

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 1st July 2016

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APPLICATION REF. NO:	16/00108/FUL
STATUTORY DECISION DATE:	9 May 2016
WARD/PARISH:	SADBERGE AND MIDDLETON ST GEORGE
LOCATION:	Land South Of Woodlands Hospital, Morton Park Way, DARLINGTON
DESCRIPTION:	Erection of a non-food retail store with car parking, access and landscaping
APPLICANT:	WM Morrison Supermarkets PLC

APPLICATION AND SITE DESCRIPTION

Planning permission is sought for the erection of a 3,670m² (gross floor area) non-food retail store (Dunelm). The store would have a ground floor of 1,922m² and a mezzanine with 1,748m².

The store would have a total of 102 car parking spaces (95 for of which are for customers and 7 for staff). There would also be a service yard to the rear. Access to the development would be provided via a new mini roundabout junction with the existing access road to the northern site boundary, which currently serves the adjacent Premier Inn and Woodlands Hospital.

The building would have a contemporary appearance with aluminium panels, facing masonry, and a large glazed area to the front. The design includes PV panels to the roof. The store would be set to the north of the site and the parking area to the south with planting areas proposed next to Yarm Road.

The site is some 0.72 hectares and is located on Yarm Road Industrial Area and is bounded by the Premier Inn and Brewers Fare to the east and an access road to the north, beyond which is Woodlands Hospital. The site currently consists largely of unkempt grassland.

The proposal would provide 12 full time and 38 part time jobs.

PLANNING HISTORY

08/00515/OUT, on 8 September 2008 outline planning permission was granted for the erection of children's nursery and residential care home.

03/00390/FUL, on 30 July 2003 planning permission was granted for nursery accommodation in a single storey building.

05/01028/FUL, on 23 August 2006 an appeal was allowed for the redevelopment of the site to provide a car showroom and workshop, and car parking, including car sales display area (Appeal Ref: APP/N1350/A/06/2015253).

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
- EP2 – Employment Areas
- EP6 – Prestige Employment
- EP7 – Office / Business Park Development
- S10 – Safeguarding the District and Local Centers
- T40 – New Developments and Lorries

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
- CS5 – The Provision of Land for Employment Use
- CS7 – The Town Centre
- CS8 – Additional Retail Provision
- CS9 – District and Local Centres and Local Shops and Services
- CS14 – Promoting Local Character and Distinctiveness
- CS15 – Protecting and Enhancing Biodiversity and Geodiversity
- CS16 – Protecting Environmental Resources, Human Health and Safety
- CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

The Council’s Design of New Development Supplementary Planning Document 2011 is relevant.

The National Planning Policy Framework (NPPF) 2012 is relevant.

RESULTS OF CONSULTATION AND PUBLICITY

Letters were sent to occupiers of neighbouring properties advising of the proposal and a site notice has been displayed. No objections have been received.

The **Highways Engineer** raised no objections.

Highways England raised no objections subject to a financial contribution to help mitigate the impact of the development on the strategic road network.

The **Environmental Health Officer** raised no objections.

The **Lead Local Flood Authority** made no objection, however a detailed surface water drainage design has not been provided a condition is required.

PLANNING ISSUES

The main issues to be taken into consideration are:

- Planning Policy
- Design
- Ecology
- Amenity
- Highways Matters
- Flood Risk / Drainage

Planning Policy

The site is located within the development limits for the urban area as defined by the Proposals Map of the Local Plan.

The site is located within an employment area as set out in Policy EP2 (Employment Areas) of the Local Plan. Employment areas would normally be set aside for use class B1 (businesses), B2 (general industry) and B8 (storage or distribution) uses. The proposal is a use class A1 (shops) use and this would be a 'main town centre' use. The application site is not located in the town centre, in a district or local centre and is not allocated for retail development. Given these factors, the application is a departure from the Development Plan (Local Plan and Core Strategy) on two counts, namely Employment Land and Retail Planning Policy, which are discussed below.

Employment Land

Policy EP6 (Prestige Employment) of the Local Plan allocates the site for prestige employment where a high standard of design and landscaping will be required. Only proposals for use class B1 and B2 are considered acceptable under Policy EP6.

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.
- Continued use of the site for B1, B2 or B8 purposes gives rise to unacceptable environmental or accessibility problems.
- 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.

- The site is no longer required for the purposes of providing a balanced portfolio of land for employment purposes.

As outlined in the Planning History Section, planning permission has been granted on several occasions for non-employment uses on the site. This includes an appeal decision where the Planning Inspectorate considered that the loss of the site to non-traditional employment uses would not have an adverse on the employment land supply position. The Inspector also noted the general lack of interest in prestige employment development at the time, but also the change in emphasis of that part of Yarm Road, to a mixed retail, leisure and employment character. The site had been reduced in size prior to the appeal and no longer had the necessary combination of characteristics for prestige employment development. Whilst the previous permissions have since lapsed, it is considered that the Inspector's comments in respect of non-employment generating uses on this particular site are still highly relevant today. This is supported by paragraph 22 of the NPPF, which confirms that planning policies should avoid the long term protection of site allocated for employment use where there is no reasonable prospect of a site being used for that purpose. 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 communities.

Whilst the proposal is contrary to the Local Plan allocation, the site does not provide any economic benefits to the district and having regard to its history it is considered highly unlikely that an employment generating use would come forward in the future given its limited size and surrounding uses. The scheme proposes a beneficial economic use of the site that will provide 12 full time and 38 part time positions. The site is in a prominent location within Yarm Road Industrial Area and located in close proximity to existing non-employment uses (such as the Premier Inn, Morrisons Supermarket and Woodlands Hospital). A commercial use on the site serving to bring it back into use whilst improving the appearance of the area would be a significant consideration to overcome the site's allocation. On this basis, the proposal is considered acceptable as a departure from the Local Plan.

Retail Policy

The application site is located outwith a defined centre and is classed as out-of-centre in planning policy terms. As such, the applicant is required to undertake assessments in respect of impact and sequential matters as directed by paragraphs 24 and 26 of the NPPF.

Policy CS8 (Additional Retail Provision) of the Core Strategy states that the need for additional comparison (non-food) retail floorspace in the Borough by 2016 should be met mainly or wholly by a retail-led scheme at Commercial Street and possibly by a further 4,000m² of floor space within the primary shopping area. However, it should be noted that no development has taken place at Commercial Street and there are no extant planning permissions for development on that site. Policy CS8 also sets out that an additional 12,000m² of comparison floorspace is expected to be needed in the five-year period to 2021 and that this should be located within the town centre primary shopping area or integrated extensions to it.

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. The policy also states that development which would undermine the vitality and viability of district and local centres will not be permitted.

Paragraph 24 on the NPPF requires Local Planning Authorities to apply a Sequential Test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Applications for main town centre uses are required to be located in town centres, then 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 contacted to the town centre.

When assessing sites that may be sequentially preferable, there are three key tests, which need to be considered namely *suitability*, *availability* and *viability*.

The applicant discussed and agreed the scope of the sequential exercise prior to submission of the application, which resulted in the following sites being considered:

- Commercial Street.
- Feethams.
- Former Evan's Halshaw site.
- Former MFI building, Russell Street.
- Beaumont Street Car Park.
- 43 Russell Street.

The Planning and Retail Statement submitted with the application considers these sites in detail and concludes that none of them are suitable, available or viable for the proposal. Officers agree with the conclusions of the Sequential Assessment.

Paragraph 26 of the NPPF sets out that proposals for retail development outside of town centres, which are not on allocated sites should be subject to an Impact Assessment if the development is over 2,500m².

The key impact tests for out-of-centre retail development set out at in paragraph 26 of the NPPF are:

- Impact on existing, committed and planned investment in a centre or centres in the catchment area.
- Impact on town centre vitality and viability, including consumer choice.
- Impact on trade in the town centre and the wider area.

Paragraph 27 of the NPPF indicates that when assessing the impact of a retail proposal the key issue to consider is whether it is likely to have a significant adverse impact on any of the above factors.

The Planning and Retail Statement submitted with the application considered the impact of the proposal on Darlington Town Centre and on the potential for development at Commercial Street. It was concluded that there is sufficient comparison expenditure capacity to support the

application proposals and it is unlikely that the new development will have a significant adverse impact on existing, committed and planned public and private investment in a centre, or on town centre vitality and viability.

The Planning and Retail Statement makes the distinction that the Commercial Street scheme is aimed at clothing and footwear, and as such, it is reasonable to conclude that a home furnishing retailer selling bedding, curtains, furniture, beds, mattresses and other home wares, will not have a significant adverse impact on planned investment at Commercial Street. Officers agree with this conclusion.

The Impact Assessment goes on to consider the potential impact on town centre vitality and viability, including local consumer choice, with reference firstly to town centre health checks undertaken by Peacock and Smith in December 2015, taking into account the indicators set out in the National Planning Policy Guidance. The health check concludes that Darlington Town Centre, North Road, and Cockerton District Centres are trading well and in terms of the set of indicators, are displaying good signs of vitality and viability. Whilst this is not completely in line with the recent health check from WYG in the Scotch Corner planning inquiry, which did identify some areas of weakness when compared against a 2013 health check, the health check submitted is factual and the conclusions based on professional knowledge and experience, to create a context against which to consider the severity of any impacts. The health check identifies that hardware and household goods, carpets and flooring and DIY and home improvement goods are underrepresented currently in the town centre.

The Impact Assessment concludes that the proposed development would have a 1% impact on Darlington Town Centre, 1% impact on Cockerton District Centre, a 1% impact on North road District centre, and 1% from various local centres in total. Based on professional judgement, the assessment concludes that, taking into account the current health of the town centre, and the amount of comparison expenditure capacity, the application will not have a significant adverse impact on town centre vitality and viability. In percentage terms, the impact identified does not appear to be significant, when analysed against impacts accepted at various appeals.

Although not currently a commitment, and therefore an issue that cannot be a determining factor in any decision, the impact of the proposal should the Scotch Corner scheme gain approval from the Secretary of State, the impact identified is minimal when considered in the context of the percentage impact that Scotch Corner would have on the Town Centre.

Overall, Officers are satisfied with the conclusions of the Retail Impact Assessment and consider the application to have satisfied both parts of the Impact Tests.

Referral to the Secretary of State

The proposal is for retail in an out-of-centre location and not in accordance with the Development Plan. The development is for over 2,500 sqm and when aggregated with existing floor space within 1km (i.e. Morrison Supermarket, B&Q Store and Darlington Retail Park) would exceed 5,000 sqm. In accordance with the Town and Country Planning (Consultation) Direction 2009, the application has to be referred to the secretary of State (National Planning Casework Unit).

Design

Policy CS2 (Achieving High Quality, Sustainable Design) of the Core Strategy includes provision that new development should reflect or enhance Darlington's distinctive nature; create a safe and secure environment; create safe, attractive, functional and integrated outdoor spaces that complement the built form; and relate well to the Borough's green infrastructure network.

The proposal is for a contemporary design that would integrate visually into its surroundings in terms of development pattern and the scale of surrounding buildings. Although the proposed building would be set back from Yarm Road, it would still address it visually and tree planting is proposed to soften the visual impact of the car parking area. Overall, the proposal is considered acceptable in relation to design considerations.

The proposal would not result in the loss of any trees and an existing hedgerow would be retained (although it would need to be pruned). A condition for a landscaping scheme to be submitted would be appropriate so that the details of this can be agreed.

Ecology

Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) of the Core Strategy states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered to help achieve the target level of priority habitats and species set out in the UK and Durham Biodiversity Action Plans by measures including by ensuring that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, including public and private spaces and landscaping.

Paragraph 118 of the NPPF advises that local planning authorities should seek to conserve and enhance biodiversity by applying a number of principles.

A Phase 1 Habitat Survey Report was submitted with the application. This concludes that the site features habitats of mostly low ecological value and recommends that there is better management of the hedgerows (which would be retained) to reduce the height and to prune the side into a linear contour.

Amenity

The application has been submitted together with an Environmental Noise Report. The report has undertaken an assessment to investigate how noise from the proposed development could impact on the nearest noise receptors at both the nearby Premier Inn Hotel and Woodlands Hospital. The report has concluded that any building services plant associated with the development would have to be significantly loud to impact on the nearest noise sensitive receptors. By carefully selecting appropriate plant and siting this on the building in a sensitive location any potential noise issues should be avoided. Given this scenario, it should not be necessary to place restrictions through planning conditions on any building services plant to be installed as part of the development.

Highways Matters

Car parking is generally in line with the Tees Valley Design Guidance for a development of this size and type with cycle parking provided for both staff and customers.

Parking currently occurs on the adopted highway leading up to, and past the new access junction to the site and in the current turning head which will form part of the access to the service yard. For safety and access reasons double yellow lines should be installed to protect the highway from overspill parking

It is proposed to access the site by the provision of a new mini roundabout incorporating the existing access into Woodlands Hospital. The design should accord with current design guidance with approach signage and white lining and include tactile paving and drop crossings where necessary. The applicant would be required to enter into a Section 38/278 agreement to cover the works to the adopted highway.

A sum of £60,000 was sought for off-site highways improvements on the strategic road network. The applicant has agreed to this contribution which will be secured via a Section 106 agreement.

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.

CONCLUSION

The site is allocated for Employment land in the Local Plan but there is planning history on the site for other uses and the neighbouring properties are not in employment uses.

The local plan allocation in this instance should be afforded limited weight given the planning history on the site for other uses; the neighbouring properties are not in employment uses and the limited size of the site. The proposal would provide 12 full time and 38 part time jobs and result in a development that not only improves the visual amenity of the area, but brings the site into beneficial active economic use.

As the proposed use is one that national planning policy seeks to direct to defined centres or allocated sites within the local plan, the applicant is required to demonstrate compliance with the Sequential Test. A Planning and Retail Statement was submitted with the application and this concluded that there were no sequentially preferable sites. It is clear that there are no sequentially preferable sites that could accommodate the application proposals.

The scale of the development requires the applicant to demonstrate compliance with the Impact Test and this is included within the submitted Planning and Retail Statement along with supplementary information that was provided in respect of the Scotch Corner scheme following a request from Officers. The applicant has demonstrated that the proposed development will not have a significant adverse impact on defined centres within Darlington and Officers are satisfied that the proposal complies with the Impact Test.

The proposed design is of a good standard and will improve the appearance of the area. There would be no significant impacts on ecology. No issues are raised in relation to amenity. The

proposal would not be harmful to highway safety. The details regarding dealing with surface water are acceptable.

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 CONTRIBUTIONS.

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) A3 – Statutory Time limit (3 Years)
- 2) E2 – Landscaping (Submission)
- 3) If piled foundations are proposed, prior to the development commencing 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 plan.

REASON – In the interests of amenity.

- 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 10% of the floor space of the retail unit hereby approved shall comprise the sale of convenience goods.

REASON – In the interests of retail planning policy as the approved development is not a foodstore.

- 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) 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.

- 7) The development shall not be carried out otherwise than in accordance with the Travel Plan by Bryan G Hall (January 2016).

REASON - To encourage the reduction of journeys made to and from development by private motor vehicles by promotion of more sustainable forms of transport.

- 8) Prior to the commencement of the development, or in such extended time as may be agreed in writing with the Local Planning Authority, details shall be submitted to and approved in writing by the Local Planning Authority for the implementation, maintenance and management of the sustainable drainage scheme, in accordance with the information contained with the Flood Risk Assessment prepared by GHD LIVIGUNN dated December 2015 update C 7th April 2016.

The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details, information required includes the following:-

- I. Detailed design of the surface water management system

REASON - To ensure the site is developed in a manner that will not increase the risk of surface water flooding to site or surrounding area.

- 9) Unless otherwise agreed in writing, the works hereby permitted shall be carried out in accordance with the following approved plans:
- Proposed Elevations (PL 01 Rev G)
 - Proposed Elevations (PL 02 Rev F)
 - Proposed Sections (PL 03 Rev D)
 - Proposed Building Plan (PL 04 Rev E)
 - Proposed Roof Plan (PL 05 Rev E)
 - Proposed Site Plan (PL 08 Rev G)

REASON - For the avoidance of doubt and in the interests of proper planning.

INFORMATIVES

- The applicant is advised that contact be made with the Assistant Director: Highways, Design and Projects (contact Mrs. P. McGuckin 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 the creation of the access junction and associated infrastructure amendments and revised signing and lining, to be 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 new Traffic Regulation Orders are required for parking restrictions along the site frontage on Morton Palms and contact must be made with the Assistant Director : Highways, Design and Projects (contact Mrs. Brenda Bowles 01325 406708) to discuss this matter.