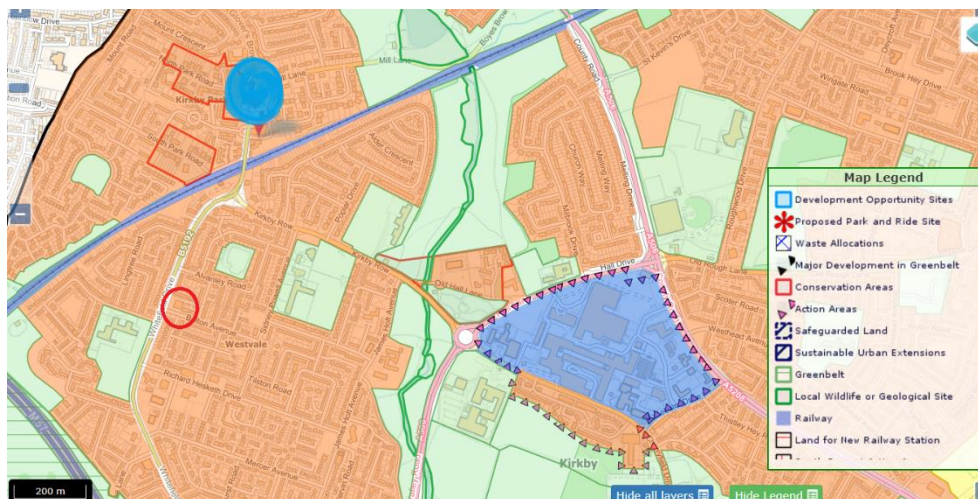


SEQUENTIAL TEST TO SUPPORT THE PROPOSED USE OF 320m² GROUND FLOOR SUI GENRIS FLOOR SPACE (PUBLIC HOUSE) TO A USE COMPRISING OF CLASS E RETAIL AT THE MAINBRACE PUBLIC HOUSE (SUI GENRIS)**SITE ADDRESS:-** THE MAINBRACE PUBLIC HOUSE, 218 WHITEFIELD DRIVE, KIRKBY. L32 0RE**APPLICANT:** MR T OWENS**PLANNING AGENT:-** MR MIKE CARR MSc MRTPI, DIRECTOR MAT DESIGN
LIMITED**DATE:-** 31st JANUARY 2023 – 6th MARCH 2023**1. INTRODUCTION**

1.1 This Sequential Test (ST) has been prepared by Mr Mike Carr MSc MRTPI (MAT Design Limited) on behalf of Mr T Owens, to support of a planning application that proposes the change of use of 320m² ground floor Sui Genris floor space (public house) to a use comprising of Class E.

Further to the above, this ST also takes into account the specific Policy directions that are set out in the Knowsley Local Plan , the directions set out in Section 7 (Ensuring the vitality of town centres) of the National Planning Policy Framework 2021 (NPPF), particularly paragraphs 86 - 88

1.2 Given the above directions, nearest Local Centre is at Glovers Brow @ 0.5 miles away and Kirkby Town Centre @ 0.8 miles away. As such, we have focussed this sequential test on those 2 centres



Local Plan Proposals Map Extract showing the application site circled red, the Glovers Brow circled and hatched blue and Kirkby Town Centre shaded blue.

1.3 This Sequential Test will set out and assess the following details:-

- The application site, any relevant planning history;

- The proposed development, The national and local planning policy context;
- Site suitability for the proposed use, The sequential test approach;
- The suitability of the site for the proposed use, The sequential test results assessment;
- The wider regeneration benefits and other material planning considerations attached to this planning application and, The sequential test summary & conclusions.

2. THE APPLICATION SITE AND ITS SURROUNDS

The site subject of this planning application is a two storey public house with residential managers accommodation to the first floor. The premises was recently closed following a Police/License investigation, with the premises license for the Public House currently being reviewed

This area of Kirkby is predominantly made up of residential accommodation, along with various commercial centres and individual premises that are located around the area. The Glovers Brow and Kirkby Centres are located 0.5 miles and 0.8 mile away respectively, meaning that local people have to make car borne journeys or walk some distance to find a range of Class E shopping premises.

That said, the application and the surrounding area generally well linked to the surrounding area in terms of walking and cycling, whilst public transportation is readily available for local people to travel into and out of the City Centre.

The Hollybush is an Edge of Centre site, as defined in the glossary to the 2021 NPPF, which is in a highly sustainable and accessible location for local people. We consider that the position of this site in the locality, would provide an excellent opportunity to re-use the available floor space for small scale Class E convenience store, without any demonstrable harm to the locality or towards the viability of the Bentilee Neighbourhood Centre.

3. PLANNING HISTORY

There are no relevant planning applications for this site in the Local Planning Authority planning register.

4. NATIONAL & LOCAL PLANNING POLICY AND GUIDANCE

National & Local Planning Policy for the purposes of this test and application comprises of:-

- The National Planning Policy Framework 2021 (NPPF);
- National Planning Practice Guidance (NPPG)
- The Knowsley Local Plan Core Strategy – January 2016 – Policy CS6: Town Centres and Retail Strategy & Policy CS4: Economy and Employment (5) 'Town Centre' Employment Uses – Retail, Leisure and Offices.

4.1 THE SEQUENTIAL TEST APPROACH

4.11 The proposed development is located out of centre in planning policy terms. As such, it is necessary to demonstrate that there are no suitable, available and viable sequentially preferable sites that could accommodate the proposed development.

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4.12 For purposes attached to this test, the key planning policy requirements are set out in paragraphs 86 – 88 of the NPPF, which states that Local Planning Authorities (LPA's) should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. The City Plan is out of date in this particular case. The NPPF policies are reflected in Policies CS4 and CS6 if the Knowsley Local Plan Core Strategy.

National and local policy advice identifies that LPA's should require applications for main town centre uses to be located in town centres/District or Local Centres, then in edge of centre locations. 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. We consider that this site is well connected to the Westvale area of Kirkby and to the surrounding locality.

This Edge of Centre and well connected criteria for the site mean that we need not consider any other local or District Centres in the case.

4.13 Further to the above, it is also important at the outset to **correctly interpret and apply the sequential test process**, taking into account case law and relevant appeal decisions.

For example, as highlighted in the Dundee (March 2012) case, the Supreme Court ruled that *“suitable” means “suitable for the development proposed by the applicant” and, more recently, the Secretary of State in the Rushden appeal decision (June 2014), has confirmed that the sequential test needs to be considered in the context of the specific development proposed by the applicant, and not simply a “class of goods” approach or some attempt at disaggregation that might otherwise seek to accommodate elements of the proposed development on a smaller, sequentially preferable site.*

4.14 Therefore, if a site is to be considered suitable for the commercial requirements of a developer/the development, any such site clearly needs to be considered in light of the specific proposals and floor space required for the use.

The Supreme Court decision and the later Secretary of State decisions referred to above, both assist in demonstrating how the sequential test should be lawfully and properly applied.

4.16 Whilst this report acknowledges the requirement for some flexibility in applying the sequential test approach, as referred to in the National Planning Guidance, experience has shown that such an approach this needs to be applied sensibly in the context of scale and format of the development proposed.

Furthermore, it is clearly not the purpose of national or local planning policy to require a developer to seriously compromise their proposals, by requiring them to separate into different parts, or to take on floor space that is either too small or too large, which may mean the development becomes economically unsustainable.

In this context, and as supported by case law and Planning Inspectors decisions, it would be wholly unreasonable to expect the applicant/developer to amend a proposal to the extent that it no longer meets their business and becomes economically unviable.

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Such an approach conflicts with the provisions of the NPPF and the Governments overarching aim to building a strong and competitive economy, whilst seeking to maintain the viability of Town and Local Centres.

4.17 THE SCOPE & CRITERIA OF THE SEQUENTIAL TEST

Taking the aforementioned advice into account, the scope of any ST must be both sensible and within reasonable parameters. Taking this into account, we have considered the most sequentially preferable sites that are Kirkby Town Centre and the Glovers Brow Local Centre. Other centres that are further away have been discounted as part of this test.

This test therefore assesses the merits of **ANY** available sites in Kirkby Town Centre and the Glovers Brow Local Centre that could reasonably accommodate the proposed development, allowing for a reasonable degree of flexibility as required by national & local planning policy, which may be currently available, suitable and viable.

5. THE PARAMETERS OF THE SEQUENTIAL TEST

6. 5.1 Availability: - The NPPF (Paragraph 86) helpfully provides advice on the correct interpretation of this aspect of the test, and simply asks whether town centre or edges of centre sites are “available” or expected to become available within a reasonable period”.

Importantly, it does not ask whether such sites are likely to become available during the remainder of the plan-period or over a period of some years.

Put simply, the correct approach is to ascertain whether a site is currently available or will be available soon, rather than speculate if a site may become available at some indeterminate future date.

5.2 Suitability: - Suitability relates to whether the proposed development can be reasonably and successfully located at a particular site. There are a number of key considerations in this respect.

Firstly, the test is only relevant in the context of the “requirement” that the proposed development will meet the needs of the proposed use in terms of commercial floor space provision, car parking, accessibility and in this case, managers accommodation within the site.

Secondly, the basic business requirements of the applicant are of fundamental importance. In this respect, what it is significant in this case is the requirement for the commercial floor space (convenience shopping) be of a certain size, so as to allow the operator to be able to customer expectations, provide retail sales and be able to provide suitable stock storage areas.

Put simply, units that are materially smaller or larger would seriously compromise the development and would not represent a viable development from the applicant’s perspective.

Taking the above into account, the suitability of any land, building or its lawful use and any future changes of use are fundamental planning considerations in this planning application, particularly when planning policy requirements require the application site to be sequentially assessed against any other vacant buildings within the areas identified in the sequential test.

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In this case, it is also highlighted that the floor space and proposed layout of the application site provides the most suitable requirements for the proposed development, whilst the first floor provides residential accommodation for the site/store manager.

5.3 Viability: - Any alternative site sites should not present any obvious economic obstacles to the proposed development, such as financial investment. In this case, given that the applicant is the owner of the supplication site and does not own any other buildings in the Borough, is a substantial material consideration in this case

6. THE SEQUENTIAL TEST ASSESSMENT

6.1 For the purposes of this Sequential Test examination, the test period covered 31st January 2023 – 6th March 2023, which included a walkabout searches around the Kirkby Town Centre on 31/1/2023, 15/2/2022 & 5/3/2023, a desktop survey using:-

- Knowsley Council commercial property for sale registers site availability listing;
- Rightmove's online search engine of commercial premises for sale;
- Zoopla's online search engine of commercial premises for sale;
- Websites of local independent commercial agents.
- The size of the site and its useability for staff, customers and residential accommodation (suitability);
- The lawful use of the premises (suitability if planning permission is required);
- The viability of any alternative site in terms of the inward investment that would be required.

7. SEQUENETIAL TEST CONCLUSIONS

7.1 The results of the sequential test examination are that there were NO premises currently available in Kirkby Town Centre or the Glovers Brown Centre during the test period, which were suitable or viable for the proposed uses in this particular case.

7.2 As such, and given the evidence set out in this test report, we consider that there are no material planning reasons as to why the Local Planning Authority should not reach the same conclusion, in that the applciation site is the most sequentially available and preferable site at this time and in this particular case.

ANNEX 1 - TABLE 1 – SITES TESTED WITHIN KIRKBY TOWN CENTRE AND THE GLOVERS BROW CENTRE DURING THE TEST TIME FRAME (31st January 2023 – 6th March 2023)

THE MAINBRACE SPECIFIC CRITERIA	SITES FOR SALE/RENT	SITE SIZE & FLOORSPACE	LAWFUL USE OF THE PREMISES	FINANCIAL INVESTMENT REQUIRED	SUITABILITY OF THE SITE TO ACCOMMODATE THE USE
1. 320m2 ground floor trading space or thereabouts, along with suitable storage space;	None available	None available	None available	Not applicable	None available
2. Internal layout suitable without structural alterations;	None available	None available	None available	Not applicable	None available
3. Service yard and bin store;	None available	None available	None available	Not applicable	None available
4. Residential accommodation above	None available	None available	None available	Not applicable	None available
5. Site car parking available;	None available	None available	None available	Not applicable	None available