the proposed Low Lane development
Paul	Walker	68 Jocelyn Way	Stainsby Hall Par	Middlesbrough TS58FA			I oppose the proposed Low Lane development
Paul	Dunning		99	TSS 8RN			I oppose the proposed Low Lane development
Cheryl	Walker	68 Jocelyn Way	Stainsby Hall Par	middlesbrough TS58fa			I oppose the proposed Low Lane development
Helen	Butterfield	23 Snapdragon way		Middlesbrough TS89FU			I oppose the proposed Low Lane development
Steve	Wells	23, Newquay Close	Hemlington	Middlesbrough TS89ps			I oppose the proposed Low Lane development
Michael	Carr	15 Harvington Chase		Couldn't Newhar Middlesbrough TS8 OTR			I oppose the proposed Low Lane development
Paul	Kay	63 Stein Grove	Brookfield Wood	Middlesbrough TSS 8DJ			I oppose the proposed Low Lane development
Enoch	Akwuah	Stainton Vale Cottage	Off low lane	Stockton on Te TS17 9LG			I oppose the proposed Low Lane development
Suzi	Meaney	38 Brookfield Avenue	Acklam	Middlesbrough TSS 8HA			I oppose the proposed Low Lane development
John	Smith	19 Adcott Road	Acklam	Middlesbrough TSS 7ER			I oppose the proposed Low Lane development
Felicity	Smibert	18 Cedarwood Glade	Stainton	Middlesbrough TS8 9Dj			I oppose the proposed Low Lane development
Deborah	Carlisle	10 Hemlington Road	Stainton	Middlesbrough TS8 9AU			I oppose the proposed Low Lane development
Liam	Harris	21 baron	Middlesbrough	TS58fh			I oppose the proposed Low Lane development
Tracy	Horkan		24 Primrose Way	Stainton	Middlesbrough TS89BY		I oppose the proposed Low Lane development
Nick	Dodds	41 Cedar Drive	Thornton	Middlesbrough TS89BY			I oppose the proposed Low Lane development

Alison	Arnold	67, Farthingale Way	Hemington	Middlesbrough TS89RW	I oppose the proposed low lane development
Claire	Campbell	24 Lymouth close		Middlesbrough TS89nh	I oppose the proposed Low Lane development
Judith	Smith	19 Adcott Road	Acklam	Middlesbrough TS5 7ER	I oppose the proposed Low Lane development
Andrew	Campbell	24 Lymouth close		Middlesbrough TS89nh	I oppose the proposed Low Lane development
Roy	Hedger	11 Fane Grove	Acklam	Middlesbrough TS5 7EE	I oppose the proposed Low Lane development
Nicola	Eddon	57 Hemlington Grange Way		Middlesbrough TS89FX	I oppose the proposed Low Lane development
Freda	Fantoni	14 Primrose Way	Stainton	Middlesbrough TS8 9FH	I oppose the proposed Low Lane development
Beth	Thatcher				I oppose the proposed Low Lane development
Teresa	Higgins	3. Oakworth Green	Beechwo	Middlesbrough TS43ES	I oppose the proposed Low Lane development
Chris	Bieda		69 Jocelyn Way	Middlesbrough TS5 8FA	I oppose the proposed Low Lane development
Jude	Graham	2 Severs Drive	Stainton	Middlesbrough TS8 9BJ	I oppose the proposed Low Lane development
Matthew	Bate	8 Holt Close		Middlesbrough TS5 8FG	I oppose the proposed Low Lane development
Simon	Bishop	19 Fawcett Avenue		Middlesbrough TS8 9AR	I oppose the proposed Low Lane development
Anne	James	8 Lincombe Drive	Brookfield	Middlesbrough TS5 8eu	I oppose the proposed Low Lane development
Claire	Jones				I oppose the proposed Low Lane development
Jayne	Horrigan	34 Firsby court		Middlesbrough TS89la	I oppose the proposed Low Lane development
Alison	James	41 The Oval	Brookfield	Middlesbrough TS5 8eu	I oppose the proposed Low Lane development
Carole	Lavery		19 Keilder Rise, Hei	Middlesbrough TS8 9HN	I oppose the proposed Low Lane development
Daniel	Hansford	20 Salis close	Kingsbrook Woo	Middlesbrough TS5 8fb	I oppose the proposed Low Lane development
Neal	Moses	18 seamer road		TS8 9dg	I oppose the proposed Low Lane development
Ian	Blades	142 Overdale road		Middlesbrough TS37DX	I oppose the proposed Low Lane development
Peter	Burrows	27 Jocelyn Way	Acklam	TS5 8FA	I oppose the proposed Low Lane development
Amy Jayne Scarth					I oppose the proposed Low Lane development
Christine	Davies	3meadfoot drive	Brookfield	Middlesbrough TS58hs	I oppose the proposed Low Lane development
Donna	Burrows		27 Jocelyn Way	Acklam TS5 8FA	I oppose the proposed Low Lane development
Nicola	Morgan		24 Cawood Drive	Acklam TS5 7ng	I oppose the proposed Low Lane development
Karen	Campbell	49 Cambridge Road	Linthorpe	Middlesbrough TS5 5NL	I oppose the proposed Low Lane development
Alan	Briggs	9 Holt Close	Acklam	Middlesbrough TS5 8FG	I oppose the proposed Low Lane development
Graham	Hansford	20 Salis Close	Stainsby	Middlesbrough TS5 8FB	I oppose the proposed Low Lane development
Hannah	Briggs	9 Holt Close	Acklam	Middlesbrough TS5 8FG	I oppose the proposed Low Lane development
Chantelle	Harrison	18 Brookfield Avenue	Middlesbrough	TS5 8ha	I oppose the proposed Low Lane development
Sarah	Bowyer	9 Windsor Road	Linthorpe	Middlesbrough TS5 6DS	I oppose the proposed Low Lane development
Michelle	richardson-christie	52 holt close		ts5 8fg	I oppose the proposed Low Lane development



Maria	Briggs	9 Holt Close	Acklam	Middlesbrough TS5 8FG	I oppose the proposed Low Lane development
Janet	Aitken	45 Jocelyn Way	Acklam	Middlesbrough TS5 8FA	I oppose the proposed Low Lane development
Neil	Hamilton		46 Wolsingham Drive Acklam	Middlesbrough TS5 8FH	I oppose the proposed Low Lane development
Christina	Harris	21 Baron Close	Hemlington	Middlesbrough TS5 8FH	I oppose the proposed Low Lane development
Melissa	Martin	14 lockton close	247 Acklam road	Middlesbrough TS8 9RH	I oppose the proposed Low Lane development
Harry	Collin		Stainton	Middlesbrough TS57bw	I oppose the proposed Low Lane development
Leanne	Weldrake	15 cedarwood glade	6 Jocelyn way	Middlesbrough TS89dj	I oppose the proposed Low Lane development
James	Watson		Acklam	TS58fa	I oppose the proposed Low Lane development
Martyn	Walker	7 Mosswood Crescent		Middlesbrough TS5 5BZ	I oppose the proposed Low Lane development
Catherine	Boyle	105 Thornfield Road	Stainton	Middlesbrough TS89fe	I oppose the proposed Low Lane development
Dawn	Matthews	14 bramble close	Acklam	Middlesbrough TS58ha	I oppose the proposed Low Lane development
Steve	Flanders	6 Brookfield avenue	Acklam Woods	Middlesbrough TS58HA	I oppose the proposed Low Lane development
Jonathan	Burke	7 Brookfield Avenue	Acklam	Middlesbrough TS5 8FA	I oppose the proposed Low Lane development
Claire	Flanders	6 Brookfield avenue	Acklam	Middlesbrough TS5 8FG	I oppose the proposed Low Lane development
Melanie	Chadaway	7 Jocelyn Way	Stainsby Hall Par	Middlesbrough TS58HA	I oppose the proposed Low Lane development
Nicholas	Christie	52 Holt Close	Acklam	Middlesbrough TS5 8TZ	I oppose the proposed Low Lane development
Lisa	Pugalis	17 Brookfield Avenue		Middlesbrough TS5 8TQ	I oppose the proposed Low Lane development
Wendy	Walker	1 Bank Sands	Acklam	Middlesbrough TS5 8PQ	I oppose the proposed Low Lane development
Robert	Mccall	54 Hesleden Avenue	Acklam	Middlesbrough TS5 8fb	I oppose the proposed Low Lane development
Victoria	Hoban	56 Ruskin Avenue	Acklam	Middlesbrough TS5 8HA	I oppose the proposed Low Lane development
Amy	Crosby	15 salis close	Acklam	Middlesbrough TS5 8ha	I oppose the proposed Low Lane development
Rachel	Burke	7 Brookfield Avenue	Acklam	Middlesbrough TS5 8JD	I oppose the proposed Low Lane development
Donna	Ward	13 Brookfield avenue	Acklam		
Luke	Henman	37 Malvern Drive	Acklam		

P21-2146

27 August 2021

Paul Clarke  
Head of Planning  
Middlesbrough Council  
Civic Centre  
Middlesbrough  
TS1 9FY

Dear Paul

**Outline planning application for commercial development (Use Class E), including access, parking and associated infrastructure and development (all matters reserved except for access, layout and scale) at Land at Low Lane, Middlesbrough (application reference: 20/0510/OUT)**

We write to you on behalf of our Client, Evolve Estates Limited, in relation to the above planning application which we understand will be going to planning committee shortly.

## **1. Background and Context**

Our Client is an established property developer with a specialism in retail development and a commitment to regeneration. They are an active investor in Middlesbrough and the wider Teesside area and have recently acquired Parkway Shopping Centre in Coulby Newham, which forms part of Coulby Newham District Centre (under the name Sheet Anchor Evolve London). They also own Thornaby District Centre (under the name Proudreed Properties). Our Client's land interest at Coulby Newham also includes an area of the district centre which benefits from an extant consent for retail development (application reference: M/FP/0665/16/P). The description of development is as follows:

***"Erection of 5no additional units (3,997 sqm) for use as either retail (A1), office/financial (A2), restaurant /cafe (A3), drinking establishment (A4), hot food takeaway (A5) and reconfiguration of car park and demolition of Dalby House."***

It is our Client's intention to seek a retailers to undertake this scheme. Such development in the centre would be consistent with national and local planning policy which supports investment in designated centres to increase their attractiveness and to bolster their vitality and viability.

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To assist further in this, national planning policy in the shape of the National Planning Policy Framework (NPPF, July 2021) advocates a 'town centres first' approach which stipulates that proposals that feature main town centre uses (defined in Annex 2 of the NPPF) that are proposed outside of centres defined in the development plan, or are not in accordance with the development plan will need to undertake a Sequential Assessment and, if required, an assessment of impact on the vitality and viability of nearby centres.

This is detailed in paragraphs 87 - 91 of the NPPF which for ease we provide below:

- "87. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. 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.**
- 88. 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. 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.....**
- 90. ....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 sq m of gross floorspace). This should include assessment of:**
- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and**
  - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).**
- 91. 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 90, it should be refused."**

This is broadly reflected in Policy CS13 of the adopted Middlesbrough Core Strategy (2008), albeit the policy position in the NPPF represents a more up to date position in how to examine proposals for main town centre uses.

The application at Low Lane is not within a centre defined in the development plan and is not in accordance with an up-to-date plan and so the sequential approach applies. Given the scale of the development, an impact assessment is also required. To this end, the Applicant has submitted a Planning, Economic and Retail Statement to accompany the

planning application. We also understand that the Applicant has had meetings with the Council since the submission of the planning application to seek to clarify a number of matters that have been raised.

As it stands, our Client does not believe that matters relating to the sequential approach and impact have been assessed in a robust and comprehensive manner and, if approved, the proposals in question would have a significant adverse impact on the vitality and viability of centres in Middlesbrough including being detrimental to future investment in Middlesbrough's centres. Specifically, it would prejudice the ability for our Client to bring forward their development and improvements at Coulby Newham District Centre. It therefore strongly objects to this planning application and considers that under paragraph 91 of the NPPF and the application of a wider planning balance, the proposals should be refused planning permission as they do not represent sustainable development.

We note that the previous owners of Coulby Newham District Centre had already submitted an objection to this application (prepared by Williams Gallagher). We support and endorse this objection and our comments are reflective of the concerns raised in that objection.

We provide more details of our objection below.

## **2. Consideration of the Application**

### ***Comments on the Scale of the Application and Catchment Area***

The application itself proposes a total of 3,757 sq m of floorspace which is identified to come forward for retail use (indicated as a Limited Assortment Discount Store and variety store/variety and foodstore), 552 sq m of unspecified general commercial floorspace (Class E) and a 180 sq m drive-thru unit. The total floor area proposed is 4,489 sq m and so this represents a development of significant scale and it is noted that the proposals are much bigger than a number of nearby local centres as shown in Middlesbrough Retail Study (2016) and Stockton Town Centre Uses Study (2016) and the Council's District and Local Centres Study (2020).

Despite this, the Applicant maintains that the proposals would serve a more localised requirement focussed on the wards of Trimdon, Kadar and the new Brookfield development. This localised narrative is also borne out of the fact that the catchment area upon which the impact assessment is based is a 5 minute drive time isochrone which takes in only a limited area of Middlesbrough. Indeed, we consider there to be lack of evidence provided to demonstrate that this is a suitable catchment area against which to assess the implications of the scheme. We explain this in more detail below.

The Applicant's analysis unhelpfully does not seek to model the current convenience and comparison goods expenditure within the catchment area to then apply current expenditure flows and market shares, however the fact that the largest areas of trade diversion/draw (in percentage terms) are from centres and destinations which lie *beyond* the catchment area such as Coulby Newham District Centre, Thornaby District Centre, Ingleby Barwick Local Centre and Teesside Shopping Park would support the point that the catchment area is too small in this instance. We note that the Applicant has sought to clarify this stance when having discussions with the Council by seeking to justify the catchment area based on surrounding retail provision but fails to link this to current

patterns and flows of expenditure and market shares and so we consider that it still lacks justification.

The lack of information on the levels of comparison and convenience goods expenditure within the catchment area also does not allow for a meaningful analysis of the proposed turnover of the development compared to expenditure levels within the catchment area. This needs to be provided in order to help justify the extent of the catchment area. Given how small the catchment area is and how large the potential total turnover of the development would be (£18.6m – £21.39m by 2025 according to the Applicant in Appendix 3 of the Planning, Economic and Retail Statement), we have strong doubts whether this creates a realistic basis against which to assess the proposals as it is likely to be the case that the total projected turnover of the proposals when compared to expenditure levels in the catchment area would need to assume a very high (and unrealistic) market share rate for the new development within the catchment area (especially for comparison goods) when the more likely and realistic scenario is that it would draw trade from a much wider area.

Getting the catchment area correct for the proposed development is fundamental in being able to forecast retail impact accurately and it also has implications for the scope of the sequential assessment. Currently we do not believe the extent of the catchment area is justified and consider on the evidence available, it is too small to provide a meaningful and robust assessment of the retail planning implications of the scheme.

As this is a case, the retail planning justification is insufficient and not robust and so the application fails on this basis alone. This is for the reason that it cannot be comprehensively shown that the scope of the sequential assessment is appropriate or that the assumption made in terms of impact are sufficiently sound to address paragraph 91 of the NPPF.

### ***Comments on the Sequential Assessment***

As outlined above, one of the consequences of drawing such a small (and we consider wholly unjustified) catchment area is that it significantly reduces the scope of the sequential assessment and they have used the small extent of the catchment area as justification for not properly considering Coulby Newham and Thornaby.

This is noted in paragraph 5.12 of the Applicant's Planning, Economic and Retail Statement where it is stated that:

***"In this respect, it is appropriate to focus on a 5 minute drivetime from the site (Appendix 1), which would extend towards, but not include, the District Centres of Coulby Newham and Thornaby."***

As we consider, on the evidence available, the catchment area is too small for the scale of development proposed, a more realistically drawn catchment would include these centres and others too.

Nevertheless, the Applicant does undertake some analysis of these centres but it is superficial, lacking in detail and fundamentally flawed. We comment on this further later in this section.

Whilst the Applicant correctly identifies that the interpretation of the sequential approach has been shaped by recent case law, we consider that a rather selective approach to case law and indeed planning policy has been undertaken and we would disagree with the statement made by the Applicant that '...there is no requirement to disaggregate constituent parts of proposals.' (paragraph 5.5 of the Planning, Economic and Retail Statement). This is not what national planning policy and guidance states, rather it is clear that the NPPF in paragraph 88 requires that 'sufficient flexibility' should be demonstrated including *inter alia* on matters relating to scale and format. This is elaborated on in the accompanying Planning Practice Guidance (PPG), with it stating:

***"It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of the development being proposed, but rather consider what contribution more central sites [our emphasis, note the plural] are able to make individually to accommodate the proposal."*** (reference ID: 2b-011-20190722).

This would indicate that disaggregation does need to be considered and it is the flexibility in applying disaggregation which is important.

Although the Applicant goes into detail on areas of case law that it feels bolsters their points, it conveniently ignores appeal decisions such as that at Land North of Ashcombe Road and Barnes Way, Kingswood, Hull (appeal reference: APP/V2004/W/17/3171115) which was for an edge of centre retail proposal and one where the Inspector sought to apply disaggregation and indeed dismissed the appeal on the basis that the appellant had not fully considered disaggregating floorspace (appeal is dated December 2017).

What can be taken from this is that each case needs to be based on its own merits and there is a danger of over-relying on and paraphrasing case law in this instance. It is clear to us that there is evidence in both policy and the above appeal decision that disaggregation cannot simply be disregarded and so the Applicant's approach in this instance is incorrect and fundamentally undermines their sequential assessment.

This is brought into focus when the Planning, Economic and Retail Statement examines Coulby Newham and Thornaby District Centres where the assessments of these centres are brief and do not thoroughly explore the potential of these centres to accommodate the proposed development. Rather the assessments are entirely cursory in nature.

As outlined earlier in this letter, our Client owns land at Coulby Newham District Centre, some of this is subject to an extant planning permission (application reference: M/FP/0665/16/P) for retail development. This scheme is not mentioned or referred to in the Applicant's Planning, Economic and Retail Statement at all. We understand however that they have subsequently sought to consider it following discussions with the Council. In this regard they have sought to accommodate their proposals on the site (through a number of layouts) and concluded that they are too large to be accommodated. However, we deem that this exercise is flawed as it does not adequately explore matter of flexibility in terms of scale, layout or innovative design in terms of parking accommodation. Whilst the two proposals do not match precisely in terms of size and layout, with the aforementioned flexibility (which is a policy requirement), we consider that this represents an available and suitable site that could accommodate a development which would be similar in nature to the proposals in question but in a sequentially preferable location.

Likewise, in Thornaby there is little meaningful analysis of vacant sites and units in and around the district centre. It therefore has not been shown comprehensively that there are no available, suitable or viable sites.

As this is the case, the proposals fail the sequential assessment and so should be refused under paragraph 91 of the NPPF.

### ***Comments on Retail Impact***

When examining impact, the Applicant correctly seeks to link the specific vitality and viability of the centres in question to the scale of trade diversion. However, we have strong concerns with regards to how this assessment has been undertaken, the assumptions used in calculating impact and the justification for the impact on individual centres. We outline these concerns in detail below.

In terms of accurately assessing the impact of the proposals, it is imperative that a full understanding of the vitality and viability of centres is obtained in order to provide a robust baseline position on which to model impact.

We note that the health checks appear to have been largely undertaken in July 2020 and so are around a year old. Ordinarily we would consider that these should be updated if that amount of time has passed in order to check that there has not been any fundamental change in the centres in the intervening period. However, this is especially important given that July 2020 represents only the first few months of the COVID-19 pandemic in the UK and it is clear since this time that retail and other associated commercial development has suffered greatly from repeated lockdowns and large falls in turnover; such that this has exacerbated existing trends which have seen traditional high street businesses suffer and in many instances permanently close down. Much of this will have inevitably not been picked up by the health check undertaken by the Applicant. As such, as a baseline assessment, we do not consider the health checks represent an accurate depiction of the current vitality and viability of the centres which have been examined. We note that subsequently the Applicant has sought to justify the health of the centres

In relation to Coulby Newham and Thornaby District Centres specifically, the Applicant's assessment in Appendix 2 of the its Planning, Economic and Retail Statement highlights its view that both centres are vital and viable and are performing their roles well as district centres, however as outlined above, this will not have taken into account the full effect of the COVID-19 pandemic and the impact it has had on businesses, some of which will have had to close plus those that survive may be doing so on lower turnover and so be more vulnerable to impact of the proposed development.

We note that following discussions with the Council, the Applicant has outlined that centres such as Coulby Newham have seen an increase in their turnover when comparing the Middlesbrough Retail Study undertaken 2016 to Retail Study undertaken in 2020. However this alone cannot be a substitute for a thorough health check of the centre (which take into account a much wider range of factors) and although the 2020 Retail Study represents a more updated position, it too is based on survey data from November 2019 and so will not reflect the impact of the COVID-19 pandemic.



As such, we do not consider the health checks represent a true picture of these centres and the current and future issues they will face, consequently the baseline position of the centres prior to modelling the proposed development is distorted and cannot be relied upon. In turn this undermines the assessment of impact.

Irrespective of this, we have concerns regarding how the impact exercise has been undertaken. Firstly, the assessment does not use the latest assumptions for growth in expenditure and turnover contained in Experian Retail Planner's Briefing Note 18 and it seeks to rely on household survey information from the Middlesbrough Retail Study which is some 5 years old and so does not represent the latest position in terms of expenditure flows and market shares. Second and linked to this, the Council's Retail Study is based on broad zones rather than a specific catchment area and so applying market share and thus trade diversion within the catchment area will not be accurate. All this serves to undermine the veracity of the impact assessment.

This is then further undermined by a lack of justification for trade draw/diversion and impact. The Applicant has undertaken this exercise using two scenarios but has not explained the rationale for the assumptions used. It is worth reiterating that paragraph 90 of the NPPF requires impact to be assessed in relation to a defined catchment area. This Planning, Economic and Retail Statement does not do this accurately given that it attempts to retrofit a larger area (based on the zones within the Council's Retail Study) to ascertain trade draw/diversion and impact. As a result of this, there can be no confidence that the figures generated from the impact exercise are accurate at all.

For example, the Applicant's assessment assumes 20% trade draw/diversion in relation to Coulby Newham District Centre (for both convenience and comparison goods and under both scenarios) but this assumption cannot be verified as it is not clear as to what the existing market share is in the catchment area.

Notwithstanding this, even in the absence of this data, from the information to hand from the 2016 Retail Study it is clear that the impact on Coulby Newham District Centre is understated. We calculate that Coulby Newham District centre enjoys a market share of around 29% for convenience goods (main food and top-up shopping combined) within the wider Zone 7 area of the Council's 2016 Retail Study. The Applicant's catchment area falls almost exclusively in Zone 7 however Zone 7 itself also contains further areas to the north including Middlesbrough Town Centre which are located some distance away from Coulby Newham District Centre. As this is the case, the catchment area is likely to enjoy a market share in excess of 29% (by way of comparison, in neighbouring Zone 10, some of which also falls in the catchment area, Coulby Newham District Centre has a market share of 46% for convenience goods).

Checking this against the data in the 2020 Retail Study, similar conclusions can be drawn. Coulby Newham District Centre falls into Zone 3 and enjoys 66.5% market share for convenience goods. The Application Site falls within Zone 1 to the north but is right on the boundary with Zone 3. Zone 1 itself extends much further north in much the same way as Zone 7 (indeed slightly further north) yet Coulby Newham District Centre enjoys a market share of 15.4% in this zone. It is likely therefore that the catchment area would characteristics more akin to Zone 3 than Zone 1 and this again would point to the fact that the market share and therefore turnover derived from the catchment area will be higher.



Therefore, using these assumptions as a basis, a 20% trade diversion/draw assumption would appear to have no basis in reality given the likelihood that a higher proportion of people within the catchment area would undertake their convenience goods shopping at Coulby Newham District Centre and so logically it follows that there would be a greater trade diversion/draw assumption and much greater impact than that which is currently stated.

In relation to the assumptions made for comparison goods impact, the largest trade draw/diversion comes from Teesside Shopping Park at 30%, whilst for Coulby Newham it is 20% and for Thornaby District Centre it is also 20%. Middlesbrough Town Centre is 17%. Again, there is little justification as to why this has been apportioned in this way and again, given the lack of data specifically for the catchment area itself, it proves difficult to sense-check this to any degree. The Planning, Economic and Retail Statement submitted by the Applicant correctly identifies that the PPG suggests that when examining impact that *'like affects like'*. However, it is then unclear how this has then been applied in relation to comparison goods.

As comparison goods floorspace associated with the development is likely to be for a variety store, this should form the basis for assessing impact. In this instance, the offer at Coulby Newham District Centre and Thornaby District Centre, both include a notable amount of variety type retail offer, whilst in contrast Middlesbrough Town Centre variety offer forms only a very small component of its wider retail offer and Teesside Shopping Park offers very little in terms of variety retail. As such, we consider that the comparison goods impact both on Coulby Newham District Centre and Thornaby District Centre are significantly understated.

We understand that a number of these matters have been drawn to the Applicant's attention during discussions with the Council and whilst the Applicant has sought to then refer to the Council's 2020 Retail Study, it continues to assume the same trade draw patterns and does not provide any justification for the approach taken. Our objection on this basis therefore still stands.

It is also worth highlighting that in considering impact, paragraph 90 of the NPPF requires an 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. As we consider that the catchment area is too small and should include Coulby Newham District Centre (which currently lies on the fringes of the catchment area), it is also the case that our Client's extant consent within the district centre should be considered under this policy test. Currently this has not been provided and so there is no certainty that the proposals will not impact on our Client's planned town centre investment. We understand a request by the Council for a cumulative impact assessment has been turned down by the Applicant but no justification has been given for this position although it would clearly be a logical exercise to undertake to better understand the implications of the Applicant's scheme more clearly. Indeed, it is our view that given the similarities between both schemes, granting planning permission for the proposals will prejudice our Client's investment and prevent it coming forward which will therefore further undermine the future vitality and viability of Coulby Newham District Centre. We understand that following dialogue with the Council that the Applicant has erroneously outlined that our Client's proposals are for DIY uses and so there is no 'like for like' impact. This statement is false

as it is our Client's intention to develop the scheme for retail uses which are similar to the Applicant's proposals. As such our objection on this basis still stands.

In a similar manner, the Applicant's Planning, Economic and Retail Statement disregards the planned local centre at Brookfield which is to come forward to support the ongoing residential development in that area. The Applicant uses the argument that it is not included within Middlesbrough's retail hierarchy (in Policy CS13 of the adopted Core Strategy) and it is unclear as to the extent and form of the centre. We also that following discussions with the Council, the Applicant has also sought Counsel opinion on this point.

Notwithstanding this, it is not surprising that it is not included in the retail hierarchy in Policy CS13 given its age and the fact that the centre has yet to be developed. It is clear from the development plan that a local centre is proposed here and so there is a commitment to provide this which will then form part of a future retail hierarchy. This would clearly mean it needs to be assessed as a planned investment and should be taken into account; not least given its location and the fact that the Applicant's proposals could seriously undermine its deliverability. This is emphasised by the Applicant clearly stating that the proposals are to serve the Brookfield area.

Given that the Applicant's proposals would be divorced from the Brookfield development by virtue of the surrounding road infrastructure, it represents a less sustainable option for existing and future residents at Brookfield and so cannot be regarded as a suitable replacement for the local centre requirement.

In summary we therefore conclude in relation to impact that:

- We consider that the health checks that have been undertaken are flawed manner;
- The data used in the Applicant's assessment is out of date and little attempt has been made to rectify this and understand the implications of the updated 2020 Retail Study;
- The quantitative work understates the impact of the proposals on Coulby Newham Town Centre and Thornaby Town Centre;
- The impact should fully consider the impact on our Client's planned investment in Coulby Newham District Centre based on the plans our Client has to take this forward (not a DIY scheme); and
- The impact assessment should also take into account the proposed local centre at Brookfield.

It is clear from this that it cannot be proven that the impact on both Coulby Newham and Thornaby District Centres is acceptable and that the proposals would not prejudice future in-centre investment in the area (including at Coulby Newham and the proposed new local centre at Brookfield). In fact, on the evidence that is available we deem the impact would be classed as 'significant adverse' and so under paragraph 91 of the NPPF, the application should be refused.

### ***Commentary on Other Matters***

The Applicant's Planning, Economic and Retail Statement also contains information about the potential economic benefits of the proposals; namely in relation to potential job creation opportunities.

Whilst our Client does not object to the methodology used to calculate these numbers, it should be emphasised that these still do not reflect a true representation of job opportunities associated with the development and the numbers provided are 'gross' in nature, not 'net' as stated in paragraph 4.20 of the Planning, Economic and Retail Statement. As such, they do not take into account that the jobs created for these proposals may simply displace existing jobs elsewhere and there is no allowance for deadweight loss either (i.e. taking into account the investment and job creation that may have taken place anyway).

The implication of this is that the job creation figures provided are overstated and so it follows that the benefit that can be attached to this in terms of contribution to economic development and uplift in Gross Value Added (GVA) is similarly overstated. This clearly has implications when seeking to consider the planning balance of the scheme and combined with the understating of retail impact means that the 'impact vs benefits' assessment provided by the Applicant is currently misleading.

Our Client is also aware that a number of concerns have been raised in relation to transport, access and overall sustainability in terms of providing a satisfactory junction access for customers and servicing, traffic impacts and accessibility of the development by non-car modes. The latter in particular is important given that the application itself has been defined by the Applicant as providing local shopping facilities for the surrounding wards. If this were the case, then access for non-car modes of transport should be prioritised, however given the surrounding road infrastructure, this cannot be made possible. This in turn seriously undermines the overall sustainability of the scheme such that it is inconsistent with paragraphs 8 – 11 of the NPPF and on this basis should be refused planning permission.

### **3. Summary and Conclusions**

This letter has been prepared on behalf of our Client, Evolve Estates Limited, and outlines their objections in relation to the proposals for out of centre retail uses at land at Low Lane (application reference: 20/0510/OUT). Our Client owns land in Coulby Newham District Centre and Thornaby District Centre and has strong concerns that the delivery of the proposed development would prejudice future investments in these designated centres. In particular we consider it would undermine our Client's proposals which enjoy extant planning permission at Coulby Newham District Centre and for which the Applicant in this instance has had total disregard.

Our analysis of the retail planning justification submitted with the proposals (contained in the Applicant's Planning, Economic and Retail Statement) highlights a number of fundamental issues with how the scheme has been assessed and we consider the assessment undertaken is deeply flawed and does not accurately portray the retail planning implications of the development. Indeed, we regard the information as significantly deficient in a number of key areas. These include:

- Lack of justification for the catchment area used as a basis for the assessment. We consider on the information that is available that this is too small to accurately reflect the scale and the likely trade draw of the proposed development.

- Misinterpretation and misapplication of the sequential approach which does not provide sufficient analysis of both Coulby Newham and Thornaby District Centres and does not properly take into account the aforementioned planning permission at Coulby Newham District Centre by applying sufficient flexibility (as required by planning policy).
- Impact assessments which are based on health checks which are not up to date and which do not reflect the full extent of the effects of the COVID-19 pandemic.
- Lack of an accurate assessment of impact as this does not seek to tie in the analysis accurately enough to the catchment area and does not provide strong enough justification for the assumptions made for trade diversion/draw and thus impact. An analysis into this would indicate that the impact on Coulby Newham District Centre and on Thornaby District Centre is significantly understated and would likely lead to a significant adverse impact on these centres.
- Inaccurate consideration of the impact on planned/committed investment in centres including our Client's extant consent at Coulby Newham District Centre (which is not coming forward for DIY goods) and the emerging local centre at Brookfield (which is a development plan commitment). We regard that the development of the proposals would seriously prejudice our Client's in-centre investment at Coulby Newham District Centre.

All this highlights that the assessment of the application by the Applicant is wholly inadequate and consequently the proposals fail the sequential test and would result in an impact that would be significant adverse in nature. Therefore, under paragraph 91 of the NPPF the planning application should be refused planning permission.

Where the Applicant has attempted to balance this out with an emphasis on job creation, this has been done in a misleading way in that the analysis uses only gross job creation figures rather than net figures. The economic benefit of the scheme is thus overstated. The proposals also do not explain how the proposals would be sustainable in promoting journeys by non-car modes (important given that this is meant to serve a local population).

All this means that when assessing the wider planning balance that the impacts are notably understated, and the benefits are significantly overstated. We consider that when the impacts and benefits are more accurately portrayed then it is clear that these benefits do not outweigh the impacts (which we regard as severe adverse) and so it follows that planning permission should be refused.

Our Client intends to supplement this letter with additional information to further reinforce these points and this will be sent shortly.

We trust our views on this application are clear, however if you require any clarification, please do not hesitate to contact me.

Yours sincerely

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**Chris Martin MRTPI**

Associate Planner

chris.martin@pegasusgroup.co.uk

P21-2146

26th November 2021

Paul Clarke  
Head of Planning  
Middlesbrough Council  
Civic Centre  
Middlesbrough  
TS1 9FY

Dear Paul

**Outline planning application for commercial development (Use Class E), including access, parking and associated infrastructure and development (all matters reserved except for access, layout and scale) at Land at Low Lane, Middlesbrough (application reference: 20/0510/OUT)**

We write to you on behalf of our Client, Evolve Estates Limited, following our letter on 27 August 2021.

As outlined in that letter, our Client has recently acquired Coulby Newham District Centre (under the name Sheet Anchor Evolve London).

The letter provided details as to why we object to the above application and consider that it fails to satisfy the sequential test and will have a significant adverse impact; including on Coulby Newham District Centre given its current health and that the proposals will prejudice our Client's planned investment in the district centre. Consequently, according to paragraph 91 of the National Planning Policy Framework (NPPF, 2021) the proposals should be refused.

Within that letter it was mentioned that we would be providing further information in due course. This letter provides that additional information.

In relation to the sequential test, we note that the Applicant has sought to highlight that their scheme is not able to be adequately accommodated within Coulby Newham District Centre. It has noted that they have stated that accommodating the proposals:

- Would lead to a significantly reduced level of car parking which would not meet the needs of the proposed occupiers.
- Provides limited retail frontage and visibility to the units, or awkward servicing arrangements.

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- Would result in overdevelopment of the site that would not be acceptable in design terms, and would result in poor pedestrian links and circulation.
- Would ultimately result in a significantly compromised scheme that would not be a commercially attractive or viable proposition to retailers.

We would challenge that assertion and note the Applicant has not shown any flexibility in format or scale to accommodate the proposals (as required by the NPPF and Planning Practice Guidance). We enclose a plan showing how the scheme can be successfully accommodated in the centre in a prominent location and in a commercially attractive way that would leave adequate car parking within the centre for all uses (see **Annex 1**). This supports our previous point that the development fails to pass the sequential test.

Our previous letter also highlighted our view that the assessment of impact on Coulby Newham District Centre is based on a flawed assessment of the health of the centre given that the analysis was provided in a pre-Covid-19 era. It is worth highlighting that largely as a result of Covid-19 that the health of the centre has deteriorated in recent months. This includes a number of recent businesses which have moved out or are in the process of moving out shortly. This includes:

- Post Office
- Tui
- Comfort and Care
- Peacocks

The effect of this will be that the centre loses a number of businesses which help drive footfall and visitor numbers and so this will materially impact on the vitality and viability of the centre. This has not been acknowledged within the Applicant's assessment which we consider overestimates the health of the centre and underestimates the impact of their proposals.

We also consider that in relation to impact, that the Applicant has not adequately addressed our Client's proposals for investment within Coulby Newham District Centre. Our Client intends to bring forward a new scheme in the District Centre which is an evolution of a previously consented scheme (application reference: M/FP/0665/1/16/P). We enclose a working draft of these proposals showing how they are intended to be accommodated (see **Annex 2**). The proposals have been designed to include a unit to meet the requirements of a variety store retailer and given that this is mentioned as a tenant for the Applicant's proposals, there is a real possibility that it would prejudice our Client's in-centre investment. This again points to a severe adverse impact on Coulby Newham District Centre in terms of future investment which would aim at addressing some of the challenges it has recently faced as a result of the Coronavirus pandemic.

All this continues to highlight our previous conclusion that the assessment of the application by the Applicant is wholly inadequate and consequently the proposals fail the sequential test and would result in an impact that would be significant adverse in nature. Therefore, under paragraph 91 of the NPPF the planning application should be refused planning permission.

We trust our views on this application are clear, however if you require any clarification, please do not hesitate to contact me.

Yours sincerely

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**Chris Martin MRTPI**  
Associate Planner  
[chris.martin@pegasusgroup.co.uk](mailto:chris.martin@pegasusgroup.co.uk)

**ANNEX 1 – PLAN SHOWING THE APPLICATION BEING ACCOMMODATED IN  
COULBY NEWHAM DISTRICT CENTRE**





## NOTE

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DISCREPANCIES TO BE VERIFIED PRIOR TO COMMENCEMENT OF WORKS

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Extent of Site Ownership

Rev	Date	Comments	D/B	Chk

DRAFT

Scale: 1:1250 @ A3

Drawn: EW	Checked:	Date: Sept 21
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Client: SAE (London) Ltd

**Parkway Shopping Centre**  
**Dalby Way, Coulby Newham**  
**Middlesbrough TS8 0TJ**

**Proposed Site Plan**

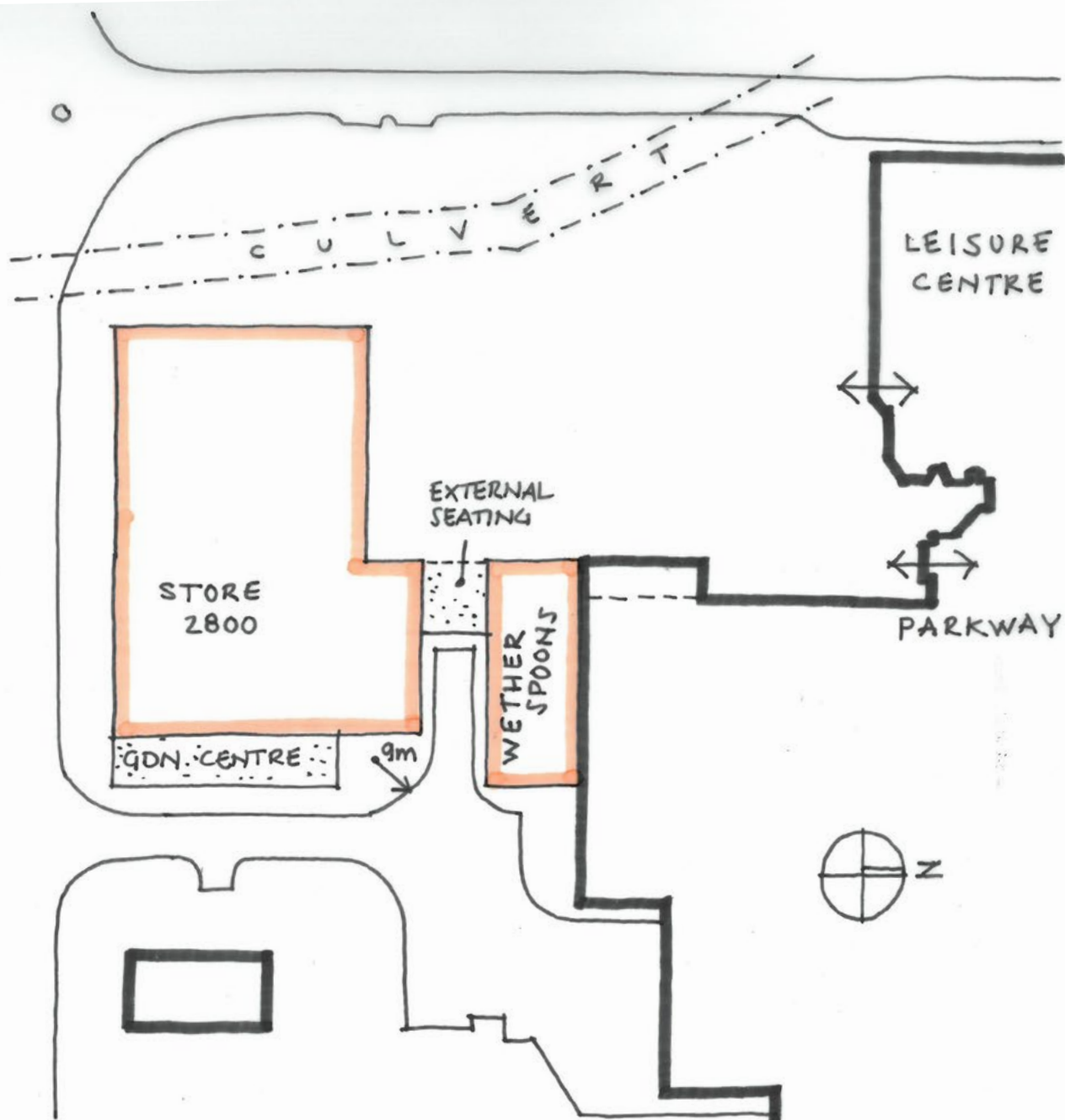
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**EADY**  
 ARCHITECTURE

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 t: +44 (0)7786 858 853

**ANNEX 2 – SKETCH PLAN SHOWING INITIAL DRAFT OF FORTHCOMING  
APPLICATION AT COULBY NEWHAM DISTRICT CENTRE**



THE PARKWAY CENTRE  
LAYOUT AS PROPOSED  
OPTION 6 1:1000

6 November 2020

Ms D Moody  
Senior Planning Officer  
Middlesbrough Council  
P.O. Box 504  
1st Floor Civic Centre  
Middlesbrough  
TS1 9FY

Sent by Email

**WILLIAMS.  
GALLAGHER.**

Portman House  
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e: christine@williams-gallagher.com

Dear Ms Moody

**COMMERCIAL DEVELOPMENT (USE CLASS E) – LAND AT LOW LANE, MIDDLESBROUGH, TS5 8EH  
APPLICATION REF: 20/0510/OUT  
OBJECTION ON BEHALF OF COULBY NEWHAM LLP**

We are writing to you on the instruction of Coulby Newham LLP (c/o Ellandi LLP), owner of the Parkway Shopping Centre in Coulby Newham District Centre in relation to the above application.

At the request of our client we have reviewed the planning documents accompanying the application submission, and our findings and recommendations are set out in the attached report.

We also enclose correspondence from Exigo Project Solutions (Exigo) who have also been instructed by our client to consider the highways implications of the proposed development.

Both ourselves and Exigo have identified major shortcomings with the application submission and, for the reasons set out in the detailed submissions attached, consider that the application is contrary to a number of key development plan and national planning policies.

In summary our conclusions are as follows:

- The proposed development is not of an appropriate scale to meet local convenience needs in the Low Lane / Brookfield area and as a result will draw trade from an extensive area and promote unsustainable travel patterns.
- The Applicant has not demonstrated compliance with the sequential test as there is at least one suitable and available sequentially preferable site / location available within this more extensive catchment area that could accommodate the development proposed (namely Coulby Newham District Centre).
- The proposed development will have an adverse impact on a number of designated centres in the area and, even if these are not considered to be significantly adverse as defined by the NPPF (which for the avoidance of doubt we consider they will be), the considerable harm that the application proposal will have has to be weighed against any positive benefits of the scheme.
- The economic benefits of the scheme and particularly the employment benefits have been significantly overstated as no allowance has been made for the inevitable job losses that will occur elsewhere as a result of the proposal – the majority in policy compliant and sustainable town centre locations.
- The proposal is likely to prevent the planned local centre at Brookfield from coming forward. Whilst the applicant makes a technical (and not necessarily correct) case why this allocation does not have to be considered when undertaking the sequential and impact tests, it remains the case that development that prevents this allocated local centre from coming forward must be considered to be contrary to Policy H5 of the Middlesbrough Housing Local Plan.

In addition, Exigo has indicated that there are grounds for refusal on highway grounds. This is because there are significant flaws in the assessment of the application and as a result the application material significantly underestimates the effect of the proposed development on the highway network. Moreover:

- The proposed access arrangement is deemed unsafe and further information must be provided by the Applicant to demonstrate it meets the adopted design standards.
- The development site is not accessible by all modes of transport and caters only for trips by private car. As such the application falls contrary to local and national policy as it does not provide safe and suitable access for pedestrians and cyclists.
- The results of the junction impact assessments have not been provided and owing to significant issues with the trip generation figures used as part of the assessment, any subsequent junction impact results cannot be relied upon until a suitable assessment of trip generation is provided by the Applicant.
- The application has not demonstrated that the cumulative impacts of this application would not lead to a severe impact on the public highway network.

In view of the above, we urge the Council to refuse the planning application before them.

We would also respectfully ask that you confirm receipt of this letter and keep us informed of any further submissions in relation to the above application. Should you require any further information from ourselves or Exigo, please do not hesitate to contact me.

Yours sincerely



Christine Reeves  
**WILLIAMS GALLAGHER**

Enc: Report by Williams Gallagher  
Letter from Exigo Project Solutions



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**APPLICATION BY ML RETAIL DEVELOPMENTS LTD FOR COMMERCIAL DEVELOPMENT (USE CLASS E)  
LAND AT LOW LANE, MIDDLESBROUGH, TS5 8EH  
APPLICATION REF: 20/0510/OUT  
OBJECTION ON BEHALF OF COULBY NEWHAM LLP**

1. This note has been prepared on the instruction of Coulby Newham LLP (c/o Ellandi LLP), owner of the Parkway Shopping Centre in Coulby Newham District Centre. It provides a critical review of the above application and concludes that the proposed development does not demonstrate compliance with the necessary retail and town centre planning policies set out at local and national level. The application should therefore be refused.
2. Our reasons for reaching this conclusion and the identified shortcomings are set out in more detail below, but in summary:
  - the proposed development is not of an appropriate scale to meet any local convenience needs in the Low Lane / Brookfield area and as a result will draw trade from an extensive area, increasing unsustainable travel patterns;
  - the Applicant has not demonstrated compliance with the sequential test as there is at least one suitable and available sequentially preferable site / location available within the area that could accommodate the development proposed (namely Coulby Newham District Centre);
  - the proposed development will have an adverse impact on a number of designated centres in the area and, even if these are not considered to be significantly adverse as defined by the NPPF (which for the avoidance of doubt we consider they will be), the considerable harm that the application proposal will have has to be weighed against any positive benefits of the scheme;
  - the economic benefits of the scheme and particularly the employment benefits have been significantly overstated as no allowance has been made for the inevitable job losses that will occur elsewhere, the majority in policy compliant and sustainable town centre locations; and
  - the proposal is likely to prevent the local plan allocation for a local centre at Brookfield from coming forward - whilst the Applicant makes a technical (and not necessarily correct) case why this allocation does not have to be considered when undertaking the sequential and impact tests, it remains the case that development that prevents this allocation from coming forward, must be considered to be contrary to Policy H5 of the Middlesbrough Housing Local Plan.
3. Each of these matters is considered in detail below and in doing so we make reference to the following documents:
  - the Planning, Economic and Retail Statement (PERS) prepared by Savills (submitted in support of the application);
  - the Middlesbrough Retail Study 2016 (MRS) by WYG;
  - the Middlesbrough Core Strategy (CS) adopted February 2008;
  - the Middlesbrough Regeneration Development Plan Document (RDPD) adopted February 2009; and
  - the Middlesbrough Housing Local Plan (MHLP) adopted November 2014.
4. We also refer to national planning policy and guidance namely the National Planning Policy Framework (NPPF) and the accompanying Planning Practice Guidance (PPG).

5. We are also aware that the Council has commissioned a new Retail Study and that this is due to be published shortly. Whilst we have not seen this document, we would expect it to provide more up-to-date information on shopping patterns in the area and as such should be used as the basis for any assessment of impact. We anticipate that the Council will consider this more up-to-date information when assessing the current application, but would note that, as a result, the Applicant's supporting material must now be considered out-of-date.
6. It is also out-of-date in that a new Experian Retail Planner Briefing Note (No. 18) (ERPBN18) has recently been published. Unsurprisingly, this indicates a significant short-term reduction in both convenience and comparison growth rates and thus the forecast turnover of centres and stores set out in the PERS is likely to be overstated. This will in turn mean that impacts of the proposed development will be understated.
7. In this assessment we continue to refer to the figures prepared by Savills on behalf of the Applicant, but consider that in practice these should be updated.
8. We should also stress that the comments below relate to what we consider to be the key retail policy issues relating to the determination of the application. We therefore do not seek to review all elements of the application submission nor to comment on all matters raised. As a result, failure to refer to any part of the application submission should not be interpreted as agreement with the Applicant's submission. Rather, these are not matters which we consider to be critical to the consideration of the key retail, town centre and economic policies that need to be addressed when determining the application.
9. We would also wish to make it clear that our client does have major concerns regarding the highway aspects of the current application and these matters are the subject of a separate review by Exigo Project Solutions.

#### **PROPOSED DEVELOPMENT**

10. The application at Low Lane is seeking planning permission for up to 4,489 sqm of commercial floorspace in Use Class E (PERS, Para 1.2) including:
  - up to 1,899 sqm gross for a Limited Assortment Discounter (LAD) foodstore;
  - up to 1,858 sqm for a variety store or a variety store and foodstore;
  - up to 552 sqm for commercial units of 92 sqm each (with no specified use); and
  - up to 180 sqm for a drive thru unit (PERS, Para 2.7).
11. The Applicant indicates that these uses could be controlled by appropriately worded conditions (PERS, Para 2.8) and, for the purposes of this assessment, we assume that this would indeed be the case. However, whether this would be sufficient to make the development acceptable is disputed for the reasons set out below.
12. In particular, the imposition of conditions would not address a number of our key concerns relating to the application proposal as there is a fundamental mismatch between the Applicant's claims that the proposed development is intended to meet local needs (for instance PERS, Paras 2.9 & 5.12) and the scale of the development which is considerably greater than can be supported by the local population, either existing or proposed.
13. This can be demonstrated by comparing the available expenditure in the suggested 5 minute drivetime catchment area with the proposed turnover of the units. This catchment area comprises three main

postcode areas, with a small amount of additional population located elsewhere (see attached Map).  
The 2011 population for each is set out below:

14.

POSTCODE	2011 POPULATION	% POPULATION CLOSE TO APPLICATION SITE (WG ESTIMATE)	POPULATION IN CATCHMENT AREA
TS5 8	11,505	40%	4,602
TS17 9	7,755	0%	0
TS8 9	11,537	30%	3,461
TS8 0	9,474	0%	0
TS5 7	6,444	10%	644
TS17 0	13,994	0%	0
<b>Total</b>	<b>60,709</b>	<b>-</b>	<b>8,707</b>

Table 1: Usually Resident Population (2011) by Postcode  
Source: NOMIS (ONS Crown Copyright Reserved)

15. The proportion of each postcode area's population that would be closer to application site than to any other district or local centre facility is then estimated, to determine the actual population that a local shopping facility in this area would be expected to serve. This equates to just 8,707.
16. Up to date expenditure data is not provided by the Applicant, but we would expect expenditure per head to be in the range of £2,000 - £2,200 for convenience goods and £3,000 - £3,800 for comparison goods. This would suggest available expenditure in the area would be in the range of £17.4m - £19.2m for convenience goods and £26.1m - £33.1m for comparison.
17. With the application proposal expected to turnover at between £11.54m and £16.46m for convenience sales (PERS, Tables 1b & 2b), this would require the proposed convenience store(s) to achieve a market penetration of 60% - 95% within the catchment area. This is totally unrealistic and in practice the trade draw would need to be from a considerably wider area to support the amount of convenience floorspace proposed.
18. Similarly, the Applicant is suggesting that the comparison turnover will be in the region of £4.93m - £7.07m (PERS, Tables 1b & 2b) which would require a market penetration within the suggested catchment of 14.9% - 27.0%, despite the comparison offer being limited to a single main store that would not sell many comparison items - most notably clothing and footwear that nationally account for around a quarter of all comparison spend.
19. Again, this is unrealistic and would require the proposed comparison store to draw on a considerably wider catchment than suggested.



20. This has implications both in relation to the area of search for the sequential test and the expected trade draw of the proposal and resulting impacts. These are considered in more detail below.
21. It also emphasises that, contrary to the Applicant's suggestions, this is not a small scale retail development intended to serve a local catchment, but a relatively large scale out-of-centre proposal of at least 3,757 sqm gross of retail floorspace, with a further 732 sqm of development that could also comprise retail or town centre uses.
22. This is about a quarter of the size of Coulby Newham District Centre in terms of retail floorspace (PERS, Appendix 2, Table 2), a fifth of the size of Thornaby District Centre (PERS, A2, Table 3) and considerably larger than the nearby local centres:

<b>LOCAL CENTRE</b>	<b>RETAIL FLOORSPACE (CONVENIENCE, COMPARISON &amp; VACANT)</b>
The Viewley Centre, Hemlington	1,958 sqm
Acklam Road / Cambridge Road	2,213 sqm
Acklam Road / Mandale Road	2,796 sqm
Trimdon Avenue	546 sqm
Myton Way, Ingleby Barwick	2,879 sqm
<b>Application Site</b>	<b>3,757 – 4,489 sqm</b>

Table 2: Retail Provision in Local Centres

Source: MRS, Appendix 4 and Stockton-Tees Town Centre Uses Study 2016 (Table 2.2)

23. As such, the proposal is clearly intended to serve a considerably larger catchment than the local residential area and has the potential to adversely affect a considerable number of designated district and local centres. It will also generate unsustainable travel patterns as it relates to an out-of-centre location.

### **ECONOMIC BENEFITS**

24. Section 4 of the PERS seeks to examine the economic benefits of the proposed development and places considerable weight on the number of jobs that will be created both during construction and within the businesses that are proposed.
25. However, the benefits claimed by the Applicant are considerably overstated and, in practice there is no guarantee that there will be any long term economic benefits arising from the development. All the

figures relate solely to the development in isolation (i.e. 'gross' figures) and no consideration has been given to the net benefits of the scheme (i.e. the new jobs created once allowance has been made for any that will be lost elsewhere).

26. This is important, because as is recognised in the PERS, all trade generated by the proposed retail development will have to come from existing outlets (PERS, Para 6.3) and as such will result in a reduction in the turnover of the affected businesses. Whether these impacts are considered significantly adverse or not in retail planning policy terms (see below for further comment on this matter), it remains the case that any retail business experiencing a decrease in turnover would be expected to respond by reducing costs; a large proportion of which relate to labour. As a result, it would be expected that, whatever the number of jobs created at the application site, a similar number are going to be lost elsewhere. Indeed, it could be that the job losses elsewhere exceed the new ones created, given that the proposed operators are 'value' orientated and thus are likely to operate more 'efficiently' than some of the existing businesses.
27. It also has to be recognised that the jobs lost are likely to be located within the designated centres, reducing the workforce available to support these centres and replacing accessible, sustainably located jobs with ones that are considerably more likely to rely on the private car. This is not only unsustainable, it is also likely to make it more difficult for those who would benefit most from retail employment from accessing them, given many are unlikely to have access to a car that can be used for work purposes.

### **SEQUENTIAL ASSESSMENT**

28. In terms of the sequential assessment provided by the Applicant, we have two main concerns:
- the approach adopted with regard to the sequential assessment is not in our view, a correct interpretation of national planning policy, particularly with respect to how disaggregation is considered; and
  - the Applicant has failed to consider a sequentially preferable suitable and available site in Coulby Newham District Centre.

### **Approach to Sequential Test**

29. The approach adopted in identifying and assessing potential sequentially preferable sites by the Applicant is based upon an assumption that the proposal cannot be disaggregated (PERS, Paras 5.1 – 5.12).
30. We are very familiar with the examples and case law presented by Savills, but the Council should be aware that this is a selective analysis of the matter and as such their interpretation cannot be considered as 'binding' as they seek to suggest (PERS, Para 5.11). Importantly, all the cases referred to predate the current version of both the NPPF and the PPG and as such it is the wording in these documents that need to be considered.
31. The starting point for this is the undisputed support given to town centres by national government, as reflected in the relevant chapter of the NPPF – Chapter 7 Ensuring the Vitality of Town Centres. As such the sequential approach is not simply a 'tick box' exercise for the applicant to complete, but one of the main ways that town centres should be supported, with all new development located centrally if that is possible.

32. This importance is reflected in the PPG which indicates that even failing to provide a sequential assessment can be a reason for refusal (PPG, Reference-ID 2b-011-20190722). It is also of note that it is for the applicant to demonstrate compliance with the test.
33. Similarly, whilst a 'real world' approach should be adopted in any assessment, both the applicant and the local planning authority are required to demonstrate flexibility on issues, including, but not limited to format and scale (NPPF, Para 87).
34. Contrary to the suggestion by Savills, this does not exclude a consideration of disaggregation. Instead, the July 2019 PPG is clear that *'the suitability of more central **sites**'* should be considered *'to accommodate the proposal'* (PPG, Para: 011 Reference-ID 2b-011-20190722) [our emphasis]. If disaggregation were not required to be considered, this could have been expressed by alternative wording such as *'the suitability of a more central site to accommodate the proposal'*.
35. Similarly, PPG Para: 011 Reference ID: 2b-011-20190722 goes on to state that *"It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of the development being proposed, but rather consider what contribution more central sites are able to make individually to accommodate the proposal"*.
36. This suggests to us that an out-of-centre proposal fails the sequential test if there are more centrally located suitable and available sites that in combination can accommodate a similar form of development to that proposed, unless there is a demonstrable need for the occupiers to be located immediately adjoining each other (which for the avoidance of doubt is not the case here).
37. This is consistent with an appeal decision dated 20 December 2017 regarding a site in Kingston-upon-Hull (Ref: APP/V2004/W/17/3171115). The appeal proposal was for a larger retail scheme than currently proposed but was similar in that the scheme was a speculative proposal, without identified occupiers for its several retail and food and beverage units.
38. The Appellant had referred to the same cases as Savills do in the PERS and sought to argue that it was not necessary to consider the disaggregation of the scheme. However, in dismissing the appeal, the Inspector was clear that it was appropriate to consider whether City Centre sites in combination could accommodate the proposal.
39. The Inspector also concluded that greater flexibility in how the accommodation could be provided would also be possible given that a number of units were proposed, compared to a situation where all the space is intended for occupation by a single retailer.
40. In this case, there are no named operators and there is no reason to co-locate a LAD foodstore on the same site as a drive thru unit and a variety store or variety store / foodstore.
41. We therefore consider that the appropriate way to consider the suitability of more central sites in this case is to identify possible sites and then to consider how they can contribute to accommodating a form of development similar to that proposed. If, singly or together, they can accommodate the proposal, then the application proposal has failed the sequential test. The sequential test is also failed, if this assessment has not been undertaken by the applicant, as is the case here.

### **Sequential Sites**

42. Turning now to the area of search and specific sites, the assessment provided by Savills is, in our view totally inadequate and importantly, flawed. As a result, possible sequential sites have not even been identified, much less assessed.
43. For the reasons set out above, the scale of the proposed development means that its role and function will serve a relatively wide area of south Middlesbrough, extending considerably beyond the 5 minute catchment area suggested (PERS, Para 5.12). The sequential assessment therefore needs to consider sites in the nearest two district centres of Coulby Newham and Thornaby ((PERS, Para 5.12). We also consider that potential sites in, or on the edge of Trimdon Avenue and The Viewley Centre, Hemlington should be considered as they could serve a similar catchment.
44. Moreover, all centres need to be properly assessed to consider the availability of possible sites. We cannot comment on the other centres, but it is clear that potential sites in Coulby Newham have not been properly considered.
45. If they had been, then the Applicant would have been aware of the extant consent within the centre for a major extension (Application Ref: M/FP/0665/16). This permission is valid until 25/10/2021 and proposes 5 retail units totalling 3,997 sqm for use as either retail (A1), office/financial (A2), restaurant /cafe (A3), drinking establishment (A4) and / or hot food takeaway (A5) and the reconfiguration of car park and demolition of Dalby House.
46. Whilst this extension has not been brought forward to date, partly due to national economic trends but also local competition from out-of-centre development, it remains the case that our client continues to seek potential occupiers.
47. The current approved layout does not provide exactly the same sized units as the application site, but the largest is of a similar size to the LAD unit proposed (1,886 sqm) and the combined size of the other three units (942 sqm) would be sufficient for one of the additional units under Scenario 2. An existing unit would also be available within the centre to accommodate the third retailer and on-site car parking is provided.
48. However, it would also be possible to bring forward a revised scheme if the existing layout is not satisfactory for the potential (and currently unnamed) operators. The consented site area extends to 2.44 ha and thus is larger than the application site (1.76 ha). It also forms part of the wider district centre site, offering further potential to accommodate all the retail and other elements of the application proposal within Coulby Newham District Centre.
49. The inability to bring forward the consented scheme to date, does not negate the fact that the site is suitable and available for the proposed development and, with operator interest could be brought forward quickly.
50. It must therefore be concluded that the application proposal fails the sequential test and as such the application should be refused in accordance with the NPPF (Para 90).

### **RETAIL IMPACT**

51. Having reviewed the retail impact assessment (RIA) provided by the application in Section 6 of the PERS, we have a number of concerns regarding both the approach and the conclusions reached, not

least the very misleading suggestion that the NPPF is only concerned with impacts of a development when they are significantly adverse (PERS, Para 6.3).

52. This is not a correct interpretation of the NPPF as, whilst a significantly adverse impact should mean an application is refused (NPPF, Para 90), lower level impacts are also a consideration for the local planning authority, as the overall harm of an application must be assessed against any benefits. This is made clear in the PPG where it states:

*"Where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out-of-centre proposal, the local planning authority must then consider all other material considerations in determining the application, as it would for any other development" (PPG, Reference-ID 2b-018-20190722)."*

53. As such the level of impact is important regardless of whether it is subsequently determined to be significantly adverse, and clearly the higher the level of impact that would result, the stronger the case for refusing the application, as the harm is more likely to outweigh any benefits.
54. In determining the scale and significance of any trade diversion, there are two key factors as the Applicant has recognised – the scale of the trade diversion and the health of the centre affected. In this case we have concerns regarding both aspects in the RIA that has been provided.
55. These are outlined below, again with an emphasis on Coulby Newham, although our findings are likely to also be true for all nearby centres that will be impacted by the application proposal.

#### **Health of Coulby Newham District Centre**

56. The health check of Coulby Newham District Centre provided as part of the RIA seeks to suggest that the Centre is performing well and provides a strong convenience, comparison and service offer commensurate with its role in the hierarchy (PERS, A2, Para 3.14). However, this conclusion is based on a single snapshot in time and as such should not be taken at face value.
57. As the Council will be aware, and as is acknowledged by the Applicant, the Covid-19 pandemic has already had a significantly adverse and disproportionate impact on the retail, leisure and hospitality sectors (PERS, Para 4.6 – 4.7) and the job losses to date and forecast are considerable.
58. However, the effect of these changes is not just to increase unemployment as suggested in the PERS, but also to increase vacancies, as companies cease trading either due to business failures or company rationalisations. This is in addition to ongoing changes in the retail sector which were already seeing a declining requirement for physical retail space and store closures (PERS, Para 4.6).
59. However, the PERS seems to fail to make the connection that, as Middlesbrough is not immune from these negative impacts of Covid-19 in terms of losses in employment (PERS, Para 4.8), it follows that there are also going to be new vacancies arising in the existing town, district and local centres, as businesses close, whilst those that remain are going to be facing a considerably more uncertain future.
60. It is therefore clear that the health of a centre cannot simply be judged on a single snapshot in time, particularly when that relates to a period before the direct impacts of Covid-19 would be visible and when the depth of the resulting economic downturn / recession is unknown.

61. In the case of Coulby Newham, the effect of these national trends is already a considerable concern for our client and the existing businesses located there, and any further impacts as a result of out-of-centre retail development could have a devastating effect.
62. It is already public knowledge that retailers such as Peacocks and Regis Hairdressing have entered (or are about to enter) administration and the future of both companies is currently in doubt. There are also other units within the shopping centre whose trading future is extremely uncertain, either due to company-wide rationalisation programmes; where our client has already been advised that the company wish to surrender their lease or action a break clause in the near future (next 12 months) or where a lease is about to expire and no agreement has been reached to date on new terms. There are a number of other units where the retailers have break clauses they could implement between now and the end of 2021.
63. Overall this represents a significant number of the retail occupiers within the centre, including some of the larger space occupiers. Further, the future of the other retailers within the centre remains uncertain given the inevitable impact of the second national lockdown during the traditionally important trading period in the run-up to Christmas.
64. This is not to say that any vacated units will not be re-let, but the ability to secure new operators for these units is currently very uncertain and will be made considerably more difficult if the current application is approved.
65. It is also the case that businesses in the centre that do survive will inevitably be impacted by the proposed development and, whilst they may have been able to survive a particular level of trading impact previously, they are going to be less able to cope with an equivalent level of trade diversion now given recent events. The threshold for a significantly adverse impact will therefore be considerably lower now and in the future than was perhaps anticipated even 12 months ago.
66. This is likely to be true for all centres that will be impacted by the application proposal.

#### **Quantitative Impact Assessment**

67. Turning now to the quantitative impact assessment provided in the PERS, we have several major concerns regarding its reliability and do not consider that it can form the basis of any decision regarding the likely impact of the proposed development.
68. Firstly, it is based on historic survey data (we understand a new study has recently been undertaken for the Council) and does not reflect the latest growth rates as set out in ERPBN18. As such the RIA needs to be updated to reflect the latest information on shopping patterns in the area. Failure to do so means the application is not supported by a 'fit for purpose' RIA and the application could be refused on that basis.
69. Secondly, and of greater concern and a matter that should be addressed in any revised RIA, is that there is no justification provided for the trade draw that has been assumed – importantly, it does not seem to be informed by Savills' earlier assumption that the development will meet local needs.
70. If this were the case then it would be expected that the trade diversion would be from existing local businesses, as it is generally accepted that customers tend to shop locally for convenience and lower order comparison goods. Also, based on Savills' earlier assumption that the development will meet local needs, it makes no sense that the local centres in the immediate vicinity, such as Trimdon Avenue,

Viewley Centre and those on Acklam Road will not lose any convenience trade to the proposed LAD (PERS, Table 3).

71. Similarly, the impact on the stores in Coulby Newham is likely to be higher than forecast. The levels of trade draw suggested in the RIA appear to be similar to the market shares achieved by the centre in Zone 7 of the previous MRS study and it is accepted that this is the Zone covering the majority of the 5 minute drivetime catchment suggested for the proposal. However, Zone 7 covers a considerably larger area extending up to the town centre and with a population of nearly 100,000. Many of these would not be expected to use Coulby Newham District Centre and therefore the centre's market penetration rates in the immediate vicinity / suggested catchment area would necessarily be significantly higher.
72. It therefore follows that the 20% convenience trade draw from Coulby Newham is a significant under-estimate. The same is likely to be true for Thornaby District Centre, whilst trade draw from more distant stores such as Lidl, North Ormesby, would be negligible.
73. There are similar problems with the suggested trade draw for comparison goods, which seeks to suggest that a third of the comparison trade would come from the Teesside Shopping / Leisure Park and 17% from Middlesbrough Town Centre (PERS, Table 4). However, the proposed comparison offer is limited to a single variety store. As such it is unlikely to stop shoppers visiting either of these locations, given their considerably larger and higher order comparison goods offer.
74. Instead, the variety store will compete directly with stores in Coulby Newham and Thornaby and the main trade draw would be expected to be from these two locations.
75. As a result, the suggested impact of 3.7% - 4.2% on Coulby Newham (PERS, Tables 7 & 8) is a considerable underestimate and in practice both the convenience and comparison trade draw and the resulting impacts will be considerably higher.
76. They will also be higher when the expected trade draw to the drive thru and other commercial units is included within the assessment. These may have a limited effect individually (PERS, Para 6.24), but any trade draw will be in addition to that already assessed for the retail units. These are town centre uses and therefore their impact also need to be properly assessed, again with any failure to do so itself a possible reason for refusal (Reference-ID 2b-017-20190722).

### **Impact Policy Assessment**

77. In the absence of a reliable RIA and confirmed information regarding the likely end occupiers, it is not possible to conclude that the impact of the proposed development will not be significantly adverse on Coulby Newham District Centre, or indeed on the other centres that will be affected.
78. Our own view and that of our client is that the proposal if approved will inevitably adversely affect the centre and both turnover and footfall will decline. When considered in the context of the known problems facing the retail sector and other town centre operators, it is clear that even a small additional impact will be significant and further vacancies, to add to those already expected in the centre, will follow. The impact in our opinion will therefore be significantly adverse.
79. It is also the case that the same problems and increased out-of-centre competition will make it more difficult to secure new lettings in the District Centre and the prospects of securing the necessary operator interest in the planned centre extension will be further reduced.



80. Importantly, this is not something that is assessed in the PERS but our client's planning permission represents important planned, private sector investment in a location that is fully compliant with national and local planning policy. As such, the impact of this failing to come forward will itself result in a significant adverse impact.
81. We therefore conclude that the Applicant has failed to demonstrate that the proposed development will not have a significant adverse impact on Coulby Newham District Centre and the same is likely to be true for the other local and district centres. The application could therefore be refused on this basis.
82. Our own analysis has indicated that the impact on Coulby Newham will be adverse and in our opinion, significantly adverse in terms of the impact on the overall health and vitality and viability of the Centre and will be significantly adverse on the planned investment within it. As a result, the application should be refused (NPPF, Para 90).

### **PROPOSED LOCAL CENTRE**

83. Our final comments relate to the planned local centre at Brookfield, which is intended to serve the new area of housing that is planned for the area.
84. There are a number of places in the PERS where the Applicant seeks to argue that they do not need to consider the allocation in relation to either the sequential or impact tests, and we assume that the Council will be obtaining its own advice on this matter.
85. However, it would seem to us that, regardless of the need to consider the allocation with respect to the retail policy tests, it remains the case that the local centre is promoted in the local development plan and as such the adverse impact of the proposal on the policy is a policy consideration. It is also clear to us that such a development is extremely unlikely to come forward if the current application is permitted. The application proposal will therefore have a negative effect on Policy H5 Brookfield and one which needs to be considered against any positive benefits of the application proposal.

### **CONCLUSIONS**

86. This review of the application submission for a retail / commercial development of up to 4,489 sqm on land at Low Lane has shown that the application proposal does not comply with retail planning policy and as such it should be refused.
87. Specifically, the Applicant has:
- failed to demonstrate compliance with the sequential test both in terms of the way sites have been identified and the specific sites assessed.
- The failure to adopt a sufficiently flexible approach and consider the disaggregation of the proposal across a number of more central sites means potentially sequential sites have not been identified or assessed. The Applicant has therefore failed to demonstrate that the proposal complies with the sequential test and the application should be refused on that basis. There is a suitable and available site within Coulby Newham District Centre that is both suitable and available for a similar form of development to that proposed. Again, this means that the current application fails to comply with the sequential test; and
- failed to demonstrate that the proposal will not have a significant adverse impact on nearby centres, including Coulby Newham.



Our own evidence has shown that the centre is considerably more vulnerable than the Applicant suggests, and that the forecast levels of impact are likely to be significantly higher than suggested, once a realistic trade draw and impact assessment is provided. The proposal therefore has the potential to have a significant adverse impact on the centre (and potentially others) and should be refused on this basis.

88. We have also shown that if approved, the proposal will have a significantly adverse impact on future private sector investment in the centre insofar as it will prevent the current extant planning permission for an extension from coming forward. This development has already proved difficult to progress due to the recent changes being seen in the retail sector and town centres and other out-of-centre planning approvals. However, if the very limited operator interest in the area is allowed to locate at the out-of-centre site at Low Lane, then there will be no prospect of this permission being implemented. This represents a significant adverse impact on planned, private sector investment in a designated district centre and the application should therefore be refused on this basis.
89. Finally, we consider that little if any weight can be given to the claims made by the Applicant regarding the economic benefits of the proposal, as these fail to consider the adverse impacts that will inevitably be experienced in nearby centres where retail jobs will be lost. Further, replacing jobs in sustainable town centre locations, with ones reliant on the availability of a car to access them will adversely impact many individuals most need of retail employment.

