
SCHEME A

APPLICATION REF. NO:	14/01043/OUT
STATUTORY DECISION DATE:	15 January 2015
WARD/PARISH:	FAVERDALE
LOCATION:	2 Vantage Point Faverdale DARLINGTON
DESCRIPTION:	Outline application for erection of foodstore (Use Class A1) up to 4225 sq m and petrol filling station (Sui Generis) with associated car parking, servicing arrangements with home shopping provision and hard and soft landscaping
APPLICANT:	LBW Investments and Lateral Property Group

APPLICATION AND SITE DESCRIPTION

Outline planning permission is sought for the erection of a foodstore of up to 4,225 sqm (gross internal area) along with a petrol filling station and associated car parking and landscape arrangements.

The proposal includes details of access but details of appearance, landscaping, layout and scale would be reserved matters which would have to be the subject of an additional application.

The site covers an area of some 3.8 ha and features areas of hardstanding and the remains of demolished buildings. The site is also overgrown and there are small trees and shrubs around the site, especially at the perimeters.

Indicative plans have been submitted and these identify the foodstore being located towards the north east part of the site with the servicing yard beyond this. The car parking areas are shown in two areas to the south and west of the foodstore building. The petrol filling station would be located towards the south west part of the site. The landscaping shown on the indicative plans consists of tree planting to the southern perimeter and interspersed within the parking areas. An area of soft landscaping is shown to the westernmost part of the site adjacent to a wooded area which separates the site from the residential properties on Faverdale Road. This landscaping area includes an acoustic mound, wetland grass area as well as grass and hedge planting. The access to the site would be from two points along Faverdale.

The proposal would potentially provide approximately 130 full time equivalent jobs, in the view of the applicants.

PLANNING HISTORY

The site was previously occupied by a packaging plant. This use ceased and the site is now cleared of buildings and has been vacant for approximately 9 years.

PLANNING POLICY BACKGROUND

The following policies of the development plan are relevant:

Borough of Darlington Local Plan 1997:

- E2 – Development Limits
- E3 – Protection of Open Land
- E12 – Trees and Development
- E14 – Landscaping of Development
- E21 – Wildlife Corridors
- EP2 – Employment Areas
- S11 – New Development in the District and Local Centers

Darlington Core Strategy Development Plan Document 2011:

- CS1 – Darlington’s Sub Regional Role and Location Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS3 – Promoting Renewable Energy
- CS4 – Developer Contributions
- CS5 – The Provision of Land for Employment Use
- CS8 – Additional Retail Provision
- CS9 – District and Local Centres and Local Shops and Services
- CS16 – Protecting Environmental Resources, Human Health and Safety
- CS14 – Promoting Local Character and Distinctiveness
- CS15 - Protecting and Enhancing Biodiversity and Geodiversity
- CS17 – Delivering a Multifunctional Green Infrastructure
- CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

The National Planning Policy Framework 2012 is relevant.

The Council’s Design of New Development Supplementary Planning Document 2011 and Planning Obligations Supplementary Planning Document 2013 are also relevant to the application.

RESULTS OF CONSULTATION AND PUBLICITY

Occupiers of neighbouring properties have been formally consulted on the planning application by way of letter and a site notice has been displayed.

Five objection letters have been received from local residents and the points raised are summarised below:

- *The proposals will increase traffic and congestion in an area where this is already a problem.*
- *Without any change to the road layout it will be difficult to exit Faverdale Road.*
- *The proposal also fails to consider the impact of increased footfall along Faverdale Road.*
- *The deliveries may result in issues of noise and disturbance.*
- *There is no need for another foodstore.*

Letters in **support** of the proposal have been received from residents representing **156 properties**. The points raised are summarised below:

- *The development will be more convenient than existing foodstores.*
- *The proposal will reduce congestion as people will not have to drive as far or can access the development on foot.*
- *The proposal will provide jobs.*
- *The supermarket will be convenient for workers on Faverdale Industrial Estate.*
- *The nearest petrol station is very congested so the proposal would be beneficial.*

An objection has been received on behalf of **Wm Morrison Supermarkets PLC**. The main points raised are summarised as follows:

- *The proposed store is not located within or on the edge of a defined centre. The site is therefore out-of-centre in retail policy terms.*
- *We consider that the Sequential Assessment of the proposal, as currently drafted, is deficient. No consideration has been given to the extension of West Park Local Centre. The Sequential Assessment has failed to address the possibility that additional food retail provision could be provided as part of the extension to West Park Local Centre.*
- *The Council's Retail Study (September 2014) states that consideration should be given to the ability of either the Commercial Street Site or any edge of centre site (such as Garden Street) to accommodate additional food retail provision. The Retail Statement submitted with the application dismisses both the Commercial Street and Garden Street sites. We disagree that the Garden Street Site is unsuitable for the proposed development as it is too small. Given that there is no quantitative capacity for additional convenience floorspace, there should be scope for flexibility on the scale of foodstore required.*
- *The Council's Retail Study finds that there is no capacity to support additional convenience floorspace. The study finds that after taking into account planned housing growth and existing communities there is no surplus expenditure to support additional convenience floor space until 2026.*
- *Whilst there is potentially a qualitative need for the provision of additional convenience floor space in the western half of Darlington, this could be provided at a smaller scale than currently proposed.*
- *The estimated impact on North Road District Centre and West Park Local Center (24.4% and 23.6% respectively, gives us significant cause for concern.*
- *We also question whether the impact figure on Darlington Town Centre has been underestimated given that we would expect significant trade draw to the proposed store from the edge of centre Sainsbury's which currently benefits the town with linked trips.*

- *The applicant considers that the proposal will not have a significant adverse impact of the delivery of West Park Local Centre. The application would meet demand from additional population growth planned for North West Darlington. It is also the purpose of West Park Local Centre to serve this new urban expansion area and by approving the application proposal, there is a real risk that this could impact on the viability and delivery of the extension to this centre.*

An objection has been submitted by Nathaniel Litchfield and Partners on behalf of **Bussey and Armstrong Projects Limited**. The conclusion to this objection, which summarises the main points, is set out below:

- *In conclusion, therefore, B&A do not consider that the proposed new foodstore on the Vantage Point site can be justified in the context of national and local planning policy.*
- *In particular, it has been demonstrated that the proposed Vantage Point foodstore fails the sequential test, given the existence of land to the north of West Park Village Local Centre. This land is both sequentially preferable, as an edge of centre site, and suitable and available to accommodate a new foodstore of the size proposed at Vantage Point and, if required, a petrol filling station. As confirmed in the separate letter provided by Buckley Burnett, and unlike the Vantage Point scheme, it is also commercially attractive to foodstore operators.*
- *The new foodstore proposed at Vantage Point would be likely to have a significant adverse impact upon planned investment, in the form of the foodstore proposed on the edge of West Park Village Local Centre - as well as the ability to bring forward sustainable new communities, which have new retail and other services/community facilities at their heart. Taking into account its location, the forecast trade diversions upon key anchor stores, and the effect upon the numbers of visitors to these centres, the development would also be likely to result in significant adverse impact upon the vitality and viability of Cockerton and North Road District Centres, and West Park Local Centre.*
- *In addition to the above, the foodstore proposed at Vantage Point is contrary to the adopted development plan for Darlington, which allocates the site as part of the Faverdale Industrial Area, for B-Class uses. It has been demonstrated that the benefits of the proposed new store at West Park clearly outweigh those of the Vantage Point scheme and, in this context, there is not considered to be any overriding need to release the latter site for foodstore development.*
- *In relation to highways and transportation issues, it is considered that the TA accompanying the Vantage Point application has under-estimated the potential vehicle trip generation in the critical evening peak hour. The future impacts of the development on the A68 West Auckland Road have also been significantly underestimated, due to the inclusion of the un-committed Edward Pease Way to Newton Lane Link Road.*
- *In the context of the above, the development proposed at Vantage Point is clearly in direct conflict with the requirements of national and local planning policy and, on this basis; it is considered that planning permission should be refused.*

The **Highways Engineer** set out that a financial contribution to pay for highway improvement works on the local highway network will be required. The detailed comments are set out later in the report.

Environmental Health section have requested conditions regarding restriction of construction work, piled foundations, deliveries of fuel to the petrol filling station, details of external plant, the submission of a lighting impact assessment, contamination and for a dust action plan.

The **Highways Agency** raised no objections.

The **Environment Agency** raised no objections subject to conditions.

Northumbrian Water asked for a condition regarding foul and surface water drainage to be placed on any approval.

Northern Gas Network raised no objections.

PLANNING ISSUES

The main issues to be taken into consideration are:

- Planning Policy
- Visual Amenity
- Residential Amenity
- Ecology
- Trees
- Renewable Energy
- Flood Risk
- Highways Matters
- Planning Obligations
- Response to Objection

Planning Policy

Policy CS8 (Additional Retail Provision) of the Core Strategy states that there is no quantitative need for additional convenience retail floor space before 2021 and that any such provision in the future should be located within existing centres. The Darlington Retail and Town Centre Study (White Young Green 2014) provides a more up to date position, and will be detailed later in this report.

Policy CS9 (District and Local Centres and Local Shops and Services) of the Core Strategy states that the hierarchy of centres in the Borough will be taken in to account in considering the appropriateness of proposals for development.

Policy S10 (Safeguarding the District and Local Centres) of the Local Plan states that the Council will safeguard and enhance the vitality and viability of the district and local centres in the Borough and, in particular, will safeguard their role for food shopping. The policy also states that development which would undermine the vitality and viability of district and local centres will not be permitted.

Policy S11 (New Development in the District and Local Centres) of the Local Plan states that shopping development, including new food supermarkets up to 2,500 sqm gross floorspace will

be permitted within and immediately adjacent to the defined district and local centres provided that they are physically integrated with and have good pedestrian links with the rest of the centre.

Policy S21 (Petrol Filling Stations) of the Local Plan states that petrol filling stations will be permitted within the development limits provided that there will be no material adverse effect on residential amenities or on highway safety.

It is important to note that the effective scale test set out in Core Strategy Policy CS9 is not replicated in national retail planning policy set out in the National Planning Policy Framework. Similarly, Policy S10 states that development will not be permitted which would undermine the vitality and viability of centres, whereas the NPPF states at paragraph 27 that applications should be refused where there is a significant adverse impact on the vitality and viability of a defined centre, rather than where it is undermined. In addition, whereas Policy S11 of the Local Plan advises that shopping development immediately adjacent to defined district and local centre will be permitted (subject to certain criteria), this does not directly align with paragraph 24 of the NPPF which states that a sequential approach should be applied whereby retail uses should be located in centres in the first instance, then in edge of centre locations if there are no suitable and available in centre sites. It is considered that lesser weight can be ascribed in applying these development plan policies which are not directly in compliance with national policy to retail development, and that paragraphs 24 and 26 of the NPPF will be of very significant relevance in considering compliance with retail policy.

Paragraph 24 of the NPPF states that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date local plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and the local planning authority are required to demonstrate flexibility on issues such as format and scale.

Paragraph 26 on the NPPF sets out that an impact assessment is required for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, if the development exceeds any locally set floorspace threshold, or where there is no locally set threshold, the default threshold of 2,500 sqm. The impact assessment 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 wider area, up to five years from the time the application is made (or for major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time that the application is made).

The Council commissioned a report from White Young Green which looked at the planning application at Vantage Point (14/01043/OUT) (Scheme A) and at the application at John Fowler Way (14/01249/OUT) (Scheme B) in relation to retail planning policy and in particular the sequential and impact assessments submitted by both applicants. The conclusions of this report are set out below:

In relation to the sequential approach to development, we find that there is a distinct difference between the two sites and that the Scheme B would function in practice as part

of West Park local centre. We note that neither applicant has a particular operator aligned with its proposal and that Scheme B indicates that a greater site could be made available should any future operator require a greater quantum of floorspace (or some flexibility in terms of format) in actuality. Whilst the Scheme A site is better integrated into the existing built up area, we consider that the difference between the two sites in terms of their accessibility to the North West Darlington population is relatively limited given Scheme A site's location immediately adjacent to the A68. We find that both sites are available and suitable to accommodate development of the broad type proposed. Accordingly, we find the Scheme B site to be the sequentially preferable of the two.

Turning to the first part of the NPPF retail impact test, we consider that Scheme B would, in practice, form an extension to West Park local centre. We also note that HOW (Planning – Agent for scheme A) identifies at paragraph 4.13 of its own Retail Statement Addendum that the grant of planning permission for one scheme would prevent commercial interest in other developments. Accordingly, should planning permission be granted for the Scheme B development, we consider that the Scheme A proposal would fail to comply with the first part of the impact test and that this could comprise grounds for its refusal.

Turning to the second part of the impact test, concerning trade draw impact and the vitality and viability of existing centres, whilst we commented on the detail of the approach adopted by both consultants, we note that their findings are not too dissimilar. We agree that the implementation of either one development would have a substantial beneficial impact which would outweigh any adverse impact, even when considered alongside committed development. Accordingly, the impacts arising from both the Scheme A and Scheme B application are not considered to be of a level that would merit the refusal of either one in isolation.

In terms of cumulative impacts, we note that it does not form part of either consultant's case that the development of the two schemes alongside one another would be unproblematic in impact terms. In our view, the cumulative impacts arising from the implementation of both schemes would have a significant adverse impact on individual retailers accommodated at Cockerton district centre and on the centre as a whole. In retail terms, we do not consider that the benefits associated with a second store coming forward would outweigh such impacts. Accordingly, the implementation of both schemes would not, in our view, comply with the requirements of the second part of the impact test.

In national retail planning policy terms, we believe that there is a distinction between the sites, with the development of the Scheme B site being preferable.

However, consideration also needs to be given to both proposals' compliance with development plan retail policy and with all other relevant material considerations.

In development plan terms, we consider that the development of both schemes alongside one another would be contrary to Saved Local Plan Policy S10, which seeks to safeguard the vitality and viability of district and local centres in the Borough.

It is considered that the Scheme B proposal better accords with that part of Policy CS8 which seeks to direct additional convenience goods floorspace to local centres and that

the Scheme A proposal is very slightly better located to meet the requirements of the policy in respect of remedying local deficiencies (due to its location relative to north west Darlington's existing population). We have given appropriate consideration to the Scheme A site's relative advantage in this regard, but do not consider that it is such that it outweighs other retail policy considerations.

The Scheme B proposal also more closely aligns with the requirements of Policy CS9 which seeks to enhance the role of district and local centres, as it will act to provide an extension to West Park local centre.

In addition to the proposals' respective performance in relation to retail and town centre planning policy, there are a number of other factors which the Council will need to give due consideration to in reaching its decision on both applications.

Such matters include, but are not restricted to, the following:

- The Council has been advancing a strategy through the emerging Development Plan Document which appears to support the development of at least part of the wider Scheme B site for housing (accepting that Making and Growing Places DPD Draft Policy MGP15 also provides for the extension of West Park local centre).*
- The Scheme A site is previously-developed and, we understand, in need of remediation. There may well be only certain forms of development which would allow for such remediation. The Council will wish to consider the benefits arising from providing for the re-use of previously-developed land. In contrast, the Scheme B site is greenfield (albeit it is already the subject of an existing permission which provides for its future development).*
- Whilst it would appear that a foodstore is deliverable at both sites, the applicants for Scheme A have provided a greater level of evidence at the time of writing to suggest that they have engaged with potential occupiers in order to provide for the future implementation of the development. However, it should be noted that the Scheme B site does appear to be available for development and therefore meets the requirements of paragraph 24 of the NPPF. As such, we have concluded that the Scheme B site is available for the purposes of the application of the sequential approach. [NB since the drafting of the report, some evidence has been submitted from both parties that suggest that they have engaged with supermarket operators].*
- The acceptability of each site in terms of vehicular access and access to public transport services, which the Council will form its own view on. The exact weight to be attributed to such factors will be a matter for the Council to determine and is outside our instruction in advising the Council on retail policy matters. Accordingly, whilst it is our view that retail policy acts to support the Scheme B application proposal, in reaching its decision on both applications, the Council should appropriately give consideration to all other material factors in weighing the 'planning balance'.*

Paragraph 27 of the NPPF indicates that, where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused. However, this direction does not extinguish the requirement set out in statute to examine all material planning considerations for the decision maker to assess the 'planning balance' in reaching a decision, and this view is supported by appeal decisions and Court Judgements. Those material considerations, however, must be compelling enough to justify a departure from established planning policy. Otherwise the balance is in favour of the development plan.

In terms of impact on, in particular, Cockerton District Centre and West Park Local Centre (principally the two Co-operative stores), survey derived evidence [part of and underpinned the Retail and Town Centre Study (WYG, 2014) and was undertaken by NEMS].

demonstrates that foodstores in these locations have a more pronounced top-up shopping role and fail to secure any main food shopping expenditure, therefore although impacts are identified, a far lesser amount of expenditure is diverted from these smaller local stores as they serve a different role to that of a main food shopping superstore. Given the generally accepted principle that food retail facilities generally compete on a 'like for like' basis, it is apparent that the majority of the proposals turnover is derived from other main food shopping destinations, principally North Road Morrisons, Sainsbury's Victoria Road, Morton Park Morrisons and Asda at Whinfield.

Information from both developers confirms that there has been significant interest from a discount retailer. Whilst this is by no means guaranteed, this does have implications for the level of impact identified in the WYG report. The report focusses on the impact of one of the 'big five' (Tesco, Asda, Morrisons, Sainsbury's and Waitrose), all of which have higher 'sales densities' than the main discount operators. This in turn, impacts on both the nature and the scale of any impact. For example, Aldi (Yarm Road, Darlington) trades at almost three times higher than the company's average benchmark performance, and receives trips from all five Greater Darlington zones use for the Darlington Retail and Town Centre Study (2014). The study identified a qualitative need for further discount floorspace in the borough. This has in part been satisfied by an extant planning permission for an Aldi store at Albert Road.

In turn, a discount store would affect the scale of impact on the Co-op foodstores in Cockerton and West Park as discount stores tend to sell less named products and do not generally provide for the entire shopping needs and preferences. Therefore, it is likely that if a discount operator was present on one of the sites, the impact on existing stores would be reduced.

Officers are broadly in agreement with the retail impacts identified in the assessments submitted. However, in order to reach a balanced position, consideration should also be given to the other identified impacts of the development of the site, including increased consumer choice, accessibility and any qualitative improvements that the development of this site may bring.

Employment Land Policy

The application site is part of an area identified as employment land in the Local Plan. Policy EP2 (Employment Land) sets out that this area would be suitable for Use Class B1 (Business) uses as well as Use Class B2 (General Industry) and Use Class B8 (Storage and Distribution), subject to impacts on local amenity.

Policy CS5 (The Provision of Land for Employment Use) of the Core Strategy states that existing viable employment sites and other sites with special attributes will be protected by safeguarding them for employment uses or for mixed uses where appropriate. Policy CS5 does, however, state that exceptions will be made where it can be demonstrated that:

- Continued use of the site for employment uses is no longer viable for appropriate employment uses, taking into account the site's characteristics and existing/potential market demand; or
- Continued use of the site for B1, B2 or B8 purposes gives rise to unacceptable environmental or accessibility problems; or
- An alternative mix of uses offers greater potential benefits to the community in meeting local needs for business and employment, or has other regeneration benefits; and
- The site is no longer required for the purposes of providing a balanced portfolio of land for employment purposes.

An Employment Land Viability Report (Carter Jonas October 2014) was submitted with the planning application. This states that although the site has been marketed since it became vacant in 2008, the limited demand for employment uses is such that the site is not needed to provide a balanced portfolio of land for employment use. Moreover it is also set out in the report that such employment uses development would not be financially viable.

Since its former use as Faverdale Wagon Works, constructing freight vehicles on the site for the rail industry, the site was heavily contaminated with asbestos and a series of other contaminants, the remediation costs of which would exceed £1.4 million. The site remains heavily contaminated and the agent has submitted evidence to demonstrate that there is little likelihood of employment development being undertaken on the site based on an overall negative residual land value, even using a very limited developer's profit in those calculations. Officers do not dispute the evidence submitted and consider that the site, which has been vacant for nine years, is likely to remain vacant unless it is released for an alternative use.

In this context, paragraph 22 of the NPPF states that planning policies should avoid the long term protection of sites allocated for employment uses where there is no reasonable prospect of a site being used for that purpose. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

In terms of the available employment land in the north west of the town, notwithstanding the evidence submitted, this particular site, on the periphery of the industrial estate, would appear to be more suited to an alternative commercial use, than pockets of land that become available within the estate, due to potential conflicts with existing businesses, and it is the view of officers that the release of this site for alternative uses, would not set a precedent for the release of further sites for alternative uses, at this scale.

In the Supporting Statement (How October 2014) submitted with the planning application it is stated that the recent feedback received from local residents (as part of the pre-application public consultation) indicated wide support for the proposal, and that there would be concerns of issues of noise and disturbance if the site were to be used for an employment use, in the future. Whilst

not in itself a determining factor, it does demonstrate a significant level of public support for the scheme.

An Economic and Regeneration Benefits Statement (Regeneris October 2014) was submitted with the planning application. This sets out the positive impacts the proposal would have on the locality including jobs, environmental benefits and by bringing a derelict site into use. The potential benefits of the retail sector as an alternative use, and its ability to tackle social exclusion and benefit the local economy is recognised, and demonstrated by the breadth of job roles within the retail sector. This position is noted, however, other developments for employment uses would also have their own benefits if a reasonable prospect of an alternative employment use were to come forward.

The evidence that has been put forward, reflects the current market, and reflects work that Council has previously undertaken on the viability of brownfield land. The Business Sites and Premises Review (Nathaniel Lichfield & Partners / DTZ, 2013), although recommending that employment land at Faverdale remain part of the employment land portfolio, advised that the Council remain flexible in its approach to planning and be prepared to promote alternative uses that are clearly shown to support or enhance the wider Faverdale Estate as a business location, as well as provide facilities that benefit both Faverdale and the surrounding neighbourhoods. As this site is in a prominent location within Faverdale Industrial Estate, but on its periphery, close to residential areas, a commercial use on the site serving to bring the site back into use, and benefit the wider estate and neighbouring residential areas, would appear to accord with that advice.

Visual Amenity

The application is for outline permission and therefore the details of appearance, landscaping, layout and scale would have to be approved separately. For this reason it is difficult to comment on any detailed design matters, however, the indicative plans show a good quality design and the proposed landscaping would help integrate the development into the area and would reduce the overall visual impact of a vacant derelict site.

Residential Amenity

There are no residential properties immediately to the north, east or south of the site. To the west are residential properties on Faverdale Road. These are separated from the application site by a wooded area and are some 32m from the application site. The size and siting of the proposed foodstore building as well as the petrol filling station and the associated landscaping works would be such that no significant issues would be raised regarding light or overbearingness. The servicing arrangements, as shown on the indicative plans, would be located in the north east corner of the site, furthest away from neighbouring houses and physically separated by the foodstore itself. Whilst this area would be nearer the main part of the industrial estate, it is considered a more acceptable activity within the context of the area.

Ecology

An Ecological Appraisal (Bowland Ecology May 2014) was submitted with the planning application. This identified that the dominant habitats on the site are bare ground and species-rich semi-improved neutral grassland; that broadleaved woodland, scattered and dense scrub and coniferous trees provide potential habitat for nesting birds; and that the potential of the entire site

to support roosting bats is negligible due to lack of suitable roosting sites (however, the site does have low potential to support foraging bats).

The Ecological Appraisal recommends that any tree and scrub removal works should take place outside the breeding bird season unless a survey takes place first and sets out those measures to enhance the biodiversity of the site include additional tree planting.

Trees

An Arboricultural Statement (Cheshire Woodlands September 2014) was submitted with the planning application. This concludes that the proposal will have only a minor impact on trees, which can easily be mitigated by the provision of new trees and landscaping.

Renewable Energy

Policy CS3 (Promoting Renewable Energy) of the Core Strategy states that all major developments of more than 1,000m² of non residential floorspace should secure at least 10% of their energy supply from renewable and decentralised or low carbon sources. Full details of renewable / low carbon energy have not been provided with the application and therefore a condition in this regard would be necessary. Policy CS2 (Achieving High Quality, Sustainable Design) of the Core Strategy states that from 2013 to 2016 non residential development should meet BREEAM 2011 'very good' or 'outstanding' ratings. Again, a condition in this regard would be necessary.

Flood Risk

The site is located entirely within Flood Zone 1 as established by the Environment Agency.

A Flood Risk Assessment (Integra Consulting Environmental July 2014) was submitted with the planning application. This Assessment advises that the use of sustainable urban drainage systems in the form of soakaways is not considered feasible at the site due to the anticipated depth of impermeable clay deposits present at the site. It is therefore proposed to positively drain attenuated post development surface water to the adopted Northumbrian Water sewer infrastructure utilising existing on site surface water drainage connections from previous industrial development at the site. The construction of a discharge control (hydrobrake) and attenuation system is however proposed in order to provide significant betterment (50% of unattenuated surface water flow rate).

Highways Matters

A Transport Assessment (Fore September 2014) has been submitted with the application to assess the impact of the generated traffic on the local highway network. It has been demonstrated via the Validation Report that the model accurately reflects the existing conditions on the network and is a suitable base to use for assessment of the proposed development traffic impact. It is accepted that new food retail development typically generates low levels of new traffic to the highway network with the majority of trips to the store being transferred trips from other stores in the area. The output from the model shows that the retail development would not have a material impact on the overall highway network delay. The assessment shows an impact at the Faverdale Roundabout which would be used as the main access point off the local highway network to the store with its associated access off Faverdale, with a slight impact to the A68

corridor and a more significant impact on the Faverdale link which would be expected as this is one of the main routes to the store. There are no proposals highlighted in the report to mitigate the generated traffic from the development, however the report does indicate that a new link road from West Park through to Newton Lane which is being considered as part of future housing proposals on the West Park development, does mitigate the impact of the supermarket. There is currently no mechanism in place to construct this new link road and hence to mitigate the proposed foodstore development trips. A Section 106 contribution is, therefore, required for highway improvement works on the local highway network.

Due to the increased queuing on Faverdale as a result of vehicles exiting the development, there will be a negative impact on the Faverdale Road junction which will result in right turning traffic being delayed. A "Keep Clear" marking should be provided opposite the junction that will give right turning traffic the opportunity to pull into gaps on Faverdale and hence help in reducing the impact of the development on the local highway network. This would be secured by a Section 278 agreement which would also include the formation of the site access junctions, blocking up of exiting access points from the old factory site, formation of new pedestrian/cyclist links and traffic regulation orders to protect Faverdale from potential illicit parking.

The site is well served by public transport and cycle parking to the order of 42 spaces has been provided by the applicant. Parking across the site generally accords with the standards set down in the Tees Valley Design Guide for the size and type of development proposed. Disabled parking has been distributed around the site in suitable locations with reasonable pedestrian linkage to the store. Autotracks have been provided to demonstrate that the retail units can be adequately serviced through the proposed car park layout. The autotracks also show that the servicing vehicles can manoeuvre within the confines of the access roads.

Due to the increased demand for bus services, a public transport contribution (Section 106 Contribution) is sought in accordance with the Council's Planning Obligations Supplementary Planning Document. The financial contributions would be used to upgrade the bus stops and waiting facilities on Faverdale for shoppers and workers at the development.

Due to the expected increase number of pedestrians and cyclists trying to access the site, a sustainable transport contribution (Section 106 Contribution) is sought to help to reduce the overall number of private car trips to and from the development. This would be used to further improve the walking and cycling access to the development from West Auckland Road and the Faverdale Industrial Estate as well as linking into the Black Path over to Whessoe Road.

Planning Obligations

Policy CS4 (Developer Contributions) of the Core Strategy states that developer contributions will be negotiated to secure the necessary physical, social and environmental infrastructure required as a consequence of development.

The Council's Planning Obligations Supplementary Planning Document 2013 sets out when planning obligations (Section 106 Agreements) will be sought, how they will be calculated and in what way the Council expects planning obligations from new development to be delivered. For the size and type of development proposed, obligations for transport, green infrastructure, sport & recreation, renewable energy, employment & training placements and public art should be considered.

Planning obligations for public transport (£15,440) and sustainable transport (£62,800) are proposed as well as highway works to improve the surrounding highway network (£200,000). This is considered sufficient to make the proposal acceptable. No other contributions are sought.

Response to Objection

In response to the Objection received on behalf of Wm Morrison Supermarkets PLC the following points are raised.

- Consideration of the impact of the developments on the Aldi / Iceland scheme at Albert Road –

This has been adequately covered in both retail impact assessments in that this commitment (and its estimated turnover) has been included in quantitative capacity assessments which among other considerations (location, etc.) is one of the factors in identifying impact. In addition, White Young Green confirm that food retailers at other centres (outside the primary catchment of the proposal) such as North Road, are either trading strongly enough to withstand the competition, or are sufficient distance away from the proposals that they would be the subject of limited trade diversion. This issue has therefore been considered, and is not considered to be significant.

- The impact on Sainsbury's in the context of how linked trips between Sainsbury's and the town centre will be affected –

The agents for both applications consider that the majority of trade (75%) attracted to both foodstore proposals would be drawn from Retail Study Zone 4 (North West Darlington). It is common ground between all parties that the main impact will be on convenience goods expenditure. Darlington town centre convenience goods provision is generally of an occasional or top-up nature. The survey undertaken as evidence for the latest retail study shows that the town centre attracts very little main food shopping. The location of the Sainsbury's store at Victoria Road to the south of the centre provides for some linked trips between the two, but the size of the centre is such that this store is able to withstand some diversion of trade without any unacceptable impact arising at the adjacent town centre. The Sainsbury's store may be sequentially preferable to the lateral site, however is not in a centre, therefore whilst retail impact assessments will consider trade diversion impacts from all existing supermarkets, the store does not benefit from direct policy protection as it is not in a centre.

White Young Green has considered the methodology of the respective retail impact assessments and considers them to be robust.

- Cumulative undertrading across the town as a whole –

The 2014 Retail study provides a survey-derived overview of the current performance of existing foodstores in Darlington, with reference to their expected trading performance. All stores are trading at benchmark or slightly below. 50% of these stores perform better than their anticipated benchmark performance. For example, Morrison's at Morton Park turns over an estimated £5.2 million more than its expected convenience goods benchmark turnover and at North Road turns over an estimated £11 million more (although it is noted that the Morrison's store

at Morton Park is not located within a centre and therefore does not benefit from direct policy protection). None of the performances of foodstores identified are considered to be problematic (such as overtrading to the point of overcrowding queuing or undertrading to a level that is significant) as these can vary significantly throughout the country, however White Young Green note that main foodstore provision is located centrally or to the east of the town centre, and that there are no large supermarkets in zone 1 or zone 4 and it is therefore accepted that there 'may be qualitative benefits associated with improved main food retail provision in the western part of Darlington, reducing the need to travel to access supermarket facilities and an improvement in the ability to meet all the needs of the community'. It is considered that impact has been adequately covered by the retail impact assessments.

SUMMARY

Outline planning permission is sought for the erection of a foodstore along with a petrol filling station. The site is located out of centre. Officers are broadly in agreement with the retail impacts identified in the assessments submitted. The site is part of an area identified as employment land in the Local Plan. The loss of this employment land is, however, considered acceptable and the cost associated with remediating the site estimated to be £1.4 million are noted. The remediation of this land is considered to be a significant material consideration in the determination of this application. The application is for outline permission and therefore the details of appearance, landscaping, layout and scale would have to be approved separately. The indicative plans show a good quality design and the proposed landscaping would help integrate the development into the area and would reduce the overall visual impact of a vacant derelict site. No significant impacts in terms of residential amenity would be raised. A condition for compliance with the Ecology Report would be required. Conditions in respect of renewable energy would be needed. The site is located entirely within Flood Zone 1 as established by the Environment Agency. A Flood Risk Assessment. The construction of a discharge control attenuation system is proposed in order to provide significant betterment. The proposal is considered acceptable in relation to traffic generation and highways safety issues. However, specific conditions regarding these matters will be required. Planning Obligations for highway matters are also required.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

RECOMMENDATION

THAT MEMBERS, HAVING HAD REGARD TO THE NATIONAL PLANNING POLICY FRAMEWORK AND BALANCED ITS CONTENTS WITH THE OTHER MATERIAL PLANNING CONSIDERATIONS RELEVANT TO THE APPLICATION ARE MINDED TO GRANT PLANNING PERMISSION AND TO INSTRUCT THAT THE DIRECTOR BE AUTHORISED TO NEGOTIATE AN AGREEMENT UNDER SECTION 106 OF THE TOWN

AND COUNTRY PLANNING ACT 1990 TO SECURE THE PROVISION OF HIGHWAYS WORKS AND SUSTAINABLE TRANSPORT CONTRIBUTIONS

THAT UPON SATISFACTORY COMPLETION AND SIGNING OF THE AGREEMENT, THE APPLICATION BE REFERRED TO THE SECRETARY OF STATE (NATIONAL PLANNING CASE WORK UNIT) FOR CONSIDERATION UNDER THE TOWN AND COUNTRY PLANNING (CONSOLIDATION) (ENGLAND) DIRECTION 2009

CONDITIONS

1. The approval of the Local Planning Authority shall be obtained with respect to the following reserved matters prior to the commencement of the development:-

- (a) appearance
- (b) landscaping
- (c) layout
- (d) scale

Application for approval of reserved matters shall be made to the Local Planning Authority within 12 months from the date of this permission.

REASON – To ensure the timely delivery of the site and to accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

2. The development shall be begun 18 months from the final approval of the reserved matters referred to in condition (1) or, in the case of approval on different dates the final approval of the last such matter to be approved.

REASON - To ensure the timely delivery of the site and to accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.

3. Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended) and unless otherwise agreed in writing by the Local Planning Authority, no more than 30% of the floor space of the foodstore hereby approved shall comprise the sale of comparison goods.

REASON – In the interests of retail planning policy as the approved development is for a foodstore primarily for convenience goods.

4. B4 Details of Materials (Samples)

5. Construction work shall not take place outside the hours of 8.00 am and 6.00 pm Mondays to Fridays, 8.00 am and 1.30 pm Saturdays with no working on a Sundays and Public Holidays.

REASON - To safeguard the amenities of the area.

6. Following construction of the main fabric of the building(s) and Petrol Station, no external works in terms of fitting out the premises shall be carried out outside the hours of 8.00 am and 6.00 pm Mondays to Fridays, 8.00 am and 1.30 pm Saturdays with no

working on a Sundays and Public Holidays, without prior consent of the Local Planning Authority

REASON - To safeguard the amenities of the area.

7. Prior to construction works commencing, a site hoarding fence of no less than 2m in height shall be constructed around the site perimeter. The fence shall be of solid construction with no gaps or loose panels.

REASON - To safeguard the amenities of the area.

8. If piled foundations are proposed, details of the piling method including justification for its choice, means of monitoring vibration and groundwater risk assessment, if necessary, in accordance with recognised guidance shall be submitted and agreed in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.

REASON - To safeguard the amenities of the area and to prevent possible pollution of controlled waters.

9. If piling is to be carried out it shall be of the augured type unless prior approval is obtained from the Local Planning Authority. If an alternative method of piling is to be used then a noise and vibration impact assessment for this is to be provided before the commencement of any works.

REASON - To safeguard the amenities of the area.

10. Deliveries to the petrol filling station hereby permitted and the collection of waste shall only take place between 8.00 am and 9.00 pm Mondays to Saturdays, and between 9.00 am and 5.00 pm on Sundays and Public Holidays

REASON - To safeguard the amenities of the area.

11. Deliveries to the foodstore hereby approved and the collection of waste shall only take place between 7.00 am and 10.00 pm Mondays to Saturdays, between 8.00 am and 6.00 pm on Bank Holidays and between 10.00 am to 4.00 pm on Sundays.

REASON - To safeguard the amenities of the area.

12. The foodstore and petrol filling station hereby permitted shall only be open for business between the hours of 8.00 am and 10.00 pm on Mondays to Saturdays (including Public Holidays); and between 10.00 am and 6.00 pm on Sundays.

13. Prior to any part of the development being first used or occupied, details of the arrangements for storing of refuse or waste shall be submitted to, and approved by, the Local Planning Authority and the use shall not take place other than in accordance with the approved details.

REASON - To safeguard the amenities of the area.

14. No part of the development hereby permitted shall commence until full details of a scheme for the ventilation of the premises and any externally located heating and cooling equipment relating to the part of the development in question (including details of sound attenuation for any necessary plant and the standard or dilution expected), have been submitted to, and approved by, the Local Planning Authority. Thereafter the development shall only be operated the approved ventilation scheme or subsequent approved amendments to it.

REASON - In order that the Local Planning Authority may be satisfied as to the arrangements for preventing loss of amenity to neighbouring premises due to noise, fumes and smells.

15. Unless otherwise agreed in writing by the Local Planning Authority, no system shall be installed or used for the amplification of music or speech which is external to any building hereby approved.

REASON - To safeguard the amenities of the area.

16. No development shall commence until full particulars and details of all plant and machinery to be installed on the site of the Petrol Filling station including details of sound levels and attenuation, have been submitted to and approved by the Local Authority and the development shall not be carried out otherwise than in accordance with any approval given.

REASON – in the interests of the amenities of neighbouring residential properties.

In accordance with Noise Impact Assessment mitigation measures

17. All noise mitigation measures shall be as detailed the Noise and Vibration Assessment (Royal Haskoning DHV October 2014).

REASON - To safeguard the amenities of the area.

18. Unless otherwise agreed in writing by the Local Planning Authority, no machinery shall be operated on the site or any maintenance or repair work carried out which is external to any building before 7.00 am on weekdays and 8.00 am on Saturdays nor after 7.00 pm on weekdays and 1.00 pm on Saturdays and not at any time on Sundays or Public Holidays.

REASON - To safeguard the amenities of the area.

19. Prior to occupation of the development, a full lighting impact assessment for the lighting proposals, undertaken by an independent qualified assessor shall take place and be agreed in writing with the Local Planning Authority. This should include:

- a) A description of the proposed lighting units including height, type, angling and power output for all lighting

- b) Drawing(s)/contour plans showing the luminance levels both horizontal and vertical of the lighting scheme to demonstrate that no light falls into the curtilage of sensitive neighbouring properties;
- c) The Environmental Zone which the site falls within, in accordance with the Institution of Lighting Professionals Guidance on the Reduction of Obtrusive Light, to be agreed with the LPA. The relevant light sensitive receptors to be used in the assessment to be agreed with the LPA in advance of the assessment.
- d) Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity.
- e) The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

REASON - In the interests of residential amenity and the visual appearance of the locality.

20. Prior to commencement of the development, details of a Dust Action Plan shall be submitted to, and agreed with, the Local Planning Authority. The mitigation measures contained in the Dust Action Plan shall be based on section 6 of the Air Quality Assessment Report by Royal Haskoning DHV dated 13/10/2014, the advice contained in the guidance entitled 'Guidance on the assessment of dust from demolition and construction' (IAQM 2014), and any other relevant best practice guidance to be agreed with the Local Planning Authority. Thereafter, the Dust Action Plan shall be implemented throughout the construction of the development.

REASON - To safeguard the amenities of the area.

21. J2 (Contamination)

22. The development hereby permitted shall not be commenced until such time as a scheme to install underground tank(s) has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the full structural details of the installation, including details of: excavation, the tank(s), tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may subsequently be agreed, in writing, by the local planning authority.

REASON – The National Planning Policy Framework paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

23. No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in

writing, by the Local Planning Authority:

- 1) A preliminary risk assessment which has identified
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

REASON - National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

24. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

REASON - Further contamination may be discovered during development that will

require additional assessment

25. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

REASON - Piling may introduce new contaminant pathways to the underlying Magnesian Limestone principal aquifer.

26. Prior to the commencement of the development, precise details showing the off site highway works including improvements to Faverdale Roundabout as shown on drawing no. 2043/SK001/007, the creation of the site access junctions onto Faverdale, widening of Faverdale to incorporate improved pedestrian/cyclist facilities, potential relocated bus stop and revised signing and lining including Traffic Regulation Orders along Faverdale and Keep Clear markings opposite Faverdale Road shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall only take place in accordance with the approved details.

REASON – In the interests of highways safety.

27. Prior to the commencement of the development, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Plan shall include details for wheel washing, a dust action plan, the proposed hours of construction, vehicle routes, road maintenance, signage and phasing. The development shall not be carried out otherwise than in complete accordance with the approved details.

REASON – In the interests of highways safety.

28. Prior to the occupation of the development hereby approved details of a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of a named Travel Plan Coordinator to work with the Council to implement the actions identified in the Travel Plan. The use of the site shall not take place other than in accordance with the approved Travel Plan.

REASON – In the interests of highway safety and reducing vehicular traffic to the development.

29. Prior to the occupation of the development hereby approved details of the secure covered cycle parking shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details and the cycle parking provision shall be made available prior to the first occupation of the building. The secure cycle parking shall be retained at all times unless otherwise agreed in writing by the local planning authority.

REASON - To ensure that the adequate secure covered cycle parking provision is made.

30. The proposed development shall be only carried out in all respects in accordance with the recommendations and methods contained within the Ecological Appraisal (Bowland Ecology May 2014)

REASON – in the interests of ecology.

31. Unless otherwise agreed in writing by the Local Planning Authority the development hereby approved shall achieve a minimum of 10% of its energy needs from decentralised and renewable or low carbon sources.

REASON – In order that the development meets the requirements for decentralised and renewable or low carbon sources of energy.

32. Unless otherwise agreed in writing by the Local Planning Authority the development hereby approved shall meet as a minimum BREEAM 2011 ‘very good’ rating.

REASON – In order that the development meets the requirements for BREEAM 2011 standards.

33. The development shall not be carried out otherwise than in accordance with Flood Risk Assessment by Integra Consulting Environmental July 2014

REASON - In the interests of good hydrological practice.

The following polices have been taken into consideration in arriving at this decision.

Borough of Darlington Local Plan 1997:

- E2 – Development Limits
- E3 – Protection of Open Land
- E12 – Trees and Development
- E14 – Landscaping of Development
- E21 – Wildlife Corridors
- EP2 – Employment Areas
- S11 – New Development in the District and Local Centers

Darlington Core Strategy Development Plan Document 2011:

- CS1 – Darlington’s Sub Regional Role and Location Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS3 – Promoting Renewable Energy
- CS4 – Developer Contributions
- CS5 – The Provision of Land for Employment Use
- CS8 – Additional Retail Provision
- CS9 – District and Local Centres and Local Shops and Services
- CS16 – Protecting Environmental Resources, Human Health and Safety
- CS14 – Promoting Local Character and Distinctiveness

- CS15 - Protecting and Enhancing Biodiversity and Geodiversity
- CS17 – Delivering a Multifunctional Green Infrastructure
- CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

INFORMATIVE

- The design and Construction of the Petrol Filling Station must comply fully with the information detailed in the document published by the Association for Petroleum and Explosives administration (APEA) and The Institute of Petroleum (IP) entitled "Guidance for the Design, Construction, Modification and Maintenance of Petrol Filling Stations". Full details of the proposed installation must be provided to the Petroleum Officer of Darlington Borough Council for approval prior to any work being commenced.
- The applicant is advised that contact be made with the Assistant Director : Highways, Design and Projects (contact Ms. P. Goodwill 01325 406651) to discuss naming and numbering of the development.
- The Developer is required to submit detailed drawings of the proposed off site highway works including precise details showing the off site highway works including improvements to Faverdale Roundabout as shown on drawing no. 2043/SK001/007, the creation of the site access junctions onto Faverdale, widening of Faverdale to incorporate improved pedestrian/cyclist facilities, potential relocated bus stop and revised signing and lining including TROs along Faverdale and Keep Clear markings opposite Faverdale Road shall be submitted to and approved in writing by the Local Planning Authority and enter into a Section 38/278 agreement before commencement of the works on site. Contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr S. Brannan 01325 406663) to discuss this matter.
- The applicant is advised that amendments will be required to the Traffic Regulation Orders for parking restrictions along Faverdale and contact must be made with the Assistant Director : Highways, Design and Projects (contact Mrs. Brenda Bowles 01325 406708) to discuss this matter.