

# Robert Halstead

Planning & Development Surveyors

N.C. Willock MRICS MRTPI

Unit 57 Bowers Mill Barkisland Halifax HX4 0AD

Tel: 01422 379841 e mail: [nick@roberthalstead.co.uk](mailto:nick@roberthalstead.co.uk)

Planning    Development    Rights of Way

---

## **Retail Sequential Assessment - land at junction Mitchell's Way / Barnsley Road, Wombwell**

### Introduction

This report accompanies a planning application for a new petrol filling station with A1 retail. The site is more than 300m outside of the defined district centre boundary of Wombwell and is therefore classed as 'out-of-centre' under the relevant definition in the National Planning Policy Framework (NPPF).

A sequential assessment is not strictly required for the petrol filling station element of the proposals as the such a use falls outside the Use Classes Order, being *Sui Generis*.

However, in acknowledging that modern-day PFS proposals (including the current submitted scheme) incorporate an element of retail (A1) use which goes beyond what was traditionally an ancillary function of a payment kiosk and 'car spares / equipment' retail, the sequential assessment is submitted because A1 retail falls within the definition of 'main town centre uses' in connection with the National Planning Policy Framework.<sup>1</sup>

As such, Paragraph 24 of the National Planning Policy Framework states that Local Authorities:

*"should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."*

Draft Local Plan Policy TC1 (town centres) also sets out a requirement for a sequential test, to be produced in line with NPPF planning policy objectives.

### Local Planning Policy and commentary

UDP Policy S3 permits new retail development (convenience and comparison goods) outside the central shopping area of Barnsley town centre and the principal shopping and commercial centres only: (a) on a site allocated for that purpose in the plan; (b) where there is no suitable site available within centres or where there is no available allocated site, then on a site at the edge of a defined

---

<sup>1</sup> NPPF Annex 2: Glossary

shopping centre; or (c) where there is no other suitable site available, then on an out-of-centre site in a location accessible by a choice of means of transport.

It is acknowledged that the site in question is out-of-centre, however with a regular bus route passing the site on Barnsley Road, combined with the site being adjacent to a large residential population on the northern half of the Wombwell settlement, the site is well-placed to encourage non-car modes of transport, subject to passing the sequential test.

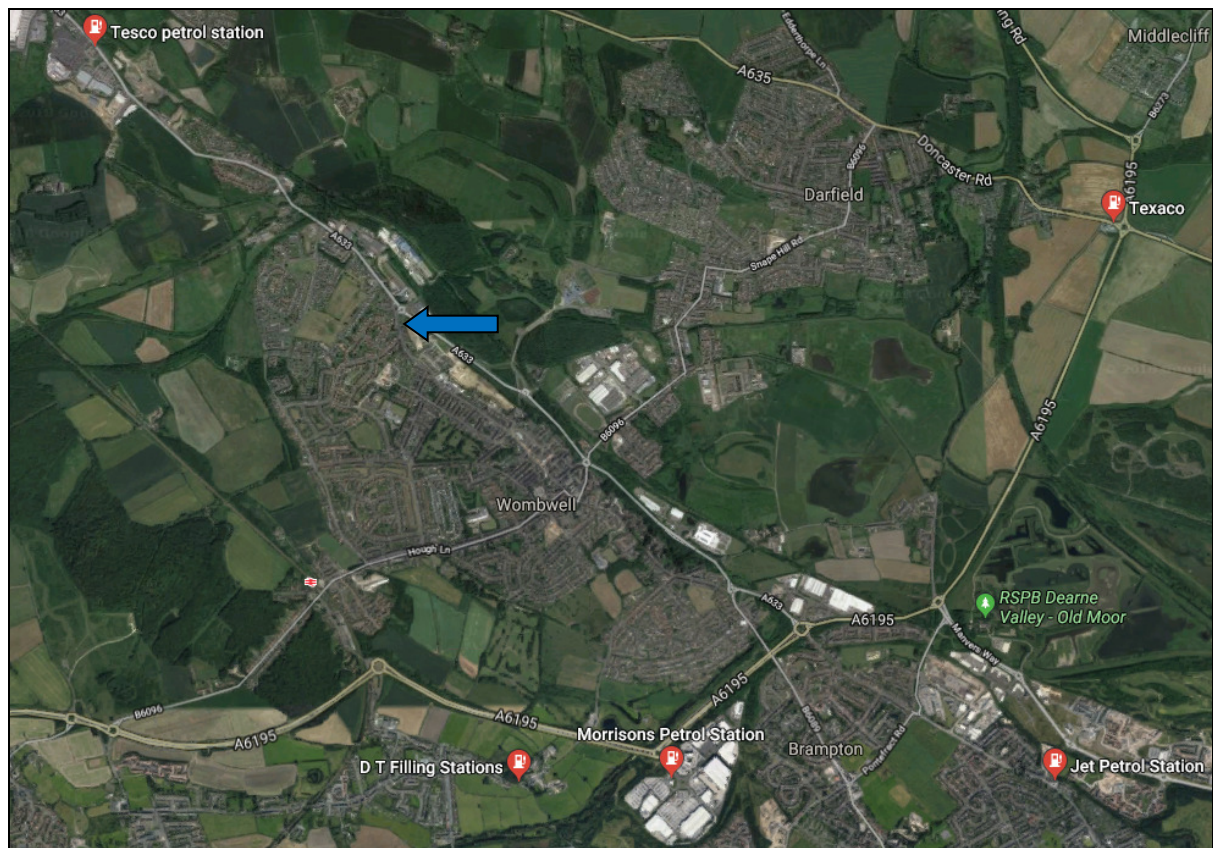
Policy S6 is concerned with local shopping facilities, and allows proposals serving day to day needs of an immediate locality, subject to scale, traffic and environmental considerations. Core Strategy Policy CS32 and Draft Local Plan Policy TC5 essentially echo Policy S6.

In this case, the retail element is of a small scale and will be capable of serving the day-to-day needs of a relatively sizeable residential population in the immediate vicinity.

#### Catchment Area and location of proposals

The proposed retail element is relatively small at 290 sq.m net sales area and seeks (with the petrol station) to serve the Wombwell catchment area.

It is important to note that as alluded to above, a relatively good retail offer (albeit relatively small) is now an established and accepted part of a modern petrol filling station business operation, and as such, it is important to look at the locational factors of the principal part of this proposal – the PFS itself.



**Location of nearest Petrol Filling Stations (application site shown with blue arrow)**

As can be seen from the above aerial photo extract, there are a number of PFS facilities, but they are located some distance away from Wombwell. The town itself does not currently contain a PFS facility within or on the edge of the urban settlement area.

As such, the applicant seeks to serve Wombwell itself and this accords with sustainable development objectives, as it will help capture local trade and avoid the need for existing residents to travel beyond the town for fuel requirements.

Furthermore, with reference to the Council's Smaller Centres Study (November 2010), Core Strategy Policy CS31, and Draft Local Plan policy TC1, Wombwell is one of six district centres - a tier which is second only in the retail hierarchy to Barnsley town centre.

Paragraph 8.98 of the Smaller Centres Study recognises Wombwell as the biggest of the district centres, and the retail catchment areas (defined at 7.1) include a zone which comprises Wombwell and the local centre of Darfield. However, it would be inappropriate to include Darfield in the sequential catchment area, as it is lower in the retail hierarchy and therefore less sustainable.

Finally, a key commercial factor for a petrol filling station is that it needs to be located adjacent to a road with a high traffic flow, which ideally should exceed 14,000 movements in 24 hours. The site on Mitchell's Way fulfils this requirement.

For these reasons, the catchment area for the proposed development is considered to comprise the Wombwell settlement only, as the key district centre under the Council's established retail hierarchy.

#### Case law / appeal position on the retail sequential test

Whilst the issue of considering flexibility in terms of format and scale is acknowledged to be a requirement of NPPF paragraph 24, the Secretary of State decision at Rushden Lakes, Northampton (APP/G2815/V/12/2190175), confirmed that the requirement for applicants to consider 'disaggregation' as part of the sequential test is no longer a retail planning policy requirement (IR8.47 and 8.51).

A further important point made was that (following the *Dundee* case), the SoS agreed with the Inspector's conclusions at IR8.48 that the sequential test relates entirely to the application proposal and whether it can be accommodated on an actual alternative site (e.g. a town centre site).

More recently, the Judge in the case of *Aldergate Properties Ltd v Mansfield District Council & Anor [2016] EWHC 1670 (Admin)* stated that: "suitable' and 'available" generally mean 'suitable' and 'available' for the broad type of development which is proposed in the application by approximate size, type, and range of goods. This incorporates the requirement for flexibility in [24] NPPF, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer."

The Judge went on to state, "the requirement or preferences of an individual retailer's trading style, commercial attitudes, site preferences, competitive preferences whether against itself or greater competition should dictate what sites are "suitable" or "available" subject only to a degree of flexibility." (para 38).

More recently, in the appeal decision at Tollgate village, Essex <sup>2</sup> the Inspector (paragraph 2.3.6) stated: “Whilst a sequentially preferable site need not be capable of accommodating exactly the same as what is proposed, it must still be capable of accommodating development which is recognisably closely similar to what is proposed.”

In terms of availability, the Inspector commented at 12.3.18: “Moreover, in terms of availability NPPF paragraph 24 asks whether town centre or edge of centre sites ‘are ... available’. That is at the date of the assessment. This was the approach of the SoS in Rushden Lakes and accords with the language and context of the sequential test. [8.3.14]”

Then in paragraph 12.3.19: “It reflects the break from previous guidance which directed decision makers to consider whether sites might become available over a reasonable period of time. This guidance is referred to in the 2013 Bath Press decision, and was relied upon to determine that availability should be assessed over a period of 10 to 15 years, but it has now been withdrawn.”

#### Applying the sequential test to the current case

In relation to this case, the above case law / appeal decisions confirm that there is no need to consider disaggregation as part of the sequential test, and as such the search for alternative sites or premises should not be limited to those that can accommodate the retail or PFS elements of the proposals alone (providing flexibility is demonstrated in terms of scale / format).

Secondly, providing the applicant’s “individual trading style, commercial attitudes, site preferences, or competitive preferences” are not taken into account, alternative sequentially preferable sites or premises must be able to accommodate development which is “recognisably closely similar to what is proposed.”

Thirdly, any availability factors must be considered at the date of the sequential assessment, not in relation to a point in the future.

Given the established position as of above, demonstrating flexibility in terms of format and scale in this case (for example reducing the retail area to simply an ancillary function, or reducing parking a little), would not make a significant difference to the overall size of site required for the proposals (currently 0.15ha).

As such, for the two uses proposed (which also includes the PFS element not required to be subject to the Sequential Assessment), an alternative site would need to be in the region of 0.12/0.13 hectares in order to accommodate the proposed development, or something closely similar.

#### Sequential site search

A walkover survey of the centre of Wombwell was undertaken in January 2018 to look at any redundant, derelict, or available buildings / sites. The whole area of the town centre commercial activity was assessed, in accordance with the district centre boundary as defined in the Small Centres Study (see below).

The survey identified that all but five premises / sites in and around the centre were fully occupied, and therefore unavailable for the proposed uses. One of the five sites initially looked somewhat

---

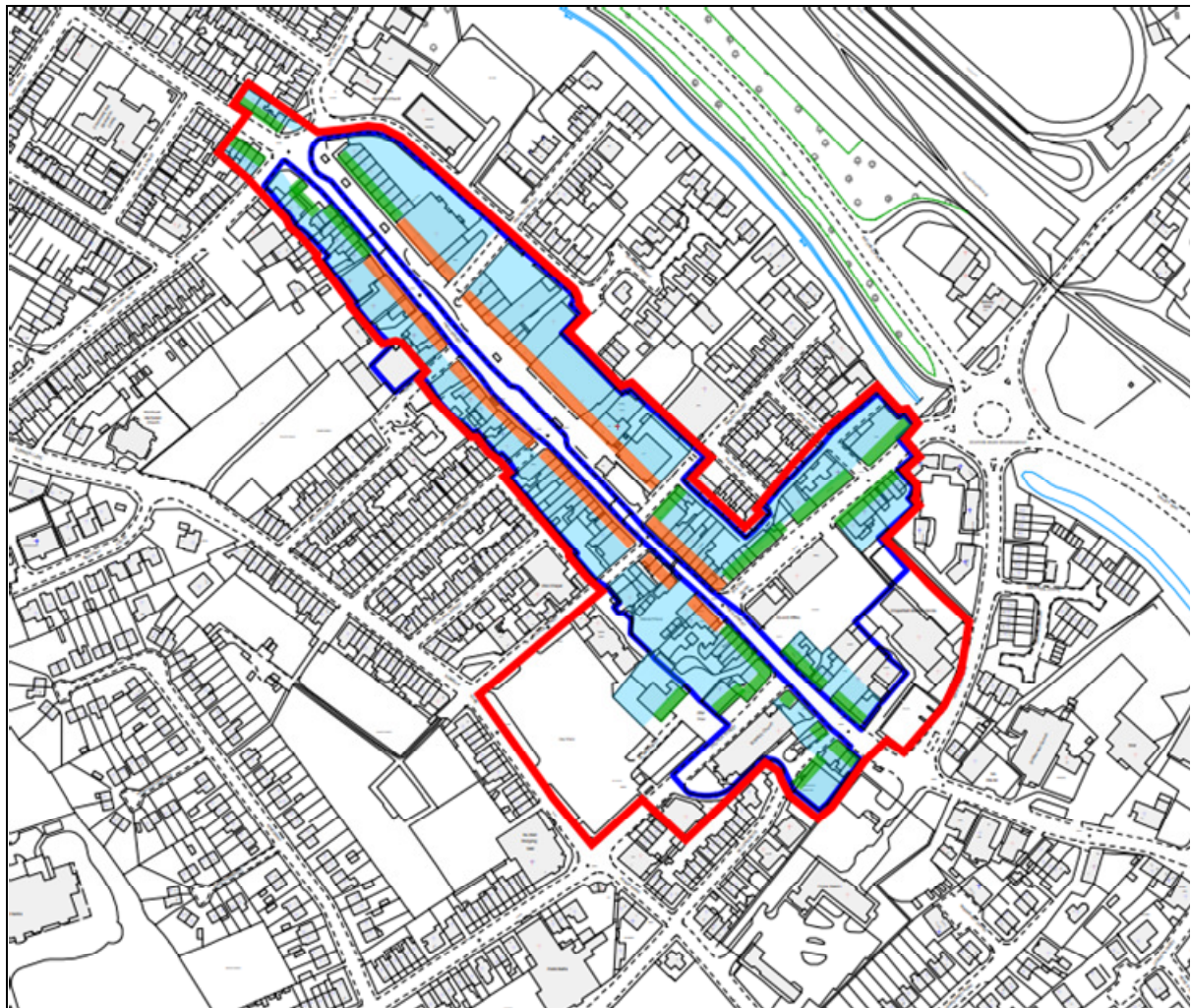
<sup>2</sup> APP/A1530/W/16/3147039

under-used at time of the assessment, however closer inspection revealed it was still occupied by BT (see below).

The premises / sites identified are listed at the end of this assessment, with commentary regarding suitability and availability.

The results of the sequential assessment were as follows.

Four out of the five sites were judged to be unavailable as there was no active marketing of these premises and they appeared to have been vacant for a significant period of time. Notwithstanding this, all the sites other than the BT site were judged to be too small to accommodate the proposals.



**Small Centres Study - extract of District Centre Maps showing Wombwell town centre**

The BT site is potentially large enough to accommodate the scheme (at approximately 0.15ha) however, it remains in active use. The photograph below illustrates this (sign and waste bin clearly still in use).

In terms of out-of-centre sites, an analysis on the ground and in conjunction with the Draft Local Plan map confirms that there are no sites available, either because they are protected as open space in the Local Plan, or because they are already built-out / used for other purposes.

The Small Centres Study (although dated from 2010) confirmed at the time: “There is limited potential for Wombwell town centre to expand further with much of the opportunity for expansion taken up by the new medical centre and residential development to the eastern end of the centre on High Street/Mayflower Way.” (paragraph 8.102), and that: “There are no vacant sites in Wombwell waiting to be developed.” (paragraph 8.107).



**Photo of BT building entrance**

#### Other relevant points

It is noted from paragraph 4.10 of the Small Centres Study that the vacancy rate for Wombwell town centre of 7% at the time of the Study, was below the national average, and that the assessment concluded at 8.298 that “the overall vitality and viability index in Wombwell is 3.5. This is a better than average score.” As such, it can be seen that Wombwell was (and still is) a vital and viable centre with a lower than average vacancy rate.

Notwithstanding this, the retail element of the proposals is considered to serve an ancillary function to the majority of customers visiting for fuel purposes. The only way the development would serve as an A1 destination in its own right, would be as a convenience store for local residents, who wouldn't want the inconvenience of going into the town centre just for a loaf of bread or a pint of milk (for example). As such, there would be no perceptible harm to the town centre.<sup>3</sup>

---

<sup>3</sup> Notwithstanding that impact is not required to be assessed for this scale of proposals.

## Conclusion

As can be seen from the detailed analysis undertaken, there are no suitable / available in-centre, edge-of-centre, or sequentially preferable out-of-centre sites capable of accommodating the proposed development, even if a degree of flexibility was to be demonstrated.




It is therefore submitted that the sequential test is passed in this case, in accordance with NPPF paragraph 24.

The proposals are also judged to accord with Policy S6 in that there is a regular bus route passing the site on Barnsley Road, and combined with the site being adjacent to a large residential population on the northern half of the Wombwell settlement, the site is well-placed to encourage non-car modes of transport.

The proposals would also help serve the day-to-day needs of the immediate locality, in compliance with Core Strategy Policy CS32 and Draft Local Plan Policy TC5.

**Robert Halstead Chartered Surveyors & Town Planners**

**March 2018**

Site address	Availability	Suitability	Site photo
BT site – Snowden Terrace	Unavailable – still in active use	N/A (as unavailable)	
Former bank site – High Street (opp. Junction Church Street)	Available – for sale sign up	Unsuitable – site cannot accommodate the proposals as a whole, even with a degree of flexibility to reduce site size to 0.12ha	
Building at junction of High Street / George Street	Unavailable – no indications that the site is for sale	N/A (as unavailable)	
Poundstretcher premises	Unavailable – ‘for sale’ sign says “Investment for sale – business not affected”	N/A (as unavailable)	
Old post office – High Street	Unavailable – no signs that the premises is for sale	N/A (as unavailable)	