

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 17 JUNE 2015**

**PROPOSED FOOD STORE  
DEVELOPMENT - NORTH WEST  
DARLINGTON**

**INTRODUCTORY REPORT**

**INTRODUCTION**

Darlington Borough Council as Planning Authority is currently considering two planning applications for supermarket development in the North West of Darlington both of which appear on this agenda. The first application is from Lateral Property Group (Scheme A) on vacant industrial land on the Faverdale Industrial Estate. The second is from Bussey and Armstrong Projects Limited (Scheme B) and involves a Greenfield site at West Park. The Council have appointed White Young Green (Retail Planning Consultants) to advise on the retail policy implications of both proposals. During the passage of the applications it has become evident that both applicants are engaging with discount retailers, although it is understood that there has been no formal agreements with any parties.

The applications are effectively competing with one another to accommodate supermarket operators and as such it is necessary to give careful consideration to the pros and cons of each development were they to be implemented alone or together

In order to ensure that proper consideration is given to any potentially competing issues that could result in one of the proposals being favoured and the other set aside it has been necessary, with the Chair of the Planning Committee's permission, to adjust the format of the committee presentation.

This report describes each of the schemes, and then taking into account the Council's development plan policies and other relevant material planning considerations, seeks to identify the relative merits of each scheme and the impact in the event that both schemes were to go ahead.

It arrives at the conclusion that for purely retail policy reasons, which is evidenced in the White Young Green Report, firstly Scheme B is preferable to Scheme A and secondly that there are likely to be adverse consequences on Cockerton centre if both schemes were to go ahead. However in determining both applications Members should also take into account any other material planning considerations that are relevant to the determination of both submissions.

In determining the applications the Council must

1. Have regard to the material provisions of the development plan [section 70(2)] of the Town and Country Planning Act 1990; and

2. Determine the applications in accordance with the development Plan unless material considerations indicate otherwise; section 38 [6] of the Planning and Compulsory Purchase Act 2004. The National Planning Policy Framework NPPF is a material consideration for the purposes of section 38[6] as are a number of other material planning matters which are reviewed further within the report.

This report is intended to provide context that will help Members to consider the individual committee reports for each development proposal that follow on from this report. Accordingly Members will not be invited to take any decisions immediately following this introductory report, they will be asked to consider the recommendation having listened to all of the material considerations relating to both applications. However in the interests of fairness and transparency, applicants / agents will be allowed to speak at this stage and to take questions from Members regarding the relative benefits of their scheme. Subject to the Chair of the Planning Applications Committee approval, this is likely to be 10 minutes for each application.

## **DESCRIPTION OF PROPOSALS**

### **SCHEME A – REFERENCE 14/01043/OUT - LATERAL**

This outline application is for the erection of a foodstore and petrol filling station with associated parking, servicing arrangements and landscaping. The proposal would provide 4,225 square metres of gross internal floorspace on a vacant industrial site within the south western part of the Faverdale Industrial Estate.

### **SCHEME B – REFERENCE 14/01249/OUT – BUSSEY AND ARMSTRONG (B&A)**

This outline application is for the erection of a foodstore and commercial development including health centre, community facility and office space with access, parking, and service area and landscaping. The proposal would provide 2,370 square metres of gross internal floorspace. This is a Greenfield site immediately to the north of the West Park Local Centre, with vehicular and pedestrian access to be provided from John Fowler Way.

## **POLICY CONSIDERATIONS**

### **Development Plan Context**

In determining the planning applications, as stated above it is necessary for the decisions to be considered in accordance with the relevant policies in the development plan unless material planning considerations indicate otherwise. The development plan comprises the saved policies of the Borough of Darlington Local Plan (adopted 1997) and the Darlington Core Strategy (adopted May 2011).

In terms of the Local Plan, saved policies S10 and S11 relate to district and local centres. Policy S10 states that the Council will safeguard and enhance the vitality and viability of district and local centres and that development which would undermine these objectives will not be permitted. Policy S11 states that shopping development up to 2,500 square metres gross floorspace will be permitted within and immediately adjacent to centres subject to being well integrated.

In terms of the Core Strategy policy CS7 is concerned with protecting and enhancing the vitality and viability of the town centre. Policy CS8 states that there is no quantitative need for

additional convenience floorspace in the Borough up to 2021 although this does not represent the most recent assessment as set out in the Darlington Retail and Town Centre Study reported in 2014. This study identified that notwithstanding sufficient overall levels of convenience provision in the town to 2026, there exists deficiencies in qualitative terms particularly with regards to discount provision and, highly relevant to this case, to the distribution of foodstores, notably the limited current level of food retailing in the western part of the town.

The Scheme A Site is currently allocated for employment use within the development plan. Its development for a foodstore use would therefore be contrary to Policy EP2 of the Borough of Darlington Local Plan which seeks to protect it for employment purposes. A Business Sites and Premises Review recommended the retention of some 112.96 ha, which is broadly in line with the forecast level of future demand but significantly lower than being proposed in the emerging Making and Growing Places Development Plan Document. It is not considered that the loss of this site, which in comparison to other pockets of land within employment areas, relates particularly well to surrounding residential areas would have a demonstrable impact on the overall supply of employment land over the plan period, and would not set a precedent for loss of further employment land. Other uses on this site have been considered, such as residential / mixed use, however it is not considered that the site would lend itself to residential uses due to the nature of the surrounding businesses.

### **National Planning Policy Framework (NPPF)**

The NPPF is clear in that the weight to be attached to policies in the development plan should be determined in accordance with their compliance with national policy.

There are essentially two strands to national retail policy. The first is that local planning authorities should apply a sequential test to planning applications for main town centre uses not in accordance with an up to date development plan. This means that proposals for main town centre uses should preferably be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre locations be considered.

The second policy strand requires an impact test to be applied in relation to retail proposals that exceed a threshold of 2,500 square metres of floorspace. The impact test should include firstly an assessment of i) the impact of the proposal on existing, committed and planned investment in a centre and ii) impact of the proposal on town centre vitality and viability. The NPPF states that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact it should be refused, unless the Local Planning Authority consider that there are material planning considerations that would lead them to take a different decision.

In comparing the retail policies in the development plan with national policy certain key differences can be noted. These are i) that the scale test in policy CS9 is not a requirement of national policy, ii) saved policy S10 states that development will not be permitted which undermines vitality and viability of centres whereas national policy says that proposals should be refused that lead to significant adverse impact rather than undermine the vitality and viability of a defined centre and iii) the statement in policy S11 advising that shopping development immediately adjacent to a local centre will be permitted does not accord with national policy which requires a sequential test to be applied. Therefore less weight can be given to these aspects of local policy which do not accord with national policy position. By contrast national retail policy should be given significant weight in the decision making process.

### **The sequential test**

In terms of considering the hierarchy of centres, an analysis of potentially available sites within the town centre and within the Cockerton or West Park local centres suggests that there are no suitable sites that might appropriately meet the same need and / or are of the required scale as would be provided by the application sites.

Both of the proposed foodstores would serve broadly similar catchment areas, and are considered to be conveniently located to address qualitative deficiencies in retail provision in the north western part of the town which are acknowledged in the recently published Darlington Retail Study (2014). There is currently limited provision of food retailing in this area and it is considered that for positive sustainability reasons significant weight should be given to the principle of addressing food shopping needs in the same area that they arise.

In terms of satisfying the sequential test, the B&A proposal is an edge of centre site able to support linked trips between the two sites. The Lateral site by contrast would be regarded as out of centre although only by approximately 600m. From the perspective solely of the sequential test, the B&A proposal would therefore be the preferable site.

### **Impact**

A review of the relative merits of the sites undertaken by White Young Green consultants appointed by the Council led to the conclusion that whilst the B&A site is edge of centre, in practice it would function as an extension to the West Park local centre.

In terms of impact on the viability of the town centre and wider area, WYG have assessed the two stores in isolation and cumulatively. They consider that the development of just the B&A proposal could in time result in the closure of the West Park Co-op, however there is a possibility this space could be re-let given the additional footfall that would result. If planning permission is granted for just the Lateral proposal the viability of one of the Co-op stores in Cockerton could be challenged. However WYG consider that the wider benefits arising from either proposal in isolation in terms of consumer choice across the wider area would outweigh any negative impacts.

### **Cumulative Impact**

In the event that both proposals were to be granted planning permission and went ahead, WYG anticipate that this would result in significant trade diversion from the Co-ops stores in Cockerton, in the order of 33-38% at Woodland Road and 24 – 30% at West Auckland Road. It is anticipated that local shops in Cockerton could experience an 11-12% loss of trade. WYG draw the conclusion that cumulatively the proposals should they both be built would result in a significant adverse impact on Cockerton retailers.

To summarise the retail policy position, application of the sequential test would support the development of the B&A proposal as an extension to the West Park centre in preference to the Lateral scheme.

By contrast development of the Lateral proposal in isolation would fail to meet the first element of the impact test cited above in that it would be prejudicial to planned investment at West Park.

In the event that both stores were granted planning permission and were built out, this would result in a significant adverse impact on Cockerton which would be in conflict both with national retail policy and the saved policies of the Borough Local Plan.

## **Other material planning considerations.**

Having set out the policy position above, the second key element that forms part of the balanced decision making process is the consideration of other material considerations relating to both applications.

It is concluded that both sites are in themselves capable of attracting planning permission in their own right.

Scheme A offers an opportunity to remediate and develop a site which has been derelict for some 9 years. Due to the contamination issues, which are estimated at £1.4 million the area which constitutes Site A is unlikely to be developed for industrial purposes and is generally considered unsuitable for residential development and currently presents itself as an empty visually unattractive feature near a main travel route into the town. The Scheme A Site is allocated for employment use but it is not considered that the loss of this site would have a demonstrable impact on the overall supply of employment land. By contrast the Scheme B has planning permission for housing development. The site could accommodate approx. 40 plus houses, its development for housing use would therefore be lost should this permission be implemented.

The Council have also identified this North Western part of the town as an area of significant expansion for housing purposes generally. There are specific proposals for an additional 1200 houses in the locality which is the subject of a yet to be determined planning application.

Another consideration is the current state of the supermarket new build sector and the likelihood of both applications going ahead should planning permission be granted is fairly remote. The retail market is however difficult to predict. If both schemes were granted planning permission the market would dictate the implementation and configuration of how this took place. Other factors to be considered are set out in the separate reports which include highway matters, accessibility, job creation, visual amenity, landscape, residential amenities, flood risk and ecology.

## **Conclusion**

In determining the planning applications, as stated above it is necessary for the decisions to be considered in accordance with the relevant policies in the development plan unless material planning considerations indicate otherwise. Should Members consider that the relevant material considerations do not outweigh the policies of the development plan, they would not agree with the ultimate recommendation to grant both applications.

In pure planning policy terms, as set out in the White Young Green Report, it is clear that sequentially site B would be the most preferred location for a supermarket. As indicated earlier in the report however the Council is not bound to follow the sequential assessment policies in the NPPF. As part of the decision making process Members may decide to depart from these policies should there be material reasons to do so. These considerations are a matter for Members judgement. It is not dictated by planning policy. However the impact of both proposals on Cockerton should they both proceed is an important consideration in arriving at a balanced decision

It is concluded that both applications are in themselves capable of attracting planning permission in their own right.

The Northwest part of Darlington has been identified as an area for expansion particularly relating to housing. Additional food retailing in this area could be seen as contributing to the overall development of this area.

Scheme A offers an opportunity to remediate and develop a site which has been derelict for some 9 years. Due to the contamination issues, which are estimated to be at £1.4 million the area which constitutes Site A is unlikely to be developed for industrial purposes and is generally considered unsuitable for residential development and currently presents itself as an empty visually unattractive feature near a main travel route into the town. By contrast the Scheme B has planning permission for housing development. The site could accommodate approx. 40 plus houses, its development for housing use would therefore be lost should this permission be implemented. In purely retail policy terms the Scheme B site does present the most sequentially preferable site being located to the edge of a local centre. [Scheme A being located approx. 600m away]

Finally, taking into account the current contracted state of retail new build, it is considered highly unlikely that both schemes, should they be granted planning permission together, would proceed to implementation. There are of course no guarantees that any one of the sites would be built out on an individual basis. The approval of both schemes is likely to introduce an element of impetus that will increase the likelihood of delivery. To support this objective of delivery it is proposed to reduce both the time limit for submitting the submission of details and the implementation period for the respective permissions.

The conclusions arrived at, support the recommendation that both of the applications [Lateral Site A] and [Bussey and Armstrong Site B] are approved. Whilst Site B is considered to be sequentially preferable, it is considered a reasonable approach to approve both the first and second most sequentially preferable sites in the current retail market as the overall planning benefits of doing so outweigh the negatives.

Should Members be minded to grant planning permission for one or the other applications or both it will be necessary to refer the applications to the Secretary of State (National Planning Casework Unit) to determine whether he wants to 'call the applications in' for a decision.