
SCHEME B

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| APPLICATION REF. NO: | 14/01249/OUT |
| STATUTORY DECISION DATE: | 16 March 2015 |
| WARD/PARISH: | FAVERDALE |
| LOCATION: | John Fowler Way DARLINGTON |
| DESCRIPTION: | Outline application for erection of foodstore and commercial development including a health centre, community facility and office space, with access, parking, service area and landscaping |
| APPLICANT: | Bussey & Armstrong Projects Ltd |

APPLICATION AND SITE DESCRIPTION

Outline planning permission is sought for the erection of a foodstore (of up to 2,370 sqm GIA), health centre (500 sqm GIA), community facility (157 sqm GIA) and office space (1,384 sqm GIA) along with access, parking, service area and landscaping.

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

The site covers an area of some 1.8 ha and is largely grassed over. The site features spoil heaps from the surrounding developments, in the view of the applicants.

Indicative plans have been submitted and these identify the foodstore being located centrally within the site (with the foodstore located towards the western part of the site and the other uses located in a separate building towards the eastern part of the site. The parking and servicing would be located to the northern part of the site with access from John Fowler Way. The southernmost part of the site would include a large area of soft landscaping.

The proposal would potentially provide approximately 121 full time equivalent jobs.

PLANNING HISTORY

Planning permission has been approved for the residential development of part of the site.

PLANNING POLICY BACKGROUND

The following policies of the development plan are relevant:

Borough of Darlington Local Plan 1997

- E2 – Development Limits
- E12 – Trees and Development
- E14 – Landscaping of Development
- E21 – Wildlife Corridors
- EP2 – Employment Areas
- EP12 – Office Development Limits
- S11 – New Development in the District and Local Centers

Darlington Core Strategy 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 Purposes
- 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 2010 are also relevant to the application.

RESULTS OF CONSULTATION AND PUBLICITY

An objection has been raised from the occupiers of **8 Teeswater** and this relates to highways concerns.

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

- *The application site lies to the north of West Park Village Local Centre and is therefore considered as edge of centre in retail policy terms.*

- *The NPPF states that in those circumstances where proposals for a main town centre use is not in-centre or in accordance with an up to date Local Plan, applicants are required to satisfy the sequential assessment and retail impact tests.*
- *Paragraph 26 of the NPPF indicates that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold. This should include an assessment of:*
 - *The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
 - *The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. 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 the application is made.*
- *Whilst it is no longer a requirement to demonstrate retail need, a lack of need indicates that the impact of the proposal is likely to be significantly greater than if there were surplus expenditure available to support the scheme.*
- *The Council's Retail Study (WYG) was published in September 2014 and is therefore up to date. The Retail Study finds that there is no capacity to support additional convenience floorspace. The benchmark turnover of existing facilities is £228m per annum at 2014 which is slightly greater than the identified survey-derived turnover of £218.2m. This suggests that cumulatively food stores in Darlington are marginally under trading.*
- *The study finds that after taking into account planned housing growth and existing commitments, there is no surplus expenditure to support additional convenience floorspace until 2026, when a surplus of £10.7m is identified. Utilising an average benchmark sales density for the main supermarket operators, this is likely to support in the region of 900 sq. m of additional sales area at 2026.*
- *The Council's Retail Study states that whilst overtrading is identified in some existing stores, this is not considered to be excessive or at a level which is likely to contribute to particular issues resulting from overcrowding. Main food shopping is therefore considered to be generally appropriate and there is no quantitative need for further floorspace. The assessment does indicate that potentially a further discount store could be supported within the borough, particularly given the identified scale of overtrading at the Aldi store on Yarm Road. However, as discussed below, there is a recent commitment for an Aldi foodstore within the borough.*
- *The applicant's Planning and Retail Statement has not taken into account the recent commitment at Albert Road (LPA ref. 14/00503/FUL) for a new Retail Park, including a new Aldi and Iceland foodstore. This scheme was approved at Planning Committee in October 2014 and it is estimated that the combined convenience turnover of these stores will equate to £11.34m.*

- *Given that the Council's Retail Study only finds capacity to support £10.7m of convenience expenditure at 2026, this will be absorbed by the Aldi and Iceland stores and result in a deficit of available expenditure. This will result in no need for further convenience floorspace within the borough throughout the plan period. Whilst the test of retail need is no longer required, a lack of identified need does indicate that the impact on existing facilities will be greater than if there were surplus expenditure available.*
- *The NPPF confirms that where an application is likely to have a significant adverse impact on planned investment of centres or the vitality and viability of existing centres, the application should be refused.*

Archdeacon Newton Parish Council commented asking for conditions regarding lighting and regarding highways access and parking.

The **Highways Engineer** raised no objections subject to conditions.

The **Highways Agency** raised no objections.

The **Environmental Health** section asked for conditions regarding contamination, opening hours, ventilation, lighting and delivery times.

The **Ecology Officer** advised that a lighting strategy be submitted which preserves darkness levels to surrounding habitat, which includes the valuable hedgerow to the northern boundary.

The **Environment Agency** advised that NWL should be consulted and that drainage from the car park should go through an oil interceptor.

Northumbrian Water raised no objections.

Northern Gas Network raised no objections.

PLANNING ISSUES

The main issues to be taken into consideration are:

- Planning Policy
- Development Limits and Other Uses
- Visual Amenity
- Residential Amenity
- Ecology
- Renewable Energy
- Flood Risk
- Highways Matters
- Planning Obligations
- Responses to Objection

Planning Policy

Policy CS8 (Additional Retail Provision) of the Core Strategy (May 2011) 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 f Darlington 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.

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, saved 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 the application proposals' compliance with retail policy

Paragraph 24 of the National Planning Policy Framework 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 (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).*
- It would appear that a foodstore is deliverable at both sites. 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 within the discount food sector].

- *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.

The site is immediately adjacent to the existing Local Centre, and is identified as a future area of extension for the centre in emerging local planning policy set out in the Making and Growing Places Development Plan Document, Preferred Options. Although this emerging policy can be attributed limited weight at its current stage, the provision of a local centre at West Park is also identified in the adopted Core Strategy (policy CS9) as West Park is an area of strategic housing growth. The proposal clearly represents a more sequentially preferable location.

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 food stores 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.

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 and accessibility. The proposed scheme is located on an edge-of-centre site, that is identified in emerging policy as an extension to the local centre to provide for local shopping needs in an area of housing growth.

Development Limits and Other Uses

The site is located outside of the Development Limits as set out in the Local Plan. However planning permission has previously been granted for housing on the site and it is adjacent to an existing retail development. The site forms part of the West Park urban expansion area and, as such, the development is acceptable in principle.

The proposal includes a health centre and community facility (Use Class D1) and office space (Use Class B1).

Policy CS5 (The Provision of Land for Employment Purposes) of the Core Strategy makes provision for employment land and seeks to safeguard existing employment land. Policy EP2 (Employment Areas) and Policy EP12 (Office Development Limits) focus office developments into employment areas and the town centre respectively. With a gross internal area of 1,384 sqm and as part of an extension to a new district centre, the proposal for additional office accommodation would not undermine the objectives of the Local Plan or Core Strategy.

Policy CS9 (District and Local Centres and Local Shops and Services) of the Core Strategy seeks to protect leisure uses and services in district centres. The proposal for a health centre and community facility as part of the development would be consistent with this policy given the existing nature of the shops and services on the adjacent part of the West Park Development.

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 that would feature two related buildings in keeping with the adjacent retail development. The landscaping as indicated would feature soft landscaping to the front with pedestrian access. The car parking would be located to the rear and this arrangement would provide an improved setting for a development not dominated by car parking.

Residential Amenity

There are proposed residential properties immediately to the north and west of the site. These were approved under application 14/01000/FUL (and 01/00020/OUTE / 01/00020/RM9). The car park that is now proposed covers part of the approved housing site and consequently the approved scheme cannot be built. A revised application will be needed to take account of the proximity of the proposed development and its car parking and servicing arrangements. Conditions have been set out regarding construction as well as restricting opening hours and deliveries. Details of an acoustic barrier will need to be provided via a condition to safeguard the proposed residential development especially where it would be close to car park of the proposed foodstore development.

Ecology

An Ecological Report (Eco Survey Ecological Consultants October 2014) was submitted with the application. The Council's Ecology Officer has confirmed that the Report is satisfactory and

that a condition would be required to restrict lighting to the hedgerow to the northern part of the site.

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 (Billingham George and Partners November 2014) was submitted with the planning application. The development would connect to the existing sewage / drainage network. The Flood Risk Assessment concludes that due to the location of the proposed development within an existing site, the topography and the measures already employed to mitigate flood risk, it is considered that the residual risks are negligible.

Highways Matters

A Transport Assessment (Arup December 2014) has been submitted with the application. Traffic surveys were conducted in May 2014 along the A68 corridor from the A1M junction 58, through Cockerton to Woodlands Road to assess the impact of the development traffic.

TRICS (Trip Rate Information Computer System) database has been interrogated for the specific development uses to determine the proposed trip generation and it is shown that the PM peak hour would represent the worst case for existing base flows combined with development generated traffic. After discounting vehicle numbers for trip sharing, linked trips, diverted trip and pass by trips etc. it is recognised that only a small proportion (around 5%) of new trips to the network are associated with a new foodstore. However for robustness the assessment assigns 70% of new trips to the network.

The development site currently has permission for a number of dwellings and the vehicle numbers from these permitted dwellings has also been discounted from the new trip generation figures. As such it is shown that the development will produce around 406 additional two way trips in the PM peak hour.

The output from the model shows that the retail development would not have a material impact on the overall highway network junctions assessed with the exception of the A68/John Fowler Way signalised junction, although the capacity issues at this junction are evident in the PM peak when the committed development trips are added to the network without the increase of the supermarket trips.

As part of further housing development within West Park it is proposed to provide a link road through from Edward Pease Way to Newton Lane which would result in trips being diverted from the A68 corridor to alternative parallel routes hence reducing vehicle queuing and delay times along the A68.

Car parking provision for the site has been assessed in line with the current design guidance and for the size of development proposed would indicate that a total of 250 spaces would be required to provide the necessary level for the generated traffic. The assessment report goes on to review these numbers and provides a car park accumulation that shows a maximum accumulation of 192 vehicles would be experienced during the hour 14:00-15:00. A car park containing 156 spaces is shown on the indicative plans submitted with the application and it is argued that there will be linked trips associated with the different uses and that the overall trips to the site have been overestimated for a robust assessment, which concludes that the 156 space car park will be adequate. Given that the proposal could generate a significant amount of vehicular traffic from a wider area due to the end product being provided, it is considered that more car parking should be provided to prevent overspill into the adjacent housing development. A condition requiring the submission of details of number of car parking spaces is required so that the total figure can be agreed. This would be in addition for the need for a reserved matters application, looking at appearance, landscaping, layout and scale, to be made

New pedestrian/cyclist links in addition to the revised highway and access works will be required to serve the site and these should be covered under a Section 278/38 agreement and further details provided for approval.

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.

Matters which would need to be addressed include off site works to improve walking and cycling facilities. This would be covered under a separate highways agreement with the applicant and the Council. No developer contributions are considered necessary to make the application acceptable.

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 on Victoria Road itself, is not located in a centre and therefore does not benefit from direct policy protection. White Young Green has considered the methodology of the respective retail impact assessments and considers them to be robust.

- Cumulative under trading across the town as a whole –

The 2014 Retail study provides a survey-derived overview of the current performance of existing food stores 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 food stores identified are considered to be problematic (such as overtrading to the point of overcrowding queuing or under trading 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 health centre (community facility and office space). The site is adjacent to the existing west park local centre and sequentially in pure retail planning policy terms located in the preferred site. Officers are broadly in agreement with the retail impacts identified in the assessments submitted. The site is located outside of the Development Limits as set out in the Local Plan. However planning permission has previously been granted for housing on the site and it is adjacent to an existing retail development. As part of an extension to a new local centre, the proposal for additional office accommodation would not undermine the objectives of the development plan. The proposal for a health centre and community facility as part of the development would be consistent with policy given the existing nature of the shops and services on the adjacent part of the West Park Development. The application is for outline permission and therefore the details of appearance, landscaping, layout and scale would have to be approved separately. Indicative plans show a good quality design that would feature two related buildings in keeping with the adjacent retail development have been submitted. 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 the residual risks are considered to be negligible. The proposal is considered acceptable in relation to traffic generation and highways safety issues. However, specific conditions regarding these matters will be 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 THAT 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. The development in Use Classes A1 (Shops) of the Town and Country Planning (Use Classes) Order 1987 (as amended) shall not exceed 2,472 square metres in floor area (gross external area), the development in Use Class B1 (Businesses) of Use Classes Order shall not exceed 2,027 square metres in floor area (gross external area), the development in Use Class D1 (Non-Residential Institutions) of Use Classes Order shall not exceed 697 square metres in floor area (gross external area) and any ancillary uses shall be contained within these upper size limits.

REASON - To ensure there is not an over representation of one the above uses within the overall scheme.

4. 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.

5. B4 Details of Materials (Samples)
6. Construction work shall not take place outside the hours of 08.00 and 18.00 Mondays to Fridays, 08.00 and 13.30 Saturdays with no working on a Sundays and Public Holidays.

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. Following construction of the main fabric of the building(s), 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.

9. 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.

10. Deliveries to the commercial premises 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.

11. 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.

12. The foodstore 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.

REASON - To safeguard the amenities of the area.

13. 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.

14. 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 Bank Holidays.

REASON - To safeguard the amenities of the area.

15. The development hereby permitted shall not be brought into use until details of any external plant including any extraction ventilation facilities and air conditioning equipment, and their noise generation levels, and any noise attenuation measures, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use and maintained as such thereafter.

REASON - In order that the Local Planning Authority may be satisfied as to the arrangements for preventing loss of amenity to neighbouring premises.

16. No development shall commence until details of an acoustic barrier to protect the proposed neighbouring residential development have been submitted to, and approved by, the Local Planning Authority. Thereafter the development shall only take place in accordance with the approved details.

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

17. Notwithstanding the recommendations set out in the Noise Impact Assessment (QEM Environmental Consultants December 2014) and the Noise Impact Addendum (QEM Environmental Consultants February 2015), the development shall not be brought into use until an amended Servicing Management Plan has been submitted to, and approved by, the Local Planning Authority. The Servicing Management Plan shall include details of measures to:

- ensure delivery bay doors, gates and shutters are well maintained, to minimise noise when opening and closing;
- ensure that radios are switched off and vehicle horns are not used during the delivery process;
- minimise as far as possible noise emitted by vehicle engines, refrigeration equipment and flaps on tail-lifts during the delivery process; and
- ensure that all persons involved in delivery activities are appropriately briefed on measures to minimise noise disturbance arising from the delivery process.

At all times thereafter the approved Servicing Management Plan shall be implemented in accordance with the approved details

REASON - To safeguard the amenities of the area.

18. 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.

The lighting strategy for the site shall maintain the darkness levels to surrounding habitat, including the valuable hedgerow to the northern boundary which is to be retained.

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

19. 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 the following:
- a) Dust Assessment Report which assessing the dust emission magnitude, the sensitivity of the area, risk of impacts and details of the dust control measures to be put in place. The Dust Assessment Report should follow the guidance contained within the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
 - b) Methods for controlling noise and vibration during the construction phase and should follow guidance contained within BS5228 "Code of Practice for noise and vibration control on construction and open sites" 2009.
 - c) Construction Traffic Routes.
 - d) Details of wheel washing.
 - e) Road Maintenance.
 - f) Warning signage.

The development shall not be carried out otherwise in complete accordance with the approved Plan.

REASON - To safeguard the amenities of the area.

20. In the event that suspected contaminated material is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. Thereafter, an investigation and risk assessment must be undertaken, in accordance with best practice guidance, the details of which are to be agreed in writing with the Local Planning Authority in advance. Where remediation is shown to be necessary a remediation scheme must be prepared and submitted to the Local Planning

Authority for approval in writing in advance. Thereafter the development shall only be carried out in accordance with the approved details.

REASON – in order to deal with potential contamination issues on the site.

21. Prior to the commencement of the use of the development hereby permitted, following completion of measures identified in the approved remediation scheme (that may be required in accordance with Condition 20), a verification report must be prepared to show that the remediation has been undertaken to a satisfactory standard, which is subject to the approval in writing by the Local Planning Authority.

REASON – in order to deal with potential contamination issues on the site.

22. Prior to discharging drainage from the car parking areas shall be passed through an oil interceptor installed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

REASON – To prevent pollution of the water environment.

23. 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.

24. Prior to the commencement of the development, precise details showing the car park layout and number of parking spaces proposed, 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 detail.

REASON – In the interests of highway safety.

25. Prior to the commencement of the development, precise details showing the off site highway works including the creation of the new link roads into the site and access junction onto John Fowler Way Faverdale, incorporating improved pedestrian/cyclist facilities 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 detail.

REASON – In the interests of highway safety.

26. 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.

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 highway safety.

28. Development shall not commence until details of street lighting have been submitted and agreed in writing by the Local Planning Authority. Thereafter the development shall only be carried out in accordance with the approved details unless otherwise agreed in writing.

REASON – In the interests highway safety.

29. No development shall be carried out unless and until vehicle swept path analysis has been undertaken to support the movement framework for emergency vehicles, refuse vehicles and service vehicles for the internal network and, where appropriate, in respect of the off-site highway proposals, details of which shall be submitted to and approved by the Local Planning Authority. Thereafter the development shall only be carried out in accordance with the approved details.

REASON – In the interests highway safety.

30. 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.

31. 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.

32. The development shall not be carried out otherwise than in accordance with Flood Risk Assessment by Billingham George and Partners dated November 2014.

REASON - In the interests of good hydrological practice.

The following policies 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

INFORMATIVES

- In connection with devising of an appropriate street lighting scheme and design, contact must be made with the Assistant Director: Highways, Design and Projects (contact Mr M. Clarkson 01325 406652) to discuss this matter.
- 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 the creation of the new link roads into the site and access junction onto John Fowler Way Faverdale, incorporating improved pedestrian/cyclist facilities 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.